

European Commission fines Nike €12.5m for restricting cross-border sales

In June 2017, the European Commission opened an investigation into the licensing and distribution practices of Nike. It found that Nike's licensing agreements prevented its licensees from marketing Nike derivative products cross-border and online within the European Union.

Submitted	4 April 2019
Applicable Law	France
Topic	Antitrust & Merger Control > Anti-competitive agreements, Fines
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In June 2017, the European Commission opened an investigation into the licensing and distribution practices of Nike, Sanrio and Universal Studios for "licensed merchandising".

These products do not feature Nike's registered trademark, but only the brands of a football club or a federation. In this context, Nike grants intellectual property rights through licenses to third parties, who are entitled to manufacture and distribute these products.

The Commission indicates that Nike's licensing and distribution agreements prevent its licensees from marketing Nike-derived products cross-border and online within the European Union.

According to its decision (not yet published), the European Commission considers that:

- Nike has restricted out-of-territory sales by licensees, using clauses explicitly prohibiting such sales, but also by requiring them to report any orders involving parallel importation and by imposing double royalties for such sales
- Nike threatened licensees with ending their contract if they sold out-of-territory and refused to provide them with the "official product" holograms for products to be sold in other Member States. Audits have been carried out to ensure compliance with these restrictions
- Nike has prohibited its licensees from entering into "sub-licensing" contracts with third parties in other EU Member States, and
- Nike prevented its licensees from marketing its Nike-derived products to retailers who may sell in other EU countries. Nike also intervened with retailers to stop them from buying products from licensees established in other countries of the European Economic Area.

According to the Commission, these practices lasted almost 13 years.

Nike cooperated with the Commission, by providing information allowing it to broaden the scope of its investigation. The company also provided evidence and expressly acknowledged the facts and the infringements of EU competition rules.

Therefore, the Commission granted Nike a 40% fine reduction. The final amount of the fine is €12.555.000.

The European Commission's press release is available [here](#).

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