Avenue de Gaulois 9
B-1040 Brussels
Tel: +32 2 736 0305
Trans Reg :
1074382679-01

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AIM comments on COM (2018) 219: Communication - A European Retail Sector fit for the 21st century

1. Introduction:

AIM, the European Brands Association, welcomes the opportunity to provide comments on the European Commission's Communication on *A European retail sector fit for the 21st century*.

As the European Brands Association, we represent 2,455 branded consumer goods manufacturers, small, medium and large, across the European Union. *A European retail sector fit for the 21st century* is critical to brands manufacturers as retailers are the route by which our products reach consumers. The consumer goods industry can only benefit from a competitive retail market in Europe.

2. A Single Market – A multitude of consumers!

Brands manufacturers have long been supporters of the Single Market as we can only gain from the economies of scale the Single market brings. It remains one of Europe's primary ways to create sustainable, long-term growth.

We also respect the EU motto of **"United in Diversity**". There is **no one homogenous, identical European consumer** – we are fortunate to celebrate differences across the continent in terms of tastes, preferences, culture, history and background within one country and even within one region or town, as well as at national or European level.

Brands manufacturers develop products in response to this constantly evolving and diverse situation as trends create new expectations and inspire new products, tailoring to local cultures as well as global trends. One could argue that it would be easier and cheaper for the branded goods industry to ignore this and just offer one product to all consumers in Europe. However, that is not Europe, and would not respond to European consumers. As a consumer-centric industry, our approach is to respond to consumers who inspire the diversity and wealth of products available across the European market. To do this, the Industry has developed efficient processes to manage its innovation, production, logistics, sales, distribution and marketing. To do otherwise will not respond to a market-driven approach, and would restrict both the economy and growth. This economic reality applies in all sectors, in any geography, Europe or other continents, within markets as well as across markets.

3. The changing landscape of retail – an omni-channel world:

As mentioned in the Communication, the retail space is in revolution:

- How consumers are buying, where they are buying and when they are buying is changing at a speed we have not witnessed before;
- New technologies, connected "things", voice-activated devices – the new digital eco-system of the consumer – are changing entirely how the consumer shops, and also changing consumer expectations;
- How, when and whether they will even go to stores in years to come is hard to predict – the changes in the first 18 years of the 21st century have already created totally new market dynamics – but it is an interesting scenario and needs to be addressed as online and offline merge into a seamless experience for consumers. This is worth assessing as on-line continues to grow, and the impact this may have for such issues as opening hours and planning issues, as raised in the Communication.

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The changes this brings about has significant implications for our distribution system, our supply chain and our constant goal to meet, and exceed, consumer expectations.

4. The changing landscape of retail – concentration of the market

It would be remiss to consider that the changing landscape of retail is a new-technology-led only change, with the pre-dominant feature being the growth of on-line sales. If we take grocery for example, the European retail sector is characterized by **growing retail concentration taking several forms[1]:**

- Local retailers are disappearing, replaced by international retail groups[2];
- Through **growing vertical integration** these international retails groups are taking over in the upstream market wholesalers and the suppliers[3]; in the downstream market, independent shops are disappearing gradually.
- In several markets, **the grocery stores are controlled by 4 or 5 retail groups** [4]. The less variety of actors, the less competitiveness, and therefore less choice for consumers.
    - For example, in Austria, the top 3 retailers have 87.6% of the market share
    - In a number of Member States e.g. Denmark, the Netherlands, Portugal, the top 3 retailers have over 70% of the market share.
- Concentration also leads to **higher prices**.[5]
    - The retail price is set by the retailer.
    - In 2012, the Belgian Economic Ministry compared identical products with the help of scanner data purchased from Nielsen, and found the average price difference of 10.4% of prices set by Dutch and Belgian retailers. In the latest price analysis report from the Belgian authority[6], the price difference seems to have increased, and Belgians now pay 11.7% more on average.
    - In fact, that same study shows that the biggest price differences are amongst the private label (retailer brands) – which differ as much as 27%.
    - It is interesting to note that the ministry of Economy explains the reasons for price differences by more restrictive legislation and higher taxes in Belgium, as well as a higher retail margin.

Such concentration can also have a negative impact on innovation and choice – when only a few actors are controlling the market, (oligopolistic markets), diversity and choice can be impacted. The 2014 Commission study highlighted a decline of innovation in the grocery markets of Europe since 2008.

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[1] DG Comp : The Economic Impact of modern retail on choice and innovation, November 2014

[2] See Annex

[3] Evidenced by DG COMP Modern Grocery Retail, 2014.See also AIM response to report on DG Comp website

[4] See Annex

[5] European Central Bank, Structural features of distributive trade and their impact on prices in the euro area – September 2011p.76 "***the main finding is that higher market concentration is associated with higher price growth in food and drink products in the recent period."*** ECB Working paper December 2014 ***"regions with greater downstream retail market concentration tend to have higher price..an increase of one..in the concentration index corresponds to a 3,4 percentage rise in average prices"***

[6] Comparaison du niveau des prix à la consommation des produits en Belgique, en Allemagne,en France et aux Pays-Bas, March 2018, 7

Offering choice of products:

Whilst we celebrate Europe and its diversity, it is important to consider that, in fact, the vast majority of products are primarily sold on a national market. The 2012 report from the Belgian Economic Ministry[7] found that from a range of 220,000 products sold in Belgium, only 8% are also on sale in Dutch stores, 9% in French stores and only 3% in German stores, even though some retailers operate across several markets.

The European Central Bank argues in its 2014 paper that competition is even regional: that the stores in northern France do not compete with the stores in southern France and runs its price comparison using the Nuts[8] regions, just as the Eurobarometer does for defining its survey data capture.

To address European retail competitiveness and the issue of choice, it is critical for the European Commission to take into account the changing structure of retailing and of the retail relationship with all actors of the supply chain.[9] It also needs to take into account the differences between the various retail sectors and their difference in vertical integration.

We believe the retailers groups are in a position to provide their sales data to the Commission following the Eurostat recommendations of working on scanned data to ensure a statistical and reliable overview. Certain grocery retailers are present in as many as 25 Member States, so no doubt will be able to provide the **statistics that illustrate the assortment distribution in Member States.**

5. Are all brands everywhere?

Despite strong brands active across European markets, brands do not produce in all markets – nor indeed are all brands present in all markets. Manufacturers work with retailers but also with some **1.8 million wholesalers in Europe.** Wholesalers have always been the **link between the industry and retail, facilitating parallel trade and wider choice.** Suppliers are not established in all 28 Member States: in fact, very few trade in all EU-28, even international companies.[10] As such, **wholesalers ensure cross border trade and access of products to retailers** if needed.

Even in vertically integrated retail sectors**, retail groups such as Ikea (furniture), Zara (clothes), do not offer** the **same assortment** nor offer the **same price** for the same products **across various Member States**[11] while they entirely control the supply chain from production to consumer sales.

6. Territorial supply constraints :

The European Commission has raised the issue of possible territorial supply constraints – hindrances to parallel trade – in 2009[12]. The European Commission conducted research in 2011 on the same subject, in a joint initiative led by DG GROW, DG COMP and DG ECFIN. It would be useful to understand the learnings from that research. At the time, the Commission had said when it presented the Scope & Objectives that "*following analysis of the quality of the data, a decision will be made on whether or not the study will proceed*". As the

[7] Niveau de prix dans les supermarches, SPF Economie, Direction generale de la Concurrence 13/02/2012 p18
[8] NUTS: Nomenclature of Territorial Units for Statistics
[9] See Annex
[10] The Euromonitor database, accessible to several Commission services, can provide this evidence
[11] See Annex price comparison in various integrated retail network in Europe- Belgian consumer association report
[12] Com(2009) 591 "a better functioning food supply chain in Europe"

Commission recently announced it would conduct an additional study on the same topic, we would ask the Commission to clarify the results of this study and what the Scope & Objectives will be of the next study.

It would be helpful to see the data provided with the responses to the public consultation[13] in relation to possible territorial supply constraints. It is unspecified in which retail sectors they may occur.

In reference to possible sourcing restrictions and territorial constraints experienced in purchasing, it is important that the European Commission takes an **holistic and comprehensive approach**, covering all aspects. This should include:

- Exclusivity of Product: A constraint applied by retail groups on suppliers is the requirement of exclusivity over a supplier product sale whether for manufacturer brands[14] or retailer brands as experienced in the grocery sector.

- Retail listing restrictions across all markets: Retailers do not accept to list brands in all supermarkets across all markets. Certain retailers, for example, Lidl, states that "70% of its products are local", yet it is present in 25 member States.

- Restriction of independent stores: Retail groups impose territorial and supply constraints to independent stores.

    - For example in **Finland**, where within the grocery market dominated by 2 retail groups, the **franchised stores can only purchase 20% of their assortment independently**, thereby restricting parallel trade and consumers access to a wide choice of products.
    - Such practices restricting supply are **evidenced** in many Member States **by numerous court cases**[15] against retailer groups as well as referenced in **the report for the European parliament,** as well as **for the Benelux Secretariat** more recently.
    - The **French Competition authority** has also acknowledged that grocery retail group contracts were restricting stores opening in concentrated regions.[16]

If difference in supply, assortment and price are allegedly due to illegal territorial supply constraints, these supply constraints must be researched across all retail sectors and products, regardless of the nature of the producers: **what applies to branded goods should also apply to retailer own-brands, including vertically integrated retailers, to ensure an holistic and comprehensive view of the retail landscape.**

Finally, international retail buying groups have existed for years, contrary to what is stated in the Communication[17]: if it does not lead to increased choice and supply, this is an area for the Commission to investigate.

The Commission should consider the impact of retailers grouping together in purchasing alliances on the upstream supply chain. **European retail alliances**, where retailers group together, have become a strong feature on the retail landscape, particularly in the last 3 years.

The growth of these alliances, coupled with a concentrated retail market, creates an imbalance of power in the supply chain. In addition, as currently discussed in the UK, retail mergers or alliances do tend to restrict choice by aligning their offer, if not their price.[18] When retail alliances practice de-listing (taking products off shelves), they limit choice for the consumer and indeed constrain the supply distribution of products across

[13] 99 responses among which 35 retail companies. Retail trade, except of motor vehicles and motorcycles represent as per Eurostat 3.568.793 enterprises in 2015. 35 retail companies input are therefore not statistically reliable.
[14] See statistics in several Member States in the grocery sector in Annex.
[15] See Annex
[16] Legal perspective of the regulatory framework and challenges for franchising in the EU, 2016; France: Avis 10-A-26, 7.12.2010
[17] See Annex
[18] See Annex and Member States investigations

some Member States. They as well restrict further innovation of manufacturers through raised costs and lost resources, jobs and time in managing these situations.

7. A sustainable supply chain:

Just as retail is free to choose its suppliers and the products it sells, so too industry chooses how it distributes products and how that best fits within a regional, national and European model, taking into account key issues such as how we strive to have a sustainable supply chain in operation.

The **manufacturer distribution system** has been **set up to** operate on grounds that are both historical and economically efficient to **serve all players of national markets** where the manufacturers are physically present. **Product stocks** are forecast based on **national demands and production capacities**. When possible, rational and cost efficient, brands have engaged in international sourcing contracts. Answering to sporadic requests of an Austrian international retailer to provide large volumes in Amsterdam [19] for Central & Eastern Europe countries disrupts the supply chain, creates inefficiencies, increases costs for the manufacturer and it should be noted that such practices will also take business from wholesalers (which therefore will have a consequence for the choice of product available to the region that wholesaler supplies), and lead to a substantive increase in the environmental footprint.

The international retail groups calling for purchasing at a European central point appear once more as another effort to consolidate the European supply chain by more vertical integration. This will have an impact on the current physical infrastructure of wholesalers, reducing competition and choice in Europe by this further concentration. Concentration in the hands of just a few, as indicated above, is not necessarily best for the many. Finally, several investigations by Member States have, and do, question the value of such central international purchases carried out by retail alliances as they increase complexity, costs and tend to lead to competitive issues.[20]

8. Conclusion:

All of the above issues demonstrate that indeed, as the Commission has said, retail is in revolution. It is therefore critical that we have a complete picture of the retail landscape, to ensure policy at EU level is "fit for purpose". This requires an **independent fact-and-economic data-based approach to the Commission's research, quantifying the issues and their solutions to ensure we indeed have a retail sector fit for the 21st century.**

[19] Case referred by the HLF Forum for Food
[20] See Annex