DISTRIBUTION (EDUCATIONAL MATERIAL): THE NATHAN CASE

Subject: Distribution agreements
Price restrictions
Territoriality
Fines

Industry: Educational material
(Some implications for other industries)

Parties: Editions Nathan
Bricolux SA

Source: Commission Statement IP/00/713, dated 5 July 2000

(Note. Although this case is relatively small beer, it does have some of the features of larger and more egregious cases. The distribution agreements in question "prevented the distributors from marketing Nathan products outside their own exclusive territories and restricted their freedom to set prices and commercial conditions of sale".)

The Commission has found against the French company Editions Nathan for entering into restrictive distribution agreements concerning educational material in several Member States. The agreements prevented exclusive distributors from competing with one another and freely setting prices, to the detriment of schools in France and Belgium. However, given the limited geographical scope of the agreements and the cooperation of the companies throughout the procedure, the Commission has imposed only very small fines.

Editions Nathan produces educational material and school textbooks, mainly in France. The agreements in question with its three exclusive distributors in Italy, Sweden and the French-speaking parts of Belgium concern only educational material aimed at pre-school children, which is sold by a network of independent distributors in almost all the Member States. These products are purchased as teaching aids namely by crèches and nursery schools, a market estimated at some € 600m per year in the European Union.

The Commission investigation, launched at the prompting of the French authorities, showed that the agreements prevented the distributors from marketing Nathan products outside their own exclusive territories and restricted their freedom to set prices and commercial conditions of sale. This "private preserves" practice also affected customers in France as foreign distributors were automatically excluded from the market.

Agreements that aim to partition markets between Member States are in breach of Article 81 of the Treaty on unlawful agreements and are detrimental to the interests of schools, which could have benefited from competition among distributors from different countries, including France, where Nathan is one of

the market leaders. The Commission has recently revised its policy on distribution agreements, but it has repeated that such practices restrictive of trade will not be tolerated within the internal market. (See Commission Regulation (EC) No 2790/99 of 22 December 1999 and Guidelines on vertical restraints.)

In calculating the fines, the Commission, acting under the relevant guidelines (OJ C 9, 14.1.1998, p. 3) took account of the fact that the unlawful agreements had actually been implemented in France and Belgium only. Editions Nathan and its Belgian distributor Bricolux SA also cooperated actively during the procedure. Editions Nathan has been fined € 60,000, after a considerable reduction based on mitigating circumstances, and Bricolux SA, a family firm, € 1,000. ■

Member States' banks in cartel investigation

The Commission has warned banks and banking associations in Belgium, Finland, Portugal and Ireland that it has evidence of breach of European Union competition rules concerning charges for exchanging euro-zone currencies. The banks have until early October to reply. The Commission has stated that it will severely punish any price-fixing arrangements which, if confirmed, may have undermined the launch of Europe's single currency and harmed consumers.

The Commission has sent or is on the point of sending statements of objections to nearly 120 banks and banking associations in the four countries following an investigation into consumer complaints that banks had collectively fixed charges for the exchange of currencies in the euro zone. The formal warnings follow an investigation which started shortly after the introduction of the euro in January 1, 1999, in 11 European Union countries. The United Kingdom, Denmark, Sweden and Greece are not part of the euro zone.

Banks are free to set the level of charges individually for exchanging currencies. But consumers must be able to shop around for the best price, according to the Commission, whose investigation so far has showed that banks may have engaged in price-fixing arrangements either to increase the exchange fees or to control their decrease. The Commission is likely to send statements of objections to other banks in the near future. Meanwhile, the list of banks in the four Member States has been released.

Statements of objection are a step in antitrust proceedings and do not prejudge the final outcome of the investigation. These statements present documentary evidence that banks and banking associations have fixed the prices for the exchange of euro-zone notes which, if confirmed, would constitute a breach of Article 81 of the EC Treaty prohibiting cartels and other concerted practices.

Source: Commission Statement IP/00/784, dated 14 July 2000