CRA Insights

Competition

CRA Charles River Associates

Premier League replica kit: Relevant product markets to assess exclusivity and football club market power

Last year, UK courts considered a Premier League football club's decision to exclusively supply a third-party retailer with its replica kit for the 2024/25 season. Such arrangements are increasingly common. Recent enforcement by the CMA, with clubs fined for price fixing and existing precedent on exclusive dealing, has not deterred clubs. The CMA seems reluctant to challenge exclusivity arrangements that risk anticompetitive effects unless there is evidence of naked price fixing. Whether the relevant market is specific to the individual club's replica kit, and thus whether the football club has market power, is central to the assessment of that risk.

For the 2024/25 season, a leading Premier League club, Newcastle United (the **Club**), chose to sign an exclusive supply agreement with a multi-brand retailer, JD Sports, that restricted downstream competition. As a result, the replica kit was available only through JD Sports, the Club's own store and the brand manufacturer (Adidas)'s stores.

Subject to a refusal to supply, one of the excluded retailers (Sports Direct) argued that the Club had abused its dominant position and the agreement was anticompetitive. While injunctive relief (to obtain access to the replica kit) was denied by the UK Court of Appeal, the court found that there were serious issues to be tried.[1] The case was settled prior to going to trial.

Such agreements, or variations of them, are not uncommon amongst the leading clubs (including other Adidas-supplied clubs such as Aston Villa and Leeds United, as well as Celtic in the Scottish Premiership and the Welsh and Scottish national associations), particularly if they allow for up-front payments for exclusivity. Recent media reports have highlighted the high price of replica kits and high retail margins.[2]

The primary factors for assessing the effects of exclusivity – and the degree to which downstream competition was restricted – are the market power of the Club and the exclusive retailer (in the relevant markets) and the impact of the excluded retailers on competition (and thus the prices paid by consumers).

In this short note, we examine the approach to defining the wholesale and retail markets – the key area of contention in the dispute determining whether the Club has market power – as well as the Club's arguments that highlight the risks of mis-using market definition. We also present preliminary analysis showing the potential impact of the arrangements on competition.

Supply of football replica kit – an overview

Football clubs own the IP and branding rights to their replica kit. Clubs typically license a sportswear brand to act as exclusive manufacturer, wholesaler and kit sponsor. As wholesaler, the brand then supplies to retailers. The football club retails the kit at the club store (including online) and the brand retails the kit through its direct-to-consumer offer if it has one. For larger clubs, a significant proportion of sales are made through third-party multi-brand retailers.

Retailers compete and consumer prices reflect this competition.

There have been several high-profile antitrust infringements involving replica kits – most recently involving Leicester City FC and Rangers FC – that have involved deliberate restriction of retail competition to increase consumer prices.[3] These have been cartel decisions with only limited effects analysis. The fines imposed by the CMA - £225k on Rangers and £1.5m on JD Sports in one case and £880k on Leicester City in another - do not seem to have deterred clubs from putting supply arrangements in place that restrict retail competition. Several other Premier League clubs operate similar models to the one discussed in this note for the 2025/26 season.

In this recent 2024/25 season settlement case, the Club appointed Adidas as exclusive brand manufacturer. However, rather than the brand acting as a traditional wholesaler selling to downstream retailers, the Club signed an exclusive contract with a single multi-brand retailer, JD Sports, limiting Adidas's wholesale supply to JD Sports and the Club store.

Are relevant markets specific to the football club's kit?

The arrangements were alleged to have affected the retail supply of the Club's replica kits. At the retail level, substitution to replica kits of other clubs is limited if the buyers are overwhelmingly supporters of the Club. Supporters are more likely to switch to other sportwear with the Club's logo than another club's replica kit.[4] In this case, the empirical question on the extent of substitution to alternatives was not resolved prior to settlement.

Notwithstanding this, when assessing the extent of the wholesale market, both upstream IP licensing and downstream retail markets need to be considered. The IP is exclusive to the Club and demand for the IP license from brand manufacturers is derived from the retail demand for replica kits downstream.[5] Suppose that the relevant market for the *retail* supply is no wider than the Club's replica kit (i.e. excludes replica kits of other clubs and other sportswear without the Club's logo). Then, the *wholesale* supply of the Club's replica kit is highly likely to be a relevant market. Specifically, if a hypothetical monopoly retailer can impose a SSNIP from the competitive retail price then a monopoly wholesaler selling to competitive retailers will also be able to impose a SSNIP from the competitive wholesale price. Note the competitive wholesale price would arise in the hypothetical situation with multiple IP licensors (or licensees) for the Club's replica kit.

Two scenarios ensue. First, if pass-on of a SSNIP of 5-10% from the competitive wholesale price to the retail price is complete, the reduction in sales would be insufficient to defeat the SSNIP (because it is insufficient to defeat the SSNIP imposed by the hypothetical monopolist retailer). Second, if the retailer pass-on is incomplete, then the profitability of a SSNIP for the hypothetical monopolist wholesaler will be even higher.

A wholesale market limited to the Club's replica kit is consistent with prior decisions, which concluded the retail supply of a specific club's replica kit was a market that can be cartelised. If there were a wide range of substitutes to the replica kit (such as other club's replica kit or other sportswear) there would be no incentive to cartelise.[6] Existence of a wholesale, a market limited to the Club's replica kit, is also consistent with brand manufacturers paying for exclusivity.

Risks of distorting the principles of market definition

Several arguments were made by the Club to challenge that it had market power, namely: (a) there is a wider wholesale market comprising other products (even if the retail market is narrow), and (b) the retail market is wider than the Club's replica kit because multi-line retailers are competing to supply the replica kit, alongside a basket of other goods. At first sight, these might seem intuitively appealing. Note, however, that both arguments could be made in any case involving multi-line retailers. Given that in numerous previous cases concerning products sold through multi-line retailers narrow wholesale markets were defined, one ought to be careful about their validity. We consider each in turn to illustrate the risks of mis-using market definition.

(a) A wider wholesale market?

The Club noted that retailers with limited shelf space sell a wide range of sports clothing and equipment alongside the Club's replica kit and flex the products they stock depending on the profits they make from those products. If the monopolist wholesaler increased the price of the Club's replica kit above competitive levels, retailers would switch to stocking other products that would now be relatively more profitable (for example, the retailer stocks less Club replica kits and more of another Premier League team, or more golf clubs). Hence, the Club argued, the wholesale market for supply to retailers is wider than the Club's replica kit.

This argument lacks economic foundation. A hypothetical monopolist of the Club's replica kit would not be constrained by threat of retailers re-arranging their shelves.

- First, note that the change in relative profitability occurs when the pass-on of wholesale price increases to retail prices is incomplete. If retailers pass all of the SSNIP at the wholesale level onto their retail prices, then the relative profitability does not change and the retailers' ability to alter their shelf space to display or promote another product instead of the Club's replica kit is irrelevant. Each retailer is likely to pass-on such an increase because it applies to all of its competitors. Still, if consumer substitution to other products (due to higher retail price) would lead to a sufficiently large decline in volume sold through a given shelf space, the retailer could reallocate shelf space. However, such a decline in volume would be inconsistent with retail supply of the Club's replica kit being a relevant market.[7]
- Second, reallocation of shelf space by specific retailers would not defeat a SSNIP by the monopolist wholesaler, as reallocating does not allow those retailers to serve the separate retail demand for the Club's replica kit. The same retail demand would now be served by the other retailers who keep the kit in their range. Any loss of volumes to the monopoly wholesaler would be small unless the retailers dropping the product had substantial added value of generating incremental demand for the replica kit.[8]

Note that if the relevant retail market is limited to the Club's replica kit when there is no competition in wholesale supply, as in this case (due to there being an actual not hypothetical monopoly wholesaler), this would suggest a SSNIP at the wholesale level is unlikely to be defeated. At the (lower) competitive wholesale price, a price increase would lead retail sales (and correspondingly wholesale sales) to fall by a lower percentage, even if passed on completely by competitive retailers. This further strengthens the conclusion that in this context wholesale market cannot be wider than the retail market.

The Club also argued that brand manufacturers and wholesalers compete across a wide range of products and negotiate discounts over their complete product ranges rather than the Club's replica kit specifically.

There is no question that brand manufacturers compete with each other over a range of sportswear, but this has nothing to do with whether restricting supply of the Club's replica kit to retailers would harm consumers. When retailer pass-on is complete market power in wholesale supply of the Club's replica kit, it would have the same impact on consumers as a group, whether it is exploited as a larger price increase solely on the replica kit or a smaller price increase over multiple products negotiated jointly with the replica kit. Hence, the brand manufacturer negotiating a percentage discount across its entire portfolio has no bearing on this issue.

Competition between brand manufacturers to supply the Club's replica kit takes place at a different level of the supply chain, in the supply of IP licensing from club to brand manufacturer. The brands compete, likely very strongly, to obtain an exclusive licensing agreement upstream. They compete at this level because it gives them exclusive access to a *separate demand downstream* (consumers of the Club's replica kit) that they cannot access without the IP. That they offer significant sums to become the IP licensor supports a narrow wholesale market.

(b) A wider retail market?

The Club also argued that retailers compete to attract customers to their stores with a wide range of products, therefore the retail market is wider by including other sports clothes and equipment.

The Club argued that if a retailer was denied access to the Club's replica kits it would still be able to compete effectively in this wider market.

However, the fact that retailers compete to supply a range of products is also not relevant to whether restricting supply of the Club's replica kit to retailers would harm consumers. The excluded retailers cannot compete to supply the Club's replica kit, irrespective of their ability to continue to supply other products. A sports shop is more attractive to consumers if it sells both tennis rackets and basket balls. Whether the relevant retail product market is sports equipment (including both) or just one of them depends on the competition law issue being assessed.

In the context of a merger between two retailers, the starting point for assessing the relevant market may well be a wider candidate market reflecting the products sold. In the context of an infringement relating to tennis rackets, the starting point for the assessment of the relevant market would be tennis rackets, i.e. the focal product subject to the alleged infringement. One then assesses whether the product market should be broadened based on demand-side and supply-side substitutability with other products. Whilst a sports retailer previously not stocking tennis rackets may be able to defeat an increase in retail price of tennis rackets if it can source them, it cannot offer any competitive constraint if exclusivity means it cannot supply tennis rackets. The same applies to the Club's replica kit.

Competition authorities routinely assess conduct (and agreements) in cases concerning products sold by multi-line retailers. Take ice cream as an example. If competition between retailers over a broad range of products meant that a retailer who does not sell ice cream (due to lack of freezer space) can constrain those selling ice cream by supplying soft drinks instead, then there would be no basis for cases on exclusionary behaviour by a dominant supplier of ice cream selling to multi-line retailers. Similarly, a wide swath of possible concerns from agreements between upstream suppliers and multi-line retailers would be excluded from antitrust assessment.

A formal discussion of why a narrow retail market supports a narrow wholesale market

We can show more formally that under the same retail demand response that makes a SSNIP at retail level profitable, a SSNIP at the wholesale level is also profitable. Hence, if the retail market in which the Club's replica kit is supplied is narrow, then the wholesale market will also be narrow.

In the hypothetical monopolist test, whether a SSNIP is profitable or not depends on how sensitive buyers are to price changes (the price elasticity of demand). Suppose that a 5% increase in price above the competitive level by a hypothetical retail monopolist is profitable: i.e. gains from a higher price on retained volumes exceed losses from lower volumes. Now suppose that the hypothetical monopolist wholesaler raises its price by the same amount (i.e. 5% of the competitive retail price). With complete pass-through this would lead to a volume loss equal to that of the hypothetical retail monopolist.

The gains from a higher price on retained volume therefore would be equal to that of the retailer. If the competitive wholesale margin (in pounds) does not exceed the competitive retail margin, the wholesaler cannot lose more (than the retailer) from the reduction in volume. Note, however, that a weakly larger retail margin is sufficient but not necessary for the SSNIP to be more profitable for the wholesaler.

First, a given SSNIP test level will amount to a smaller absolute increase in wholesale price than in retail price. A smaller absolute increase in price will lead the wholesale SSNIP to be more profitable as price sensitivity of retail demand increases with price.[9] Second, to the extent pass-on is incomplete, the retained volume would be higher for the wholesale SSNIP making the price rise more profitable for the wholesaler. For each level of pass-on and retail margin one can calculate the maximum wholesale margin for the wholesale SSNIP to remain profitable assuming price sensitivity of retail demand is constant.[10] This shows that the wholesale market would not be wider than the retail market for realistic competitive margin levels even if the price sensitivity of retail demand was constant.

Testing for effects: The impact on competition

The Club also argued that there would be no effect on competition as there would still be three retailers selling the Club's replica kit: Club, brand manufacturer and exclusive multi-brand retailer.

There are several reasons to be sceptical of such arguments. First, the Club determined that there are benefits to wider distribution through multi-brand retailers then restricted supply in this channel to a single retailer. Second, any payment for exclusivity suggests there is value to it. Third, the effect of the agreement is dependent on the competitive strength of the excluded retailers. A basic starting assumption is that consumers benefit from retail competition. Absent the exclusivity, the stronger the competition provided by the excluded retailers, the greater the loss of competition arising from exclusivity. Assessing that loss requires detailed empirical analysis of historical price data from retailers who sold the replica kit, but such data was unavailable pre-trial.

In the absence of historical pricing data across retailers, we automated the daily collection of prices for all replica kit SKUs sold by each retailer over an extended period to create a contemporaneous pricing dataset involving the replica kits of eight leading Premier league clubs including the Club.[11]

Replica kit typically goes on sale in the June-August period prior to the start of the season and most sales are made pre-season or around Christmas. Across all clubs, retailers typically stick to the RRP for an initial period before discounting starts.

We found that the:

- The main retailer excluded from selling the Club's replica kit, Sports Direct, typically discounted earlier, more consistently, for longer, and more aggressively than other retailers.
- The exclusive retailer for the Club's replica kit, JD Sports, discounted substantially less, later and for shorter periods, and was less likely to be followed by other retailers also discounting less than Sports Direct.
- For those clubs that had exclusive retail agreements, there was either no discounting or extremely limited discounting, and any discounting occurred much later in the season and was led by the clubs themselves.

We show two illustrative examples below: Arsenal and Tottenham home shirts (home shirts are the most popular replica kit product). In both cases the retailer excluded from the Club's retail supply discounts substantially earlier and for longer than any other retailer.

Retailer pricing over time

Arsenal home shirt 2024/25 season (£)

Tottenham home shirt 2024/25 (£)

These results are only preliminary. Clearly, there are other factors that may drive discounting strategy (e.g. actual sales relative to anticipated sales when orders were made). However, we find this pattern is consistent (with some exceptions) across all clubs and all replica kit products. The evidence suggests that the excluded retailer is having a material impact on retail competition and lower consumer prices, and exclusion of that retailer will therefore lead to worse outcomes for consumers.

When exclusive distribution may risk indirect retail price maintenance

Such exclusivity arrangements or restrictions on retail sales are increasingly common (for example, Aston Villa, Leeds United and Celtic operate similar arrangements) particularly as Premier League clubs seek to maximise commercial revenue to meet Profit Sustainability Rules. The extent to which the clubs or the branded suppliers such as Adidas are driving the exclusivity, both in this case and more generally, is unclear. With both active at the retail level, both can benefit from maintaining higher retail prices.

Potential arguments that exclusive brands with selection distribution often use that scarcity, prestige and retail investment drive value – controversial in sportswear in any event and still requiring objective qualitative standards to be set and applied in a non-discriminatory way – seem to apply even less so in replica kit. A club supporter does not need expert advice, a premium retail environment or complex technology explained to them to value the replica kit. That value is generated by the team's performance and the fan's loyalty. Where investment by the retailer adds limited marginal utility to the consumer, there is a greater risk that exclusion is driven by rent seeking and to protect retail margins.

With narrow markets, market power seems likely and this has implications for how clubs structure retail supply

In this paper, we have shown that if a retail SSNIP is profitable, a wholesale SSNIP of the same magnitude will also be profitable. If empirical evidence supports a narrow retail market for the supply of the Club's replica kit, then there is a wholesale market for the supply of the Club's replica kit. This is entirely consistent with payments for transfer of the Club's market power over its replica kit at the wholesale level. The effects are dependent on the strength of competition faced by excluded retailers and the strength of residual competition.

There is clearly scope for such arrangements to cause consumer harm, yet the fines imposed by the CMA for price fixing do not seem to have deterred clubs from restricting retail competition, which is a matter of concern. The fines are likely limited relative to the possible gains that can be achieved through exclusive retail supply across the sector. The infringement decisions involved limited discussion of economics and no analysis of effects as they were in the context of price fixing. This may have led to continued restrictions of a different legal form (exclusivity or delayed access) that ensure retailer compliance with pricing objectives.

Neither the CMA's infringement decisions nor private enforcement have thus far led to protection of retail competition. Similar issues can also arise in other contexts of exclusive supply. Hence, continued prevalence of exclusive club supply arrangements (without naked price fixing) provide an opportunity for the CMA to develop discussion of the economic issues and analysis of effects and build an effective precedent for the conduct (that is not solely reliant on incontrovertible documents). Lack of deterrent effect from previous decisions also suggests that the CMA may consider higher fines in future cases – in both recent cases, the CMA's assessment of deterrence was limited only to deterring the undertakings involved not wider deterrence across the sector (thereby reducing the fines).[12]

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The authors acted as economic experts to Sports Direct on the recent case and are both Vice Presidents at CRA. The views in this article are the authors and do not represent the views of any client or of CRA or any other expert at CRA.

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1. See *Sportsdirect.com Retail Ltd v Newcastle United Football Club Ltd and Newcastle United Ltd* [2024] EWCA Civ 532. Injunctive relief was rejected by the Court of Appeal based on the balance of convenience. The Court of Appeal overturned the CAT's judgement that there were no serious issues to be tried.
2. See, for example, *Why are Premier League shirts so expensive?* BBC Sport, 18 December 2025.
3. See *Anti-competitive behaviour in relation to the pricing of Rangers FC-branded replica football kit*, CMA Infringement Decision of 27 September 2022 ('**CMA-Rangers FC**') and *Anti-competitive behaviour in relation to the sale of Leicester City FC-branded products and merchandise*, CMA Infringement Decision of 31 July 2023, as well as Price-fixing of Replica Football Kit, OFT Infringement Decision of 1 August 2023.
4. Assessing this requires a precise definition of replica kit, specifically which of home strip, away strip, shorts, training strip, etc. is included.
5. There may be arguments that the licensing of a club's replica kit is part of a wider market for licensing deals with other football clubs (i.e. the ability of brand manufacturers to substitute to other clubs constrains the license 'fee' that any club can obtain). However, this competition does not change that when a club chooses to license exclusively as this results in a single brand manufacturer and wholesaler.
6. See, for example, *CMA-Rangers FC*, paragraph 2.24.
7. Consider the alternative case that consumers are willing to switch between product A and product B such that retail supply of A is not a relevant market. Then complete retailer pass-on of an increase in wholesale price of A to retail prices would lead sufficiently many consumers to switch to product B to make a SSNIP in wholesale price of A unprofitable.
8. Note also that all retailers excluding the kit from their range cannot be an equilibrium because then it would be very profitable for one retailer to supply the kit with complete pass-on of the increase in purchase price.
9. This implies that the last pound in the retail SSNIP reduces the volume more than any earlier price increase of the same magnitude.
10. For the retail SSNIP test, if actual lost volumes are less than this break-even point, the price rise is profitable (there is a narrow market) while if actual lost volumes are greater, the price rise is unprofitable (the market is broader). At the wholesale level, the same logic applies taking account of the degree of pass-on from wholesale to retail prices. This gives the following terms for the threshold elasticity above which price increase be profitable at the retail level and wholesale level, respectively: $\frac{1}{s+m_r}$ and $\frac{1}{\rho(s+m_w)}$ where s is the SSNIP m_r and m_w the retail and wholesale margins, and ρ the pass-on from wholesale to retail.
11. One other club had similar arrangements in place as the Club.
12. The CMA has scope to consider both aspects of deterrence in setting fines. See *CMA's guidance as to the appropriate amount of a penalty*, paragraph 1.3.

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