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UK CMA fines Dar Lighting for RPM

On 23 March 2022, the UK Competition and Markets Authority ('CMA') fined Dar Lighting Ltd 1.5 million GBP for engaging in resale price maintenance ('RPM').

Dar Lighting operates a selective distribution system to sell its domestic lighting products. The CMA found that Dar Lighting restricted its retailers from setting their own online prices for Dar Lighting's products between 2017 and 2019. Instead, they were required to sell at or above a minimum price, which prevented them from offering discounts beyond a certain level. According to the CMA, Dar Lighting gave its retailers the impression that the terms of the selective distribution agreements allowed it to do this.

Uplift in fine for ignoring warning letters

Prior to the CMA's investigation, it had sent Dar Lighting two separate 'warning letters' in which the CMA warned the company of its suspicions that Dar Lighting was restricting retailers' ability to discount products and that this would amount to RPM. The CMA requested that the company would check that it was not breaching competition law in this way. The CMA, however, found that Dar Lighting did not take adequate steps to comply with the CMA's warnings. As a result, the CMA applied a 35% increase as part of the fine calculation for the company's failure to act on these warnings.

Discount for cooperation

As Dar Lighting admitted to acting illegally and co-operated with the CMA's investigation, the CMA discounted the fine by 20% under the CMA's settlement procedure.

Commentary

This is the second time that the CMA has fined a lighting supplier for imposing a minimum price on online retailers. In 2017, the CMA fined the National Lighting Company 2.7 million GBP for engaging in RPM. In recent years, the CMA has fined companies engaging in similar practices in the musical instrument sector.

The 35% uplift in fine for failing to take sufficient action after two warning letters is the highest uplift imposed by the CMA of its kind to date. This highlights that companies that receive a CMA warning letter should take sufficient action to address any suspected breaches of competition law.

For further information, please refer to the CMA's press release.