



S2C: Do the potential efficiencies just arise from the category manager's activities regarding its own products, or do you see potential efficiencies wher

accompanies their sale, the way that they are serviced, the surroundings in which they are sold, all are matters of concern to the manufacturer. The manufacturer does not lose interest in that vehicle simply because title has passed to a dealer. So, in the larger sense, we recognize that a manufacturer has a legitimate interest in following its product after title has passed and seeing that it is handled properly. And to that degree, I would argue that the manufacturer is participating itself in the retailing of its product, and legitimately so. So it is no longer a purely vertical relationship between the manufacturer and the retailer. The *Sylvania* line of cases allows a manufacturer to manage and to direct some of the retail functions itself. If a manufacturer purports to direct the retailing of another guy's brand, I think it is analytically very, very different from your normal *Sylvania*-protected situation.

S2C: Do you see an important distinction here between price and non-price related conduct? Specifically, if a category manager recommends retail prices for his competitor's products, does that deserve a different sort of antitrust analysis than if the manufacturer is merely saying where to put the competitor's products on the shelf?

LEARY: I agree that this may be an important distinction, although as a matter of fact, as you well know, ~~even advice on how to price~~ your own product is a little bit delicate. That to me does not make a grea

category managers to provide detailed information on how to price and promote their own brands. If they want to give some ki

the facts dev

are in keeping this market stable. That is the typical hub and spoke conspiracy if there ever was one. That's the most extreme situation.

S2C: Do you see potential antitrust misconduct by retailers as a cause for major concern?

LEARY: My guess is that a few years ago when this category management thing first became prevalent, retailers probably went into this a little bit more naïvely. I don't think that the retailers necessarily saw category management as an antitrust issue to the same degree as they might t

pervasive it really is. My overall impression, by the way – and I have no idea whether this is really true or not – is that people may be becoming a little bit more careful, and that the retailers may be learning a little bit more, and that their level of dependence on suppliers to manage their product categories is becoming less pronounced.

S2C: Would you see a potential he