



Antitrust: Commission opens formal investigations into Nike's, Sanrio's and Universal Studios' licensing and distribution practices

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The European Commission has launched three separate antitrust investigations into whether certain licensing and distribution practices of Nike, Sanrio and Universal Studios illegally restrict traders from selling licensed merchandise cross-border and online within the EU Single Market.

Commissioner Margrethe **Vestager**, in charge of competition policy said: *"The Commission is investigating whether Nike, Sanrio and Universal Studios are restricting cross border and online sales of merchandising products. We are going to examine whether the licensing and distribution practices of these three companies may be denying consumers access to wider choice and better deals in the Single Market"*.

The investigations concern the licensing and distribution of merchandising products. These are products, such as clothes, shoes, phone accessories, bags or toys, on which an image or text is applied during the manufacturing process. The aim is to increase the products' attractiveness for consumers, often children or teenagers. The manufacturer (licensee) may only use such images or text if it has signed a licencing agreement with the owner of the relevant intellectual property rights (licensor).

Nike, Sanrio and Universal Studios license the rights for some of the world's most well-known brands. Among other brands, sports apparel manufacturer Nike is the licensor of rights for Fútbol Club Barcelona's merchandise, Sanrio is the licensor of rights for Hello Kitty and Universal Studios is the licensor of rights for the "Minions" and "Despicable Me".

The Commission will investigate whether the three companies, in their role as licensors of rights for merchandising products, may have breached EU competition rules by restricting their licensees' ability to sell licensed merchandise cross-border and online. These practices may ultimately harm consumers by preventing them from benefiting from greater choice and lower prices, both online and offline.

If proven, the companies' behaviour may breach EU competition rules that prohibit anti-competitive agreements between companies ([Article 101 of the Treaty on the Functioning of the European Union](#)). The Commission will now carry out its in-depth investigation as a matter of priority. An opening of a formal investigation does not prejudice its outcome.

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

The three investigations that are now being opened complement the e-commerce sector inquiry and other pending investigations into [suspected anticompetitive practices in e-commerce](#) and into the [distribution practices of clothing company Guess](#), as they aim to tackle potential barriers to online and offline cross-border trade stemming from licensing practices implemented by the companies concerned.

Procedural background

The practices subject to the three investigations may constitute one or more suspected infringements of [Article 101](#) of the Treaty on the Functioning of the European Union and [Article 53](#) of the Agreement on the European Economic Area. 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.

Article 11(6) of the Antitrust Regulation provides that the initiation of proceedings by the Commission

relieves the competition authorities of the Member States of their competence to also apply EU competition rules to the practices concerned. Article 16(1) of the same Regulation provides that national courts must avoid giving decisions which would conflict with a decision contemplated by the Commission in proceedings it has initiated.

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.

More information on the investigations will be available on the Commission's [competition](#) website, in the [public case register](#) under the corresponding case numbers [40432](#) (Sanrio), [40433](#) (Universal Studios), and [40436](#) (Nike).

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