

CONSUMER GOODS & RETAIL - ANTITRUST AND CONSUMER PROTECTION NEWSLETTER – JANUARY 2025

Welcome to the January 2025 edition of the Clifford Chance Antitrust and Consumer Protection Newsletter for companies active in the Consumer Goods & Retail sector.

This newsletter provides a digest of recent antitrust and consumer law developments and emerging enforcement trends in the sector.

If you would like to know more about the subjects covered in this publication, please refer to the contacts on the back page.

RECENT DEVELOPMENTS

European Union

- European Commission investigates Corning's exclusive purchase agreements with OEMs as potential abuse of dominance.
- European Commission fines fashion brand Pierre Cardin and its biggest licensee Ahlers for restricting cross-border sales of Pierre Cardin-branded clothing.

France

- French Competition Authority fines 10 manufacturers and two distributors for vertical price-fixing arrangements in home appliance sector.
- French Competition Authority approves acquisition by the Intermarché group of 200 stores formerly under the Casino brand.

Germany

- German FCO fines AVM for requiring retailers to increase resale prices and imposing minimum resale prices.

Spain

- Spanish CNMC accepts behavioural commitments to approve the acquisition of joint control of chocolate drinks maker Cacaolat by Idilia Foods and Damm.

Netherlands

- ACM accepts commitments from Ticketmaster to allow online resellers to resell tickets on third party sites.

United Kingdom

- HOKA/Up & Running judgment highlights the legal risks of selective distribution systems and complicates suppliers' ability to control sales of clearance stock.
- UK CMA launches court action against Emma over discounting claims in violation of consumer protection law.
- UK CMA secures commitments from Wowcher over potentially misleading urgency claims.

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TRENDS

Consumer Protection

We expect the recent trend of antitrust regulators focusing on consumer protection enforcement to continue to develop in 2025. Online advertising and sales practices, as well as “greenwashing” claims, are expected to continue to be of particular interest to regulators.

- In **Australia**, the ACCC has initiated court proceedings against several high-profile companies for allegedly misleading consumer practices. This trend is expected to continue.
- In the **European Union**, the President of the European Commission Ursula von der Leyen has emphasised the need for a new Digital Fairness Act to address gaps in existing consumer protection laws.
- In **Italy**, we expect the ICA to continue its focus on potential breaches of consumer protection law – particularly misleading advertising – with particular scrutiny of digital markets.
- In the **Netherlands**, the ACM has increasingly been more proactive in addressing misleading green claims in company advertising to consumers, and the authority is expected to continue this practice in 2025.
- In the **UK**, new legislation will come into force in April 2025 which will introduce a more robust consumer protection regime in the UK by aligning consumer protection enforcement with existing competition law procedures, elevating the risk profile for businesses found to be non-compliant.

Territorial Supply Constraints

In the **European Union**, we expect scrutiny of territorial supply constraints (“TSCs”) within the EU to continue following on from the European Commission’s recent decision to fine Pierre Cardin and Ahlers for restricting cross-border sales of branded clothing. The European Commission is also continuing with its fact-finding exercise to gather evidence from EU Member States on the types of TSCs that are used. The European Commission is expected to use this exercise to assess whether, beyond existing antitrust rules, there is an enforcement gap which requires new regulations or measures which address the use of certain TSCs in the EU.

Scrutiny into food supply chains

We expect continued scrutiny of food supply chains, particularly where volatility in the cost of food inputs and general inflation continues.

- The **European Commission** has emphasised that food supply chains remain a priority for competition policy and enforcement.
- In **Germany**, the Monopolies Commission has recently issued a report observing a significant increase in the market power of food retailers in recent years which we expect will lead to further scrutiny of the sector.
- In **Australia**, we anticipate there to be a continued focus on the supermarket industry, including from the ACCC’s final report (expected Q1 2025) into supermarket price setting practices, retail competition, and concerns raised in the grocery supply chain (including supplier concerns about supermarkets’ buyer power).

CONTACTS

Australia

Elizabeth Richmond
Partner
Sydney

T: +61 2 9947 8011
E: elizabeth.richmond@cliffordchance.com

Ryan Draper
Senior Associate
Sydney

T: +61 2 8922 8583
E: ryan.draper@cliffordchance.com

Sam Frouhar
Senior Associate
Sydney

T: +61 2 8922 8053
E: sam.frouhar@cliffordchance.com

France

David Tayar
Partner
Paris

T: +33 1 4405 5422
E: david.tayar@cliffordchance.com

Katrin Schallenberg
Partner
Paris

T: +33 1 4405 2457
E: katrin.schallenberg@cliffordchance.com

Germany

Marc Besen
Partner
Dusseldorf

T: +49 211 4355 5312
E: marc.besen@cliffordchance.com

Anne Filzmoser
Counsel
Dusseldorf

T: +49 211 4355 5308
E: anne.filzmoser@cliffordchance.com

Italy

Luciano Di Via
Partner
Rome

T: +39 064229 1265
E: luciano.divia@cliffordchance.com

Antonio Mirabile
Senior Associate
Rome

T: +39 064229 1271
E: antonio.mirabile@cliffordchance.com

Netherlands

Jurre Jurriëns
Senior Associate
Amsterdam

T: +31 20 711 9536
E: jurre.jurriens@cliffordchance.com

Fiorri Michael
Advocaat-stagiaire
Amsterdam

T: +31 20 711 9056
E: fiorri.michael@cliffordchance.com

Spain

Belén Irissarry
Counsel
Madrid

T: +34 685157716
E: belen.irissarry@cliffordchance.com

Sara Selma
Abogado
Madrid

T: +34 91 590 7559
E: sara.selma@cliffordchance.com

Paula Valenciano
Abogado
Madrid

T: +34 91 590 9414
E: paula.valenciano@cliffordchance.com

Sue Hinchliffe
Partner
London

T: +44 207006 1378
E: sue.hinchliffe@cliffordchance.com

Michael Grenfell
Partner
London

T: +44 207006 1199
E: michael.grenfell@cliffordchance.com

Samantha Ward
Partner
London

T: +44 207006 8546
E: samantha.ward@cliffordchance.com

Greg Hayes
Senior Associate
London

T: +44 207006 3391
E: greg.hayes@cliffordchance.com

Amy Ryan
Senior Associate
London

T: +44 207006 2385
E: amy.ryan@cliffordchance.com

Maria Sowinska
Associate
London

T: +44 207006 2983
E: maria.sowinska@cliffordchance.com

Joseph Sherlock
Associate
Madrid

T: +44 207006 3170
E: joseph.sherlock@cliffordchance.com