Lack Of MAP Clobbers European Retail

Minimum advertised pricing policies (MAP), the manufacturer-enforced limits on pricing in advertising, have been drawing criticism ever since they were first introduced some two decades ago. The earliest salvos were launched by eager trial lawyers who blasted the new rules as an unfair restraint of trade that harmed consumers. In case after case, Federal and State judges rejected these claims, ruling that as long as manufacturers didn't dictate actual selling prices, limits on advertised prices were legal. Then came a contingent of retailers who claimed that limits on price-based promotions unfairly hindered their businesses. "I paid for the merchandise; why can't I advertise it at whatever price I choose?" they reasoned. Whatever merits these arguments may have had, they faded as the price focused retailers making them gradually went out of business.

The current rap against MAP policies revolves around inconsistent enforcement. Retailers with established locations that scrupulously abide by MAP complain that smaller sellers operating anonymously on Amazon, eBay, or Craigslist regularly get away with breaking the rules simply because it's too hard for suppliers to track them down. The same goes for high-profile retailers like Amazon: they can violate MAP without consequence because it's said that they are too big to cut off. For all of these well-documented imperfections, to see what life would be like without MAP, take a look at what's happening on the other side of the Atlantic, and it's not pretty.

Authorities in the European Union have unconditionally outlawed anything remotely resembling a MAP policy, deeming it "anti-consumer." The fairly predictable result has been a race to the lowest price across the Continent. The extreme discounting has been exacerbated by Amazon's pricing "bots" that scan the web for the lowest price, and then automatically go even lower. The rest of the retail channel gets caught in this downward spiral and has little choice but to match these computer-generated discounts. A decade ago, retail prices in Europe for widely available m.i. products were typically 20% to 50% higher than in the U.S. Today, absent MAP, they are significantly lower. The popular Behringer X32 digital mixing console, for example, sells for $2,299 at Sweetwater but is available in most of Europe for about $1,600. Similarly, the widely sold Shure SM58 that sells for $99 in the U.S. can be had in Europe for $94.

It could be argued that European consumers are benefitting from these lower prices. However, what gets overlooked are the indirect costs. Distributors across the Continent complain about an "apocalyptic" collapse of the retail channel and rising bad debt losses. They also say that widespread store closings severely limit buyers' firsthand access to new gear. Local brick-and-mortar stores are obviously the hardest hit, but large online operators are suffering as well. U.K.-based Gear4Music, a £110 million ($141 million) online seller, has seen its net profit and share price more than halved over the last year due to what analysts euphemistically describe as "sustained pricing pressure."

Alleged cooperative efforts to moderate this price war recently prompted the EU to raid offices and seize computers and documents at several retailers and manufacturers in the U.K. and Germany. None of the involved parties are willing to discuss the investigation as long as it's ongoing. However, tacitly they seem to believe that the EU Competition Authority is cracking down on what it suspects are supplier and retailer attempts to limit low-ball online pricing. Apparently, no relief is in sight.

The original purpose of MAP wasn't so much to prop up margins as it was to ensure a high level of customer service.

Manufacturers saw that dealers who carried no inventory, offered little service, and advertised deeply discounted pricing were deterring other retailers from making adequate investments in inventory and support staff. They correctly reasoned that these "free riders," by reducing the incentive to invest in inventory, would ultimately undercut customer service. Hence, the limit on advertised prices. These types of tradeoffs are commonplace in other industries: Auto manufacturers guarantee dealers regional exclusivity in exchange for making investments in showrooms and service facilities. The same goes for fast food franchises: Territorial protection is contingent on properly outfitting the restaurant.

We don't see MAP policies as anticompetitive because consumers, not retailers or manufacturers, are still the ones who set selling prices. M.I. consumers enjoy an abundance of choice, and a MAP policy that promises an overly rich retail margin may sound good to retailers in theory. In practice though, more often than not it just encourages consumers to consider alternatives. Unsustainable trends, by definition, can't be sustained. Thus, the pricing pressure in Europe is bound to abate at some point, hopefully before the entire retail network is decimated. However, a case could be made that a reasonable MAP policy would achieve that end point more quickly while reducing the commercial carnage.

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