

B/S/H/

Selective Distribution and its Role in Brand Reputation, Choice and Competition

Symposium on Trends in Retail
Competition

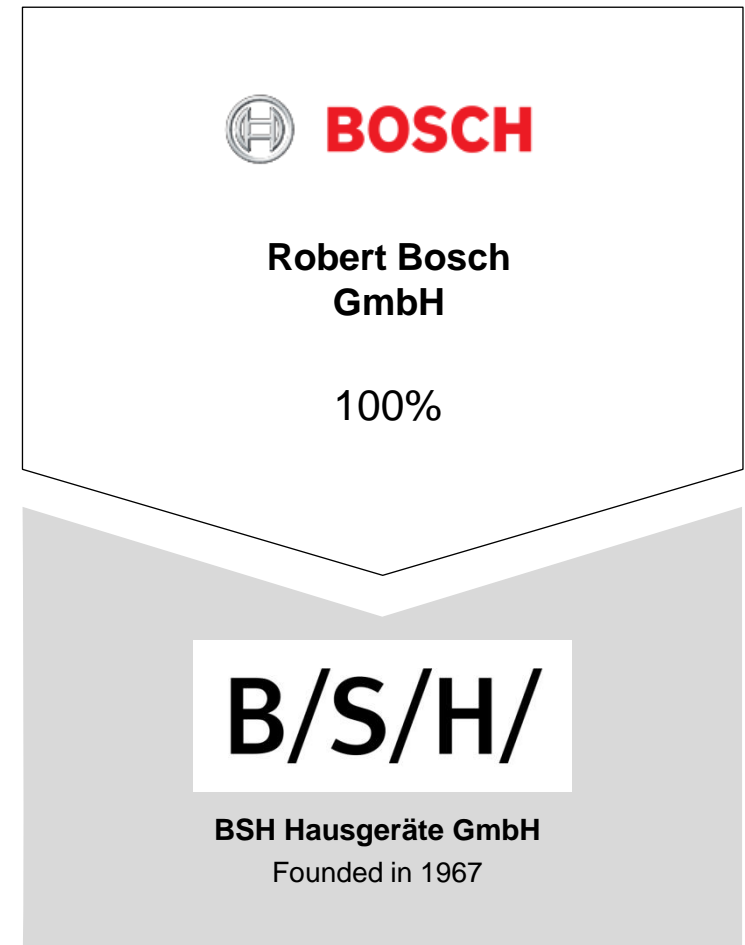
Oxford, 9 June 2017

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BSH at a Glance

- Founded in 1967 as a joint venture between Siemens AG and Robert Bosch GmbH
- Since the beginning of 2015 BSH fully belongs to the Bosch Group
- Market leader in Europe, No. 2 in the world
- Sales revenue: 13.1 billion Euros (2016)
- Product portfolio: all modern home appliances
- Employees worldwide: 58,300
- Customer service: more than 8,000 specialists in about 50 countries



BSH is a Multi-Brand Company

Global Brands



BOSCH

SIEMENS

GAGGENAU



Local Heroes

Thermador★



Coldex

Constructa

PITSOS

PROFILO

ufesa

zelmer

Label Brands

JUNKER

VIVA

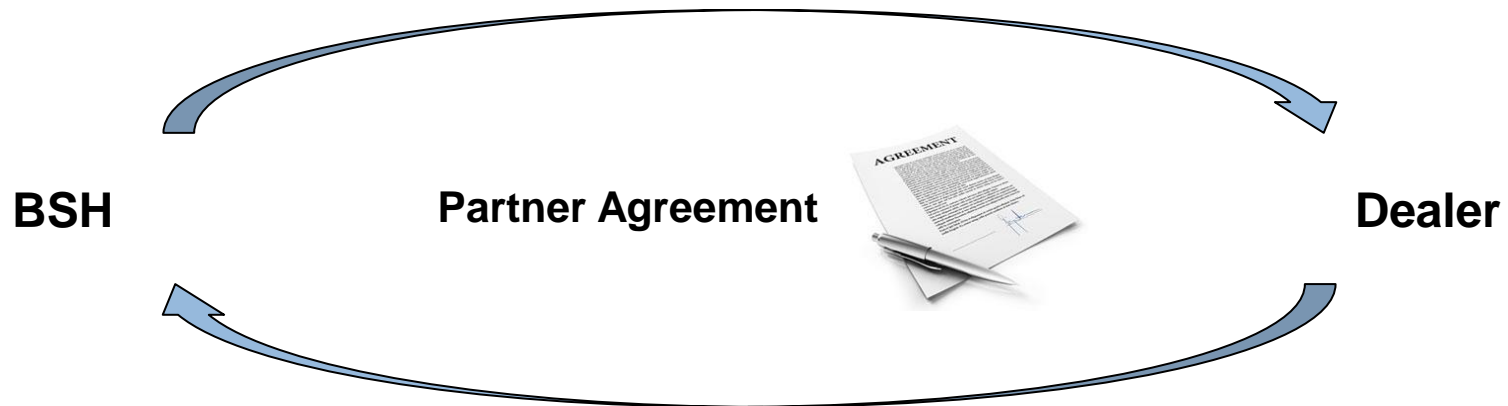
BSH Home Appliances Group is a Trademark Licensee of Siemens AG for the brand Siemens and of Robert Bosch GmbH for the brand Bosch.

Why Selective Distribution?

- The aim of selective distribution is
 - to ensure a uniform minimum **quality standard** for the sales and marketing of
 - (a special range of) **branded products** that are characterized by, for example:
 - Particularly high value, innovative nature/features;
 - Technical complexity, special design and image; and/or
 - Increased need for customer advice.
- This aim is reached by:
 - Choosing partners according to certain **objective quality criteria**, which
 - must have a material, reasonable link to the selective products;
 - must not exceed what is necessary to ensure proper marketing; and
 - must be applied without discrimination; and
 - Requiring partners to comply with certain **obligations** relating to, for example;
 - the presentation of the products; participation in product trainings; and special services for consumers, and
 - **Prohibiting partners to resell** the selective products to non-authorized dealers.

Selective Distribution at BSH

BSH agrees to sell the contract products only to dealers who meet the contractual requirements and who comply with the contractual obligations.



“resale restriction”;
closed network of partners



The dealer agrees

- to comply with the contractual requirements and obligations and
- not to resell the contract products to dealers who are not partners

Benefits and Risks of Selective Distribution acc. to EU Commission

- Commission recognizes selective distribution as a **legitimate business model**, but warns that selective distribution must **not be abused for anti-competitive purposes**:

The ability of manufacturers to choose, via selective distribution, the qualitative and quantitative distribution criteria that best fit their products and positioning, has been central for distribution, in particular for high-end business models, for several decades.

At the same time, selective distribution is a tool which may, in some cases, serve to facilitate the implementation and monitoring of other types of vertical restraints, some of which may raise competition concerns. Many restrictions to online sales are mainly found in the context of selective distribution systems. For example, within a selective distribution system, it may be easier for a manufacturer to control pricing, effectively engage in resale price maintenance or prohibit (certain forms of) online sales or advertisement.¹⁵⁵

European Commission, Final report on the E-commerce Sector Inquiry, Commission Staff Working Document, May 2017, paras 251, 253

- Commission position welcome! But ECJ in *Pierre Fabre* (2011) (“*aim of maintaining a prestigious image is not a legitimate aim for restricting competition*”), followed by German Federal Cartel Office in *Adidas* (2014) and *Asics* (2015). *Coty* decision to be seen!

Benefits of Selective Distribution from a Business Perspective

- **Consumers** benefit from competent advice and services provided by qualified retailers in an attractive sales environment
- **Retailers** benefit from gaining access to an attractive product range, enjoying special marketing support and becoming attractive for consumers



- **Brand owners/manufacturers** benefit from high-quality commercialization by dedicated retailers who protect and promote the brand image

Legal/Compliance Risks and Challenges of Selective Distribution for BSH

- Selective distribution **must not be abused!**
- The aim of selective distribution is **not**
 - To keep resale prices high;
 - To restrict cross-border sales;
 - To keep products away from the internet or from online platforms; or
 - To reward or to sanction dealers for their pricing and/or online activities.
- Substantial legal and administrative challenge for business people and inhouse counsel
 - Close cooperation in setting up and roll-out of selective distribution systems
 - Checklists/criteria for product and retailer selection
 - Intensive, tailored-made trainings
- BSH operates in global markets, but law / enforcement is national
 - Competition law principles very similar in horizontal / hardcore area, but significant differences in vertical area (U.S. vs. Europe; Europe vs. Germany, etc.)

Conclusions



Selective distribution and brand reputation

Selective distribution is indispensable for creating and developing a distinctive brand reputation



Selective distribution and choice

Selective distribution will allow consumers to choose the level of brand experience according to their preferences



Selective distribution and competition

Selective distribution fosters sustainable inter-brand competition vs. short-term intra-brand price competition