

**A LEEGIN UP ON COLGATE** *continued from Front page*

While Leegin attempts to remove some of the traps for the unwary that existed under Colgate, it may have created its own. Although a minimum resale price agreement can be legal, this does not mean that every such agreement will be. Both the manufacturer and reseller can be liable for price fixing violations if they fail to meet the rule of reason test. As companies begin to test the legal footing, case law standards under the rule of reason for vertical price restraint will form.

Before any manufacturer takes the plunge by creating pricing agreements, it must determine what effect its action will have on the market. Essentially each manufacturer, through an economic and legal analysis, must internally determine what a court will try to determine: whether its agreement has an anti-competitive effect. This will create confusion in the near term, as there is no existing codified test or bright line rule. Instead, the manufacturer and counsel must divine tea leaves and attempt to analyze the history of rule of reason analysis in similar cases. After conducting an extensive self analysis the manufacturer should be in a position to determine whether they will benefit from and are capable of price maintenance activity.

**Where Are We Going?**

In the future, as lower courts employ the rules set out in the Leegin case, it may be easier to analyze whether a manufacturer's pricing program is lawful.

What should a manufacturer do; wait for additional judicial interpretation, or be the first to test the water? With the specter of treble damages and criminal penalties, caution is required.

For those who had or were considering policies under the Colgate doctrine, Leegin provides immediate opportunity. Implementing a Colgate policy no longer means that if an agreement is inadvertently created, there is absolute illegality. Instead, Leegin provides an extra protection by making a manufacturer's pro-competitive practices potentially legal. The lack of absolute illegality can also remove some of the most awkward aspects of Colgate-based policies. Rigidity has always been a thorn in the side of those who employ Colgate-based policies requiring the manufacturer to communicate with its resellers in a circular and often cryptic manner. Leegin has given this dialogue added flexibility. Although caution should still be exercised when discussing the policy, Leegin allows a more frank, open dialogue, hopefully making the policy more transparent, beneficial, and seamless. Without such harsh restraint, policies and strategies will continue to evolve in the coming years giving manufacturers more options for price stability and brand equity growth.

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**WHAT'S NEW?**

**Illumaware Corp.** has announced a new promotion for aftermarket manufacturers and resellers. Effective immediately, Illumaware will map any product line of less than 10,000 products to both ACES and Legacy at no additional charge to customers who commit to a three-year subscription contract with Illumaware's Evokat online mapping and data management suite.

"Evokat is the automotive aftermarket's only state-of-the-art online data management application secure and easy to use. Evokat helps manufacturers and resellers both large and small to keep their parts data current, and to get that data to market instantly," said Adrian Klingel, president of Illumaware.

ACES Advantage not only points out errors in source data, but it also shows actual solutions for fixing each data or mapping error in the customer's existing catalog. Best of all, customers using Evokat have full access to their data at any time, in any format they require. "We have not and do not sell our customer's data. Our lock-in strategy is to deliver the most valuable, easy-to-use and efficient mapping system for our customers at an affordable price," said Klingel.

PWA

**Future PWA Conference Dates**

<b>2008</b> will be 9/20 - 9/24	<b>2012</b> will be 9/08 - 9/12
<b>2009</b> will be 9/12 - 9/16	<b>2013</b> will be 9/21 - 9/25
<b>2010</b> will be 9/25 - 9/29	<b>2014</b> will be 9/13 - 9/17
<b>2011</b> will be 9/17 - 9/21	<b>2015</b> will be 9/26 - 9/30

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**2007 PWA HOLIDAYS**

The PWA office will be closed on the following dates so the staff can enjoy some quality time with their families:

<b>Labor Day</b>	<b>September 3</b>	<b>Monday</b>
<b>Thanksgiving Day</b>	<b>November 22-23</b>	<b>Thursday-Friday</b>
<b>Christmas</b>	<b>December 25</b>	<b>Tuesday</b>

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