

**Alert | Antitrust Litigation & Competition Regulation/
Retail**



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European Commission Raids Fashion Companies Over Anti-Competitive Concerns

This GT Alert covers the following:

- European Commission conducts dawn raids at multiple undisclosed companies active in the fashion industry
- These dawn raids are part of an investigation into cartel and other anti-competitive practices

On May 17, 2022, the European Commission (Commission) **announced** it had conducted so-called “dawn raids” (i.e., unannounced inspections) at multiple undisclosed companies in the fashion industry in several European Union Member States. The Commission has also sent out formal requests for information resulting from Commission concerns that companies may have violated the cartel prohibition provision of Article 101 of the Treaty on the Functioning of the European Union and/or Article 53 of the European Economic Area Agreement.

In 2021, EU Competition Commissioner Ms. Margrethe Vestager **announced** the Commission would increase investigative activity into licensing and distribution practices that may be restricting offline and online sales of consumer goods, such as garments, shoes, and accessories in the EU. The latest dawn raids are also following a series of other Commission investigations in the fashion industry for, among other reasons, illegal territorial, online sales, and/or advertising restrictions.

As is standard practice, the Commission has not disclosed which companies are under scrutiny, nor the type of fashion company being investigated. Moreover, it is not clear when the investigation started exactly, but given that the Commission press release provides the Commission has “started” dawn raids, and dawn raids in Europe normally take place at the start of an investigation, the investigation may have begun formally over the last few weeks.

Significance of the dawn raids

Although not much detail is known at this stage regarding the investigation, a few inferences follow for consideration:

1. The Commission is increasing its focus on enforcement in the fashion sector.
2. The Commission – alongside other antitrust/competition enforcers – has started to conduct more dawn raids again after a period of relative calm caused by the coronavirus pandemic.
3. Although what specifically prompted the Commission’s investigation is not yet known, its origin may well be found in either (a) an immunity/leniency application, or (b) an individual whistleblower complaint, such as by disgruntled former or current employee. As such, having robust antitrust compliance in place is important for any company.
4. Whether the Commission will pursue the investigation to a fining decision remains to be seen. However, fines can be significant, both in Europe and elsewhere. At the EU level, there is a statutory maximum of 10% of global worldwide group revenues for a company involved in, e.g., a cartel.
5. U.S. fashion and retail companies doing business in the EU may wish to review business practices to ensure they are not running afoul of EU antitrust and anti-competition regulations.

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