The Tradition

NEMESIS
COURT SIMULATIONS

CJEU
STUDY GUIDE

NEMESIS
BY BAUMUN

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LETTER OF SECRETARY GENERAL

Dear Participants,

As the secretary general of the conference, it is my pleasure to greet you. We are proud to already feel the excitement of hosting one of Turkey's most sought-after legal conferences. Alongside our experienced team, who have been striving to create privileged events for law students in interactive settings for years, we eagerly await your presence.

The main aim of our conference is to create a shared and broad vision with law students and to provide them with the opportunity to experience professional activities within the context of the legal field during their academic lives. In our courtroom simulation, which is designed to prepare you for the profession by providing educational and instructive experiences in competition with many others interested in the field, you will find a rewarding experience.

Furthermore, I would like to emphasize that both the academic and organisational teams of the conference are working in harmony to provide you with a wonderful experience. On this occasion, I extend my thanks to my esteemed colleague and our esteemed Director General Eylül Çamyurdu, and our Deputy Director Generals Duygu Aka and Elif Atay for their incredible efforts and commitment to perfection with the organization, and I also extend the love and greetings of our valuable Deputy Secretary General Safvet Yusuf Tığlı for his outstanding efforts and work he put into helping me guide and build the academic team.

Finally, on behalf of the conference, I would like to thank you for joining us in Nemesis Court Simulations The Tradition. We are proud to be with curious and distinguished law students who are passionate about their profession.

Best Regards,

DEFNE TANRIVERDİ

Secretary General of Nemesis The Tradition 2026

LETTER FROM UNDER SECRETARY GENERAL

Distinguished participants of NEMESIS'26;

Before all else, I would like to express my sincere gratitude to the Nemesis Family; to our Secretary General, Deputy Secretary General, Director General, Deputy Director General, and the entire organization team—whose dedication, precision, and commitment have once again made this distinguished court simulation possible.

As the Under Secretary General of this year's simulation, I, Muhammed Furkan KIRIM, am honored to welcome you all to Nemesis: The Tradition 2026—a continuation of a legacy built upon intellectual rigor, legal excellence, and a shared pursuit of justice.

This year's proceedings will once again bring before us complex legal questions, demanding not only technical knowledge but also critical thinking, analytical precision, and the courage to challenge established interpretations. Acting within the framework of the Court, you will engage in a process where arguments are tested, reasoning is refined, and law is not merely applied—but deeply examined.

Nemesis has never been solely about simulation; it is about carrying forward a tradition of disciplined thought, respectful argumentation, and the continuous re-examination of legal principles. In this sense, each of you is not only a participant, but also a contributor to this evolving tradition.

I wish all our judges and advocates the very best in their roles. May this experience offer not only academic enrichment, but also inspire you to think beyond the conventional boundaries of law.

Let this year uphold the tradition of Nemesis—and, perhaps, redefine it.

With my most sincere wishes for success and meaningful participation,

Muhammed Furkan KIRIM
Under Secretary General
Nemesis: The Tradition 2026

1- INTRODUCTION TO THE COURT

1.1 - COMPETITION 101

1.1.1- Principles of Liberal Market

The EU's economic system is structured as a “liberal market economy” rooted in the fundamental principles of supply and demand. This system is characterized by trade freedom, economic autonomy and private property.

In liberal markets, the pursuit of self-interest fuels the competition because the drive for personal profit can yield social benefits and foster economic progress. Also, for liberal markets a competitive environment is essential since without the competition efficiency, innovation and economic growth could not materialize. In addition, when businesses face competition, they are forced to innovate, adapt and enhance productivity. As a result, consumers benefit from a competitive market because prices get down, quality goes up and consumers get greater choice.

1.1.2- Undertakings

Undertaking: In competition law, undertaking means natural and legal persons who produce, market and sell goods and services in the market. Another definition of “undertaking” is any business or organization involved in economic activities that follows competition laws, no matter what its legal form or funding source is. This can include one person or a group of people or companies. There are three main components of an undertaking, **economic activity** including private, public institutions, **economic unity**, **independent decision-making.**

1.1.3- Relevant Market

“Market” is the process of identifying the products or services ("product market") and the area ("geographic market") in which companies compete. Deciding on what the “relevant market” is really matters in competition law. It helps understand how much market power a company has, spot any questionable practices, and make sure everyone's following the rules. The relevant market is divided into two interrelated components: “**relevant product market”** and “**relevant geographic market”**.

Relevant Product Market, basically all the stuff that people can interchange based on things like features, price, and how they're used. Authorities consider that products are in the same market if people see them as alternatives to each other. If they aren't seen that way, then they're considered to be in different markets. Also, when determining if a product fall within the same market, there are principles to have in mind. For example, **product characteristics**, **supply substitution**, **switching costs and barriers** and **competitor-customer perspectives**.

Relevant Geographic Market, refers to the area where businesses sell their products and where competition is similar. If the competition and competitors changes when a business goes beyond its usual area, it shows that the market belongs to a specific region. When determining the geographic boundaries of the market there are principles to consider. For instance, **market characteristics**, **customer-competitor input**, **historical evidence** and **quantitative tests**.

1.1.4- Cartels

In markets where competition law frameworks are ineffective, undertakings often show a tendency to avoid competition. These undertakings may choose anti-competitive arrangements and coordinated strategies to increase their profit. These practices are called cartels or groups act like a cartel. This means working together to get rid of competition by dividing up the market, fixing prices, or limiting how much is produced to control supply. Markets that are controlled by cartels, firms may increase prices or reduce the quality of their goods insulated from the risk of losing customers.

A "cartel" can be defined as companies that compete with each other to make deals to fix prices, coordinate bids, limit how much they produce, or split up markets by sharing customers or territories. Other words, a cartel comprises firms that choose collaboration over competition to regulate market variables such as price, output, or market entry. Competition law frameworks explicitly target and prohibit agreements, concerted practices, and decisions that facilitate or result in the establishment of cartels or cartel-like economic structures.

1.1.5- Markets Prone to Cartel Formation

A. Collusion requires a high level of coordination among the involved participants. Unfortunately certain market structures naturally lend themselves to cartel formation;

this allows collusive activities to persist without constant internal or external disruption, fostering an environment where undertakings are more likely to form and sustain anti-competitive agreements.

B. Market Features Facilitating Cartels

1-Barriers to Market Entry: markets characterized by significant entry barriers create favorable conditions for cartel formation and maintenance because high barriers prevent new competitors from entering the market.

2-Predictable Market Conditions: markets with stable and predictable conditions are conducive to cartel formation. In these types of markets, consumers are less likely to respond to price changes by seeking alternatives.

3-Monitoring, Detection, and Retaliation Mechanisms: For a cartel to endure, its members must adhere strictly to the agreed terms of collusion. Effective monitoring and detection mechanisms play an essential role in spotting these collisions. These methods, whether they already exist in the market or are set up by the cartel, help them make sure everyone follows their rules and keep the cartel stable over time.

C. Anti Competitive Agreements

“Anti-Competitive”, refers to actions, behaviors, or agreements by businesses that restrict, or eliminate competition within a market. In a good market, companies try to attract customers by providing better products or services at good prices. But when anti-competitive behaviors distort this environment by unfairly pushing other businesses around or manipulating the market conditions. Anti-competitive agreement, includes any consensus, formal or informal, that aims to restrict competitive dynamics in the market. Also, unlike a legally binding contract it encompasses any form of mutual understanding or arrangement, including informal or non-binding “gentlemen’s agreements”.

For an anti-competitive agreement, a consensus to restrict competition is sufficient. It does not need to be in written or verbal form, it is enough that the parties’ wills mutually align in a way that restricts competition. In this context, the extent of the role

played in the agreement or whether the agreement is implemented is not important; such conduct constitutes a violation of competition laws and leads to liability.

D. Horizontal Agreement

Horizontal agreements refer to collusive arrangements between undertakings operating **at the same level** of production or distribution within the market. Such agreements, aimed at restricting competition by controlling prices, allocating markets, or limiting production, are considered inherently harmful and are strictly prohibited due to their adverse impact on market competition. Example, Market Division in Construction Industry: When competing companies stick to their own areas and don't bid on projects outside those regions. This ends up limiting choices for clients and driving up project costs.

E. Vertical Agreement

Vertical agreements are agreements between undertakings operating **at different stages** of the supply chain, such as manufacturers and retailers. Prohibited conduct includes agreements to set resale prices or control market shares. Selective distribution systems, where suppliers restrict which distributors may sell their products, may also infringe competition law if they limit market access or foster anti-competitive outcomes. Example, Discount Restrictions in the Car Industry: A car company prevents dealerships from lowering prices on new models. This keeps prices steady and reduces competition among sellers.

F. Anti-Competitive Decisions by Associations of Undertakings

Decisions by associations of undertakings are subject to competition law when they restrict or distort competitive dynamics within the market. Any decision, or directive that distorts the market competition is prohibited. Example, Limiting Access to Technology: A tech group is only giving access to new patents to members who pay a lot, leaving out smaller companies. This is making it hard for them to innovate and compete.

G. In the EU participation in a cartel is generally viewed as a **strict liability** offense as it intends to harm competition. Also, to tackle these cartels EU's fining policy aims to establish a strong **deterrent** effect against cartel behaviour. If a cartel is detected, the commission can impose fines of up to 10% of a company's global turnover. Another policy is the "Leniency Program". It helps authorities to detect cartels. Participants in a cartel can face reduced fines or immunity if they voluntarily disclose information about the cartel.

1.1.6- Concerted Practices

A concerted practice is defined as a form of coordination between undertakings which, without having reached the stage where an agreement properly so-called has been concluded, nowingly substitutes practical cooperation between them for the risks of competition. Concerted practices do not have to be material meaning formal agreements but instead exist as intentional coordinated behaviors that facilitate to mitigate the inherent risks associated with competition. By engaging in these coordinated behaviors, undertakings avoid the usual risks of competition and gain a competitive advantage through collaboration, which they would not otherwise achieve individually. There are two aspects of "Concerted Practices". First one is the parallel anti-competitive action of multiple undertakings and second one is the intentional harmonization of behaviors. In making the presumption that undertakings are engaged in concerted activity, the CJEU's approach is evaluating the situation under the lights of these following principles:

1- **Existence of parallel conduct with anti-competitive effect**. Usually, the CJEU starts to assess the situation by seeking consistent, uniform conduct among undertakings.It should be noted that intent to restrict competition is not necessary, the mere effect of reducing competition can be sufficient for violation. So if there is parallel conduct undertakings must have rational justification for their behaviour otherwise they can get fined.

2- **Exchange of information**. Most of the time such undertakings share strategic decisions, information on pricing or output. Generally this is considered as solid evidence for the alignment.

3- **Reliance on Indirect Evidence**. Since direct evidence of such an explicit agreement is often unavailable the CJEU relies on circumstantial evidence and market context to establish a presumption of concerted practice. Although indirect evidence can be used in the process of making the presumption undertakings always by justifying their actions avoid fines.

1.1.7- Collusion & Tacit Collusion

Collusion is a non-competitive, secret, and sometimes illegal agreement between rivals that attempts to disrupt the market's equilibrium. Price fixing, dividing the market or manipulating the market can be done by colluding parties for the benefit of colluding parties. There are two different types of collusion: explicit which is done through formal agreements and direct communication between competitors to coordinate their behaviour. The other one is tacit collusion which is done indirectly without any written agreement. Collusion is considered illegal in most jurisdictions because it undermines competitive market dynamics, leading to higher prices, reduced innovation, and lower consumer choice. Collusion, especially tacit collusion can be very challenging to detect as it does not always involve written agreement. Legal authorities use several economic analyses to investigate and prove collusion.

1.1.8- Oligopoly

An oligopoly is a market structure in which market power belongs to several undertakings. In other words in an oligopoly, a small number of firms dominate the market, and they are often very aware of each other’s actions and strategies. Since a huge part of the market is controlled by a few undertakings, they can be subject to cartel investigations under competition law. There are four common components of an oligopoly: few dominant firms, interdependence, potential for collusion and barriers to entry.

1.1.9- Abuse of Dominant Position

The aim of the competition law is to maintain and promote the competition in the market. In this competitive environment, every undertaking strives to be superior to its competitors. They all want to maximize their profits, earn as much money as possible and gain the

maximum market share. If an undertaking achieves this, it becomes dominant in the market. An undertaking that has the ability to disrupt, restrict or prevent competition is considered dominant. In assessing this economic power, the most crucial factors are the undertaking's market share compared to its competitors and the conditions for market entry. For instance, an undertaking with a 40% market share may still dominate the market if its competitors are significantly smaller. However a company that has 60% market share due to low entry barriers may not be considered in the dominant position. Being dominant is not prohibited in the competition law since it is one of the possible outcomes of the liberal economy. So what is prohibited then? The abuse of this power in the market is illegal and prohibited in the competition law.

There are elements of the Abuse of the Dominant Position

1- The undertaking(s) should have the power to dominate the market which means their actions should be sufficient to determine the market parameters.

2- Being in a dominant position is not sufficient to get fined, but if the company starts to abuse this position then it can be a subject to investigations.

1.1.10 Identifying Abuse of a Dominant Position

In order to spot a dominant position, first the market that the undertaking operates in should be defined. After this definition the evaluation of the abuse of dominant position starts. CJEU starts the investigation by looking at the market shares of the undertaking in question and its competitors to understand the economic power. However, it should be noted that market share is not the sole or decisive factor in finding the dominant position but it is a sign. If the gap between the two largest undertakings is great and the rest of the market is divided, it is likely that the larger firm holds significant market power. Also, when detecting dominant position, factors restricting market power of undertakings shall be considered as well. During the investigation the barriers to entry are also taken into consideration by the CJEU. If an undertaking by using its dominance in the market prevents directly or indirectly other competitors from entering the market, and increasing the competition level, it can be a sign of the abuse of dominant position.

1.2- INTRODUCTION TO THE CJEU

The main aim of “Competition Law” is to promote fair and open competition in the marketplaces. It's essential to safeguard consumer rights and small businesses. “Competition Law” prevents companies from engaging in shady and legally restricted competitive practices which distort the open market such as cartels, abuse of market dominance. The competition law that is implemented within the EU is written in the “Treaty on the Functioning of the European Union” (TFEU). The EU competition rules provide a common framework to ensure the proper functioning of the internal market and promote free competition. “The European Court of Justice” (CJEU) is the main European judicial body that ensures uniform interpretation and application of competition law across the EU. Beyond “CJEU” each member state also has its own national competition authorities which are responsible for enforcing EU competition law at local levels.

1.2.1- Historical Background

1.2.1.1- History of the EU Competition Authority

The first regulations concerning competition law in today's sense began to emerge in the late 19th century with the Industrial Revolution. In the late 1800s, companies that are in the U.S. saw a huge increase in industrial growth, especially in railroads and oil. This led to big companies taking over, causing price wars and controlling the market. It started to become a problem for the government. To tackle this issue, the U.S. passed the “Sherman Act” in 1890. This was the first law aimed at promoting fair competition by banning monopolies and unfair business deals. In Europe, competition law and policy has been continuously reviewed since the establishment of the Community in 1957 in order to respond to the changing needs of the economy. The first competition rules in the EU were small parts of the treaty article 65 and 66 of the “ECSC Treaty” which was signed in Paris in 1951 by six countries including Netherlands. The treaty aimed to prevent cartels and abuse of economic power in the coal and steel sectors among the signatory countries as well as to control mergers. It was the beginning of a fair competition environment and the common market. An important development took place in the 1980s, several changes were made in the competition regulations and it became more comprehensive with the 1987 “Single European Act”. After these changes the European Commission began to adopt more centralized and more comprehensive approaches towards competition law. Today, Articles 101-109 are the key parts of EU competition law. They

cover things like anti-competitive agreements, abuse of market power, and mergers and acquisitions.

1.2.1.2- History of the Dutch Competition Authority

The Competition Law in the Netherlands is based on the “Dutch Competition Act” that is compatible with the relevant European policies and directives regarding economic competition. These regulations contain provisions for the avoidance of cartels, illegal undertakings of a dominant position, the abuse of power and the unlawful use of state aid. The implementation of the “Competition Act” is vital for a sustainable economic practice and for improving the economy of the country. Checking the implementations and to safeguard consumer and market interests ,several regulatory institutions were devised over the years. These institutions ultimately came together under one umbrella, leading to the establishment of the “Netherlands Authority for Consumers and Markets” (ACM). The creation of the “ACM” represented the start of a more streamlined approach to national competition regulation, unifying diverse regulatory entities under a single organization.

1.2.1.3- Importance of the Institutions

It is seen that societies have adopted different political and economic systems for various reasons since their establishment. Due to these economic, political and legal systems adopted by societies, the “competition” appears in different ways depending on these systems. There are several problems that will arise if competition is not regulated, for example, monopolies or cartels may dominate the market or the strongest may crush the less powerful ones in the market. In addition, it is stated in the doctrine that the decrease in the influence of the state in terms of the activities it attempts in the markets, and the danger of private monopolies replacing the state monopoly in certain markets, has emerged as an important factor in the state's intervention in the economy and assuming a regulatory and supervisory function. Beyond this information, studies that have emerged in recent years show that effective regulation of competition, especially in terms of “Competition Law”, is vital for the economic development of the countries and that the development of the economy is based on "proper competition" in the markets. In other words the effective distribution of resources and the growth of the economy can be established with the correct interventions of the state. Under the lights of this information, it can be indicated that the “EU Competition Authority” and the

"Dutch Competition Authority" are essential in preserving the integrity of market economies. These organizations continuously work to prevent companies from monopolizing the market and ensure a proper competitive environment.

1.2.2- Legal Foundations and Sources

In this context, competition policy is one of the main policies of the European Union (EU); because it directly or indirectly affects all other community policies. When it comes to competition law in the EU, the main source is the "Treaty on the Functioning of the European Union" (TFEU). Competition rules for the community can be found in title VII, chapter I of the "Rules on Competition" which covers articles "101 to 109" of the "TFEU".The article 101, "prohibits agreements that restrict competition".The article 102, prohibits the abuse of a dominant position. Articles 103 to 109 show the rules and guidelines fort the implementation of the articles 101 and 102. Also guides how state aid is monitored and controlled in EU competition law. Additionally, the European Commission provides guidelines and precedents, which serve as handy tools to help put these legal norms into practice.

In the Netherlands, the Mededingingswet (Dutch Competition Act) governs competition law. This legislation devises the rules aimed at preventing unfair competition in local markets. It makes laws clearer for businesses and consumers.

1.2.3- Institutional Structure and Functioning

1.2.3.1- EU Competition Authority

The EU Competition Authority is part of the Directorate-General for Competition (DG COMP) inside the European Commission. This body is crucial for overseeing market structures, managing mergers, tackling anti-competitive practices, and addressing cartel activities. Its setup involves a multi-step investigation process where relevant data gets gathered, analyzed, and evaluated according to legal standards. Whenever necessary, administrative penalties and procedural safeguards are put in place to ensure that its operations are both lawful and effective.

1.2.3.2- Dutch Competition Authority

The Dutch Competition Authority operates independently, adhering to national regulations to promote fair competition in the marketplace. It focuses on spotting and investigating

violations while also imposing appropriate penalties. This body is organized around clear mandates and operates under principles that prioritize transparency, efficiency, and legal clarity. The ACM also embraces sector-specific practices and measures designed to enhance particular markets.

1.2.3.3- Application Procedures

1.2.3.3.1- Application Procedures in the Netherlands.

In the Netherlands, if someone has a complaint about competition issues, they usually go through administrative channels to get it sorted out. If there's a suspicion of any wrongdoing, stakeholders can directly reach out to the Dutch Competition Authority (ACM) to file their complaint. The process kicks off with a preliminary review, and if it looks like there's some merit, they may dive into a full investigation before coming to a final decision. It's important to note that before taking this step, stakeholders need to exhaust any national legal options available to them. Skipping this step might mean they have to explore other legal routes.

1.2.3.3.2- Application Procedures at the EU Level

When it comes to the EU, there are two primary ways to address competition law violations. The first option allows for decisions made by national authorities to be escalated to the European Commission, which can step in if needed. The second option lets stakeholders take their cases directly to EU judicial institutions, like the Court of Justice of the European Union. These routes help keep public institutions coordinated and play a key role in shaping legal precedents within the EU.

2-Case Information VisionSave vs Spectle

2.1- Introduction to the Case

Competition within the internal market of the European Union is shaped not only by price and product quality, but also by technological control, market structure, and strategic conduct. In concentrated markets, dominant undertakings may rely on vertically integrated systems and commercial practices that influence the conditions under which competitors are able to enter and expand.

The present dispute arises in the Dutch ophthalmic lens market and concerns a conflict between VisionSave NV, a vertically integrated and established undertaking, and Spectle GmbH, a German undertaking seeking to enter and expand within that market.
Following a complaint brought before the Dutch Competition Authority (ACM), and subsequent investigative measures including an unannounced inspection at VisionSave's headquarters, the matter has been referred to the Court of Justice of the European Union for interpretation of Articles 101 and 102 of the Treaty on the Functioning of the European Union.

2.2- Parties

VisionSave NV:

VisionSave NV is a Netherlands-based undertaking active in the production and distribution of both optical frames and ophthalmic lenses. The company operates a vertically integrated business model and maintains a closed-loop ecosystem, whereby its frames are designed to function exclusively with its own lenses. Through this system, VisionSave retains control over both the initial sale of products and their subsequent use.

Spectle GmbH:

Spectle GmbH is a German undertaking established in 2021 and active in the production of ophthalmic lenses. Unlike VisionSave, Spectle does not manufacture frames. In an effort to enter the Dutch market, Spectle developed a lens system designed to be compatible with VisionSave frames, thereby allowing consumers to use alternative lenses without replacing their existing frames.

2.3-Background of Events

2020	VisionSave NV held approximately 48% of the Dutch ophthalmic lens market, followed by Merrill Lens (19%) and Lynch Lens (15%).
2021	Spectle GmbH was established in Germany and began developing ophthalmic lenses compatible with VisionSave frames.
March 2022	Spectle launched its “SnapFit” lenses in the Dutch market.
April 2022	Spectle initiated an advertising campaign with the slogan “VisionSave quality at a lower price.”
Early 2023	Spectle expanded its distribution through independent opticians across the Netherlands.
16 June 2023	VisionSave NV, Merrill Lens, and Lynch Lens held an industry meeting in the Netherlands to discuss market developments, including third-party lens systems.
September 2023	VisionSave introduced loyalty-based rebate schemes for independent opticians.
October 2023	VisionSave announced that the use of third-party lenses would void warranty coverage.
November 2023	Several market participants issued public statements warning against third-party lenses.
July 2024	Spectle filed a formal complaint before the Dutch Competition Authority (ACM), alleging anti-competitive conduct by VisionSave.
15 August 2024	

Late 2024	The ACM conducted an unannounced dawn raid at the premises of VisionSave NV. Spectle reached approximately 15% market share, while VisionSave's share declined to approximately 38%.
15 February 2025	The ACM issued its decision, concluding that no definitive infringement of Article 101 TFEU had been established, while raising concerns under Article 102 TFEU.
21 February 2025	The matter was referred to the Court of Justice of the European Union.

2.3- Market Context

Prior to Spectle's entry, the Dutch ophthalmic lens market was characterized by a stable and concentrated structure. VisionSave held approximately 48% of the market, followed by Merrill Lens (19%), Lynch Lens (15%), Fuji Lens (8%), Hoya Lens (5%), and other smaller competitors.

The market displayed features of an oligopolistic structure, in which a limited number of undertakings held significant market shares and where competitive dynamics were relatively predictable.

2.4-Spectle's Entry into the Market

In 2022, Spectle introduced its "SnapFit" lenses into the Dutch market. The product was marketed as a cost-effective alternative compatible with VisionSave frames and was supported by an extensive advertising campaign, including the slogan:

"VisionSave quality at a lower price." and "VS quality at a lower price."

The product attracted considerable attention among consumers and independent opticians, allowing Spectle to establish an initial presence in the market within a relatively short period of time.

However, questions soon arose regarding the reliability of Spectle's compatibility claims. Internal communications later indicated that not all VisionSave frame models had been fully tested. In addition, Spectle relied, at least in part, on reverse engineering of VisionSave's system in developing its product.

2.5- Reaction of VisionSave

Following Spectle's entry, VisionSave adopted a number of commercial measures affecting the distribution and use of third-party lenses.

Independent opticians reported that VisionSave introduced loyalty-based rebate schemes, under which financial incentives were linked to the exclusive use of VisionSave products. At the same time, VisionSave announced that the use of third-party lenses would void warranties on its frames.

VisionSave also limited access to technical compatibility information, which affected the ability of third-party manufacturers to ensure proper integration with its products. These measures, taken together, had a significant impact on Spectle's ability to expand within the Dutch market.

2.6- Industry Meeting

In mid-2023, VisionSave met with two other major undertakings in the market, Merrill Lens and Lynch Lens. The meeting took place in the Netherlands and addressed issues relating to product quality, consumer safety, and the 'emergence of third-party lens' systems.

Notes from the meeting include references to "market stability" and the "risks associated with incompatible lenses." Following this meeting, several undertakings issued similar public statements warning against the use of third-party lenses.

Independent opticians observed that multiple suppliers adopted comparable commercial practices within a relatively short period of time. While no explicit agreement was identified, these developments raised concerns regarding possible coordination among competitors.

2.7- Dawn Raid

In the early hours of 15 August 2024, at approximately 5:30 a.m., VisionSave's premises in the Netherlands were in the process of opening for the day. At that time, only a limited number of staff, including a managerial assistant and cleaning personnel, were present on site.

At approximately 5:45 a.m., officials from the Dutch Competition Authority (ACM) entered the premises to conduct an unannounced inspection, following the complaint submitted by Spectle GmbH. The inspection was carried out without prior notice, in accordance with the authority's investigative powers.

During the inspection, the ACM seized internal emails, strategic documents, and records of communications with other market participants.

Among the materials recovered was an internal email stating:

"We must ensure that independent opticians remain aligned with our ecosystem."

Other documents referred to strategies for responding to low-cost entrants and included discussions reflecting awareness of competitors' reactions to Spectle's market entry.

While these materials did not reveal the existence of a formal agreement, they indicated a degree of alignment in the conduct of major undertakings.

By 2024, the structure of the Dutch market had evolved. VisionSave's market share had declined to approximately 38%, while Spectle had achieved a share of around 15%. Merrill Lens and Lynch Lens remained significant competitors, with shares of 15% and 10% respectively, followed by Fuji Lens (7%) and other undertakings.
Despite its entry into the market, Spectle continued to face limitations in expanding its operations. Access to distribution channels remained constrained, and concerns regarding compatibility and warranty coverage affected consumer demand.

2.8- Commission's Decision

From the Head of The ACM;

ACM'S Decision

Case No: 2025-6-45

Decision No: 23-39/740-254

Decision Date: 15 February 2025

A. MEMBERS ATTENDING THE MEETING

HEAD MEMBER: Sjoerd Kuipers

MEMBERS: Lotte van den Berg, Koen Smits, Marieke de Boer, Maarten Visser

B. REPORTER: Daan de Vries, Sanne van Dijk, Bram Jansen, Fleur Bakker, Thijs Vermeulen

C. INTERESTED PARTY: Spectle GmbH, Friedrichstraße 128, 10117 Berlin, Germany

D. SUBJECT OF THE CASE: Assessment of whether the conduct identified during the on-site inspection carried out at the premises of VisionSave NV on 15 August 2024 constitutes a restriction of competition within the meaning of Articles 101 and 102 TFEU, in light of the investigation initiated by the ACM decision dated 17 July 2024 (Ref: 23-21/413-M).

E. Conclusion: Following the investigation conducted pursuant to the ACM decision dated 17 July 2024 and the examination of the materials obtained during the on-site inspection at VisionSave NV, the Authority concludes as follows:

With regard to **Article 101 TFEU**, the evidence on file does not allow for a definitive finding of an agreement or concerted practice between VisionSave NV and other market participants that would constitute a restriction of competition. While certain parallel conduct and communications were identified, these elements were not sufficient, in isolation, to establish the existence of a prohibited coordination.

With regard to **Article 102 TFEU**, the Authority observes that VisionSave NV holds a strong position within the Dutch ophthalmic lens market. The practices identified during the investigation, including distribution-related measures and warranty policies, may have the effect of limiting market access for competing undertakings. However, the extent to which such practices may be objectively justified, in particular on the grounds of product quality and consumer safety, requires further legal assessment.

2.9- Attachments to the Court

Exhibit -1-

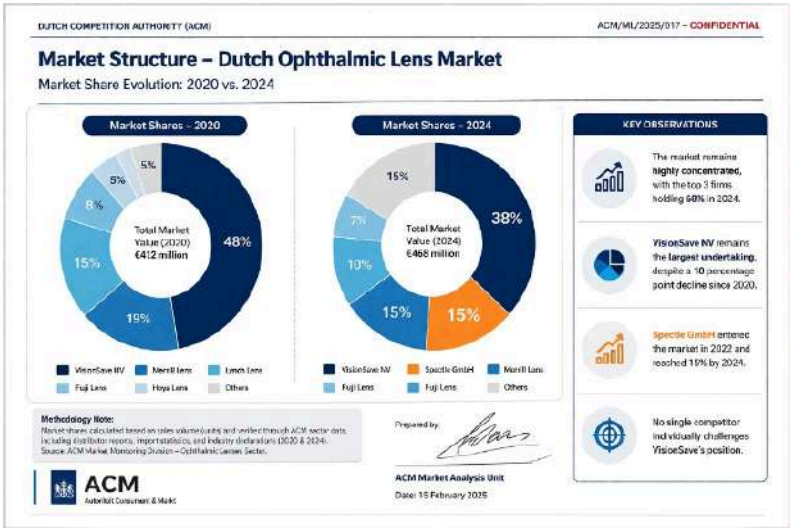
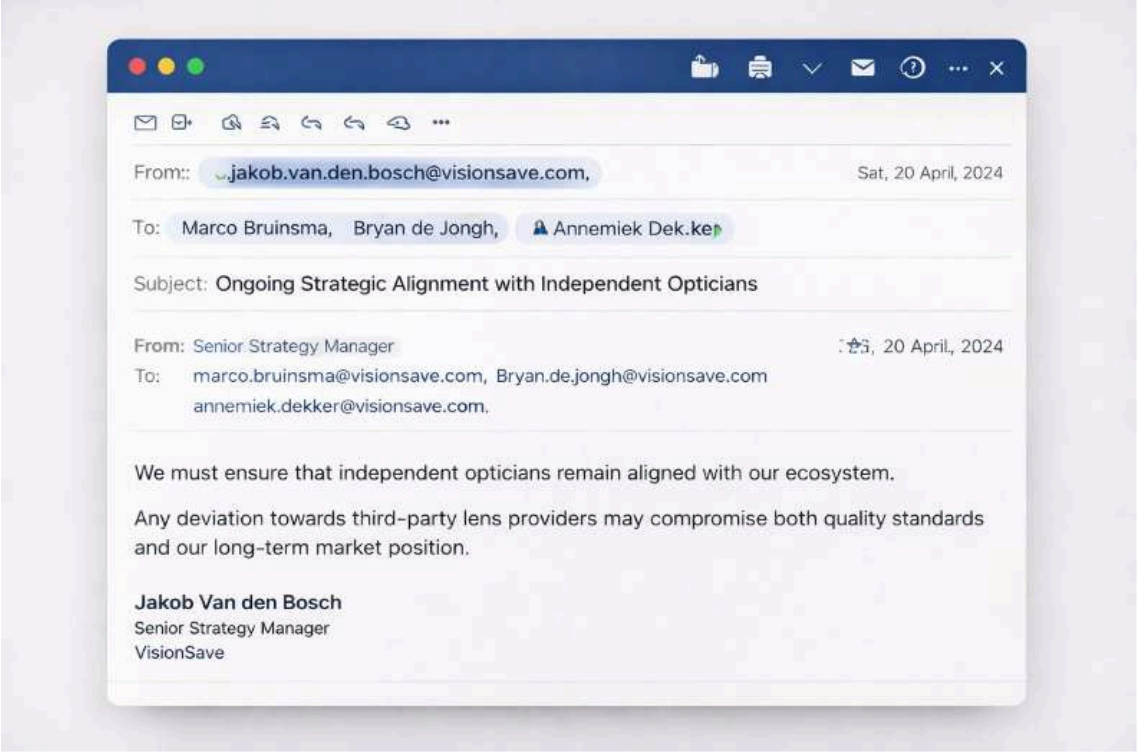


Exhibit -2-

Exhibit -3-

Exhibit -4-



From:: .jakob.van.den.bosch@visionsave.com, Sat, 20 April, 2024

To: Marco Bruinsma, Bryan de Jongh, Annemiek Dek.ker

Subject: Ongoing Strategic Alignment with Independent Opticians

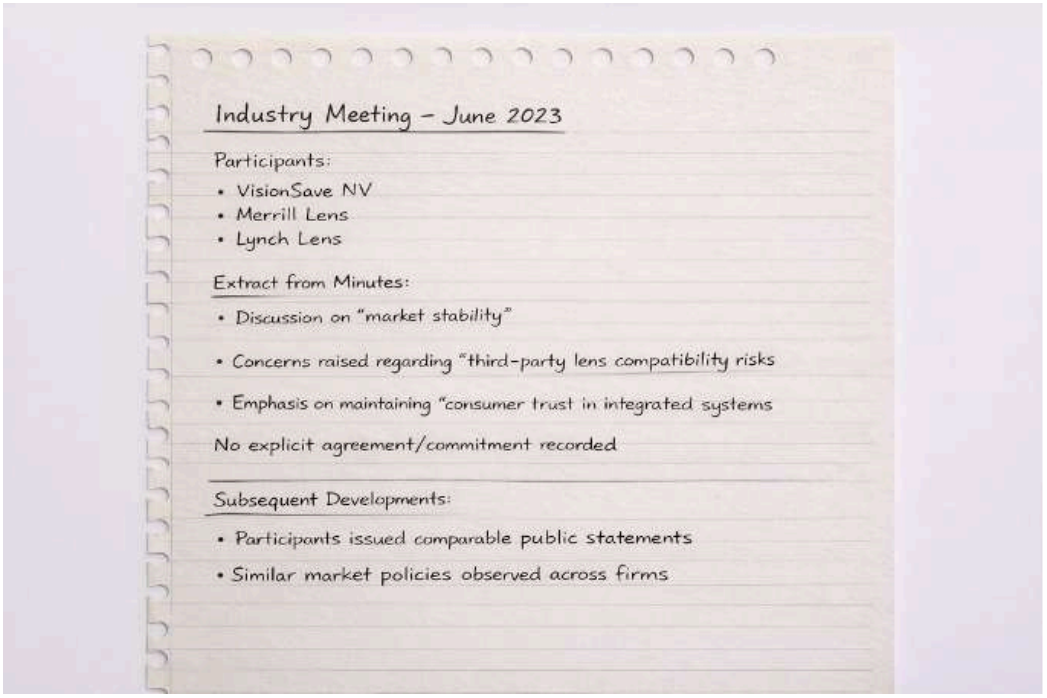
From: Senior Strategy Manager
To: marco.bruinsma@visionsave.com, Bryan.de.jongh@visionsave.com
annemiek.dekker@visionsave.com.

We must ensure that independent opticians remain aligned with our ecosystem.

Any deviation towards third-party lens providers may compromise both quality standards and our long-term market position.

Jakob Van den Bosch
Senior Strategy Manager
VisionSave

Exhibit -5-



Industry Meeting – June 2023

Participants:

- VisionSave NV
- Merrill Lens
- Lynch Lens

Extract from Minutes:

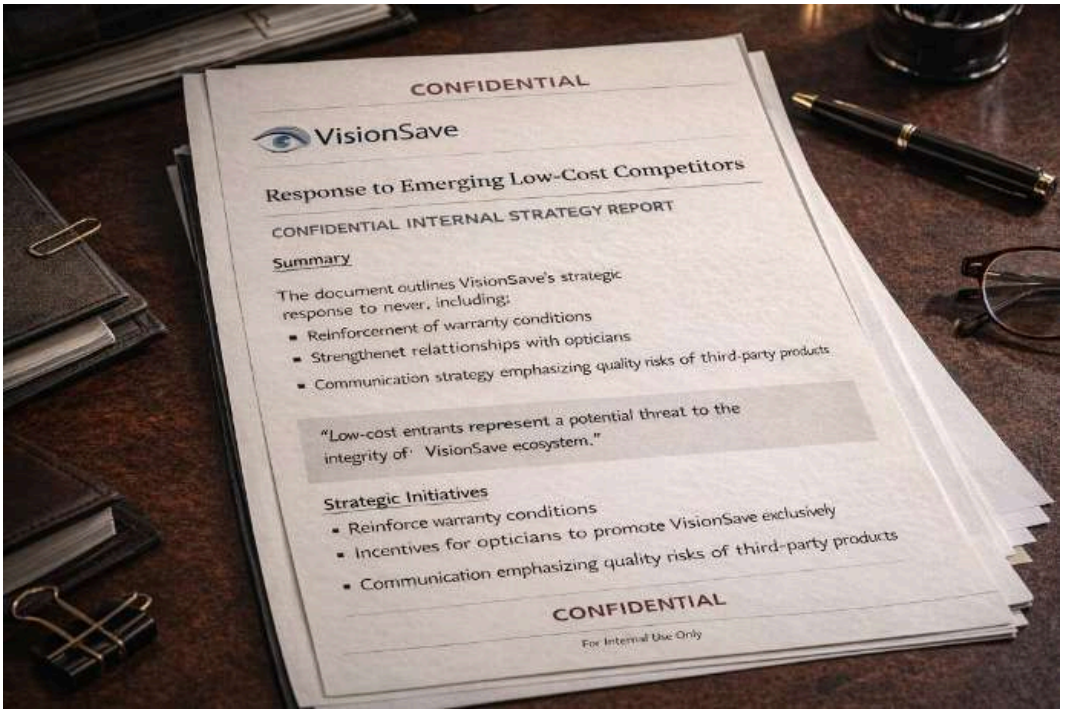
- Discussion on "market stability"
- Concerns raised regarding "third-party lens compatibility risks
- Emphasis on maintaining "consumer trust in integrated systems

No explicit agreement/commitment recorded

Subsequent Developments:

- Participants issued comparable public statements
- Similar market policies observed across firms

Exhibit -6-



CONFIDENTIAL

VisionSave

Response to Emerging Low-Cost Competitors

CONFIDENTIAL INTERNAL STRATEGY REPORT

Summary

The document outlines VisionSave's strategic response to never, including:

- Reinforcement of warranty conditions
- Strengthenet relattionships with opticians
- Communication strategy emphasizing quality risks of third-party products

"Low-cost entrants represent a potential threat to the integrity of VisionSave ecosystem."

Strategic Initiatives

- Reinforce warranty conditions
- Incentives for opticians to promote VisionSave exclusively
- Communication emphasizing quality risks of third-party products

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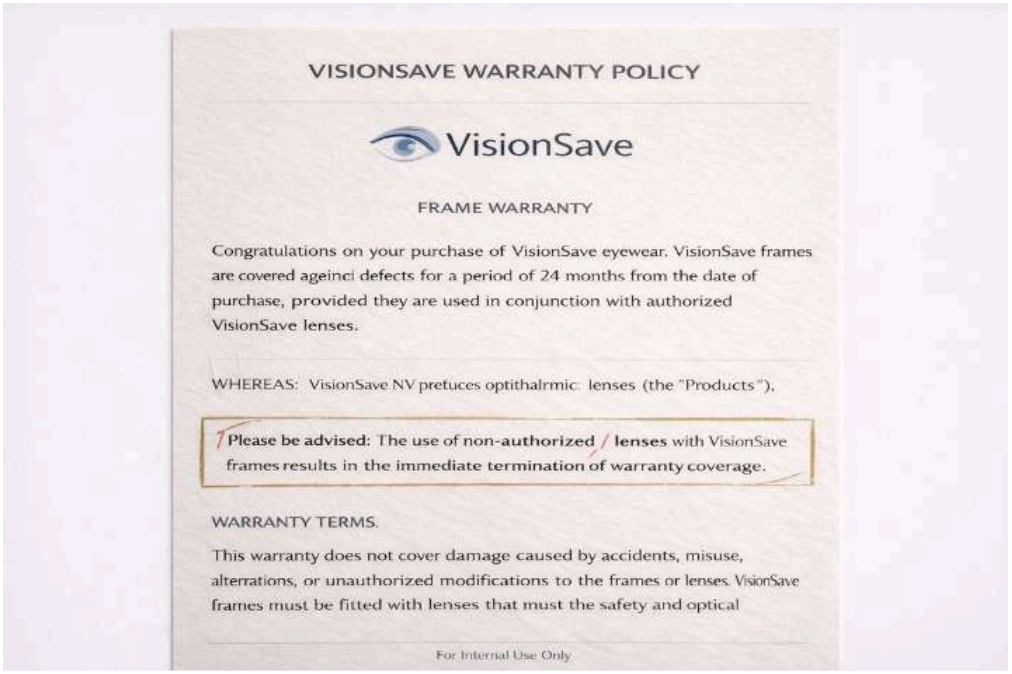
Exhibit -7-



VISIONSAVE WARRANTY POLICY

VisionSave

FRAME WARRANTY

Congratulations on your purchase of VisionSave eyewear. VisionSave frames are covered ageinci defects for a period of 24 months from the date of purchase, provided they are used in conjunction with authorized VisionSave lenses.

WHEREAS: VisionSave NV pretuces optithalrmic lenses (the "Products"),

Please be advised: The use of non-**authorized** / **lenses** with VisionSave frames results in the immediate termination of warranty coverage.

WARRANTY TERMS.

This warranty does not cover damage caused by accidents, misuse, alterrations, or unauthorized modifications to the frames or lenses. VisionSave frames must be fitted with lenses that must the safety and optical

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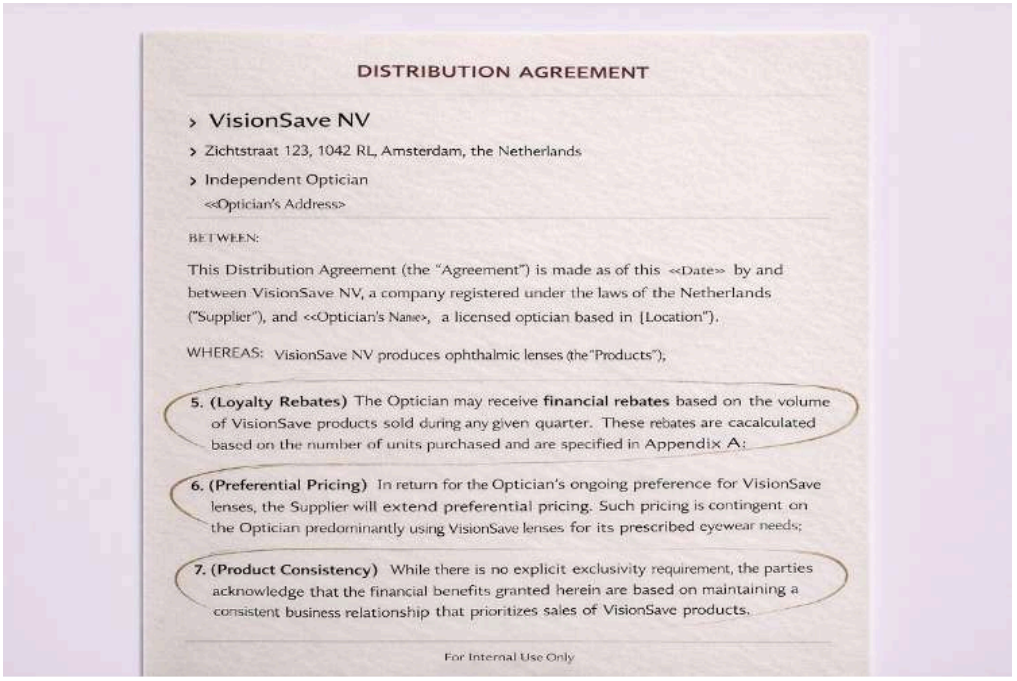
Exhibit -8-



DISTRIBUTION AGREEMENT

› VisionSave NV

› Zichtstraat 123, 1042 RL, Amsterdam, the Netherlands

› Independent Optician
<<Optician's Address>>

BETWEEN:

This Distribution Agreement (the "Agreement") is made as of this <<Date>> by and between VisionSave NV, a company registered under the laws of the Netherlands ("Supplier"), and <<Optician's Name>>, a licensed optician based in {Location"}.

WHEREAS: VisionSave NV produces ophthalmic lenses (the "Products"),

5. **(Loyalty Rebates)** The Optician may receive **financial rebates** based on the volume of VisionSave products sold during any given quarter. These rebates are cacalculated based on the number of units purchased and are specified in Appendix A;

6. **(Preferential Pricing)** In return for the Optician's ongoing preference for VisionSave lenses, the Supplier will extend preferential pricing. Such pricing is contingent on the Optician predominantly using VisionSave lenses for its prescribed eyewear needs;

7. **(Product Consistency)** While there is no explicit exclusivity requirement, the parties acknowledge that the financial benefits granted herein are based on maintaining a consistent business relationship that prioritizes sales of VisionSave products.

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3- APPLICABLE LAW

3.1- Relevant Case

3.1.1- Albert Heijn vs Jan Linders

Albert Heijn, is one of the largest supermarket chains in the Netherlands, operating in the retail food sector. It is affiliated with Ahold Delhaize, a large retail holding company operating in Europe.

Jan Linders, is a regional supermarket chain operating in the southern part of the Netherlands. It is a popular chain among the local population due to its proximity to customers and the employment it provides in the region.

In the last quarter of 2022, Jan Linders announced to the public that it would convert 47 supermarkets under its own brand to the Albert Heijn format. In the same period, Jan Linders Group took over the operation of ten supermarkets belonging to Albert Heijn and started operating them. Thanks to this cooperation between Jan Linder and Ahold Delhaize, it became the representative of the Albert Heijn brand.

This situation, which is considered a “merger” when examined in the context of competition law, has been investigated by the national competition authority. It has been determined that this merger may distort competition in some regions and reduce access to alternative markets for consumers.

The transaction was conditionally approved by the Dutch competition authority, taking into account consumer protection and access to alternatives. As a result, the court decided Albert Heijn and Jan Linders had to sell existing supermarkets in the regions to rival chains. In addition, the parties pledged not to open new supermarket chains in these regions for ten years.

The court's decision stated that the "geographic relevant market", that is, the regional market being under the control of a few large players, could lead to price increases, a decrease in product variety and endangering consumer welfare.

3.1.2- Nova Group vs Trendyol

Nova Group is an Istanbul-based enterprise operating in the textile and fashion sector, especially in women's clothing. The brand applied to the Turkish Patent Institute in August 2007 and registered the name "Mila by Nova".

Trendyol is one of the largest e-commerce platforms in Turkey, based in Istanbul. The platform has a wide range of products, from fashion to electronics, cosmetics to home products.

In 2018, Nova Group filed a lawsuit against Trendyol on the grounds that its patent rights were violated. Nova Group stated in its claim that Trendyol sold women's clothing products under the name "Trendyol Milla", that the term "Milla" was very similar to the Mila by Nova brand and that consumers could establish a connection between the brands, and based its case on the grounds that this situation constituted trademark infringement and unfair competition.

The decision was a precedent in protecting small producers against large platforms. In its reasoned decision, the court found the plaintiff, namely the “Mila by Nova” brand, right and decided to

1- Stop the use of the “Milla” brand
2- Withdraw the relevant products from the market

Towards the end of 2024, Trendyol has also stopped producing its own brand Milla and its other brands with similar names, such as "Man" and "Modest", which are already available in the market.

3.2.- THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION ARTICLE 101

1. The following shall be prohibited as incompatible with the internal market:

all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as

their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:

(a) directly or indirectly fix purchase or selling prices or any other trading conditions;

(b) limit or control production, markets, technical development, or investment;

(c) share markets or sources of supply;

(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void. 3. The provisions of paragraph 1 may,however,be declared in applicable in the case of:

— any agreement or category of agreements between undertakings,

— any decision or category of decisions by associations of undertakings,

— any concerted practice or category of concerted practices,

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;

(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

ARTICLE 102

Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it shall be prohibited as incompatible with the internal market in so far as it may affect trade between Member States.

Such abuse may, in particular, consist in:

(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
(b) limiting production, markets or technical development to the prejudice of consumers;

(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

3.3- DUTCH COMPETITION ACT

ARTICLE 6 ANTI-COMPETITIVE AGREEMENTS

- 1. Agreements between undertakings, decisions by associations of undertakings and concerted practices of undertakings, which have the intention to or will result in hindrance, impediment or distortion of competition on the Dutch market or on a part thereof, are prohibited.

- 2. Agreements and decisions that are prohibited under paragraph (1) are legally null and void.

- 3. Paragraph (1) shall not apply to agreements, decisions and concerted practices which contribute to the improvement of production or distribution, or to the promotion of technical or economic progress, while allowing consumers a fair share of the resulting benefits, and which do not:

a. impose any restrictions on the undertakings concerned, ones that are not indispensable to the attainment of these objectives, or
b. afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products and services in question.

- 4. Any undertaking or association of undertakings invoking paragraph (3) shall provide proof that the conditions of that paragraph are met.

ARTICLE 24

Prohibition to abuse a dominant position; implementation of a concentration
- 1. Undertakings are prohibited from abusing a dominant position.
- 2. The implementation of a concentration, as described in Article 27, shall not be deemed to be an abuse of a dominant position.

3.4- COMMISSION REGULATION (EU) No 330/2010of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation No 19/65/EEC of the Council of 2 March 1965 on the application of Article 85(3) of the Treaty to certain categories of agreements and concerted practices (1), and in particular Article 1 thereof,

Having published a draft of this Regulation,
After consulting the Advisory Committee on Restrictive Practices and Dominant Positions,
Whereas:

(1) Regulation No 19/65/EEC empowers the Commission to apply Article 101(3) of the Treaty on the Functioning of the European Union (*1) by regulation to certain categories of vertical agreements and corresponding concerted practices falling within Article 101(1) of the Treaty.

(2) Commission Regulation (EC) No 2790/1999 of 22 December 1999 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices (2) defines a category of vertical agreements which the Commission regarded as normally satisfying the conditions laid down in Article 101(3) of the Treaty. In view of the overall positive experience with the application of that Regulation, which expires on 31 May 2010, and taking into account further experience acquired since its adoption, it is appropriate to adopt a new block exemption regulation.

(3) The category of agreements which can be regarded as normally satisfying the conditions laid down in Article 101(3) of the Treaty includes vertical agreements for the purchase or sale of goods or services where those agreements are concluded between non-competing undertakings, between certain competitors or by certain associations of retailers of goods. It also includes vertical agreements containing ancillary provisions on the assignment or use of intellectual property rights. The term 'vertical agreements' should include the corresponding concerted practices.

(4) For the application of Article 101(3) of the Treaty by regulation, it is not necessary to define those vertical agreements which are capable of falling within Article 101(1) of the Treaty. In the individual assessment of agreements under Article 101(1) of the Treaty, account has to be taken of several factors, and in particular the market structure on the supply and purchase side.