

AMNESTY PROGRAMME

On Collusive Agreements involving Resale Price Maintenance (RPM)



Resale price maintenance (RPM) is a collusive agreement between a supplier and a dealer to establish a fixed or minimum resale price: it is illegal in Mauritius and sanctionable by fines.

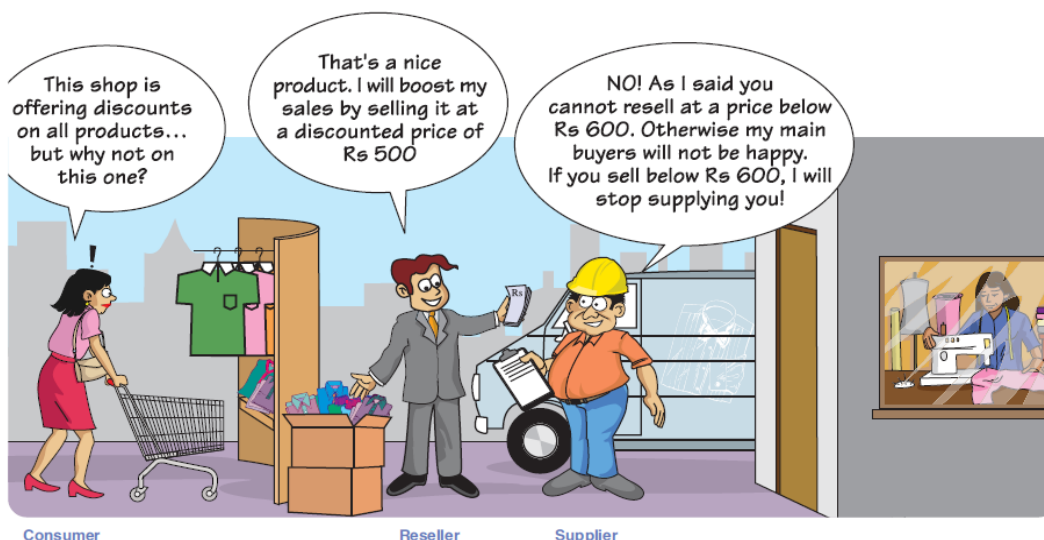
For a limited period of four months starting 5th June 2017, the CCM is offering a unique opportunity for enterprises who have engaged in RPM to benefit from immunity from fines through an RPM Amnesty programme.

What is Resale Price Maintenance?

Resale Price Maintenance (RPM), also known as 'prix de vente imposé', is an agreement between a supplier and a dealer (reseller) which establishes: (i) a fixed price, or (ii) a minimum price, or (iii) a price level, to be observed by the reseller when reselling the product or service.

RPM agreements also include RPM through oral agreements, agreements which are not necessarily legally enforceable and the so called 'gentlemen agreements'.

A policy imposed by a supplier establishing the resale price, which receives the acquiescence of a reseller may constitute an agreement between the supplier and the dealer, satisfying the requirement of RPM.



What does the law provide?

Section 43 of the Competition Act provides that a vertical agreement between enterprises shall, to the extent that it involves RPM, be prohibited and void.

Why should you be concerned if you have engaged in RPM?

Enterprises involved in RPM may be liable to heavy fines of up to 10% of their respective turnover for a maximum period of 5 years.

Example: an enterprise with an average annual turnover of Rs 50 million engaging in RPM for 5 years may be fined up to Rs 25 million.

The enterprise may be subject to RPM investigation, entailing various costs including cost of legal representation and may suffer from loss of reputation and corporate image.

Do you know that RPM is illegal?

Do you have concerns about RPM conducts?

Not sure whether your conduct amounts to RPM?

CCM & MCCI are here to assist!

Amnesty Programme – Resale Price Maintenance

What should you do if you have engaged in RPM?

The CCM is giving a unique opportunity to **all** enterprises which have engaged in RPM to collaborate with the CCM and amend the conduct in exchange for immunity (no fines) under prescribed conditions.

However, the CCM Amnesty offer is limited in time and is **valid from 5th June 2017 until 05th October 2017**.

What if you were engaging in RPM and you change your conduct without applying for leniency or amnesty?

Your enterprise may still be liable to fines for the period that the RPM was practiced. If the enterprise does not apply for amnesty and the CCM detects such RPM, the CCM may fine such conduct for the period during which it happened.

Should resellers be concerned about RPM?

RPM requires some level of cooperation from resellers (either explicitly agreed or acquiesced). Resellers would also be party to such RPM. Where resellers have initiated or otherwise actively participated in the RPM, they may be liable to fines. Resellers also can therefore benefit from the RPM Amnesty programme.

What are the risks of getting caught?

The CCM constantly assesses industries to identify potential anti-competitive practices and this effort will increase in the future. There is a high risk that the conduct will be reported by resellers, competitors or even consumers.

Once this RPM Amnesty programme lapses the CCM will be more stringent with regards to RPM.

Collaboration with the MCCI

The Mauritius Chamber of Commerce and Industry (MCCI) has extended its collaboration for this programme. The MCCI will disseminate the RPM Amnesty programme to enterprises and it will also act as a facilitator by providing information in relation to the RPM Amnesty to enterprises, both its members and non-members.

Not sure if the conduct amounts to RPM?

Contact the CCM for further information or clarifications. If you prefer to keep your anonymity, you can call the CCM and seek guidance (not binding) without revealing your identity and the name of the product.

Or

Get preliminary information from MCCI. The CCM is collaborating with the MCCI to enable enterprises which do not want to contact the CCM initially, to channel their queries to the MCCI to get further information on RPM or the programme. They will offer such facility to both member and non-member enterprises.

However, applications for the RPM Amnesty must be received by the CCM by 5th October 2017 at the latest.

Refer to the [CCM RPM Amnesty Guidance Notes](#) for more details on the programme and application process.

For more information contact:

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