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Mrs. Nelly Kroes
Commissioner for Competition
European Commission
1049 Brussels/Brussel
BELGIQUE/BELGIË

CABINET KROES
To: NK AW LBA RP TK JPM VT GC KG SEC
001246 11.08.2009
CC: NK AW LBA RP TK JPM VT GC KG SEC

6th August 2009

Dear Mrs. Kroes,

Re: Revision of Regulation n° 2790/99 on vertical agreements – Position of the European department stores

The European department stores would like to intervene in the consultation on the revision of European regulation n° 2790/99 on vertical agreements, currently carried out under your authority.

The department stores are important economic actors in the distribution of luxury and high standing brands, especially in the field of fashion, perfumery-cosmetics and watch making. The aim of the department stores is to develop access to these brands. They contribute, in this respect, to the development of a particularly important European industry.

The success of this European industry relies on stable partnerships established with the distributors through selective distribution agreements. These agreements allow investments in stores and a quality of service which contributes to the success of the brands distributed. Thus, selective distribution agreements create economic values and have a positive impact on the European economy.

It is essential that the development of online selling does not impact this balance. For the consumers, the value of a product is related to its exposure in certain stores, in certain urban areas and to the quality of reception and service. The development without restriction of online selling would involve important risks of free riding, as retailers selling only on the web (pure players) could profit from investments carried out by traditional distributors. This mode of distribution would also lead to a trivialisation of luxury brands, which built their prestige on a selective distribution policy. This would have detrimental economic effects in the long run for the luxury industry, but also for consumers and distributors, including websites.

As a consequence, we defend, within the framework of future regulation on vertical agreements, the possibility for the supplier to require its distributor to have brick and mortar stores before engaging in online distribution. It is also necessary that the guidelines issued by the Commission specify the conditions under which suppliers can impose this requirement in an effective way. As mentioned above, we consider that online selling shall not undermine the brand values created by brick and mortar networks.

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In this respect, we consider that the suppliers are entitled to require that the website be the prolongation of the brick and mortar stores and offer a level of quality and service equivalent to that of stores, for example:

- compliance with the brand codes
- the brick and mortar network has to be sufficiently developed that the customer can obtain a high level of technical assistance and easily carry out an exchange or a refund

We hope that our proposal can be taken into account in the redrafted regulation and in its guidelines. The future of an important sector of the European economy relies on the possibility for suppliers to choose their distributors and the conditions under which their products must be distributed. This possibility is completely compatible with the principles of competition and a high level of consumer satisfaction.

We hope that our position will be looked upon favourably and we remain at your disposal.

Respectfully yours,

Paul Kelly
Chief Executive Officer

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