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ACM once again warns suppliers who restrict retailers when setting sales prices

Second warning

On 20 March 2023, less than a year after a previous press release with a similar purport, the Dutch Competition Authority ('ACM') issued another press release in which it informs the public that it has once again warned various suppliers that they may be acting in violation of the prohibition of resale price maintenance ('RPM').

In follow-up to the warnings, the ACM actively monitors various companies to see whether they comply with the rules.

Recommended price check for entrepreneurs

The ACM has made a recommended price check tool available on its website. Suppliers can use this to tool to check whether they are complying with the rules. The tool also allows retailers to check whether their supplier exerts a prohibited influence on their sales prices in the (web)shop. Retailers who want to complain about RPM to their supplier can use a sample letter drawn up by the ACM.

Commentary

Suppliers must offer retailers the freedom to set their selling prices independently. Therefore, suppliers are only allowed to provide retailers with non-binding advice on the selling price. It is forbidden for suppliers to exert strong influence on the selling prices of retailers.

With this second press release, the ACM warns companies for the second time within a short time frame to refrain from RPM. This demonstrates that RPM enforcement is a top priority for the ACM. Companies that continue to violate the rules should expect to face significant fines, given the ACM's repeated warnings.