Resale Price Maintenance and the Rule of Reason

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Abstract

From the viewpoint of economic analysis, this article investigates the effects of RPM on both market competition and transaction efficiency. The main results obtained include the following six points: (1) In most cases, the RPM implemented by a manufacturer is designated to resolve the free-rider problem, and hence is helpful in promoting transaction efficiency and in preserving interbrand competition. (2) In rare cases, RPM might result in anticompetitive effects, which are structurally related to collusion and exclusionary abuses. (3) RPM that is purely used as a vertical restraint to discipline free-rider behavior always leads to increased consumer welfare. (4) The effects of both price vertical restraints and non-price vertical restraints on market competition are generally the same. (5) If the RPM is implemented by the upstream manufacturers and is not related to the case of collusion or monopoly abuses, then the competition authority should be tolerant to these RPM cases. (6) The regulations on RPM should focus on industry structure and firm behavior, rather than on whether marketing channels are brick-and-mortar or on-line. Hence, there is no need to specifically legislate for on-line sales in regard to the regulations underlying RPM.

Keywords: RPM, Vertical Restraints, Collusion, Exclusionary Abuse, On-line Sales.

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