

APPENDIX 4.1
(referred to in paragraphs 4.8 and 4.9)

Summary of provisions contained in retailer agreements

Provisions referred to in the Decisions	Suppliers																		
	Chan el	Dior	Laud er	Given chy	P&C	Gold en	Parim	Klein	Arde n	YSL	Giorg io	Guerl ain*	Lanc aster	P&G	Creat ive Fragr ance s	Muel hens	Ricci	Revl on	Sanof i
I Selection criteria																			
(i) Staffing: training and consultation + demonstration																			
(a) Recognized qualification or experience (minimum three years)	✓	✓		✓	✓		✓	✓		✓					✓				
(b) Training	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓								
(c) Advisory or demonstration service	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓				✓				
(ii) Location, name, fittings, etc, of outlet																			
(a) Nature, location, standing of environs	✓	✓		✓	✓		✓	✓	✓	✓									
(b) Name, shop sign	✓	✓		✓	✓			✓	✓	✓									
(c) Facade, shop windows, etc	✓	✓		✓	✓			✓	✓	✓									
(d) Interior fixtures and fittings, etc	✓	✓		✓	✓		✓	✓	✓	✓					✓ ¹				
(e) Scale, presentation, separation of other activities	✓	✓		✓	✓				✓	✓	✓								
(f) Appearance, competence, etc, of staff	✓			✓	✓			✓		✓	✓								
(iii) Prohibition on sale of other goods whose proximity might detract from image of products																			
(a) Prohibition on sale of other goods whose proximity might detract from image of products	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓								
(iv) Sales area																			
(a) Area proportionate to brands sold	✓	✓		✓				✓		✓					✓				
(b) Prestigious or visible location	✓	✓		✓	✓	✓		✓		✓	✓				✓				
(c) Availability of competing brands ²	✓ ²	✓		✓	✓ ²	✓	✓												

<i>Provisions referred to in the EC Decisions</i>	<i>Chan el</i>	<i>Dior</i>	<i>Laud er</i>	<i>Given chy</i>	<i>P&C</i>	<i>Gold en</i>	<i>Pari m</i>	<i>Klei n</i>	<i>Arde n</i>	<i>YSL</i>	<i>Giorg io</i>	<i>Guert ain</i>	<i>Lanc aster</i>	<i>P&G</i>	<i>Crea tive Fragrance s</i>	<i>Muel hens</i>	<i>Ricci</i>	<i>Revl on</i>	<i>San offi</i>
(v) Selling																			
(a) Sales only on premises covered by contract (no mail order)	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓				✓		
(b) Sale to final consumer only (except to other authorized retailers or exclusive agents)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓			
(c) Retention of original packaging	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		✓			✓			
(vi) Stocks																			
(a) Two-thirds of references of each range, one product of each reference ³	✓	✓	✓ ³	✓	✓	✓	✓ ⁴	✓		✓	✓	✓ ³	✓ ³				✓ ³		
(b) Perfect freshness	✓	✓		✓	✓		✓	✓		✓	✓	✓							
(c) Storage to achieve this	✓	✓		✓	✓		✓			✓	✓								
(d) Stock rotation: minimum of twice a year		✓			✓					✓	✓								
(vii) Promotion and advertising⁵																			
(a) Stocking and selling new products	✓	✓		✓	✓					✓	✓	✓	✓ ⁶						
(b) Participation in promotional and advertising activities	✓	✓		✓	✓			✓	✓	✓	✓	✓	✓						
(c) Displays in store and in shop windows	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓				✓		
(viii) Minimum annual purchases⁷	✓	✓	✓	✓ ⁷	✓			✓ ⁷		✓	✓								
II Admission procedure + timing																			
(i) Application followed by inspection re qualitative criteria	✓	✓		✓	✓ ⁸					✓									
(ii) Nowhere near meeting	✓	✓		✓	✓					✓									
(iii) Capable of meeting with additional work	9	✓		✓	✓					✓									
(iv) Meets entirely	✓	✓		✓	✓					✓									
<i>Note: The timing is essentially an inspection within an average of 3 months (max 5) and account opened within 9 months (max) from date of inspection if satisfactory.</i>																			

Provisions referred to in the EC Decisions	Chanel	Dior	Lauder	Givenchy	P&C	Golden	Parim	Klein	Arden	YSL	Giorgio	Guerlain	Lancaster	P&G	Creative Fragrances	Muelhens	Ricci	Revlon	Sanofi
III Freedom of cross-supplies between network members																			
(i) Authorized retailers: may resell to any other authorized retailer throughout EC; may obtain supplies from authorized retailers or exclusive agents throughout EC	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ ¹⁰	✓			✓			
Subject to:																			
(a) ensuring purchasers are authorized	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓				✓			
(b) keeping copies of invoices from such retailers for one year (similarly re obtaining supplies)	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		✓ ¹¹			✓			
(c) only value of orders invoiced by suppliers/ agents to count in minimum annual purchase figures	✓	✓		✓			✓	✓		✓	✓					✓			
(d) authorized retailers will not engage in active sale, for one year, of products not launched in his territory (similarly re obtaining new products)	✓	✓		✓	✓		✓	✓		✓	✓	✓ ¹²	✓			✓			
IV Closed distribution network																			
(i) Authorized retailer will not sell to or obtain supplies from any wholesaler or retailer not included in supplier's distribution network	✓	✓	✓	✓	✓		✓	✓		✓	✓		✓			✓	✓ ¹³		
(ii) Supplier undertakes to market products only in retail outlets which meet conditions in the selective distribution contract	¹⁴	✓		✓			✓	✓		✓						✓			
V No imposed prices	✓	✓		✓	✓			✓		✓	✓		✓						
VI Competing products may be purchased																			
VII Duration of contracts																			
(i) Specific term/renewal ¹⁵		✓	✓ ¹⁵	✓	✓	✓	✓	✓		✓	✓	✓ ¹⁵							
(ii) Early termination for failing to fulfil contract		✓	✓	✓			✓	✓		✓	✓								
(iii) Transfer to new owner/operator ¹⁷	✓	✓		✓ ¹⁷	✓ ¹⁷	✓ ¹⁶		✓		✓	✓	✓				✓			

Source: MMC.

*Guerlain was of the view that, by sticking closely to the terms of its agreement with retailers, this appendix presented a rather formalistic view of its arrangements by not taking account of its 'background' documentation and policies, all of which were part of the relationship. In Guerlain's view, if these were taken into account this appendix would also show not only that Guerlain insisted on its own consultants being fully trained, but that it actively encouraged the training of retailer-employed consultants (item I(i)(b)), and that Guerlain does have standards as to outlets and their interiors (items I(ii)(a) and I(ii)(b)).

Notes:

1. Lancaster made a general comment that the premises must be compatible with the style and prestige of the products.
2. The time limit within which retailers must carry a sufficient number of competing brands was set at 18 months in the Parfums Givenchy Decision (though this requirement is not mentioned in the earlier YSL Parfums Decision). Chanel and P&C specify 12 months (though Chanel said that it was now its practice to follow the Parfums Givenchy criterion in this respect, and that this would be shown in its agreement when it was next reprinted, and P&C told us that it had now extended the period to 18 months).
3. Lauder, Lancaster and Ricci require 'fully representative' stock and Guerlain requires a range of products in regular demand.
4. The Parim agreement provides for stock levels as agreed between the agent and the company.
5. Many of the agreements included a wide range of requirements concerning promotion and advertising. The three listed in the table seemed to be the most important and widely required.
6. Lancaster requires a sufficient stock of all products launched in the UK in the preceding 12 months.
7. The minimum purchase figure is set annually by supplier/exclusive agents in such a way that its amount does not exceed 40 per cent of the average purchase figure achieved the previous year by all retail outlets situated within a member state (as in the YSL Parfums and Parfums Givenchy Decisions). Klein specifies a figure not exceeding 20 per cent. Givenchy's standard sales terms state that on opening a new account the retailer must place a minimum opening order amounting to one and a half times the minimum annual sales required by Givenchy (ie $1.5 \times \text{£}[\text{†}]$ for a fragrances outlet, or $1.5 \times \text{£}[\text{†}]$ for an outlet selling both cosmetics and fragrances from the range of Givenchy products), comprising all the product lines produced by Givenchy.
8. P&C's agreement refers to additional premises of an authorized dealer. Application by a new retailer is covered in a separate document on general approval conditions. Procedure is essentially the same.
9. Although Chanel's retailer admission criteria do not state that applications capable of meeting the criteria with additional work will be held open pending the completion of such work, Chanel told us that this was how it operated in practice, and that this would be reflected in its authorized retailer agreement when it was next reprinted.
10. Guerlain's agreement refers to authorized retailers in *other* EC countries.
11. Lancaster requires invoices to be kept for a minimum of two years.
12. While Guerlain's contract does not formally permit a UK retailer to sell to other UK-based retailers (as opposed to other EC-based retailers), it told us that this was permitted and that it had not, and would not, impose any penalties on retailers which did this. It expected that its new UK agreement would expressly allow such trading. However, Guerlain's new agreement has an export ban for one year (at variance with the YSL Parfums Decision).
13. The stockist agrees not to export any Ricci goods to outlets outside the UK which are not officially appointed stockists within EC countries.
14. Chanel said that it was axiomatic from the terms of its authorized retailer agreement that it would only market its products through retail outlets which satisfied its selection criteria. To avoid any doubt, this would be stated in its agreement when it was next reprinted.
15. The specific term is normally one year. Lauder indicated that it would continue in force until determined by either party. For Guerlain the contract is initially valid for two years, thereafter continuing on an annual basis.
16. The transfer of Golden's authorized status is not a matter of right but is subject to consideration and approval by Golden.
17. The YSL Parfums Decision says that the supplier/agent will inform the new owner/operator within three months whether he meets the professional criteria. If so, he will be authorized without delay. Givenchy offers a new agreement to the new owner/operator provided all the conditions are met. P&C allows the existing agreement for six months, then inspects the premises within a maximum of five months.

†Details omitted. See note on page iv