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**Brands: An introduction to their competitive effects**

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2 Dec 2011**

These views are my own, not

**What do brands do?**

- **Old Norse for ‘to burn’**
- **They inform:**
  - Show product origin
  - Signal a particular set of characteristics
- **They persuade:**
  - Create new demand, perceived product differentiation, and customer loyalty
- **Experience and advertising/marketing both play a role**




## Some pro-competitive aspects of brands

- **Positive incentives for brand owners to maintain product characteristics**
- **Ease entry into new markets**
  - Relative to starting from scratch
- **Enhanced intra-brand competition (more homogeneous)**
  - E.g. supermarket competition on brands
  - Although.....??

Sponsored by **Sainsbury's**

**Spend more time at home**



**BRAND MATCH**  
£3.95  
off your basket value

➔ Why shop around?

Sainsbury's new Brand Match means that if you could have bought an identical basket of branded goods (same size, flavour, colour etc) more cheaply in Asda or Tesco, they'll give you a money-off coupon for the difference - right then and there at the end of your transaction.

## Some less positive properties of brands

- **Can soften inter-brand competition**
  - Due to more perceived product differentiation
  - And 'must carry' nature
- **Can create barriers to entry**
  - Brand proliferation strategies
  - 'Fighting brands'
- **Can be used to justify restrictions on competition ('free-riding')**
  - E.g. vertical restraints (RPM)
  - E.g. Law against 'imitations'



## The 'free riding' issue

- Brand-owners invest in product innovation and branding to create demand
- Downstream retailers can play a key role in this too
- 'Free-riding' can occur:
  - By lookalikes/imitations
  - By 'no frills' retailers
- This can damage brand *directly*, e.g. if poor quality provided...
- ...or *indirectly* by disincentivising investment in brand and product innovation

Step into middle England's best loved department store, stroll through haberdashery to the audio visual department where an awfully well brought up young man will bend over backwards to find the right TV for you **then go to [dixons.co.uk](http://dixons.co.uk) and buy it.**

**Dixons.co.uk**  
The last place you want to go

## 'Free riding' - the counter-arguments

- Consumers are not often really confused
- Lookalike packaging can provide a useful (not misleading) signal
- More product homogeneity can enhance price competition
- Lookalike brands can grow into major brands in their own right (i.e. entry strategy)
- There are more direct ways to incentivise retailer brand investment



## Getting the balance right?

- **EU guidelines on vertical restraints**

- Selective distribution outside Art 101(1), so long as criteria can be objective/necessary
- Tricky question of internet selling?

- **Case law on passing off/lookalikes**

- Tough on replicas, which confuse consumers, and harm the goodwill of the brand
- CPRs less relevant unless the 'average consumer' is misled



- **Law on use of trademark for paid search?**

- After ECJ Interflora judgment (2011)

## A few thoughts on mergers and brands

- **Inherently difficult to assess mergers between differentiated products** (GUPPI helps)

- **Further issues in assessment:**

- How easy would it be for a new entrant to replicate brand position/goodwill?
- What re-positioning is expected post-merger?
- When assessing margins, is brand spend variable or fixed? (Does PPC for internet advertising change this?)

- **And issues re remedies**

- When is 'brand-splitting' possible, and when not?
- How to assess the ability of prospective buyers of a divested brand to invest in it effectively?





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