



## Resolution on Question B

**Question B:** *“How can the holder of intellectual property rights protect its brands in the context of on- and off-line distribution and after-sales service, and does the existing framework for such protection strike a fair balance between the interests of rights holders and the interests of consumers?”*

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Whereas recent developments have challenged the abilities of holders of intellectual property rights to manage and control their distribution channels to protect their brands;

whereas brand owners face practical difficulties relating to the enforcement of their IP rights, such as trademarks, design rights, copyright, patents;

whereas a constant increase in the significance of digital products and online distribution channels of physical goods can be observed;

whereas there is a need for effective consumer protection in on- and offline distribution channels;

whereas there is a general trend towards a higher degree of centralization and economic concentration in relation to online platforms;

whereas supply chains are adapting to the challenges of the digital economy;

whereas the protection of the public image of a brand, and thus the assurance of quality standards and safety, is widely recognized as a legitimate interest of the trademark holder;

whereas environmental sustainability and the circular economy are gaining importance in the context of the definition of consumer rights;

### **The LIDC recommends the following:**

Legislators and courts should take into account the interests of holders of intellectual property rights in protecting their brands and the interests of consumers and the sustainability of the economy.



The conditions under which selective distribution networks are compatible with competition law should allow for the proper balancing of interests in individual cases based on the economic effects of the practice in question.

The critical role in the distribution of products enjoyed by online platforms warrants further examination. Even within the classic consumer welfare centered approach to anti-trust and competition law, courts and authorities should pay attention to the long-term risks to consumers, merchants, and manufacturers entailed by concentrations of economic power.

Due consideration should be given to potential lock-in effects by warranties tying consumers to partners of IP right holders.

Efforts to understand the conditions for the exercise and exhaustion of IP rights, such as trademarks and the applicability of the first sale doctrine to digital goods, should be continued.

When considering exclusive IP rights, competition and anti-trust law should incorporate consumers' and IP rights holders' interests at all levels.

Holders of trademark rights should be allowed, within reasonable limits and subject to strict limitations, to protect their brand image and, thereby, the value of their brand by setting conditions for the distribution of goods, especially to the extent that those conditions relate to the quality of goods and services and are compatible with the public interest.