



**EMOTA Response to the Consultation on the  
Review of the competition rules applicable to vertical agreements  
of 28 July 2009**

The **European E-commerce and Mail Order Trade Association (EMOTA)** hereby welcomes the opportunity to react to the Consultation on the Review of the competition rules applicable to vertical agreements which has been launched on 28 July 2009.

EMOTA is the trade organisation representing 23 national e-commerce and distance selling associations at European level (*see list of members in Annex*).

As the Commission rightly states, the evolution of sales on the Internet is one of the two major developments which have marked the ten-year period following the adoption of the Block Exemption Regulation. For the last number of years, the E-Commerce industry has been on a constant upward growing curve. For years now the Internet has been used by a wide range of classes of population not only as a source of information but also as a means of obtaining basic goods and services. The high level of Internet penetration in our society has also led a rapidly increasing number of Brand manufacturers to use the Internet as an outlet for their products. The virtual Internet world offers a wide range of presentation and communication possibilities that are developing fast. The advent and spread of Social Communities, Web Logs as well as all the whole "Web 2.0" progress, are a few key examples that refer to the ever more extensive presentation possibilities that the Internet offers.

In view of the development over the last 20 years, one can expect that in the coming years, the opportunities and possibilities offered by the Internet will become ever more varied in a constantly rising number of areas of life.

While legal regulations which are relevant to e-commerce are being revised, it is important to take current and future developments into account. The Internet and e-commerce as well as its ongoing growth must be promoted, so as to strengthen the entire Internet economy and all its supporting industries in its competition with other global economic areas.

In this light, **EMOTA highly welcomes the introduction of a distinction between active and passive selling**, based on the principle that every distributor must be free to use the Internet to advertise or to sell products.

Our members are however worried that under the block exemption the supplier would be free to require its distributors to have a brick and mortar shop or showroom before engaging in online distribution (point 54). **This prerequisite would only serve at preventing “pure players” (sole Internet traders) from participating in sales.** We believe that such regulations, which do not specifically target or aim to regulate the Internet, but result in temporarily slowing down the Internet economy in favour of the “Old Economy” are inappropriate. Internet sales and retail outlet sales must be put on an equal footing. Any restraints or limitations if applicable should apply equally to all sales channels.

This is not to be mixed up with rules forbidding sales of counterfeit, fake or illegal goods. Such sales must not be allowed, irrespective of the sales channel (shop, Internet...).

Also shop-in-shop systems where several traders do business on one and the same platform must neither directly nor indirectly become a link to permitted discrimination of Internet distribution.

In all events it must be made clear that Internet sales may not be limited depending on a certain determined percentage of retail outlet sales of any given dealer. If this were permitted it would be a subjective rather than an objective admission criterion. Footnote 29 of the Commission’s guidelines is worrying in this regard.

We hope our remarks can be taken into account and would of course be happy to provide further clarifications, respond to questions and/or provide additional input if it is deemed useful.

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## EMOTA Members:

### Austria

HANDELSVERBAND  
(Retail Association Austria)

### Czech Republic

ASOCIACE DIREKT MARKETINGU A  
ZÁSILKOVÉHO OBCHODU (ADMAZ)  
(The Direct Marketing  
and Mail Order Business Association)

### Finland

SUOMEN ASIAKKIISMARKKINOINTILIITTO RY  
(The Finish Direct Marketing Association)

### Germany

BUNDESVERBAND DES DEUTSCHEN  
VERSANDHANDELS e.V. (bvh)  
(German E-Commerce and Distance Selling  
Trade Association)

### Great Britain

BRITISH RETAIL CONSORTIUM (BRC)

### Hungary

MAGYAR ÁRUKÜLDÖK EGYESÜLETE  
(Hungarian Distance Selling Trade Association)

### The Netherlands

THUISWINKEL.ORG  
(Dutch Home-shopping Association)

### Poland

STOWARZYSZENIE MARKETINGU  
BEZPOSREDNIEGO (SMB)  
(Direct Marketing Association)

### Russia

Национальная Ассоциация  
Дистанционной Торговли (НАДТ)  
(National Association of Mail Order and Distance  
Selling (NAMO))

### Slovenia

ZDRUŽENJE ZA DIREKTNI MARKETING  
SLOVENIJE (ZDM)  
(Slovenian Direct Marketing Association)

### Sweden

SVENSK DISTANSHANDEL (SDh)  
(Swedish Distance Sellers)

### Ukraine

Ukrainian Direct Marketing Association

### Belgium

BECOMMERCE

### Denmark

FORENINGEN FOR DISTANCE - OG  
INTERNETHANDEL (FDIH)  
(The Danish Distance Selling and eBusiness  
Association)

### France

FÉDÉRATION DU E-COMMERCE ET DE LA  
VENTE À DISTANCE (FEVAD)  
(E-Commerce and Distance Selling Federation)

### Germany

BUNDESVERBAND DER DEUTSCHEN  
VERSANDBUCHHÄNDLER e.V.  
(Association of German Mail Order Booksellers)

### Greece

Ενωση Επιχειρήσεων Πωλήσεων Από Απόσταση  
Και Αμέσου Marketing (ΕΠΑΜ)  
(Union of Hellenic Distance Selling and Direct  
Marketing Enterprises)

### Italy

ASSOCIAZIONE NAZIONALE VENDITA A  
DISTANZA (ANVED)  
(National Distance Selling Association)

### Norway

DISTANSEHANDEL NORGE (DN)  
(Norwegian Distance Sellers )

### Romania

ASOCIATIA ROMANA DE MARKETING DIRECT  
(ARMAD)  
(Romanian Direct Marketing Association)

### Slovakia

ASOCIÁCIA ZÁSIELKOVÉHO OBCHODU (AZO)  
(Slovak Mail Order Association)

### Spain

ASOCIACIÓN ESPAÑOLA DE VENTA A  
DISTANCIA  
(Spanish Distance Selling Association)

### Switzerland

VERBAND DES SCHWEIZERISCHEN  
VERSANDHANDELS (VSV)  
(Association of the Swiss Mail Order)