

A New Era In Dealer/Supplier Relations? . . . Changing FTC Laws

Significant changes in manufacturer/dealer relationships are almost certain to result from a change in viewpoint by the Federal Trade Commission. There is a growing recognition at the Commission that selective distribution does not necessarily reduce competition in the marketplace. Reversing a number of previous decisions, the FTC recently ruled that Pioneer Electronics, a leading supplier of home audio equipment, was justified in prohibiting retailers from transshipping product to retailers who did not meet minimum requirements established by the company. As authorized by the FTC, Pioneer's new dealer agreement allows the company to immediately terminate any retailer who is found transshipping product.

FTC Commissioner David Clanton explained the ban on transshipping, stating, "Pioneer's affidavits clearly demonstrate that transshipments are frequently made to retailers who fail to provide adequate promotion and support services, and that this undermines the efforts of authorized dealers who do provide those services."

Transshipping is a problem that has plagued the music industry in general, and the band instrument and combo segments in particular, for the past decade. By eliminating any product exclusivity on the retail level, transshipping seriously erodes retail gross margins and thereby undermines important retail activities like teaching, promotion, and repair work that contribute to the health of the overall market.

Manufacturers have generally frowned on the practice of transshipping; however, due to a legal system that has by and large favored the claims of retailers, they have tended to close their eyes to the situation. A review of legal action aimed at halting transshipping during the past ten years further justifies the manufacturer's passive stance. In all but a few instances

manufacturers who have sued to stop retailers from transshipping lost their case and were forced by court order to make substantial cash settlements with the accused retailer.

New leadership within the FTC, however, plus the landmark Pioneer Electronics decision, promise to give music manufacturers increased discretion in controlling transshipping. These developments will, it is hoped, restore a degree of order to the distribution of musical products and shore up retailer gross margins.

In discussing the need to curtail transshipping in the audio business, Pioneer Electronics President Jack Doyle observed, "The key to success is to create a value for the franchise with your accounts. The most successful products invariably are those that the retailer can sell at the best profit." While the audio and musical instrument business differ on many counts, Doyle's remarks are highly applicable to the music industry's current situation.

If, through the restriction of transshipping, manufacturers can "enhance the value of their franchises" (in other words, improve retailer profits), then the entire industry will benefit. Improved retail profitability translates directly into more aggressive promotion of music, a more extensive offering of music educational services, and a host of other activities that contribute to greater participation in making music.

Since the combined legal expertise in the music industry is rather minimal, the redrafting of manufacturer/dealer agreements will take some time. However, a number of manufacturers are currently in the process of revising the dealer agreements to include stringent restrictions on transshipping. If these new agreements come to pass, and if they are enforced in practice, it will be a major step forward in the distribution of music products.

Stopping Photographic "Theft" . . . A Suggestion For NAMM

The recent Anaheim Winter Market was an excellent show on all counts. NAMM's execution in managing 345 exhibitors was faultless and business activity was brisk, making for a memorable show.

Searching for means of improving an already superb event, NAMM might consider emulating some of the policies of the Frankfurt Fair management. One area in particular would be the restriction of photography at the show.

For many years, a number of individuals have used the trade show as an opportunity to "steal" product designs by surreptitiously photographing products on display. At this year's Winter Market, a pair of indi-

viduals with an arsenal of photographic equipment dashed through a number of exhibits, pausing briefly to take pictures of selected newly introduced products. We can deduce only that this photographic effort represented an attempt to plagiarize the designs that others had worked long and hard to create.

Obviously, restricting all photography at a trade show is impractical; however, such flagrant photographic espionage should not be tolerated. We would urge NAMM to explore means of bringing this unsavory practice to a halt.

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