Parallel importers, who buy products in one country to later resell them in another at a higher price, have found in the net a useful tool to collect information and save on costs.

There are various motives that justify the same product having a different price depending on the country in which it is to be sold. There might be objective circumstances (distinct demand, better conditions of payment and added advertising costs) or it might simply be a question of a manufacturer's strategy in attempting to improve its global turnover. The counterweight to plurality of prices for the same product are parallel imports or grey marketing, synonymous terms that describe a practice that consists in the acquisition of a product in a specific place at a fixed price and the later resale of said product in another country where the manufacturer tries to market it at a higher profit.

It is about sales which almost always conform with international business rights, except for some specific exceptions fundamentally related to the juridical protection offered by patents, obligatory state licences and national regulations on selective distribution or on the way of selling certain products. According to a study published by the magazine Multinational Business Review in 1998, the losses occasioned by parallel imports for US manufacturers reached 10,858 million euros. Today, thanks to the popularisation of the Internet, opportunities have increased for companies which act as middlemen and, in particular, for specialists in grey marketing. The net directly influences what had been until now the major difficulties for parallel importers, making their job easier. Firstly, parallel importers were faced with the problem of having to identify products subject to big discounts for export.

Moreover, they had to incur expenses in order to find local distributors that were prepared to buy big consignments. Finally, in order to get results from grey marketing it was essential to invest heavily in advertising (catalogues, salesmen, commissions and discounts) in order to attract potential buyers. Electronic commerce allows you to overcome all these difficulties in a simple and economical way. On the one hand, the net makes it possible to have instant access to official price lists for all types of products and manufacturers. With the same ease, parallel importers can compare prevailing price lists in different markets around the world.

Likewise, through the creation of web pages and advertising strategies online, grey marketing is able to reduce a lot of promotional costs, while at the same time having
access to a larger audience. Some manufacturers have been able to detain, via the law courts, certain supposed parallel imports directly related to the Internet. There are the cases of the Dutch virtual pharmacy Docmorris and the online cosmetic shop Parfumsnet. However, these judicial successes constitute specific exceptions within a phenomenon that, given the special conditions of cyberspace, one hopes will increase. In order to avoid the problem multiplying, besides the recourse to litigation, manufacturers will apply commercial tactics to counteract the actions of parallel importers.

Solutions
Depending on each type of product and the place in the world where grey marketing is produced, the solutions are multiple and, on occasion, complementary. Where the law permits, the control of sales will be able to be reinforced via a strict policy of contracts which include clauses which prohibit reselling. Another option consists in incorporating distinguishing symbols in each product unit that allow you to check on its origin in different public sales points. Finally, there is the possibility of diversifying brands and packaging and, in extreme cases, of moving or dividing production centres in a strategic way.

The Question
"Which manufacturers have the most to fear from parallel imports via the Internet?"

The net increases opportunities
Lluís Renart, IESE Teacher
The Internet can stimulate a greater incidence of this type of operation in the following cases. Firstly, when products are well known and are internationally famous brands, so the buyer really knows what he is buying. The net can also facilitate this type of operation in the case of the manufacturer having designed some exclusive distribution channels, that have high intermediate margins. Thirdly, when the product is immaterial and can be transmitted via the Internet (like music) and when it is a tangible product in which its weight-price relation allows the logistical cost of home delivery to be low. These import practices can be facilitated when the parallel dealer can have easy and lightly controlled access to sources of abundant supply at low cost and when the fiscal authorities find it difficult to detect.

The difficult task of limiting these practices
Carlos Rodríguez, Lawyer, Landwell-PwC
In the Spanish case and, taking into account the community right to proscribe conduct that goes against free competition, there are no absolute prohibitions to parallel imports. On the other hand, the activity of distributors who actively look to resell products outside their territory can be prohibited. On the Internet it is not considered to be an active sale when a website markets products or delivers them in the territory of another exclusive distributor, regardless of the language of said web. One understands as an active sale advertising, via electronic mail, offering the product. Moreover, in the case of selective distribution, the manufacturer can impose minimum levels of quality on the website. The manufacturers that have most to fear juridically from parallel imports are
those that do not have objective justifications like those highlighted to limit said imports.