

## **NCV Comments on the proposed review of competition rules for the distribution sector, 28 September 2009**

The NCV, the Dutch association of manufacturers and importers of cosmetics/products for personal care, represents approximately 100 companies. The NCV represents 85-90% of the Dutch cosmetics market. The members cover almost all sectors of cosmetics, such as mass and selective brands, professional hair and nail care. Members are manufacturers (full members), ingredient suppliers and suppliers of services (associate members).

The Dutch cosmetics market represents around 3.9% of the European cosmetics market (largest market of the smaller Western European countries), with value sales approaching 3 billion euros (thousand million)<sup>1</sup>.

The NCV likes to react on the proposed review of competition rules for the distribution sector .

The NCV position:

We consider the current legislation as a success in bringing benefits to the consumer, the manufacturer and to the distributor. Therefore we are pleased that the Commission's preliminary assessment of the application of the current legislation point out that the current rules have worked well in practice. We are pleased with the new draft regulation and guidelines and we only would like to draw the Commission's attention to the following issues of concern.

- Article 4(b)  
The Commission proposed to broadening the hardcore restriction in Article 4b of the Regulation. The Commission intends to allow only the restriction of sales to unauthorised distributors by the members of a selective distribution system "in markets where such a system is operated". We are worried by this proposal and have difficulties in understanding its rationale. It is essential, in the opinion of the NCV, that such added wording is deleted.
- Internet  
We believe internet sales is an added opportunity to put cosmetic products on the market. However we think the text of the Guidelines is in many aspects rigid and form-based. It should be clarified that, provided internet sales are not made impossible, it is the sole responsibility of suppliers to define the conditions imposed on resellers selling over the Internet. Therefore, the requirement that these should be "equivalent" to those imposed on brick and mortar shops, or that minimum sales imposed for off-line sales should be expressed in absolute amounts and not proportions are overly formalistic and introduce unnecessary subjectivity and uncertainty in the system.

We are willing to give more information on our position if needed.

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<sup>1</sup> The European cosmetic, toiletry & perfumery market 2008 by Colipa