

Distribution of branded sporting goods in Europe

Interesting facets and updates from a legal point of view.

Selected legal insight for the sporting goods and consumer goods sector.

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“EU competition authorities are signaling that vertical pricing violations, however common, now carry material financial risk.”

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With fines exceeding €180 million across luxury goods and consumer electronics, EU competition authorities are signaling that vertical pricing violations, however common, now carry material financial risk. GPSR compounds exposure across the supply chain. In these late spring days of 2026, the economic challenges in Europe for sporting goods and trade have certainly not stopped. The supply-chain disruptions of the Iranian war in combination with ever-rising energy prices, daily and unpredictable changes in tariffs and import duties, and the throttled spending of the insecure European consumer have made things anything but easy for suppliers and traders of branded consumer goods. Yet on the positive side, inventories seem to be slowly but steadily subsiding to reasonable levels. I have just returned from the 2026 Riva del Garda Outdoor Trade Show, whose halls were filled with visitors and product innovations and the atmosphere and spirit were positive – which gives some cause for guarded hope. Meanwhile, the legal wheels keep turning at the national and European level, with notable developments in:

Vertical pricing

Exclusive distribution

Price-adjustment clauses

Product safety under competition law aspects

Vertical pricing and communications

As reported in my article of last October, the European Commission has imposed fines of more than €157 million on the luxury brands Gucci, Chloé and Loewe for resale price-fixing. And the German Cartel Office (Bundeskartellamt) has sentenced the renowned headphone producer Sennheiser Sonova and three of its employees to pay a total of €6 million for the same infringement of European competition law. Sennheiser had in addition established an online price-comparison system, revealing its B2B customers' deviations from recommended list prices and "persuading" the discounters to cease and desist. Nationally, the German Cartel Office set its sights in 2024 on the AVM Computer Systeme Vertriebs. The German company is well known for its telecommunications products (in particular routers and repeaters, but also phones and smart home devices), which it produces and sells under the brand name Fritz! The Bundeskartellamt conducted a raid, on an anonymous tip, and ended up fining the Berlin-based company and one of its key employees nearly €16 million for unlawful price-fixing with six major consumer-electronics retailers. For the sake of completeness we should add that, under EU and national competition law, price-fixing at the vertical level can be permissible under truly exceptional circumstances and for a fixed and limited time. It would, however, require an individual exemption granted by the EU Commission under Article 101(3) of the Treaty on the Functioning of the European Union/TFEU. This is highly difficult to obtain. Such a policy could be suitable, for example, if a company were intending to launch a revolutionary (not just evolutionary) new product (or product range). This product would have to be accompanied by solid, comprehensive and well-structured documentation to explain to the Commission why management believes that vertical pricing-fixing is in this exceptional case and for a limited period of time justified and legitimate. Exclusive distribution The European Court of Justice (ECJ) dealt in 2025 with a case in which Cono, the Dutch producer of Beemster cheese, had entered into an exclusive distribution agreement with Beevers

Kas BV for Belgium. It turned out that Ahold, the world's largest operator of supermarket chains, was purchasing cheese from Cono itself for sale both outside and inside Belgium. Beevers sued Ahold in Belgium, claiming that Ahold as third party had violated Beemer's exclusivity rights. The case eventually ended up before the ECJ. Brand exclusivity arrangements to protect a distributor against free-riding are legitimate and in compliance with EU competition law. The ECJ did clarify, however, that it would not be sufficient per se to argue that other non-Belgian distributors and traders should refrain from interfering with Beever's active rights. Honoring the Belgian distributor's claim would have required Cono to ask its customers outside of Belgium not to market

Cono's cheese in Belgium themselves or through third parties. It would also have required those other market partners not to object. Their implicit consent could have been deemed sufficient. Needless to say, though, written proof or a contractual arrangement with the third-party traders – neither of which were in evidence – would have helped. At the EU Member State level, France's competition authority (Autorité de la Concurrence) imposed a fine of €91.6 million on Swiss luxury brand Rolex for having forbidden its vertical distribution partners to sell Rolex watches online – this only in 2023, after ten years of violations! The French cartel office clarified that such absolute online sales bans are neither legitimate nor proportionate, and in this case Rolex itself was permitting authorized retailers to sell used watches online, issuing certificates of authenticity for the purpose. The revised Vertical Group Exemption Regulation 2022 (VBER 2022) restricts vertical communications if a brand/supplier is playing a dual role – namely, at once selling products through its own online shop and distributing them to third-party B2B customers. In this scenario the brand can to some extent be viewed as a competitor. One of the first post-VBER 2022 rulings was handed down by the Danish Maritime and Commercial Court on May 6, 2024 (see Danish Maritime and Commercial Court: Clothing Retailers infringed Competition Law). In one case, Hugo Boss and clothing retailer Kaufmann exchanged information on prices, discounts and quantities. In another, similar communications took place between Hugo Boss and clothing retailer Ginsborg. No sanction has (yet) been imposed, because the Danish competition authority, in compliance with national law and standard practices, has referred the case to the Danish Special Crime Unit. Subsequent criminal proceedings could result in a substantial fine. Price-adjustment clauses In these unsteady economic times, brands are turning their attention to price adjustments and exploring their range of action under contractual arrangements. German civil and commercial law distinguishes terms negotiated between parties from standard terms (e.g., those dealing with general sales and delivery). The latter are certainly more common, and distribution agreements, which brands often use to define their relations with distributors or retailers, could from a legal point of view be regarded as standard. Already in 2005, the German Supreme Court (Bundesgerichtshof) ruled in accordance with case law that unilaterally imposed price-adjustment clauses are valid and enforceable only if their author can show a legitimate interest. Such a clause must do more than retroactively increase a brand's margin. The controversy here is whether reference to the price list for a certain sales period is by itself sufficient to justify a

particular price increase. Another sensitive question is how much a brand can unilaterally reduce the discounts it grants to distributors (including retailers). May it put the profitability of its marketing partners' whole business at risk? Careful crafting of such clauses is essential to keep them from being void and unenforceable. Product safety under

competition law aspects The EU's General Product Safety Regulation (GPSR) has been in force for more than a year and is undoubtedly a legal pillar not just in matters of compliance but also in the distribution of consumer products – or, to be more precise, in the distribution of products not regulated by sector-specific laws and regulations (e.g., for medical devices and personal protective equipment). GPSR also more accurately reflects the division of roles between commercial operators along the supply chain, since Article 3 defines manufacturers as those manufacturing a product or manufacturing and marketing it under their own name. Importers are economic operators placing a product from a third country on the EU market, while distributors – as distinct from manufacturers and importers – make a product available on the EU market. The scope of legal obligations and liabilities decreases from manufacturers to importers and finally to distributors. Full compliance with GPSR's written legal covenants is a matter of public law, while the marketing of products falls under private law. All economic operators falling within the scope of GPSR must establish and maintain a Product Compliance Management System (PCMS). Accordingly, any modification of an existing product and any launch of a new product must be diligently examined and assessed for GPSR compliance before it is put into circulation – before the company's sales and marketing people get the green light. This is so regardless of a company's size. SMEs too must comply throughout every product's lifespan, from development to market surveillance. It is advisable for manufacturers and importers to contractually integrate third-party suppliers (e.g., of materials and components) into a PCMS and to define responsibilities and liabilities along the supply chain as precisely as possible. GPSR has multiplied the points of risk management in number and kind. Features and packaging, installation and maintenance, impact on other products, set-up, target consumer group (e.g., seniors or children), type (likely use for unintended purposes), cybersecurity and, nowadays, AI features (e.g., self-learning capabilities) – all aspects of a product must be monitored in the PCMS. Equally important is recording when a product is first put into circulation in the EU, since from that date onward the full scope of GPSR's obligations and covenants will be applicable to its manufacturers, importers and distributors. Articles 19 and 22 create new obligations and liabilities for online pure players and the operators of market platforms. They also clarify that software, especially standalone

software and apps, are now subject to GPSR's product definition as well as to other existing obligations, as under the EU's Cyber Resilience Act and AI Act. Economic operators must have a digital address, and the nature and scope of market monitoring and surveillance obligations have significantly increased since the now superseded Product Safety Directive. By the new and much more complex obligations and covenants set forth in GPSR, companies must establish a PCMS or modify their existing one. Compliance and distribution are no longer to be siloed off but require a joint, team-based approach throughout a product's lifespan, to avoid or minimize EU-level trouble. Market surveillance authorities may require recalls, confiscate inventory or apply other sanctions for non-compliance with the GPSR, just as they may with other applicable laws and regulations. Finally, let me quote my colleague Roger Frankhauser of Deloitte.legal, who stated pointedly in his keynote speech in early March at the WFSGI's Legal Committee meeting in Switzerland (which I co-chaired): "Don't complain about the high cost compliance. Think rather about what it might cost to be non-compliant...."

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