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Brussels, 3rd May 2021

Re: HP printers and third-party cartridges - request for Belgian, Italian, Portuguese, Spanish and Brazilian consumers

On 17 November 2020, the Italian Antitrust Authority (Autorità Garante della Concorrenza e del Mercato, hereinafter also AGCM) concluded HP to be liable for adopting two unfair

commercial practices pursuant to Arts. 20, 21, 22, 24 and 25 of the Italian Consumer Code (which are a transposition of European Directive 2005/29/EC, Art. 5, 6, 7, 8 and 9) with respect to the sale of multiple HP branded inkjet and laser printers, and related HP cartridges. For this reason the AGCM enforced a sanction of EUR 10 million, while also prohibiting the continuation of such practices (see a copy of the decision attached).

In particular, the AGCM found that HP, since (at least) the end of 2016, had misled consumers into inducing to purchase HP printers and, then, to update their firmware, deceptively omitting to inform them of the limitations related to the use of non-original ink/toner cartridges (i.e. supplied by third parties) and providing deceptive information on the qualities of non-original (ink) cartridges. This was done in order to falsely persuade consumers not to use third party cartridges or to have them replaced because they were defective or lacking quality. This malfunction was however due to the limitations introduced in the device by HP itself (but hidden from consumers) with specific instructions contained in the firmware.

It is clear that HP has consciously failed to inform consumers, in a clear and exhaustive way, about an essential feature of the product, such as the presence of firmware aimed at excluding interoperability with third party refills. In doing so HP has prevented consumers from making an informed, free and conscious purchase decision.

Moreover, HP, without obtaining an informed consent of its users, unduly collected their consumption data (i.e. what kind of cartridges they used, original or third-party) through the aforementioned firmware to develop strategies aimed at altering consumer behavior and improperly denying technical assistance in case printers were using third-party cartridges.

Recently the same behavior was the focus of a class action in the United States which was settled by the parties with HP, compensating damages for USD 100-150 per each consumer (depending on the printer model) and guaranteeing a minimum allocation of USD 1,5 million.

Just like in Europe (and Brazil), American consumers contended that they had experienced malfunctions, loss of performance, deficits and blocks connected to the use of third-party cartridges, and that, to overcome them, they had to purchase replacement cartridges provided by HP or even replace the entire printer.

It is unequivocal that HP has implemented a conduct, worldwide, aimed at forcing consumers not to use third-party cartridges and, in this way, at restricting competition. It is

also unequivocal that this conduct has caused an identical damage to European and Brazilian consumers who should not be discriminated against US consumers, but instead are entitled to be compensated in the same way.

Gathering four national consumer organizations in Europe (Italy, Belgium, Spain, Portugal) and one in South America (Brazil) and giving voice to a total of more than 1.5 million consumers, Euroconsumers is the world's leading consumer cluster in terms of innovative information, personalized services and defense of consumer's rights.

Considering the foregoing, we invite you:

- 1. To compensate Italian, Belgian, Spanish, Portuguese and Brazilian consumers for the damages in the same way as U.S. consumers;**
- 2. To immediately stop this misleading, detrimental and anticompetitive practice, avoiding any more future damage to consumers.**

Euroconsumers is available and ready to start a dialogue with HP to establish the best way to satisfy the above requests. However, in the absence of an adequate answer and solution within 15 days, Euroconsumers will not hesitate to take further legal action. We look forward to hearing from you soon.

Yours sincerely,



Marco Pierani, Director of Public Affairs at Euroconsumers



Els Bruggeman, Head Policy and Enforcement at Euroconsumers



