

Speaking Notes

Roundtable “A more efficient and fairer retail market for business and consumers”

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I would like to congratulate the IMCO committee for its initiative to organise this hearing on a sector that is extremely important for micro and small enterprises and thank you for giving UEAPME the opportunity to give you input on this file.

I have been asked to comment on direct and indirect obstacles to the free movement of goods and services. What is often reported is the fact that our retailers are obliged to provide themselves at the national market, meaning that they cannot import some brands from other, less expensive, markets. But it is quite difficult to have a clear view on the phenomenon. In the first place, smaller markets, as e.g. the Luxembourgian one, suffer more from it than bigger markets. More and more small retailers are also part of a network, and thus normally not themselves responsible for the contacts with the suppliers. And if they are, then it is also not economically feasible and viable to look for each of sometimes thousands of products they sell for the less expensive country. They also often omit to inform their business organisation in order not to jeopardise their commercial relation with the brand.

I will answer your demand in a negative way, namely what kind of legislation are NOT an obstacle at all for the internal market.

For UEAPME there is indeed a more important, preliminary question to answer: what kind of retail market do we want in the European Union? Reading the report leaves us quite sceptic as little attention is paid to the specific situation of small independent retailers and in addition they are sometimes presented in a quite negative way². And what does a “more efficient” retail market mean? If “efficiency” means as much as “higher productivity” (which is the common economic definition) then the European Commission is showing from the beginning a preference for retail forms with the highest “productivity”, or otherwise said, with the highest turnover per employee, thus for the largest international retailers. Apart from the factor economy of scale, which is determining for the “efficiency” and “productivity”, it may be clear that retail formulas which offer more service, will not be the most productive ones³.

Does this mean that the European Commission prefers shops which employ fewer employees? This would be in contradiction with what is stated in the objectives of the European Commission, namely that “a well-functioning retail market creates more jobs”.

¹ UEAPME subscribes to the European Commission’s Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is 55820581197-35.

UEAPME is since years advocating for initiatives that improve the functioning of the internal market. UEAPME is also advocating in general for more harmonization, but harmonization does not mean no regulation at all. In our opinion one cannot achieve free competition without ensuring that the free market is corrected and that there is a balance and the possibility for every market player, be it big or small, to have the same chances.

And this is exactly what has happened the last years and what some are still advocating for: to abolish national regulation that assured a level playing field for all players, big and small, in the retail sector. In UEAPME's opinion a real European internal market should guarantee a diverse retail market landscape, in which the consumer itself can choose freely between multinational chains, cheap discounts, but also locale independent and service oriented small shops.

This is for example the case with the prohibition of sales below costs. Allowing sales below costs is not only accepting the law of the jungle, the Court of Justice has repeatedly accepted the possibility to maintain this prohibition. So there is no need to evaluate and question this again. The possibility to maintain this prohibition is vital for SMEs, especially in the retail sector and there is no evidence at all that these legislations are not effective as the report states.

Another crucial issue is the urban and local planning rules. The proximity of shops offering essential goods and services are not only important for the elderly, the less mobile persons, but for the whole economic and social fabric of city centres and sparsely populated areas. Since the Services Directive economic criteria cannot be used anymore for the establishment of enterprises or more specifically supermarkets. But it is clear that some reasons of general public interest, such as the environment, the urban environment, the viability of the city centres and villages, sustainable mobility and transport, good spatial planning can be used to impose some rules for the opening of such retailers and to guarantee a level playing field and to guarantee a diverse retail offer.

Nevertheless, UEAPME is of the opinion that the European policies have to respect the principles of subsidiarity and proportionality. One should not forget that the retail markets are merely local markets. According to UEAPME, the Commission, in her report, is overestimating the importance of cross border consumer spending and certainly not THE answer to guarantee a diverse retail market.

Due to the differences between the Member States and the fact that some problems need an approach that take into account the specific situation in the Member State in question, quite a lot of issues need to continue to be treated at Member State level.

The advantage of this Member State specific approach is for a number of issues after all bigger than the possible advantage that offers to abolish these so called "barriers" between national markets by solving these issues at the European level.

E.g. regulations concerning the opening hours of shops are issues that can better be dealt with at Member States level. When this should regulated at the European level, then there would be probably less "barriers" for cross border trade of some (a minority) , but the advantage of this does not deny the advantage to adjust these measures to the local necessities in the Member State.

I thank you for your attention.

ⁱ For UEAPME it is unacceptable that the report without any evidence states that *"the informal economy, although difficult to gauge, has a negative impact on working conditions in the retail sector, in particular in small and micro-enterprises, where effective enforcement of legislation and collective agreements is more difficult"*.

It is nearly the only time small and micro enterprises specifically are mentioned in the report and then it is done in an extremely negative and not evidence based way. That the informal economy has a, indeed difficult to gauge, impact on the working conditions in the retail sector is a problem that UEAPME recognize. But that the informal economy is especially a problem in micro and small enterprises because "effective enforcement of legislation and collective agreements is more difficult in these enterprises" is undeserved stigmatising our members and in addition is highly questionable.

In her report, the Commission also states that *"despite the minimum standards laid down in European law, labour law differs widely between Member States. These variations are compounded within Member States by sectoral collective agreements that can differ by type of shop, sub-sector of retail services or number and category of workers employed. This has led to different economic models in the retail sector."* This fact should not be regarded as problematic in the first place; indeed, these differences respond on the contrary to the economic reality of and the differences between micro and small enterprises on the one hand and the huge retailers on the other hand.

In her analysis the European Commission refers to differences in the social field in relation to the size of the enterprise. She is of the opinion that while red tape has to be reduced for small enterprises, it is also necessary to ensure that in these enterprises there is no abuse in the social field: *"While it is legitimate to want to reduce red tape for small firms of this kind, it is also vital to ensure that they do not cut corners on working conditions, in particular as far as health and safety are concerned."*(...)
"Thirdly, given the diversity of working conditions in the retail sector, it is often difficult for consumers to know about the social responsibility of particular retailers and thus to make an informed choice about where to shop." In addition, concerning the social field, the Commission states that *"The high proportion of SMEs in this sector renders it difficult for it to invest sufficiently in continuous vocational training."* Once again, the Commission has apparently a very negative view of small enterprises, in which the working conditions are in principle, according the Commission, bad and the employees are not trained. This kind of statements and not funded accusations are unacceptable and go against the letter and the spirit of the Small Business Act. These accusations are completely untrue. Small enterprises and the small local food retailers, including the restaurant and horeca sector are sectors with a high level of work force. They constitute a huge source of possible employment for young people. (In France for example, between 1993 and 2009, employment in this sector has raised with 23%. 60% of transfer/start-up is done by former employees witch means that there are huge possibilities for professional promotion.)

ii In Belgium for example, Aldi, as a discounter, has the highest productivity of all retailers with a turnover per employee of 485.000 euro, while the average productivity in the food retail (large and small retailers together) is 376.000 euro. However, Aldi employs only 10 full time equivalent/employees, while in other supermarkets with a comparable turnover the employment is more than double.