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REPORT

on the European Retail Action Plan for the benefit of all actors
(2013/2093(INI))

Committee on the Internal Market and Consumer Protection

Rapporteur: Cornelis de Jong

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the European Retail Action Plan for the benefit of all actors

(2013/2093(INI))

The European Parliament,

- having regard to the Commission Communication of 31 January 2013 entitled ‘Setting up a European Retail Action Plan’ (COM(2013)0036),
- having regard to the Commission Green Paper of 31 January 2013 on ‘Unfair trading practices in the business-to-business food and non-food supply chain in Europe’ (COM(2013)0037),
- 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),
- having regard to its resolution of 5 July 2011 on a more efficient and fairer retail market¹,
- having regard to the Commission Communication of 22 May 2012 entitled ‘A European Consumer Agenda – Boosting confidence and growth’ (COM(2012)0225),
- having regard to its resolution of 11 June 2013 on a new agenda for European Consumer Policy²,
- having regard to the Commission Staff Working Document of May 2012 entitled ‘Consumer Conditions Scoreboard – Consumers at home in the single market: Monitoring the integration of the retail single market and consumer conditions in the Member States’ (SEC(2012)0165),
- having regard to the Commission Communication of 27 November 2012 entitled ‘Protecting businesses against misleading marketing practices and ensuring effective enforcement – Review of Directive 2006/114/EC concerning misleading and comparative advertising’ (COM(2012)0702),
- having regard to its resolution of 22 October 2013 on misleading advertisement practices³,
- having regard to the work of the High Level Forum for a Better-Functioning Food Supply Chain and of the Expert Platform on B2B Contractual Practices,
- having regard to the Commission Consultation Document of 4 July 2013 entitled ‘Consultation of Social Partners under Article 154 TFEU on enhancing EU cooperation in

¹ OJ C 33 E, 5.2.2013, p. 9.

² Texts adopted, P7_TA(2013)0239.

³ Texts adopted, P7_TA(2013)0436.

the prevention and deterrence of undeclared work' (C(2013)4145),

- having regard to the Commission Communication of 28 October 2009 entitled 'A better functioning food supply chain in Europe' (COM(2009)0591),
- having regard to its resolution of 7 September 2010 on fair revenues for farmers: a better functioning food supply chain in Europe¹,
- having regard to its declaration of 19 February 2008 on investigating and remedying abuse of power by large supermarkets operating in the European Union²,
- having regard to the Commission Communication of 11 January 2012 entitled 'A coherent framework for building trust in the digital single market for e-commerce and online services' (COM(2011)0942),
- having regard to its resolutions of 11 December 2012³ and 4 July 2013⁴ on completing the digital single market,
- having regard to the European Economic and Social Committee's opinion of 10 July 2013 on the Commission Communication on 'Setting up a European retail action plan'⁵,
- having regard to the European Economic and Social Committee's opinion of 11 July 2013 on the Commission Green Paper on 'Unfair trading practices in the business-to-business food and non-food supply chain in Europe'⁶,
- having regard to Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights⁷,
- having regard to Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs⁸, and Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers⁹,
- having regard to Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising¹⁰,
- having regard to Directive 2011/7/EU of the European Parliament and of the Council of

¹ OJ C 308 E, 20.10.2011, p. 22.

² Texts adopted, P6_TA(2008)0054.

³ Texts adopted, P7_TA(2012)0468.

⁴ Texts adopted, P7_TA(2013)0327.

⁵ <http://www.eesc.europa.eu/?i=portal.en.int-opinions.26063>.

⁶ <http://www.eesc.europa.eu/?i=portal.en.int-opinions.26065>.

⁷ OJ L 304, 22.11.2011, p. 64.

⁸ OJ L 109, 6.5.2000, p. 29.

⁹ OJ L 304, 22.11.2011, p. 18.

¹⁰ OJ L 376, 27.12.2006, p. 21.

16 February 2011 on combating late payment in commercial transactions¹ ,

- having regard to Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market² ,
 - 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 and the opinion of the Committee on Employment and Social Affairs (A7-0374/2013),
- A. whereas the importance of the retail market can hardly be over-estimated, since it represents 11 % of EU GDP and delivers more than 15 % of all jobs in Europe, including both skilled and unskilled labour, and contributes to the social fabric of society;
- B. whereas the strategic importance of the retail sector has to be fully recognised as a driver for growth, employment, competitiveness and innovation, as well as for the strengthening of the European single market;
- C. whereas in a society increasingly marked by virtual contacts through the internet, shops are still the place where people meet other people, and high streets and town centres in particular, as well as direct selling by producers, can provide a setting for shared experiences, and serve as a focal point of local identity, community pride, a common heritage and shared values; whereas, nevertheless, e-commerce and brick-and-mortar shops do not exclude each other but are, in fact, complementary;
- D. whereas the current economic crisis is taking a heavy toll on retail, affecting in particular smaller, independent shops;
- E. whereas unfair trading practices (UTPs) continue to exist and negatively affect the entire supply chain, including farmers and SMEs; whereas UTPs also impact negatively on consumer interests as well as on growth and job creation;
1. Welcomes the setting-up by the Commission of a European Retail Action Plan;
 2. States that the Action Plan should have paid more attention to the effects of the current economic crisis on retail and, in particular, on smaller, independent shops;
 3. Welcomes the Commission's intention to create a permanent Group on Retail Competitiveness, but emphasises the importance of balanced representation, including, inter alia, of both big and small retailers, suppliers, co-operatives and consumer, environmental and social interest groups; calls on the Commission to take a holistic approach to retail, avoiding duplication and extra bureaucracy, and to ensure coherence

¹ OJ L 48, 23.2.2011, p. 1.

² OJ L 319, 5.12.2007, p. 1.

and close co-ordination with other existing fora, such as the yearly Retail Market Roundtable;

4. Welcomes the Commission's establishment of the High Level Expert Group on Retail Sector Innovation and calls on the Commission to swiftly review the forthcoming recommendations by the group in order to further promote entrepreneurship, stimulate innovation and create jobs and growth in Europe;
5. Supports the Retail Market Roundtable, organised by the Committee on the Internal Market and Consumer Protection, as the institutional forum aimed at keeping retail high on the EU political agenda, to review progress in the implementation of relevant aspects of the Retail Action Plan, to report on the work of the permanent Group on Retail Competitiveness and to update on progress made in other existing platforms and informal dialogue mechanisms; asks the permanent Group on Retail Competitiveness to work closely with Parliament to organise the annual Retail Market Roundtable;
6. Urges Member States not to take measures in the context of austerity policies which undermine consumer confidence and directly harm the interests of the retail sector, such as increasing VAT, reclassifying products and product rates or raising charges for shops; reiterates the importance of improving access to finance, in particular for retail and wholesale trade SMEs; welcomes in this regard the 2011 Commission Action Plan and the recent legislative proposals aimed at maintaining the flow of credit to SMEs and improving their access to capital markets;
7. Emphasises that Member States have to refrain from discriminatory measures, such as trade and tax laws that only affect certain sectors or business models and distort competition;
8. Deplores the fact that some Member States are discriminating foreign businesses by creating new barriers making it difficult for them to establish themselves in a given Member State, which constitutes a clear breach of internal market principles;
9. Calls on the Commission and Member States to give the highest political prominence to the retail sector as a pillar of the Single Market, including the Digital Single Market, and to lift regulatory, administrative and practical obstacles hampering the start-up of businesses, development and continuity and making it difficult for retailers to fully benefit from the internal market; considers that retail market legislation should be evidence-based, taking into account the needs of the sector, and should be based in particular on an examination and understanding of its impact on small businesses;
10. Asks Member States to transpose internal market rules in a coherent and consistent way and to implement fully and correctly the internal market rules and legislation; stresses the

fact that requirements for extra tests and registrations, the non-recognition of certificates and standards, territorial supply constraints and similar measures create extra costs for consumers and retailers, in particular SMEs, thereby depriving European citizens of the full benefits of the Single Market; calls also on the Commission, with the aim of ensuring better governance, to operate a zero-tolerance policy towards those Member States which fail to properly apply internal market rules and to do so, where appropriate, by means of infringement procedures and by speeding up those procedures using a fast-track approach;

11. Calls for the internal market scoreboard to be extended to cover the implementation of the services directive;
12. Encourages business federations and consumer associations 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 practices among themselves;
13. Welcomes the Commission's intention to develop instruments to facilitate consumer access to transparent, easily understandable, comparable, and reliable information on the prices, quality and sustainability of goods and services; encourages the Commission to set up an easily accessible database containing all EU and national labelling requirements; at the same time warns against the multiplication of labels and labelling requirements and calls for simplification, including by bringing together various aspects of sustainability in one label, while reducing differences in national mandatory labelling requirements and establishing common benchmarks/criteria at EU-level, where appropriate;
14. Asks the Commission, when monitoring the implementation of its Action Plan, to pay particular attention to actions aimed at supporting the independent retailer; encourages local and regional authorities to promote actions aimed at facilitating equal access and creating a level playing field for the independent retailer, in full respect of free and fair competition, such as: the encouragement of the 'adopt-a-shop' principle by which larger retailers act as 'mentors' to smaller shops in the same locality, in particular for new market entrants; the promotion of groups of independent retailers, including co-operatives, which benefit from mutual assistance and certain economies of scale, whilst retaining their full independence and; respect for the right of local and regional authorities to stimulate a climate favourable to small, independent shops, which are typically established in town centres, by lowering energy rates – including for signs illuminated by night – and rents via public-private partnerships, and by introducing business rate discounts on local charges for small businesses and independent retailers, in compliance with applicable EU state aid competition and internal market public procurement rules, and by promoting co-operation between the various shops in that area;
15. Recalls that, while a concentration of shops outside city centres can be convenient for some consumers, it can also have negative environmental effects and can be a challenge

for other consumers, in particular for older people, people with reduced mobility or those without a car; calls, therefore, for local and regional authorities to adopt a balanced approach, also taking into account the fact that in many regions, especially in view of the economic crisis, the saturation point has already been reached; emphasises that retail developers should continue to assume their shared responsibility to promote sustainability, true freedom of choice for consumers and access to the market for small shops; notes that rents in shopping centres outside city centres can be too high for smaller, independent shops and stresses the need to ensure a level playing field for these shops, for example by basing rents on a percentage of turnover, in cases where this is not already an existing practice;

16. Acknowledges the competence of local authorities with regard to urban planning; highlights, however, that urban planning should not be used as a pretext to circumvent the right to free establishment; recalls, in this connection, the importance of proper enforcement of the services directive; urges Member States to remove barriers to free movement and to open up their markets in order to stimulate competitiveness and promote diversity among shops, which is essential if shopping areas – in particular in town and city centres – are to remain attractive;
17. Emphasises the important role of public-private partnerships in ensuring clean, safe and accessible shopping areas in town and city centres, inter alia, by addressing the negative effects of vacant buildings in shopping areas, for example by making these places available to start-up businesses at a lower rent than usual, in compliance with applicable EU state aid and public procurement rules;
18. Notes that the rapid development of e-commerce has delivered significant benefits for consumers and businesses in terms of innovation, new market opportunities and growth, improved choice, enhanced competition and lower prices; notes, however, that shops are now facing new challenges, thereby making multichannel retail strategies even more important; encourages retailers, in view of the social and cultural role of retail, to make the most of innovative technologies and to develop new business models for their on-line customer base while also expanding the shopping experience in the brick-and-mortar shop, by inter alia, increasing service levels, both before and after the sale;
19. Welcomes the Commission's intention to encourage e-commerce; regrets, however, the absence of an objective to make online services and goods accessible to consumers from all Member States; calls on the Commission to propose a strategy to prevent traders from adopting discriminatory policies in their e-commerce practices, thereby ensuring that all European citizens have unfettered access to cross-border online trade;
20. Emphasises that e-commerce is important so as to ensure consumer choice and access to goods and services, in particular in remote areas; stresses the fact that appropriate action must be taken to develop its full potential, including by improving access to the internet in

the most remote areas of the EU; supports the measures called for in the Commission Communication of 11 January 2012 on e-commerce to enhance confidence, simplify the registration of domains across borders, improve secure online payments and delivery services, facilitate cross-border debt recovery and improve information to consumers on their rights, particularly concerning withdrawals and opportunities to appeal;

21. Reiterates the importance of removing barriers (including linguistic, administrative and those relating to lack of information) which restrict the business potential of online cross-border trade and undermine consumers' confidence in the Single Market;
22. Welcomes the Commission proposal on Multi-Lateral Interchange Fees (MIF) and stresses the importance of removing card scheme rules which reinforce the anticompetitive effects of the MIF; urges the Commission to support Member States that already have transparent, competitive and innovative payment systems and to use them as best practices in further developing a cheaper and fairer payments market in Europe;
23. Highlights the retail sector's responsibility concerning sustainability; welcomes the fact that retailers and suppliers have been at the forefront of green responsibility, particularly regarding waste, energy consumption, transport and CO2 reduction; considers that further efforts are necessary in this area;
24. Welcomes in particular the voluntary initiatives and commitments taken by retailers and suppliers to reduce food waste;
25. Points to the importance of preserving retail in stalls and markets, a sector comprised chiefly of thousands of family-run micro-enterprises and which is also a distinguishing feature of the European economy;
26. Highlights the fact that retailers are offering diverse and modern ways of purchasing and selling goods and services which contribute to wider consumer choice and flexible employment opportunities, in particular for young people and the long-term unemployed;
27. Calls for the increased support and encouragement of SMEs and co-operatives, in particular those demonstrating innovation and contributing to the social market economy, that address new market needs and are involved in environmentally friendly and socially responsible activities, in order to increase the competitiveness of the EU retail sector, drive down prices for consumers, improve service quality and create new job opportunities;
28. Recalls the importance of the proper implementation of existing social and labour legislation; calls for equal treatment for commercial operators in the internal market in order to combat undeclared work and tax and social fraud;

29. Welcomes franchising as a business model which supports new business and small-business ownership; notes, however, the existence of unfair contract terms in certain cases and calls for transparent and fair contracts; draws the attention of the Commission and Member States, in particular, to problems faced by franchisees who wish to sell their business or change their business formula, whilst remaining active in the same sector; requests that the Commission examine the ban on price-fixing mechanisms in franchise systems and the effects of long-term competition clauses, purchase options and the prohibition of multi-franchising, and to reconsider in this respect the current exemption from competition rules for contracting parties having a market share of less than 30 %;
30. Is concerned about the rapid development of private labels; 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. Supports the work of the High Level Forum for a Better Functioning Food Supply Chain and its Expert Platform on B2B contractual practices; considers that Parliament should urgently resolve pending issues relating to its participation in the work of the Forum; stresses that UTPs also occur in the non-food supply chain; asks the Commission and business federations, in this connection, to pursue a constructive and cross-sectoral dialogue in the existing fora, also including the annual Retail Market Roundtable and the Commission's forthcoming Group on Retail Competitiveness;
32. Welcomes the principles of good practice and the list of examples of fair and unfair practices in vertical trading relationships in the food supply chain, as well as the framework for the implementation and enforcement of these principles; welcomes the recognition by trade associations of the need for enforcement, and emphasises that if an enforcement mechanism is to have a practical effect, it is vital that it be respected by all actors involved in the food supply chain and that all actors, including farmers' organisations and the manufacturing and wholesale distribution industries, participate; calls on the Commission to review the practical effects of the voluntary initiative, including the enforcement of the principles of good practice, within one year of its entry into force;
33. Notes that issues regarding vertical trading relations also arise in connection with selective and exclusive distribution arrangements in the retail of branded goods; calls, therefore, on the Commission and Member States to safeguard the rights of those retailers and store owners with more limited bargaining power;
34. Considers that weaker market players, in particular farmers and other suppliers, often regard it as difficult to complain about UTPs and emphasises, in this connection, the important role of associations, which should be able to submit such complaints on their behalf; invites the Commission to examine the need for and the feasibility of an

ombudsman or adjudicator, also examining whether such an office should have the power to take ex-officio action in the case of evidence-based UTPs;

35. Calls on the Commission to ensure the right of small suppliers to set up groups of producers without being penalised by national competition authorities, which have assessed the importance of these groups based on national production alone;
36. Calls on the Commission to enforce current legislation on territorial supply constraints imposed by suppliers on their customers;
37. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

EXPLANATORY STATEMENT

The importance of the retail sector for society

Retail is of major economic importance, accounting for 11% of the EU's GDP and 15% of EU employment. In the EU, much emphasis has been put on retail as one of the main pillars of the Single Market. For the larger retailers, the economies of scale possible within a well-functioning internal market can make the difference. It is therefore regrettable that many retailers who want to be active in several or all Member States still face unnecessary obstacles, such as different packaging and labelling requirements, as well as differences in administrative practices.

The Digital Single Market can offer additional opportunities for retailers, although at this moment consumers still largely prefer suppliers based in their own country, even for online purchases. This may have to do with the fact that consumers are simply not as familiar with retailers based in other Member States, but also with uncertainty about their rights.

Just as important as the economic value of retail, is its social value. Especially with the ever-increasing importance of internet for everyday life and the computerisation of our societies in general, the number of opportunities for social contacts in real life is rapidly diminishing. People tend to spend ever more of their time in front of their PCs, tablets or mobile phones and there is a risk that our societies are becoming increasingly virtual. Brick-and-mortar shops are still places where people interact in real life. It is important that they stay put, preferably embedded in a wider societal environment, offering additional services, such as libraries, and cultural and public buildings.

Many people complain that shopping centres are quickly becoming less attractive, because they all contain the same shops that are part of a national or international chain. This may gradually undermine the desire of consumers to visit such centres at all, especially if they can buy the same products just as easily online. In order to remain attractive, not only should the shopping experience itself be permanently re-thought and improved, but also the diversity of shops should be stimulated. The independent retailer can make the difference, as independent shops may stimulate the consumer's curiosity. Shopping centres with a diverse, locally embedded offer of shops can stimulate community life and even local identity, which many people are seeking more and more, despite, or perhaps because of, globalisation.

The retail sector in the current economic crisis

In most Member States consumer confidence has reached an extremely low ebb. Citizens are postponing their purchases or are extremely low-cost oriented. In some Member States, VAT rates have been increased, which makes it even more difficult for consumers to buy and for retailers to survive. The general situation in the retail sector in the EU is a matter for concern, although there are also exceptions.

The latest Eurostat figures show a slight improvement in May 2013 compared to April 2013¹. However, in the Eurozone, retail trade is still down compared with the same month of the

¹ Eurostat News Release Euroindicators 104/2013.

previous year. Non-food is hit harder than food, and independent retailers are particularly vulnerable.

The Commission's Retail Action Plan does not directly deal with the consequences for retail of the crisis and the austerity measures implemented by Member States. Thus, neither matters such as access to finance for small businesses nor the prevention of bankruptcy, nor the increasingly pressing issue of vacant shops in the middle of shopping areas are being addressed. On access to finance, separate reports have been adopted by Parliament, which is the only reason why your rapporteur has not included this matter in his report. However, improvement of access to finance is vital, especially for SMEs.

Since bankruptcies concern especially independent retailers, and their share of the market is rapidly decreasing, particular attention must be paid to their needs. If we do not wish to end up with cities and towns that are clones, when it comes to retail, the Commission and Member States must act now. Bigger shops can help smaller ones, as it is also in their interest to keep a diversity of shops in their vicinity, as this attracts more customers. A large retailer has stated that it would be ready to introduce the 'adopt-a-shop' principle. Through such a programme, small businesses could seek advice, for example on administrative or financial questions, without losing their independence. Shops can work together by establishing local associations so that the development of the shopping district becomes their joint undertaking, in close co-operation with local authorities. Rents and energy rates could be reduced in order to revitalise certain shopping areas, and local authorities could vary local charges in order to bring costs down for shops in given areas.

The Commission rightly stresses that spatial policies may not discriminate on economic grounds. There may be grey areas though, whenever local authorities wish to promote the high streets in city and town centres. There is a perceptible tendency for specific types of retail to take over the high streets. In such cases, it should be possible for local authorities to introduce specific rules in order to guarantee a diversity of shops, which is essential for a shopping area to keep its attractiveness.

E-commerce can be a golden opportunity for retailers, but it can also become a threat to those shops that simply ignore the phenomenon. I have heard many retailers complain about customers seeking advice about a product in a brick-and-mortar shop, only to buy that product online from another, cheaper shop. Some have even argued that perhaps they should introduce an entrance fee. This is of course not a feasible solution and would only accelerate the decline of the shops concerned, but it shows the despair of these retailers.

Retailers have to accept e-commerce as a fact of life. It is therefore advisable for many shops to seek multi-channel sales policies, including both online and traditional channels. Service is one of the main comparative advantages of a brick-and-mortar shop. For electronic articles it is often important for the customer to get good advice. The internet is not always customer-friendly. It is unclear which websites to trust. A good way forward would be to link the internet shop to brick-and-mortar shops so that a customer can seek and get advice from a real salesman in the nearest branch via the internet. Another way of promoting the brick-and-mortar shop is by creating an 'experience' in the shop. Something extra has to be provided. Bookshops can invite authors to read out some of their works; music stores can organise live music performances; clothing stores fashion shows, etc. Service and the promotion of

experience are essential for brick-and-mortar shops to survive.

Contracts for franchisees have become increasingly rigorous. It is regrettable that the Commission did not include any recommendations as a response to this development, as it tends to undermine the whole concept of franchising, thus making it less attractive, whereas franchising could help reduce the effects of the economic crisis.

Sustainability

Due to the limited scope of the report, it has been impossible to examine in detail the role of retail in social and environmental policies. However, retail is capital when it comes to sustainability issues. Shops can influence the type of product consumers buy and can thus stimulate fair trade. Shops can promote environmentally-friendly packaging that can help reduce waste. They can also influence consumer patterns relating to food consumption: buy the quantities you need and avoid food waste, buy more organic food, etc.

The same holds for social policies. Unfortunately, violations of social and immigration laws do occur in retail. Also, there is a tendency to hire young staff for low wages and replace them as soon as they grow older and more expensive. Especially, when service and ‘experience’ become more important for shops to survive, it is important to invest in the staff. Retail is an excellent sector for offering young people training facilities, but it should also build on an experienced workforce in order to offer the right quality. The enforcement of labour laws should be a priority for Member States. In this regard, close co-operation between the retail sector and law enforcement bodies should be encouraged, so that any such violations are dealt with instantly and effectively.

Unfair Trading Practices (UTPs)

Farmers and small producers often feel that there is no real freedom of contract, as they can only sell their products to a limited number of supermarkets. Things are more complicated in reality though. Not all producers are small-scale companies. For example, sugar production is notoriously controlled by a limited number of companies, whose position is so powerful that in some Member States they can almost be considered as monopolies. Moreover, supermarkets often do not deal directly with producers, but with distributive traders. Such traders can be big multinational companies. The profit margins of such traders are often much bigger than those of the supermarkets. It is important to bear in mind the complexity of the situation in the food supply chain, when considering further steps.

The Green Paper is often seen by the supermarkets as a first step towards EU legislation in this area. Although it may be useful to clarify certain concepts via European legislation or guidelines, such as ‘economic dependency’, your rapporteur is not convinced of the effectiveness of a purely legislative approach. For smaller producers, it will often be difficult to engage in formal lawsuits against supermarkets (or distributive traders). Far too often, they fear retaliatory measures: they may have exposed certain UTPs, but at the cost of losing their business relationship with the supermarket or distributive trader concerned.

Your rapporteur has therefore opted for a cautious approach. While it may be useful to seek agreement at EU-level to prohibit below-cost selling in the food sector, in general it is best not to rely too heavily on legislative solutions.

Voluntary initiatives, which already exist in some Member States and are currently also being developed at EU-level by the High Level Forum for a Better Functioning Food Supply Chain, are to be welcomed. They can provide the basis for the joint assumption of responsibility. However, some producers complain that, without proper enforcement, these voluntary initiatives will be unable to change the situation. To keep the pressure up, it is therefore important to provide for an independent ombudsman or adjudicator who can issue ‘ex officio’ rulings. Supermarkets object to anonymous complaint mechanisms. They argue that they are unable to defend themselves properly from such complaints and can become victim of slander. In order to find a solution that respects the interests both of producers and of supermarkets, your rapporteur prefers a system that makes it possible for business associations to bring certain practices to the attention of an ombudsman or adjudicator, while preserving confidentiality in respect of their sources of information. Combined with the possibility of the ombudsman/adjudicator acting ‘ex officio’, this may offer a fair solution.

Although your rapporteur supports a voluntary mechanism, it can only be effective, if all the parties concerned participate. This means that producers, traders and supermarkets alike have to subscribe to the initiative. At the moment, producers have not yet done so; it remains to be seen how many traders will do so. If it is primarily supermarkets that commit themselves to the initiative, it will not work.

Secondly, the voluntary initiative does not foresee the establishment of an independent ombudsman or adjudicator. Instead, it relies on a governance group composed of representatives of each interest group. Your rapporteur does not reject this approach, but wonders whether it will be as practical as working through an independent ombudsman/adjudicator.

Finally, the voluntary initiative entirely relies on ‘naming and shaming’ as well as on ‘naming and faming’; no other sanctions are foreseen. It is precisely the lack of sanctions that keeps producers from joining the initiative. If the initiative is therefore to become a success, it is time to consider introducing additional sanctions, e.g. fines, and compensation for losses in the case of violations of the principles of good practice.

Legislative footprint

The following organisations have shared their opinion on the subject with your rapporteur:

Albert Heijn	Carrefour	Copa-Cogeca
Detailhandel NL	EDEKA	ESBA
Eurocommerce	Eurocoop	European Booksellers Association
ERRT	IKEA	Jumbo
Svensk Handel	Tesco	Tradecraft
Vakcentrum NL	UGAL	

17.10.2013

OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS

for the Committee on the Internal Market and Consumer Protection

on a European Retail Action Plan for the benefit of all actors
(2013/2093(INI))

Rapporteur: David Casa

SUGGESTIONS

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

1. Notes the importance of the retail sector, which accounts for almost 15 % of the EU's total employment, skilled as well as unskilled, and in particular its importance for young people; acknowledges the Commission's approach based on the belief that facilitating mobility could assist the growth of the sector, but stresses that cross-border job placement alone should not be regarded as a way out of the crisis; notes as well that 29 % of all EU enterprises, including a very high share of SMEs, are engaged in this sector; considers, also, that traditional trades have suffered in recent years and that measures are needed to bolster and promote quality employment in this sector;
2. Highlights the fact that retailers are offering diverse and modern ways of purchasing and selling goods and services which contribute to wider consumer choice and flexible employment opportunities, in particular for youth and the long-term unemployed;
3. Stresses the need for a single coherent plan of action – effectively coordinating different policy areas – with a view to enhancing the performance of the retail sector in economic, social and environmental terms equally, in line with the Europe 2020 strategy objectives, focusing on the preservation and creation of high-quality and sustainable employment;
4. Considers that, due to the economic recession, there has been a significant loss of employment in the sector, including among large retailers, and that it has had to resort more than previously to compelling employees to work shorter hours; observes that some multinationals, while maintaining positive levels of profitability, have used the crisis as a pretext for reducing staffing levels, increasing workloads, using wage subsidy schemes and reducing working hours;

5. Highlights the importance of addressing the mismatch between labour force skills and the requirements of the retail sector, with special emphasis on the countries with high levels of youth unemployment, and with a thorough consideration for the improvement of working conditions, so as to favour job creation, especially for young people, the long-term unemployed, older workers and the disabled, as well as to consider the need to update skills through lifelong learning in order to allow employees both to take on new tasks resulting from innovation and to better respond to labour market needs, as well as to enable them to work in traditional trades with short supply of labour; stresses also that employers should be proactive in regularly preparing employees for changes and innovations in their sector;
6. With this in mind, and in order to combat effectively the problem of mismatched skills in the retail industry, it is necessary to establish clearly the requirements of this sector in terms of quality and quantity, with the active involvement of all stakeholders, including the social partners and the corporate sector;
7. Considers that wages are generally lower in the retail trade than, on average, in other sectors and that this results in skills shortages, as the low wages discourage highly skilled workers from remaining in the trade and from regarding it as a sector where it is possible to make a career; recommends, therefore, that Member States and businesses adopt wage rates in the sector that provide employees with a decent living, which should always be done in agreement with the social partners, where relevant;
8. Deplores the fact that the sector employs a high proportion of young staff, which is combined with a rapid staff turnover, the tendency being to recruit young people at low cost, on flexible contracts, and then replace them as soon as they are a little older, as well as to replace staff who have more permanent and expensive contracts; calls on the Member States to adopt plans providing for incentives for training and retraining of older workers; considers there to be an urgent need to support this sector in order to provide lasting and decent employment;
9. Underlines the need to make greater use of existing and planned instruments at EU level in support of structured partnerships between skill providers and businesses, including the Sector Skills Alliances, under the Erasmus for All Programme, and the European Youth Guarantee; encourages the development of school-business partnerships such as dual training systems for apprenticeships supported by the European Alliance for Apprenticeships;
10. Considers the sector to be characterised by considerable flexibility, with fixed-term contracts and the use of temporary agency workers; considers also that this sector tends to require workers to work on Sundays and public holidays, including evening and night work, which could have a negative impact on workers' health and work-life balance; notes the importance of promoting a healthy work-life balance, and consequently calls on Member States to adjust their policies in relation to working on Sundays and public holidays in the retail sector, in order to promote a healthy work-life balance for workers without unduly negatively affecting SMEs in the sector; calls on Member States and the social partners strongly to consider implementing policies that would regard Sunday work as always being voluntary, adequately paid and balanced by compensatory time off., with

exceptions having to be sufficiently justified;

11. Calls on the social partners to take as a model the many intra-company agreements which have promoted self-managed work schedules, so that staff can plan overtime or additional working hours a week in advance, rather than being called upon to perform such work at short notice, and have the possibility of choosing to work at sales outlets other than those where they usually work, for personal reasons;
12. Calls for increased support and encouragement for SMEs and cooperatives, in particular innovative ones and those that contribute to the social economy, that address new market needs and are involved in environmentally friendly and socially responsible activities, in order to increase the competitiveness of the EU retail sector, drive down prices for consumers, improve service quality and create new job opportunities;
13. Notes important new trends that enhance efficiency in the provision of retail services, and encourages the support of such developments, including in the framework of the Digital Single Market, particularly its cross-border development; calls for additional support for smaller retailers as they are generally less able to keep up with changing technologies;
14. Points out that large retailers have reaped the greater part of the benefits, at the expense of small and micro-enterprises, thanks to their ability to exploit economies of scale, increase productivity and offer lower prices; observes that this is grounds for concern with regard to social and local cohesion, with the disappearance of small shops from city centres, smaller settlements and rural areas, and their transference to out-of-town shopping centres, which makes it difficult, particularly for older and disabled people, to gain access to basic necessities; observes that, as a result of this, many jobs have been lost with small retailers; calls on the Commission and the Member States to provide investment and incentives to support SMEs in the sector and to adopt strict legislation on opening hours in order to ensure fair competition;
15. Notes that undeclared work represents an important issue in the retail sector, entailing high social risks and low income for workers, who are excluded from health coverage and social benefits, adversely affecting the economies of the Member States and the financial viability of the European social model, and undermining the funding and distribution of social benefits and public services; observes with concern the understaffing of employment authorities in many Member States; calls for a proper implementation of existing social and labour legislation and increased labour inspections, where needed; welcomes the Commission's initiative to engage in dialogue with stakeholders in the retail sector, under the European Platform to fight undeclared work, to assess the impact of the informal economy on working conditions and to identify an EU approach to combat it; considers that it would be desirable for employers' associations to expel employers who use undeclared employees;
16. Welcomes the call for safety at work in the Commission communication by means of the development of intelligent warehouses which reduce the risk of accidents arising from the moving of heavy loads in one of the most dangerous sectors with reference, in particular, to work-related stress and musculoskeletal disorders due to poor postures; with regard to the latter aspect, calls on the Commission to take action by once again taking up the proposal for a directive which was abandoned some time ago;

17. Deplores the fact that, while it considers franchising to be a useful tool for generating growth in the sector and creating jobs, in some cases the corporate contracts in force at the franchisor company have not been applied to employees of the franchisee company;
18. Considers that social dialogue in the retail sector has attained satisfactory levels and therefore welcomes the Commission's decision to set up a permanent Group on Retail Competitiveness involving Member States and relevant stakeholders;
19. Deplores the omission from the Commission's communication of any reference to the social dumping phenomena which exist in the sector and which induce some multinationals to invest in countries where freedom of association and the right to collective bargaining are thwarted;
20. Considers that retail market legislation should be more thoroughly evidence-based, particularly as regards the need to examine and understand adequately the impact of legislation on small businesses;
21. Calls for actions – at EU and national level – to remove any unnecessary regulatory restrictions and administrative barriers that may limit growth, innovation and job creation in these sectors;
22. Points out that 8.7 % of the European population were unable to access appropriate quantities and quality of food in 2010; underlines the importance of EU policy supporting access to food retail outlets that supply good-quality, affordable food, particularly in disadvantaged areas, as well as supporting decent employment;
23. Stresses the significance of small and medium-sized retailers for the reinvigoration, diversity and liveliness of town and village centres, for providing shopping opportunities to local residents, including the elderly, and for providing employment in rural areas.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	17.10.2013
Result of final vote	+ : 34 - : 2 0 : 0
Members present for the final vote	Regina Bastos, Edit Bauer, Heinz K. Becker, Phil Bennion, Vilija Blinkevičiūtė, Philippe Boulland, Alejandro Cercas, Ole Christensen, Minodora Cliveti, Marije Cornelissen, Emer Costello, Frédéric Daerden, Richard Falbr, Thomas Händel, Stephen Hughes, Danuta Jazłowiecka, Patrick Le Hyaric, Olle Ludvigsson, Thomas Mann, Csaba Óry, Sylvana Rapti, Licia Ronzulli, Elisabeth Schroedter, Nicole Sinclair, Jutta Steinruck, Andrea Zanoni, Inês Cristina Zuber
Substitute(s) present for the final vote	Georges Bach, Sergio Gutiérrez Prieto, Anthea McIntyre, Csaba Sógor, Tatjana Ždanoka
Substitute(s) under Rule 187(2) present for the final vote	Eric Andrieu, Pilar Ayuso, Eduard-Raul Hellvig, Roberta Metsola

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	5.11.2013
Result of final vote	+: 24 -: 0 0: 11
Members present for the final vote	Preslav Borissov, Jorgo Chatzimarkakis, Birgit Collin-Langen, Lara Comi, Anna Maria Corazza Bildt, António Fernando Correia de Campos, Cornelis de Jong, Vicente Miguel Garcés Ramón, Evelyne Gebhardt, Thomas Händel, Małgorzata Handzlik, Malcolm Harbour, Sandra Kalniete, Edvard Kožušník, Toine Manders, Hans-Peter Mayer, Phil Prendergast, Zuzana Roithová, Heide Rühle, Christel Schaldemose, Andreas Schwab, Catherine Stihler, Emilie Turunen, Barbara Weiler
Substitute(s) present for the final vote	Raffaele Baldassarre, Regina Bastos, Jürgen Creutzmann, María Irigoyen Pérez, Constance Le Grip, Emma McClarkin, Claudio Morganti, Kerstin Westphal
Substitute(s) under Rule 187(2) present for the final vote	Roberta Angelilli, Agustín Díaz de Mera García Consuegra, Marie-Thérèse Sanchez-Schmid