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Italian official says online RPM ripe for review - Rome Lear conference

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- Potential efficiencies of RPM in online market should be reconsidered, AGCM official
 - Free riding and buyer power in online markets need to be analysed in more depth
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Resale price maintenance (RPM) in online markets should not necessarily be incompatible with EU competition law, an Italian competition authority official said.

According to the European Commission's (EC) vertical [guidelines](#), RPM clauses are treated as 'hard core' restrictions that give rise to the presumption that such agreements restrict competition.

RPM and sales bans or limitations raise the most serious concerns among competition authorities, Andrea Pezzoli, director general of the Autorita Garante per la Concorrenza e il Mercato (AGCM), told attendees at the Lear Antitrust Economics conference in Rome on 25 June. Nevertheless, the potential efficiencies of RPM in online markets might be reconsidered in the future, he added.

According to Pezzoli, the "rejuvenation" of vertical restraints online is an occasion to rethink some of the mainstream views on this topic. For instance, hard core restrictions and formal by object assessment should be reconsidered, he said.

In both online and non-online markets, vertical restraints may be pro-competitive, if for instance they improve coordination through the distribution chain by addressing market failures and aligning incentives, Pezzoli said.

Speaking on a panel titled "Internet as a distribution channel: dynamics and policy challenges," Pezzoli argued that the economic framework used to assess vertical restraints on brick-and-mortar sellers are appropriate to deal with online markets.

However, some factual novelties may be considered, namely the nature and the real size of "free riding"; the justifications for RPM; the increasing role of price parity and most favored nation (MFN) clauses; and the role of buyer power, Pezzoli said.

It is unclear the extent to which developments in online markets have changed the potential for free riding, Pezzoli added.

Free riding in the online context alleges that Internet retailers benefit unfairly as consumers can learn about a product at a brick-and-mortar retailer but then purchase it for a lower price from an online retailer due to lower overhead costs.

Pezzoli said he was curious to see a full assessment of vertical restraints related to hotel reservation platforms, relating in particular to free riding issues and the potential benefits for consumers. The case against **Booking.com** in Italy [ended](#) with commitments offered by the company to Italy, France and Sweden.

"I hope the **Amazon** case could offer an occasion to appreciate if free riding in online markets is the same as in

traditional ‘break and mortar’ sectors,” Pezzoli said.

On 11 June, the EC [opened](#) a formal investigation against Amazon over its e-book distribution arrangements with publishers.

In addition, Pezzoli argued that vertical restraints in online markets raises new questions about an “an old but not sufficiently investigated issue: buyer power,” Pezzoli said. In online markets, buyer power plays a greater role than in offline markets, he added.

A sound theory of buying power is still missing, Pezzoli noted.

by Claudia Piu in Rome