

# Vertical Restraints

Vertical restraints are agreements between firms at different levels of production or distribution. These agreements can raise competitive concerns, for example foreclosing a direct competitor by withholding a product or customer in the related market. Foreclosure causes higher prices, weaker competition, or exclusion in that part of the supply chain. But many other vertical agreements are justifiable business practices. For example, they can prevent distributors from free-riding on others' promotional efforts. Thus, vertical restraints are not per se illegal, but must be analyzed under the rule of reason. Antitrust practitioners report that vertical restraints are harder to challenge in the U.S. than in Europe.

## Reading

### Required reading

*Continental T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36 (1977)

*Leegin Creative Leather Products, Inc. v. PSKS, Inc.*, 551 U.S. 877 (2007)

*Monsanto Co. v. Spray-Rite Svc. Corp.*, 465 U.S. 752 (1984)

[EU Commission complaint against Expedia and Booking.com \(2019\)](#)

### Recommended reading

*United States v. Sealy, Inc.*, 388 U.S. 350 (1967)

### Background reading

“Antitrust Guidelines for Collaborations Among Competitors” issued by the FTC and DOJ (available at <https://www.justice.gov/atr/page/file/1098461/download>)

*ZF Meritor, LLC v. Eaton Corp.*, 696 F.3d 254 (3d Cir. 2012)

*Eastman Kodak Co. v. Image Technical Services, Inc.*, 504 U.S. 451 (1992)

Comparative law

[Tooltechnic Systems \(Aust\) Pty Ltd - Authorisation - A91433 \(Australian Competition and Consumer Commission 2014\)](#)

[Case C-306/96 Javico International and Javico AG v Yves Saint Laurent Parfums SA \(YSLP\) \(28 April 1998\)](#)

[Case C-439/09 Pierre Fabre Dermo-Cosmétique SAS v Président de l'Autorité de la concurrence and Ministre de l'Économie \(General Court, 13 October 2011\)](#)

[Case C-230/16 Coty Germany GmbH v Parfümerie Akzente GmbH \(General Court, 6 December 2017\)](#)