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REPORT

on a more efficient and fairer retail market
(2010/2109(INI))

Committee on the Internal Market and Consumer Protection

Rapporteur: Anna Maria Corazza Bildt

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on a more efficient and fairer retail market (2010/2109(INI))

The European Parliament,

- having regard to the Commission report of 5 July 2010 entitled ‘Retail market monitoring report – Towards more efficient and fairer retail services in the internal market for 2020’ (COM(2010)0355), and the accompanying Commission staff working document on retail services in the internal market (SEC(2010)0807),
- having regard to the responses to the Commission’s public consultation on the retail market monitoring report (held from 5 July to 10 September 2010),
- having regard to the Roundtable on a more efficient and fairer retail market for business and consumers held by its Committee on the Internal Market and Consumer Protection on 25 January 2011,
- having regard to the European Economic and Social Committee’s opinion of 20 January 2011 on the ‘Retail market monitoring report – Towards more efficient and fairer retail services in the internal market for 2020’,
- having regard to the Commission communication of 13 April 2011 entitled ‘Single Market Act – Twelve levers to boost growth and strengthen confidence – “Working together to create new growth”’ (COM(2011)0206),
- having regard to the Commission communication of 27 October 2010 entitled ‘Towards a Single Market Act – For a highly competitive social market economy: 50 proposals for improving our work, business and exchanges with one another’ (COM(2010)0608),
- having regard to Professor Mario Monti’s report of 9 May 2010 entitled ‘A New Strategy for the Single Market’,
- having regard to the Council conclusions of 10 December 2010 on the Single Market Act,
- having regard to the Commission communication of 8 October 2010 on ‘Smart Regulation in the European Union’ (COM(2010)0543),
- having regard to the fourth edition of ‘The Consumer Markets Scoreboard – Making Markets Work For Consumers’ (autumn edition – October 2010), and the fifth edition of the ‘Consumer Conditions Scoreboard – Consumers at home in the single market’ (spring edition – March 2011),
- having regard to the 21st edition of the Internal Market Scoreboard published on 23 September 2010,
- having regard to the Commission communication of 3 March 2010 entitled ‘Europe 2020: A strategy for smart, sustainable and inclusive growth’ (COM(2010)2020),

- having regard to the Commission communication of 28 October 2009 on a better functioning supply chain in Europe (COM(2009)0591),
- having regard to the Commission communication of 25 June 2008 entitled “Think Small First” – A “Small Business Act” for Europe’ (COM(2008)0394),
- having regard to Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions¹,
- having regard to Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision No 3052/95/EC²,
- having regard to the Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93³,
- having regard to the Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC⁴,
- having regard to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market⁵,
- having regard to its position of... on the proposal for a directive of the European Parliament and of the Council on consumer rights⁶,
- having regard to its resolution of 6 April 2011 on governance and partnership in the single market⁷,
- having regard to its resolution of 6 April 2011 on a single market for enterprises and growth⁸,
- having regard to its resolution of 6 April 2011 on a single market for Europeans⁹,
- having regard to its resolution of 21 October 2010 on the future of European

¹ OJ L 48, 23.2.2011, p. 1.

² OJ L 218, 13.8.2008, p. 21.

³ OJ L 218, 13.8.2008, p. 30.

⁴ OJ L 218, 13.8.2008, p. 82.

⁵ OJ L 376, 27.12.2006, p. 36.

⁶ Texts adopted, P7_TA(2011)0000(A7-0038/2011 - to be adopted in Plenary in June II 2011).

⁷ Texts adopted, P7_TA(2011)0144.

⁸ Texts adopted, P7_TA(2011)0146.

⁹ Texts adopted, P7_TA(2011)0145.

standardisation¹ ,

- having regard to its resolution of 21 September 2010 on completing the internal market for e-commerce² ,
 - having regard to its resolution of 7 September 2010 on fair revenues for farmers: a better functioning food supply chain in Europe³ ,
 - having regard to its resolution of 20 May 2010 on delivering a single market to consumers and citizens⁴ ,
 - having regard to its resolution of 9 March 2010 on consumer protection⁵ ,
 - having regard to its resolution of 9 March 2010 on the Internal Market Scoreboard⁶,
 - having regard to its resolution of 9 March 2010 on SOLVIT⁷,
 - having regard to its declaration of 19 February 2008 on investigating and remedying abuse of power by large supermarkets operating in the European Union⁸,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A7-0217/2011),
- A. whereas the wind of protectionism blowing across Europe is alarming,
- B. whereas the real economy must be put back at the centre of the political agenda to unleash the full potential of the Single Market,
- C. whereas the retail market is a crucial component of our commitment to relaunch the Single Market,
- D. whereas the retail market, as a major energy user and waste producer, can make a key contribution to sustainability, including the EU 20-20-20 energy targets,
- E. whereas the business potential for cross-border online trade is failing to materialise sufficiently because of various obstacles, such as language barriers, insecurity in the system, inadequate and insufficient information and lack of administrative coordination and cooperation, which make consumers reluctant to purchase online from retailers in other Member States and retailers reluctant to sell online across borders,

¹ Texts adopted, P7_TA(2010)0384.

² Texts adopted, P7_TA(2010)0320.

³ Texts adopted, P7_TA(2010)0302.

⁴ Texts adopted, P7_TA(2010)0186.

⁵ OJ C 349E, 22.12.2010, p.1.

⁶ OJ C 349E, 22.12.2010, p.25.

⁷ OJ C 349E, 22.12.2010, p.10.

⁸ OJ C 184E, 6.8.2009, p.23.

A vision for more competitiveness, growth and jobs

1. Stresses that the retail sector is a driver for growth, competitiveness and jobs in Europe and plays a key role in reaching the goals of the EU2020 strategy;
2. Highlights that retailers are offering diverse and modern ways of purchasing and selling goods and services and contribute to wider consumer choice as well as flexible and decent employment opportunities, in particular for youth;
3. Calls on the EU institutions to give the highest political prominence to the retail sector as a pillar of the Single Market Act and a vehicle for restoring public confidence in the single market;
4. Calls on the Commission to reinforce cross-policy coordination and to take a holistic, long-term approach to the retail sector;
5. Regrets that serious obstacles still hinder the retail sector from achieving its full potential online and offline; stresses the need to address them without delay;
6. Underlines that retailers and suppliers have a shared responsibility in achieving a more efficient, transparent and fairer retail market;
7. Considers that the primary focus must be on the effective enforcement of Treaty principles, existing internal market rules and instruments, and self-regulation, before considering a regulatory approach, if appropriate;

Removing obstacles to free movement of goods and services

8. Is concerned that restrictive national rules, divergent interpretations and inadequate enforcement impede free movement of goods and services in the EU; stresses that requirements for extra tests and registrations, non-recognition of certificates and standards, territorial supply constraints and similar measures create extra costs for consumers and retailers, in particular SMEs, thus limiting the potential usefulness of the single market to European citizens and the business world;
9. Recognises the need for the Commission to further analyse the reasons for price differences in the EU, based on adequate statistical tools, in order to ensure greater price transparency and comparability for consumers, without prejudice to European and national fiscal and labour market rules, thereby promoting more enlightened choices and greater confidence in cross-border trade; recalls the need for active cooperation between national statistical agencies to this effect;
10. Urges Member States to fully and correctly implement the internal market rules and legislation, notably the Goods Package, the Services Directive, the Late Payments Directive, the E-Commerce Directive, the Small Business Act and the Unfair Commercial Practices Directive; also asks the Member States to remove overlaps and reduce administrative burdens and regulatory barriers that may limit growth and job creation;
11. Asks the Commission to monitor Member States more closely in order to reduce

transposition deficit and ensure effective mutual recognition of goods and services; asks the Commission to ensure also simplification of existing rules;

12. Notes the difficulties faced by Europe's independent retailers, and considers that retail market legislation should be more thoroughly evidence-based, particularly as regards the need to adequately examine and understand the impact of legislation on small businesses;
13. Encourages business federations and consumer associations, supported by the Commission, to provide more information, training and legal advice to stakeholders on their rights and the problem-solving instruments at their disposal, such as SOLVIT, and to support the exchange of best practice among themselves;
14. Stresses that a fragmented payment system is an obstacle to trade; calls on the Commission to improve SEPA in order to develop a basic payment service available for all cards, foster competition between payment means by removing barriers, increase transparency in transaction costs and remove unjustified interchange fees; calls also on the Commission to ensure faster bank transfers within the EU; points out, moreover, that SEPA can be regarded as a useful tool to combat the informal economy;

Opening up market access for business and consumers

15. Draws attention to the concern expressed by parts of civil society and SMEs about the increase in shopping centres and the decrease in local shops and markets in remote areas and town centres;
16. Stresses that retail planning should provide a structural framework for companies to compete, enhance consumers' freedom of choice and allow access to goods and services, especially in less accessible and sparsely populated regions or when consumers' mobility is reduced; insists furthermore on the social, cultural and environmental role played by local shops and markets in the revitalisation of rural and urban areas; urges therefore Member States to encourage sustainable local communities by fostering innovation and growth of SMEs;
17. Stresses that SMEs constitute the backbone of the European economy and have a unique role to play in creating jobs, particularly in rural areas, as well as fostering innovation and growth in the retail sector in local communities across the EU;
18. Considers that accessibility must be addressed in full respect of subsidiarity;
19. Recognises that the Member States are responsible for their shop location policies and that sustainability, mobility, regional planning and core consolidation are major factors which must be taken into account in deciding on the admissibility of new shop locations;
20. Takes the view that incentives to renovate the urban building stock, also by using the Structural Funds, could enable rents to be reduced (public-private partnership) and could facilitate the return of businesses, particularly local ones, which are instrumental to economic and social development;
21. Calls on the Commission, in cooperation with the Member States, to draw up a survey of

the impact and possible consequences of the creation of hypermarkets or shopping malls with regard to the employment market, SMEs and consumers;

22. Notes the great concern expressed by itinerant street vendors operating in public areas over the possibility that Directive 2006/123/EC might be enforced in the Member States, extending the concept of 'natural resource' also to public land, which would result in trading concessions in public areas being limited in time; this would be highly detrimental to employment, to consumers' freedom of choice and to the very existence of traditional local street markets;
23. Emphasises that e-commerce is an important complement to offline trade and that appropriate action must be taken to develop its full potential, including improving access to the Internet in the European Union's most remote areas; calls on the Commission to include in the upcoming communication on e-commerce measures to enhance confidence, in particular by simplifying registration of domains across borders, improving secure online payment, facilitating cross-border debt recovery and improving information to consumers on their rights, particularly concerning cancellations and opportunities to appeal;
24. Regrets the significant number of obstacles to retailers' freedom of establishment across the EU; is concerned, in particular, about certain national trade and tax laws, which have a de facto discriminatory effect against foreign retailers;
25. Calls on the Commission to act more firmly with regard to any Member State infringing internal market principles, to speed up infringement procedures through a 'fast-track approach' and to report to the European Parliament yearly on resolved cases in the field of retail;

Addressing contractual and commercial practices in business-to-business relations

26. Reaffirms that free and fair competition, freedom of contract and proper enforcement of relevant legislation are key to a well-functioning retail market;
27. Recognises that companies have different market power, that they need to act in an economically sound way and that the EU needs economic champions to compete globally;
28. Stresses, however, that there is widespread concern about market dominance by bigger actors, who are often perceived to impose unfair terms on weaker suppliers and retailers, for instance through unjustified mechanisms of selective distribution, geographical segmentation, price control, delisting without notice, and other restrictive practices, thereby distorting competition; underlines that the entire retail supply chain is affected by such practices; denounces practices that misuse power imbalance between economic actors and affect true freedom of contract; stresses that raising all actors' awareness of their contractual rights, especially SMEs, would contribute to preventing these practices;
29. Recognises that franchising is a good formula for independent retailers to survive in a highly competitive environment; notes with concern that the contracts for retailers to be part of a franchise are becoming more and more rigorous;

30. Emphasises that private labels should be developed in such a way as to deliver improved consumer choice, notably in terms of transparency, quality of information and diversity, and to provide clear opportunities for SMEs to innovate and expand;
31. Considers that ‘parasitic copying’, which can result, inter alia, from the retailer’s dual role as the customer and competitor of brand manufacturers, is an unacceptable practice that should be addressed without delay; welcomes the fact that the Commission is conducting an analysis to further clarify the legal frameworks and practices relating to trade secrets and ‘parasitic copying’ within the 27 EU Member States;
32. Recognises the need for more balanced relations and transparency in the retail supply chain; stresses the need to move from confrontation to dialogue based on facts, in order to restore confidence and enable fairer negotiations and a level playing field for all, thus enabling all economic actors in supply chains to benefit from the added-value of their products and reap the full benefits from the Single Market;
33. Urges the Commission and Member States to fully and coherently enforce competition law and, where applicable at national level, unfair competition and anti-trust law;
34. Stresses that, to ensure proper implementation of competition rules and prevent abuse of a dominant position, it is first and foremost necessary to strengthen the local competition watchdog authorities and ensure continuous and uninterrupted lines of communication and cooperation between them and the Commission’s Directorate-General for Competition;
35. Supports the good work of the Experts Platform on B2B contractual practices of the High Level Forum for a Better Functioning Food Supply Chain, in particular to define, list and assess what constitutes a manifestly unfair commercial practice, based on data and concrete examples; calls for strong support of initiatives for dialogue between parties on this issue; is concerned that the European Parliament is not formally involved in the work of the Platform and the High Level Forum; considers that the Parliament should urgently address this matter and should actively participate in the Forum’s work;
36. Supports the need expressed by stakeholders to take a broader and horizontal approach, extending the scope beyond the agro-food industry; asks the Commission and the business federations, building on the ongoing work in the Experts Platform, to explore the possibilities for creating a new, open-ended forum focusing on retail as a whole;
37. Strongly supports, at the same time, the intense work underway by retailers’ and suppliers’ federations to set up informal dialogue and regular consultation mechanisms in respect of competition law; welcomes their voluntary initiative to agree on a declaration on common principles of good trading practices across the retail supply chain;
38. Also welcomes the Commission’s European food prices monitoring tool as well as similar initiatives taken by Member States to allow fair revenues along the food supply chain, with an analysis of costs, processes, added value, volumes, prices and margins across all sections of the food supply chain;
39. Notes with concern that existing legal instruments are not being fully used, especially by SMEs, to uphold their rights, due to economic dependency and concern about losing

business; asks the Commission, Member States and business federations to identify ways to restore confidence and facilitate access to judicial systems, including the possibility of anonymous complaints and the establishment of an EU Ombudsman in this area; is convinced moreover that it is necessary further to develop the conceptual framework so as to ensure fair competition in both vertical and horizontal B2B relations, thereby paving the way for a genuine level playing field for businesses;

40. Asks the Commission to publish, by the end of 2011, a communication mapping national laws and tools in place to deal with commercial practices and contractual relations, and to assess thoroughly if these rules are being properly enforced and if further action is needed;
41. Considers that alternative and informal dispute resolution and redress mechanisms should be explored and their effectiveness evaluated, as they could be a means of resolving disputes for retailers; calls on the Commission to propose measures on alternative dispute resolution by the end of 2011 in order to strengthen businesses' and consumers' confidence;
42. Asks the Commission and operators in the retail supply chain to report to Parliament on a yearly basis on progress made in the existing platforms and informal dialogue mechanisms; suggests that the results should be debated at a yearly **Retail Market Roundtable** organised by its Committee on the Internal Market and Consumer Protection;

Enhancing efficiency and sustainable consumption – innovative practices

43. Highlights the retail sector's responsibility concerning sustainability; welcomes the fact that retailers and suppliers have been at the forefront for green responsibility, particularly regarding waste, energy consumption, transport and CO₂ reduction; supports the commitments they have already taken towards sustainable consumption, but considers further efforts are necessary; considers that corporate responsibility should pay greater attention to social and environmental issues;
44. Emphasises that retailers and suppliers are drivers of innovation, research and development; stresses that the whole sector needs to continue driving up the level of investment in innovative technologies and practices to further improve competitiveness throughout the supply chain, covering logistics and transport, energy efficiency, packaging, waste disposal and product recycling, and to exchange best practices;
45. Calls on the Commission to develop a common assessment and labelling system, as indicated in its resolution on a single market for enterprises and growth, based on the product's whole life cycle, particularly in order to simplify, harmonise and overcome the cost of fragmentation for business and consumers;
46. Calls on stakeholders to take further initiatives to combat food waste;
47. Welcomes the joint agreement by EuroCommerce and UNI-Europa, which illustrates that social dialogue is working well in commerce; recognises that more needs to be done to increase consumer information on the social responsibility of retailers, to match investments in new technologies with human capital, in particular through competence development, and to combat the informal economy;

48. Recalls the importance of proper implementation of existing social and labour legislation; regrets the existence of a high degree of undeclared employment, which involves a high level of tax evasion and prevents a level playing field among traders in the internal market;
49. Points out that improving working conditions, combating the informal economy and maintaining employment levels and competitiveness by better matching the needs of the retailers to the skills of the workers are among the main challenges in this sector; highlights, to this end, the need to invest in training and competence building as this will help the sector adapt quickly to new technologies;

Way ahead

50. Asks the Commission to prepare, in consultation with the retail sector, a comprehensive **European Action Plan for Retail** in order to set out a strategy, building on achievements and addressing outstanding issues, with sector-specific recommendations; welcomes the fact that Parliament has supported this initiative in its resolution on a single market for enterprises and growth;
51. Stresses that this Action Plan should take into account initiatives already developed by the Commission, such as the High Level Forum on the Better Functioning of the Food Supply Chain, initiatives on sustainability and climate change, and relevant proposals of the Single Market Act;
52. Proposes that follow-up to the recommended actions in the Action Plan, including progress made in the dialogue among stakeholders, be presented and debated at the first Retail Market Roundtable;
53. Expects that the further optimisation of purchasing and sales processes throughout the retail supply chain, from market research and product marketing to supplier relations, logistics and stock management, as well as the handling of faulty goods, consumer complaints and custom care, will improve competitiveness in the retail sector, drive down prices for consumers and improve service quality;
54. Encourages retailers and suppliers to actively engage in an open, constructive and continued dialogue to reach pragmatic solutions; invites Member States and EU institutions to actively support this process;
55. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.

EXPLANATORY STATEMENT

I. A vision for competitiveness, growth and jobs

This report is about creating jobs by removing borders, barriers and burdens to trade in Europe.

The retail sector is a **pillar of the European economy**; a dynamic market that employs almost 20 million people, accounts for 4.2% of the EU's GDP and represents 20% of Europe's SMEs. Retailers are also service providers, at the cutting edge in new and diverse ways of shopping, such as direct selling, and offer easy access to labour markets.

Although retail has performed comparatively well during the crisis, rising economic nationalism is complicating trade across the EU. Old obstacles remain, while new ones are created, affecting the business climate as well as investment and job creation by foreign retailers.

The Rapporteur rings an **alarm bell on protectionism** and calls for political leadership to put the real economy back at the centre of the political agenda. The report is a call for action to open up to free movement and establishment across Europe, based on fair, balanced and transparent commercial relations and on sustainable consumption.

Too often, new national barriers are raised to protect jobs and SMEs; instead, trade barriers in Europe should be removed to promote jobs and SMEs. Nonetheless, the legitimate concerns of people losing jobs and SMEs losing business have to be taken seriously at this time of public debt crisis. Dialogue must be intensified at all levels to improve understanding, restore confidence and address difficulties.

The Rapporteur takes a clear **non-regulatory line** and gives specific input on other means to be explored before resorting to new regulation. To a large extent, appropriate rules exist but inadequate enforcement hinders free movement. The focus should be on enforcing and harmonising existing rules. Firm action is needed against national restrictions and any breach of the internal market rules, using all instruments available, notably competition law and infringement procedures.

Actually, competition law, in particular with regard to abuse of dominant position and disloyal practices, is mainly applied to manufacturers and less to retailers. Infringement procedures are currently lengthy and obscure. The Commission is therefore asked to simplify procedures and introduce benchmarks, without prejudging rigorousness.

II. The preparatory process: engaging the business community

This report is **action-oriented**. The aim is to give concrete answers to concrete problems affecting retail operators. The Rapporteur focuses on what can be done at a European level to inject more efficiency and fairness into the retail supply chain, for consumers to benefit from a more integrated retail market.

The Rapporteur worked with the Shadow Rapporteurs and the Commission along the following lines:

- Setting out priorities from the Commission's Retail Market Monitoring Report, by focusing on the most problematic and pressing issues relevant to Europe's recovery;
- Engaging in a broad, in-depth, five-month cross-sector and cross-country consultation, with big and small suppliers and retailers, independent retailers, consumer associations, European brands and business federations, to identify their daily problems¹;
- Assessing work in progress, in order to avoid overlap and support the most relevant initiatives underway.

Consultations and public debates have been a way of addressing some of the tensions and breaking mistrust. In this respect, the report is intended to be a living document and a starting point for **more intense dialogue** among all concerned.

The preparatory work, conducted in parallel with the public consultation on the Single Market Act, has shown how relevant the completion of the single market is for retail to achieve its full potential.

This Report is unique, since an in-depth analysis of the retail sector had not been carried out by the Commission in recent years.

III. Removing obstacles to the free movement of goods and services

Based on evidence from stakeholders, the Rapporteur has identified cases of obstacles to the free movement of goods and services. For instance, Dutch cheese must be repacked to be sold in France due to different rules on weight and size; toys considered safe in the UK require extra tests to be sold in Germany; chairs need a certificate against use for torture when sold in Italy; fire regulations in Hungary prevent the import of carpets for hotels; rules on chocolate are different in Spain.

Fragmentation and restrictive national measures cause unnecessary red tape and costs, especially for SMEs. Existing tools, such as SOLVIT and the Internal Market Information System (IMI), should be better used to remove practical obstacles.

A fragmented **payment system** hinders free trade in the EU and large sums are lost daily in transaction fees. Harmonising intra-EU payments should be a priority. The innovative potential of internet and mobile payments must also be considered when revising the Single European Payment Area (SEPA).

¹ List of consulted parties available on request.

IV. Opening up market access for business and consumers

Urban planning is a national competence and subsidiarity must prevail. However, planning rules should not, directly or indirectly, obstruct the freedom of establishment.

Accessibility for consumers

The debate between shopping centres and shops is polarised. There is concern that the number of local shops offering traditional products is steadily decreasing across Europe. Not having or not wishing to use a car for environmental reasons, old age, living in a city centre or a remote area, should not affect citizens' freedom of choice.

Building confidence in online trade could help achieve proximity to products for consumers. Thus the Rapporteur calls for action to unleash the potential of **e-commerce**.

The finger is often pointed at big chains and shopping malls for driving small shops out of business. The picture is, however, more complex. Shopping centres and outlets also offer the benefit of a one-stop-shop, pleasure shopping and attractive prices. The problem is not only between small and big, but more accurately along the entire chain: suppliers, retailers, property owners.

The questions of how best to offer free choice to consumers, a balanced mix of small and big shops and fair relations, while ensuring free competition, should be further analysed. A more constructive dialogue between all concerned is necessary.

Accessibility for business

Evidence exists that **hidden and pernicious obstacles** have increased. For instance, some local authorities have imposed new licences on retailers, which de facto exclude a number of service providers in a given area. In other regions, quotas have been introduced to define the level of competition allowed on a given surface. Consequently, bigger retailers have only been able to open a limited number of shops.

More obvious are the restrictive trade and tax laws recently adopted in several countries, including the tax law in Hungary. While fiscal policy is a national responsibility, this tax affects de facto mainly foreign companies. During the IMCO delegation visit to Budapest (22-24 February), the Rapporteur raised the issue with the Hungarian authorities. The Commission is currently checking conformity of this law with the Treaties.

V. Addressing contractual and commercial practices in business-to-business

Contractual and commercial B2B relations have been controversial for a long time and tensions along the retail supply chain benefit no one.

There is great concern about market dominance by a few actors versus a variety of suppliers and traders. Case studies show trends of selective distribution, restrictive practices, price control and unilateral delisting. For instance, an increase in the price of commodities is often borne by small suppliers, forced to reduce their margins. Buying prices are adjusted only

partially and with lengthy delays; alternatively suppliers are replaced without notice.

However, once again the picture is complex and the entire retail supply chain is affected by these practices. For example, big brands have leverage in negotiations, because of ‘must-have products’. On the other hand, retailers can delist less known products owned by the same brand.

The pressure to reduce cost and buying prices, as well as tough competition between chains, sometimes leads, unwillingly, to unfair practices during negotiations. Big retailers often feel that discussions on unfair practices are driven by misperceptions and bad-mouthing, while others feel that they are in denial and defensive.

Key questions remain to be investigated based on factual evidence: does the increased concentration of retailers distort free competition? Does centralised purchasing allow for equal market access for SMEs? Is logistic convenience prevailing over product quality and variety as purchasing criteria? Most importantly, do consumers only want lower prices or also more value for money? Do consumers get the full picture to make informed decisions?

The **multiplication of private labels** is also polarising and requires further debate and awareness-raising on the pros and cons. The Commission has concluded in a recent study that, for now, private labels are not decreasing choice and innovation. But is the replacement of brand products with private labels really consumer-driven? Moreover, copycatting poses serious concerns for brand manufacturers and must be addressed.

Overall, freedom of contract and consumer empowerment are key. There must be a right balance and fairer negotiations without distorting market dynamics. Good examples of creative action by SMEs include forming corporative structures in negotiations with bigger actors.

However, there is a reluctance to resort to legal action. The cost of whistle-blowing is often too high. Access to judicial systems should be facilitated and alternative dispute resolution means should be pursued. The effectiveness of national rules in place to penalise unfair practices needs to be further analysed by the Commission to determine which solutions work and whether further action is needed.

Dealing with unfair practices

Over the past months, the Rapporteur has encouraged all parties concerned to move from finger-pointing and denial to direct dialogue.

The Rapporteur suggests **three options** rather than recommending a firm solution, considering that the Experts Platform on B2B contractual practices is still in its initial phase and will last another two years.

- Intensifying discussions underway in the Expert Platform to assess and deal with unfair practices. As a step towards establishing facts, the Rapporteur welcomes the survey on unfair practices recently conducted by CIAA (Confederation of the Food and Drinks Industries) and AIM (European Brands Association).

- Setting up a new forum, extending the scope beyond the agro-food industrial policy and focusing specifically on retail as a whole.

- Ideally, kick-starting of voluntary initiatives by the business community. Progress has been made and signs of willingness to recognise problems and to engage in constructive dialogue are emerging. The Rapporteur strongly hopes that the intense consultation underway will develop into self-regulation and concrete commitments, such as 'regular dialogue' and adherence to ethical principles.

Any option should not duplicate the work of the Experts Platform, but rather support the process underway.

The Rapporteur recommends gathering EU institutions and stakeholders at a yearly **Retail Market Roundtable** to follow-up on progress made in the dialogue.

VI. Enhancing efficiency and sustainability – innovative practices

Retail plays a major role in developing a sustainable economy and should continue to promote **sustainable consumption** by offering easy access to quality goods. Good examples of voluntary commitments include the ERRT Declaration on Energy, the WayAhead, the Retail Forum on Sustainability, the Global Forum on Sustainable Consumption, the Consumer Goods Forum and the Efficient Consumer Response.

The Rapporteur encourages the retail sector to further invest in innovative solutions for logistics and transport, energy efficiency, as well as packaging and waste disposal. The Rapporteur also appeals for concerted action to combat **food waste**.

Retail is a sector where **social dialogue** seems to work well. The Rapporteur welcomes the fact that EuroCommerce and UNI-Europa have reached a joint agreement and supports its content.

VII. Way ahead

Time has come to recognise the retail sector's achievements, specific problems and challenges. The Rapporteur calls for an integrated **European Action Plan for Retail**, to develop a policy framework with concrete proposals to address outstanding issues with a pragmatic approach.

Finally, the ball is now in the hands of the retail community. Voluntary initiatives should be closely monitored and evaluated by EU institutions. Any other option should not be excluded a priori. The way ahead will depend on the effectiveness of self-regulation.

RESULT OF FINAL VOTE IN COMMITTEE

| | |
|---|--|
| Date adopted | 25.5.2011 |
| Result of final vote | +: 32 -: 3 0: 0 |
| Members present for the final vote | Pablo Arias Echeverría, Adam Bielan, Cristian Silviu Buşoi, Lara Comi, Anna Maria Corazza Bildt, António Fernando Correia De Campos, Jürgen Creutzmann, Evelyne Gebhardt, Louis Grech, Małgorzata Handzlik, Malcolm Harbour, Iliana Ivanova, Sandra Kalniete, Eija-Riitta Korhola, Edvard Kožušník, Hans-Peter Mayer, Phil Prendergast, Mitro Repo, Robert Rochefort, Zuzana Roithová, Heide Rühle, Christel Schaldemose, Andreas Schwab, Laurence J.A.J. Stassen, Catherine Stihler, Kyriacos Triantaphyllides, Emilie Turunen, Bernadette Vergnaud, Barbara Weiler |
| Substitute(s) present for the final vote | Regina Bastos, Cornelis de Jong, Constance Le Grip, Morten Løkkegaard, Pier Antonio Panzeri, Konstantinos Poupakis |