



You Should Know...

Delicious But...

A diner suffered a heart attack while eating a 6,000-calorie "Triple-Bypass Burger" at the Heart Attack Grill in Las Vegas. It is billed as having "a taste worth dying for."

The Point: Now that's truth in advertising!

Older is Better

There are more than 2,000 federal, state, and private programs that benefit seniors. *The Wall Street Journal* conducted a search on behalf of a single, 75-year-old man in Minneapolis who owns a home and has \$50,000 in annual income. He qualifies for regular free housekeeping, a free eye exam, transportation to daily activities, as well as a special property tax refund.

The Point: They may be golden years after all.

Reverse, Reverse Integrating

Amazon will open its first brick-and-mortar retail store in 2012. This is a dramatic departure from their business model.

The Point: Brick-and-mortar retailing is risky business (remember Borders, Circuit City, Linens 'n Things, etc.).

Told You About Retail

Malls and strip malls are now being reinvented en masse. They're being turned into schools, medical clinics, call centers, government offices, and even churches to combat near record vacancy rates.

The Point: Maybe Amazon can get a good price on a long-term lease.

March's Quote

"Many of life's failures are men who did not realize how close they were to success when they gave up."

Thomas Edison

Resale Price Maintenance

Federal rules and regulations regarding resale price maintenance (RPM) are poorly understood by most marketers. This lack of understanding has resulted in a wide spread belief that canceling dealers that are selling one's products at unreasonably low prices or whose low prices are generating complaints from other resellers is illegal. It is not.

In two landmark cases* the Supreme Court recognized that a manufacturer's decision to stop supplying a price cutting dealer does not necessarily violate the Sherman Antitrust Act. This means that if one dealer is selling at prices so low that it diminishes the value of a manufacturer's brand, and/or the effectiveness of its sales channels, that dealer can be terminated.

In the "Business Electronics v. Sharp"* case writing for the court Justice Scalia wrote that it is "sometimes legitimate and competitively useful for manufacturers to curb price competition among their dealers."

If there is no specific agreement as to the actual price between the complaining dealers and the manufacturer, the reasonableness of a decision to terminate a dealer will be determined by rule of reason; that is by balancing the anticompetitive inter-brand effects against any precompetitive inter-brand effects. This means, as stated in the Monsanto case, that "A manufacturer generally has the right to deal or refuse to deal with whomever it likes as long as it does so independently." Additionally, "A manufacturer can publish its resale prices in advance and refuse to deal with those who fail to comply."

* Monsanto Company v. Spray-Rite Service 1984 and Business Electronics Corporation v. Sharp Electronics 1988, both Supreme Court

Many executives and attorneys are somewhat timid on this; however, the case law is clear.

Another "twist" on government pricing regulations came as a result of a 2007 Supreme Court ruling, "Leegin Creative Leather Products Inc. v. PSKS Inc." In this case, the Supreme Court upheld the manufacturer's right to establish a "minimum advertised price" below which no dealer, reseller, or distributor may advertise.

This ruling recognizes that publishing "low ball" prices can wreak significant damage on a manufacturer's sales channel thereby weakening the competitive landscape. Specifically a dealer/distributor can be cancelled if they advertise a price lower than the minimum advertised prices established by the manufacturer.

The Point: Price fixing is illegal. It is legal, however, to prevent an individual dealer/distributor from damaging the competitiveness of a manufacturer's channel process by selling its products at a price that demotivates other channel partners.

Top 10 Beliefs in the USA

Religion	Followers (millions)
Christians	257.9
Agnostics	38.7
Jews	5.2
Muslims	4.8
Buddhists	4.0
New Religionists	1.7
Hindus	1.5
Atheists	1.3
Ethnoreligionists	1.1
Baha'is	0.5

Source: Top 10 of Everything 2012