Newsletter, 27 October 2026

Maximum fines instead of maximum discounts: Italy's AGCM imposes sanctions for online price monitoring and marketplace bans

In the 'Morellato' case, the Italian competition authority sets limits on marketplace bans and online price monitoring in selective distribution systems

In March 2026, the Italian competition authority, the *Autorità Garante della Concorrenza e del Mercato* (AGCM), imposed a fine not only for a 'classic' vertical price fixing but also, for the first time, for a marketplace ban outside the scope of the exemption provided by the Vertical Block Exemption Regulation (VBER)[1]: The Italian jeweler and watch manufacturer Morellato, operating under a selective distribution system, required its dealers in Italy to adhere to maximum discount limits and prohibited them from selling via platforms, which Morellato itself used as sales channels. These practices, which were supported by an algorithmic price monitoring system, resulted in a fine of around EUR 25 million being imposed on the manufacturer.

Background

The Italian manufacturer Morellato sells watches and jeweler in the affordable to mid-price segment via a selective distribution system, in which authorized retailers are selected according to set criteria. Morellato sold its products directly via third-party online marketplaces such as Amazon or Zalando and, at the same time, used Amazon as a retailer under a vendor agreement. However, its distribution contracts used from 2018 onwards contained a clause prohibiting authorized retailers from selling via said marketplaces.

Following an anonymous tip-off from a whistleblower regarding the marketplace ban, the AGCM launched proceedings against Morellato in March 2025. In the course of its extensive investigations, the authority uncovered a maximum discount and sanctions system used by Morellato: the manufacturer had laid down, via a so-called 'Internet policy', the maximum discounts its retailers were permitted to offer online. Deviations were punished with a wide range of retaliatory measures, including account suspensions and delivery halts.

To identify breaches of the internet policy and the marketplace ban, Morellato used an external web-scraping software called '*Competitoor*'. The software provided Morellato with detailed reports on the resale prices offered online by its retailers and how these deviated from the maximum discounts set out in the internet policy.

Vertical price fixing and the use of price monitoring software

The AGCM classified the system practiced by Morellato – comprising maximum discounts, algorithmic monitoring and sanction mechanisms – as a restriction of competition by object and a hardcore restriction under Article 4(a) of the VBER. The anti-competitive objective of the '*Competitoor*' scraping tool was already apparent to the authority from its service contract, which specified as the subject matter of the service a 'brand plan for the daily monitoring of the distribution network and for reporting prices that exceed the specified thresholds'.

Internal documents showed that Morellato was aware of the anti-competitive combination of the measures employed: An internal email from the legal department – which was not covered by legal privilege[2] – concerning the termination of a dealer contract stated, in essence, that the contract could not be terminated on the grounds of the dealer's Amazon sales as the correspondence with the dealer itself had referred to the discount guidelines – and thus the prohibited vertical price fixing.

The Italian authority clearly rejected Morellato's justification that the use of the monitoring software was necessary to detect counterfeit products in online shops: the software had never ex-

[1] Regulation (EU) 2022/720.

[2] See COMMEO Newsletter 2/25.

amined the quality of the products, but had exclusively recorded prices and deviations from the internet guidelines.

Marketplace ban in selective distribution

As Morellato's distribution agreement no longer fell within the scope of the VBER due to the hardcore restriction in the form of vertical price fixing, the AGCM assessed the marketplace ban used by Morellato for its selective distribution system directly under Article 101 TFEU. The authority took into account the EU Commission's guidance in para. 338 et seq. of the VBER Guidelines[3], which expressly apply only to marketplace bans falling outside the scope of the VBER. As Morellato itself used third-party online marketplaces and also utilized Amazon as a retailer, the AGCM considered that the marketplace ban in the selective distribution system was neither necessary nor proportionate for the purpose of verifying whether the online marketplace met the conditions that its authorized retailers must fulfil in order to sell the contract goods.

In the course of its investigation, the AGCM examined in detail the significance of online retail and the use of online marketplaces in the relevant product markets: a survey of retailers revealed that marketplaces were used by 64% of all jewelers selling online and accounted for around 47% of total online turnover. The authority viewed this as confirmation of Amazon's preeminent importance for online retail, as also demonstrated by its classification as *a* 'Core Platform Service' under the DMA.

Against this background, the AGCM assessed the marketplace ban as a prohibition on access to a channel that is central to online sales. In the authority's view, the discriminatory application of the marketplace ban, combined with the use of monitoring software that immediately reported breaches of the ban, as well as the corresponding sanctions, constituted a restriction of intra-brand competition in breach of Article 101 TFEU.

Comment

The Italian authority's decision illustrates, almost textbook-style, the dangers of current forms of price fixing: a 'classic' ban (in this case, on exceeding a maximum discount) is monitored using **web-scraping tools and price-monitoring software** and then enforced through typical sanction measures. Last year, the German Federal Cartel Office (FCO) likewise fined the headphone manufacturer Sennheiser for vertical price fixing which involved the use of specialised software to monitor its retailers' online offers.[4]

The AGCM's decision is particularly relevant because it is one of the first to address the limits of the reformed **marketplace ban** under the VBER Guidelines, demonstrating that the precise circumstances are decisive: Whilst marketplace bans may be lawfully agreed even within a selective distribution system falling within the scope of the VBER, marketplace bans outside the scope of the VBER generally constitute a restriction of competition if applied in a discriminatory manner. This applies whenever the market share thresholds of the VBER are exceeded or the exemption, as in the Morellato case, ceases to apply due to the existence of a hardcore restriction, meaning that the marketplace ban must be assessed strictly against the test set out in Article 101 TFEU.

The decision also demonstrates once again that **vertical price fixing remains high on the list of priorities for national competition authorities**. Recently, the German FCO imposed a fine of just under EUR 12 million on tyre wholesalers for vertical price fixing through margin guarantee agreements and a price moderation system.[5]





Franziska Pricking **Dr Stephanie Pautke**

COMMEO Rechtsanwälte PartGmbB
Schillerstraße 20, D-60313 Frankfurt am Main
www.commeo-law.com

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[3] Guidelines on vertical restraints (2022/C 248/01).
[4] FCO, Case Report, Ref. B10-23/23 of 12 June 2025.
[5] FCO, case report, ref. B10-21/24 of 8 July 2026.