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<Commission>{ECON}Committee on Economic and Monetary Affairs</Commission>

<RefProc>2016/2244(INI)</RefProc>

<Date>{29/03/2017}29.3.2017</Date>

<TitreType>OPINION</TitreType>

<CommissionResp>of the Committee on Economic and Monetary Affairs</CommissionResp>

<CommissionInt>for the Committee on Internal Market and Consumer Protection </CommissionInt>

<Titre>on the functioning of franchising in the retail sector</Titre>

<DocRef>(2016/2244(INI))</DocRef>

Rapporteur (\*): <Depute>Doru-Claudian Frunzulică</Depute>

(\*) Associated committee – Rule 54 of the Rules of Procedure

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SUGGESTIONS

The Committee on Economic and Monetary Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Emphasises that Commission Regulation (EU) No 330/2010 must be uniformly applied in the Member States and regrets the lack of information about its application; highlights the growth of e-commerce and its impact on the franchise business model as a challenge for the sector;

2. Considers that the Commission should ensure balanced representation of the two parties in the franchising and check whether the effectiveness of that regulation is not being undermined as a result of uneven application in the Member States and whether it is in line with recent market developments, in particular the exempted post-contractual clauses and purchasing conditions;

3. Considers that the Commission should check to what extent application of the regulation could be improved through a mechanism of assessment within the European network of competition authorities; stresses that the inconsistent follow-up action by the Commission prevents cross-border retail activity and fails to create a level playing field within the single market;

4. Points out that some Member States already have legislation on franchising, which ultimately results in further fragmentation of the market; believes that better implementation of the regulation at national level would improve distribution, increase market access for other Member States’ businesses and eventually provide a better deal for end consumers;

5. Believes that the Commission should also analyse the unintended impact of competition law in each and every Member State;

6. Encourages the Commission to start public consultations and inform the Parliament of the suitability of the model on which the future block exemption regulation is based, in order to establish a concept for the franchising contract to be used in any future EU legislation, as well as for possible action in the area of private law;

7. Calls on the Commission to also ensure the recovery of any illegal state aid by means of tax advantages in the area of franchising and to show firmness in the conduct of ongoing inquiries; stresses, moreover, that the EU needs to have clearer legislation on tax rulings; calls on the Commission to rectify any infringement in the area of franchising with a view to ensuring fair competition across the single market;

8. Considers the need to evaluate the effectiveness of the self-regulatory framework and the EU supply chain initiative, as membership of the national franchise organisations is a pre-requisite for participation in this initiative;

9. Calls on the Commission to check whether it is necessary to revise the regulation and, in that connection, to verify and inform Parliament as regards (1) the impact of the horizontal approach on the functioning of franchising; (2) whether the model of franchising adopted in the regulation reflects the market reality; (3) to what extent the so-called ‘permitted vertical restraints’, i.e. the conditions under which the franchisees may purchase, sell or resell certain goods or services are proportionate and have a negative effect on the market and the consumers; (4) what new challenges franchisors and franchisees have to face in the context of e-commerce and digitisation in general; (5) and to collect market information in terms of new trends, market development regarding network organisation and technological advances;

10. Notes that national rules vary greatly from one Member State to another; stresses that the European Parliament should be actively involved in all work on franchising in the retail sector, including when regulations and directives on franchising are adapted in order to achieve a more consistent and coherent regulatory framework;

11. Believes that a model should be set up by the Member States for reporting, for making complaints and for submitting other relevant information they receive via a contact point or in any other way, with a view to simplifying the information-gathering process as regards the market situation; calls on the Commission to draw up, on the basis of that information, a non-exhaustive list of unfair contractual terms and practices;

12. Acknowledges that, on a national level, legislation has been enacted to protect franchisees, but the focus is on the pre-contractual stage, to impose disclosure obligations on the franchisor; calls therefore on the Commission to revise the rules on the enforcement of the regulation by Member States, while its application should be proportionally adjusted to fulfil its aim; regrets that national systems have not provided for enforcement mechanisms which are efficient in assuring continuation of the franchise relationship;

13. Calls on the Commission to work towards an appropriate and independent representation of the interested parties to franchising contracts in the European supply chain initiative, and to take action to strengthen the self-organisation of franchisees at the EU and national level, in order to allow franchisees to better participate in the public debate on franchising and establish a level playing field; stresses that regulation should maintain and increase market confidence in franchising as a way of doing business as it encourages entrepreneurship not only in micro- and small and medium-sized enterprises that become franchisors, but also for individuals who become franchisees;

14. Calls on the Commission to introduce guidelines on franchising contracts, in order to better shape the normative environment of franchising contracts ensuring compliance with labour standards and decent and high-quality service;

15. Calls on the Commission to correct market failures and ensure an effective fight against tax evasion and tax avoidance in the field of franchising; stresses the need for a multi-stakeholder debate to discuss unfair trading practices in franchise supply chains and possible solutions through the organisation of an expert platform, as has been the case with food supply chains, or by opening a public consultation on any future regulation.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

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| **Date adopted** | 27.3.2017 |  |  |  |
| **Result of final vote** | +:  –:  0: | 42  1  1 | | |
| **Members present for the final vote** | Gerolf Annemans, Burkhard Balz, Hugues Bayet, Pervenche Berès, Udo Bullmann, Esther de Lange, Anneliese Dodds, Markus Ferber, Sven Giegold, Sylvie Goulard, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Cătălin Sorin Ivan, Georgios Kyrtsos, Philippe Lamberts, Werner Langen, Sander Loones, Olle Ludvigsson, Ivana Maletić, Fulvio Martusciello, Marisa Matias, Costas Mavrides, Bernard Monot, Luigi Morgano, Luděk Niedermayer, Stanisław Ożóg, Sirpa Pietikäinen, Pirkko Ruohonen-Lerner, Molly Scott Cato, Pedro Silva Pereira, Peter Simon, Kay Swinburne, Paul Tang, Ernest Urtasun, Marco Valli, Tom Vandenkendelaere, Cora van Nieuwenhuizen, Jakob von Weizsäcker, Steven Woolfe | | | |
| **Substitutes present for the final vote** | Simona Bonafè, Enrique Calvet Chambon, David Coburn, Mady Delvaux, Doru-Claudian Frunzulică, Ildikó Gáll-Pelcz, Sophia in ‘t Veld, Thomas Mann, Joachim Starbatty, Nils Torvalds | | | |
| **Substitutes under Rule 200(2) present for the final vote** | Carlos Iturgaiz, Thomas Mann, Bogdan Andrzej Zdrojewski | | | |

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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| **42** | **+** |
| ALDE | Enrique Calvet Chambon, Sylvie Goulard, Nils Torvalds |
| ECR | Sander Loones, Stanisław Ożóg, Pirkko Ruohonen-Lerner, Joachim Starbatty, Kay Swinburne |
| EFDD | Marco Valli |
| GUE/NGL | Marisa Matias |
| PPE | Burkhard Balz, Markus Ferber, Ildikó Gáll-Pelcz, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Carlos Iturgaiz, Georgios Kyrtsos, Werner Langen, Ivana Maletić, Thomas Mann, Luděk Niedermayer, Sirpa Pietikäinen, Bogdan Andrzej Zdrojewski |
| S&D | Hugues Bayet, Pervenche Berès, Udo Bullmann, Anneliese Dodds, Doru-Claudian Frunzulică, Roberto Gualtieri, Cătălin Sorin Ivan, Olle Ludvigsson, Costas Mavrides, Luigi Morgano, Pedro Silva Pereira, Peter Simon, Paul Tang, Jakob von Weizsäcker |
| Verts/ALE | Sven Giegold, Philippe Lamberts, Molly Scott Cato, Ernest Urtasun |

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| **1** | **-** |
| NI | Steven Woolfe |

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| **1** | **0** |
| EFDD | Bernard Monot |

Key to symbols:

+ : in favour

- : against

0 : abstention