

LIGUE INTERNATIONALE DU DROIT DE LA CONCURRENCE

QUESTION B

“1.a. In its treatment of distribution systems, to what extent may or should competition law control the freedom of a supplier to adopt one or different distribution channels for the same product?”

1/ Generally speaking, does your competition law recognize the possibility for a supplier to organize freely the distribution of his products, and under what conditions?”

“2/ More precisely, is it possible for a supplier, and subject to what conditions, to choose, for the sale of one product:

2.1. a single distribution channel (for example, exclusive purchasing, exclusive distribution, selective distribution, franchising)? The answer may distinguish between the various types of distribution channel”.

2.2. several distribution channels which will coexist and compete with one another (sometimes called multi-networks)? In this case what are the limits imposed by your legal system (for example, for active sales, and/or sales between authorized distributors)?

3/ How is the position affected by the market power of the supplier? Are the answers different if the supplier holds a dominant position?

B / In its treatment of distribution systems, to what extent may or should competition law control the cumulative effect of the adoption of the same

distribution channel by the majority of suppliers on a market?

1/ Does your law take into account the legal and economic context in, which the distribution agreement is applied where similar agreements are entered into by competitors (“network or cumulative effect“)?

2/ Does the application of the principle of “cumulative effect” differ according to the type of network chosen (for example, exclusive distribution or selective distribution)?

3/ What are the consequences of the “network or cumulative effect” on the agreement concerned and/or on all similar agreements entered into by competitors?

C / What are your personal views on the subject and your suggestions for improvements of the system?