

EU Commission Investigates Cartel Breach in Fashion Sector

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For once, it wasn't about Big Tech. The European Commission, the executive branch of the European Union, jolted the fashion sector to attention on May 17 with news of "unannounced inspections" at the premises of industry companies in "several" EU member states, and ominous-sounding "requests for information" directed to others.

The Commission, which enforces antitrust rules in the EU, was reportedly concerned about violations of Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the European Economic Area Agreement, which prohibit anti-competitive agreements between two or more independent market operators and practices that may affect intra-EU trade, including by directly or indirectly fixing "purchase or selling prices or any other trading conditions."

While the Commission refused to name names – or even member states – a *Reuters* news report theorized a connection between the investigation and a widely-circulated open later released two years prior, at the height of the global pandemic tumult. The so-called Forum Letter – signed by a slew of designers, retailers, buyers, creative directors and assorted business leaders – addressed the need for greater supply chain sustainability, but also invited industry members to limit sales promotions to January and July "in order to allow for more full-price selling." That turn of phrase, insiders suggested, had caused consternation in Brussels.

There is no mandatory timeline for the Commission to conclude its investigation. If it determines that a market operator has breached cartel rules, however, the Commission has the authority to impose fines of up to 10 percent of the entity's turnover in the most recent financial year. Companies that cooperate in an investigation may benefit from a fine waiver or reduction.

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