

Competition - Switzerland

Commission investigates online sales restrictions

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On September 15 2010 the Competition Commission opened an investigation into restrictions on online sales of household appliances. The investigation aims to establish whether the restriction of online sales constitutes a violation of competition law and is the commission's first investigation into restrictions on e-commerce. The findings should result in the establishment of standards for online commerce that will apply across all retail sectors.

At present, the investigation is focusing on the behaviour of Electrolux AG and V-Zug AG. According to the commission's press release, Electrolux issued a blanket ban on distributors from selling products online, while V-Zug also imposed restrictions on its distributors regarding online sales.⁽¹⁾ The investigation may subsequently be extended to other companies that retail household appliances.

The secretariat of the commission initially opened a preliminary investigation following a complaint from distributors. This led to indications that restrictions on online sales could be considered anti-competitive and therefore illegal. According to the Notice on the Competition Law Treatment of Vertical Restraints, which the commission issued on June 28 2010, distributors must, in principle, be permitted to take orders over the internet. Furthermore, the notice includes a new, more detailed definition of 'passive sales'. Such sales may not be prohibited even in exclusive distribution agreements. Online sales are generally considered to be passive sales, unless the sales activities are targeted at customers located outside of the distributor's area of exclusivity.

Electrolux and V-Zug have expressed their intention to cooperate with the secretariat so as to establish, in the context of the investigation, standards for online commerce.

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Endnotes

(1) The press release can be accessed in French at www.news.admin.ch/message/index.html?lang=fr&msg-id=35158.

(2) The text of the notice can be accessed in French at www.weko.admin.ch/dokumentation/01007/index.html?lang=fr.

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