

Cross-Border Chocolate

EC raids FMCG for TSC

28 April 2026

The European Commission (*EC*) continues to intensify its scrutiny of territorial supply constraints (*TSC*). On 13 April 2026, it carried out another set of dawn raids in the consumer goods sector, reportedly at two European premises of one of the world's largest sweet-packaged food producers. The inspections closely follow the EC's decision in May 2024 to impose a fine of EUR 337.5 million on chocolate giant Mondelez. The allegation in both cases: anticompetitive TSCs imposed on distributors. Both cases fit into a broader pattern of increased antitrust scrutiny of territorial restrictions in the consumer goods sector. What is at stake and what can suppliers do to stay out of the spotlight?

Territorial supply constraints: Overview

TSCs are restrictions imposed by suppliers on retailers or wholesalers preventing them from freely choosing where to source products and services. While this can affect trade within the internal market, EU competition law recognizes that restrictions of sales into other territories may be legitimate in certain situations. For instance, when manufacturers enter new markets or when they wish to prevent distributors from promotional 'free riding'. For an in-depth breakdown of TSCs and their assessment under EU competition law, see our previous [briefing](#).

Recent series of dawn raids (2026)

During the week of 13 April 2026, the EC reportedly conducted dawn raids in relation to conduct similar to that for which Mondelez was fined in 2024. According to the EC's press release, the EC suspects violations of both antitrust rules prohibiting cartels (Article 101 TFEU) and those prohibiting the abuse of a dominant position (Article 102 TFEU). Specifically, the EC is investigating potential market segmentation practices through restrictions on the trade of goods between Member States and obstacles to multi-country purchases. At this stage, an infringement of competition law has not been established. Nevertheless, the new dawn raids confirm the EC's continued enforcement focus on territorial restrictions.

The Mondelez case (2024)

In the 2024 Mondelez case, the EC concluded that the company had breached EU competition law on two fronts: anticompetitive agreements restricting parallel trade (Article 101 TFEU) and abuse of a dominant position in specific national markets (Article 102 TFEU).

As regards Article 101 TFEU, the EC found that Mondelēz had participated in 22 agreements seeking to:

- Limit the territories and customers to which seven wholesalers could resell Mondelēz products across all EU markets, including in one case an obligation to apply higher prices for exports than for domestic sales; and
- Prevent ten exclusive distributors from carrying out passive sales – i.e. replying and fulfilling unsolicited sale requests – to customers in other Member States without prior permission from Mondelēz.

Under Article 102 TFEU, the EC held that Mondelēz had abused its dominant position in certain national markets for chocolate tablets by refusing to supply a customer in Germany and ceasing supply in the Netherlands, in both cases with the aim of preventing cross-border resale into higher-priced Member States.

The EC concluded that these practices had caused an artificial partition of the single market, restricting retailers from freely sourcing Mondelēz products at the lowest available cost and allowing the company to sustain inflated prices to the detriment of consumers. The resulting fine of EUR 337.5 million – reduced by 15% for cooperation – exceeded previous TSC fines and set a new benchmark for enforcement in this area.

Other signs that TSC enforcement is gaining momentum

The more recent investigations are not the first high-profile EC cases targeting TSCs in the FMCG sector. In 2019, the EC imposed a fine of EUR 200 million on AB InBev, the world's largest brewer, finding violations of Article 102 TFEU through TSCs that prevented cheaper imports of products from the Netherlands into Belgium. Notably, some of the sanctioned behavior deviated significantly from conduct traditionally associated with TSCs, e.g. supply limits, restrictions on promotions, and changes to labelling, design and size of products. The case illustrates the fine line between legitimate product differentiation in various markets and conduct considered anticompetitive TSCs by the EC. As outlined previously, the decision also highlights the limits of enforcing TSCs when they are unilaterally imposed by the supplier.

The EC has consistently reinforced its commitment to TSC enforcement. Following the Mondelēz decision, it conducted a fact-finding exercise (2024–2025) in which 17 Member States reported some form of TSC. In its 2025 Annual Single Market and Competitiveness Report, the EC designated TSCs as a key non-regulatory barrier to the free movement of goods (estimated to cost consumers > EUR 14 billion annually!). TSCs in the FMCG sector thus remain a clear priority even under the current Competition Commissioner Teresa Ribera as the latest raids demonstrate.

The takeaways: What suppliers should watch out for

Manufacturers operating in multiple EU Member States should be prepared for this additional scrutiny and review their commercial contracts and supply relationships for potential TSC issues. This review should focus on, *inter alia*:

- **Refusals to supply:** The most obvious TSC is the outright refusal to sell a particular product in a particular country to a domestic or foreign buyer, on the assumption that the buyer intends to later resell this product to another country;
- **Destination obligations,** i.e. products are sold under the condition that they will be distributed only in certain territories;
- **Product differentiation:** Companies can (and should) differentiate products to meet local consumer demand or legal requirements, or to distinguish them from competing products. Adapting the content, composition, packaging or labelling for certain markets is therefore usually a legitimate commercial strategy. Accordingly, competition authorities generally consider such conduct not as TSCs *per se*, but rather as a related practice that may enable TSCs. Suppliers should always be cautious when product changes would effectively limit or prevent the cross-border supply of products (e.g. changing language or wording of labels, refusal to use multilingual labels, changing the packaging type or size);
- **Quantitative limitations,** i.e. supplier-imposed supply quotas and other limitations on quantities expected to be sold in another country;
- **Incentives or promotions (and restrictions on them):** Sometimes, rebate schemes or promotions for certain products are tied to the condition that they are distributed only in a certain territory.

In past cases, competition authorities have often sanctioned individual or combinations of the above practices. It is conceivable that competition authorities may in the future target new practices that they have not focused on previously, for example lump-sum payments to prevent cross-border sales or sourcing from foreign countries, or bonus schemes linked to the place of distribution. Therefore, suppliers should be wary of any commercial conduct, contract terms, product design or promotional activities that could potentially restrict the re-export of their products to other countries. And not only suppliers, but also downstream distributors and retailers should be aware of such practices in their supply relationships, as they may also be subject to fines if they are found not to have attempted to resist TSCs.

While restrictions may be justified in individual cases – for example, in the context of legitimate exclusive or selective distribution systems, because of regulatory differences

between countries, or due to conflicting intellectual property rights – they always require prior antitrust review. As the case law shows, there is often a very fine line between legitimate commercial behaviour and product differentiation on the one hand, and behaviour considered anti-competitive on the other.

BLOMSTEIN continues to closely monitor the EC's activities and other further developments in antitrust enforcement. If you have any questions concerning TSCs, [Anna Blume Huttenlauch](#), [Elisa Theresa Hauch](#), [Philipp Trube](#), [Marie-Luise Heuer](#) and our entire competition law team will be pleased to assist you.

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