

# Antitrust: Commission opens formal investigation into distribution practices of clothing company Guess

Commissioner Margrethe **Vestager**, in charge of competition policy said: *"The Commission has information indicating that Guess, in its distribution agreements, may ban cross-border sales to consumers. One of the key benefits of the EU's Single Market is that consumers can shop around for a better deal. We are going to investigate Guess' practices further to ensure that it's playing by the rules and not preventing consumers from buying products across borders."*

Guess designs, distributes and licenses clothing and accessories. Guess' apparel is marketed under numerous trademarks, including "GUESS?" and "MARCIANO".

The Commission will investigate information indicating that Guess' distribution agreements may restrict authorised retailers from selling online to consumers or to retailers in other Member States. They may also restrict wholesalers from selling to retailers in other Member States.

Companies are generally free to set up the distribution system that best serves them. However these systems must comply with EU competition rules. In particular, consumers must be free to purchase from any retailer authorised by a manufacturer, including across national borders.

Guess's agreements under investigation may be in breach of EU competition rules (Article 101 of the Treaty on the Functioning of the European Union), which prohibit agreements between companies that prevent, restrict or distort competition within the EU's Single Market.

In its recent [final report on the e-commerce sector inquiry](#) the Commission found that more than one in ten surveyed retailers experienced cross-border sales restrictions in their distribution agreements. Such restrictions limit their ability to sell online to consumers in other Member States.

The formal investigation launched today concerning Guess is a stand-alone procedure that is separate from the e-commerce sector inquiry but follows up on one of the issues identified in the inquiry's final report.

## **Background**

### *The e-commerce sector inquiry and other investigations*

The Commission adopted the final report on the e-commerce sector inquiry on 10 May 2017 in the context of its [Digital Single Market strategy mid-term review](#). During the inquiry, the Commission gathered evidence from nearly 1 900 companies operating in e-commerce of consumer goods and digital content and analysed around 8 000 distribution and license contracts.

The insight gained from the [sector inquiry](#) will allow the Commission to target EU antitrust enforcement in European e-commerce markets on the most widespread, problematic business practices that have emerged or evolved as a result of the growth of e-commerce and that may negatively impact competition and cross-border trade and hence the functioning of the EU's Digital Single Market.

The full text of the final report can be found [here](#).

In February 2017, the Commission launched [three separate investigations](#) to assess if certain online sales practices prevent, in breach of EU antitrust rules, consumers from enjoying cross-border choice and being able to buy consumer electronics, video games and hotel accommodation at competitive prices. These investigations are ongoing.

### *Procedural background*

Article 101 TFEU prohibits agreements between undertakings and decisions of associations of undertakings that prevent, restrict or distort competition within the EU's Single Market.

There is no legal deadline for bringing an antitrust investigation to an end. The duration of an investigation depends on a number of factors, including the complexity of the case, the cooperation of the companies with the Commission and the exercise of the rights of defence.

The opening of formal proceedings does not prejudice the outcome of the investigation. It relieves the competition authorities of EU Member States of their competence to apply EU competition rules to the practices concerned.

More information on the investigation will be available on the Commission's [competition](#) website, in the public [case register](#) under the case number [40428](#).