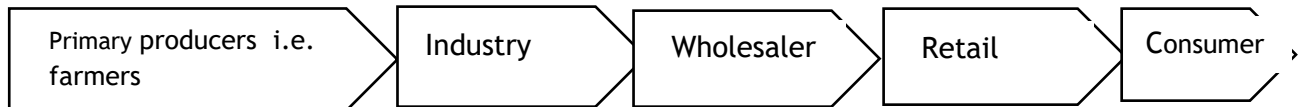


Annex to Submission on COM (2018) 219: Communication – *A European Retail Sector fit for the 21st century*

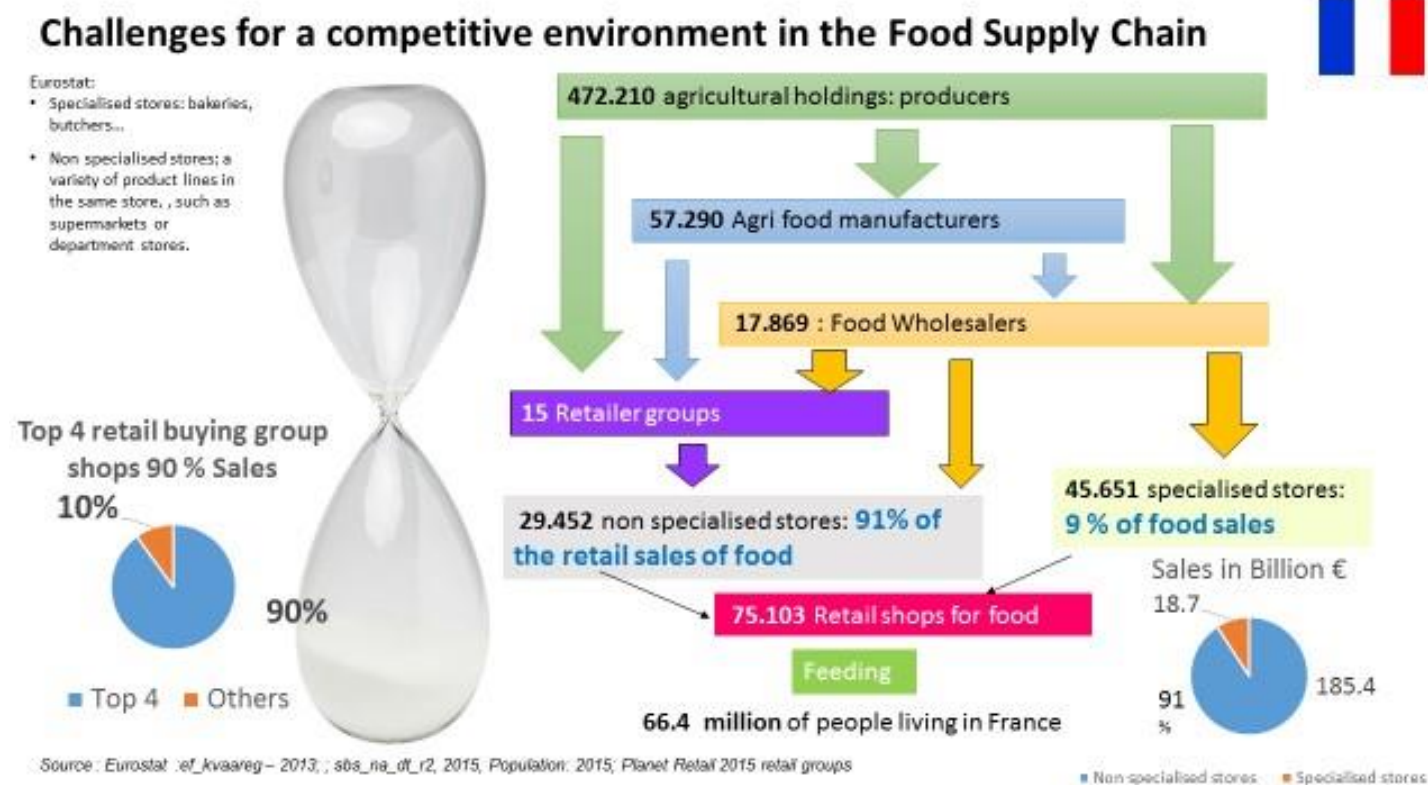
Supply Chain – Choice, Sourcing, Assortment

The European Supply Chain

As the European Commission Communication sets out, **retail is the final point of the supply chain before the consumer buys the product. It therefore plays an important role for the rest of the supply chain, as it is the gatekeeper to consumers.** Retail sets consumer prices and chooses the assortment of products to offer in stores.



The development of modern retail, the “one-stop-shop” selling thousands of products¹ (i.e. supermarkets) has led to a **gradual, multi-layer process of concentration, by the reduction in number and in independence of a set of supply chain actors, reducing the market competitiveness and impacting market dynamics as illustrated below with one retail trade sector (food supply chain).**



- **Independent Shopkeepers:** not only are **modern retail shops replacing specialised stores** (i.e. bakery, butcher...) but they are also **replacing the independent stores** (“mom-and-pop shops/corner shops”) **through** the mixed development of modern **retailer owning stores (affiliate) or through franchised stores** carrying the retailer names. The retail group owner decides on assortment and price.
- **National retailers:** modern retail and one of its effect, the internationalisation of retailing, has led to market concentration, either when one or two national retailer dominate the market, or where **international retailers, operating across several markets, have taken over national retailers**

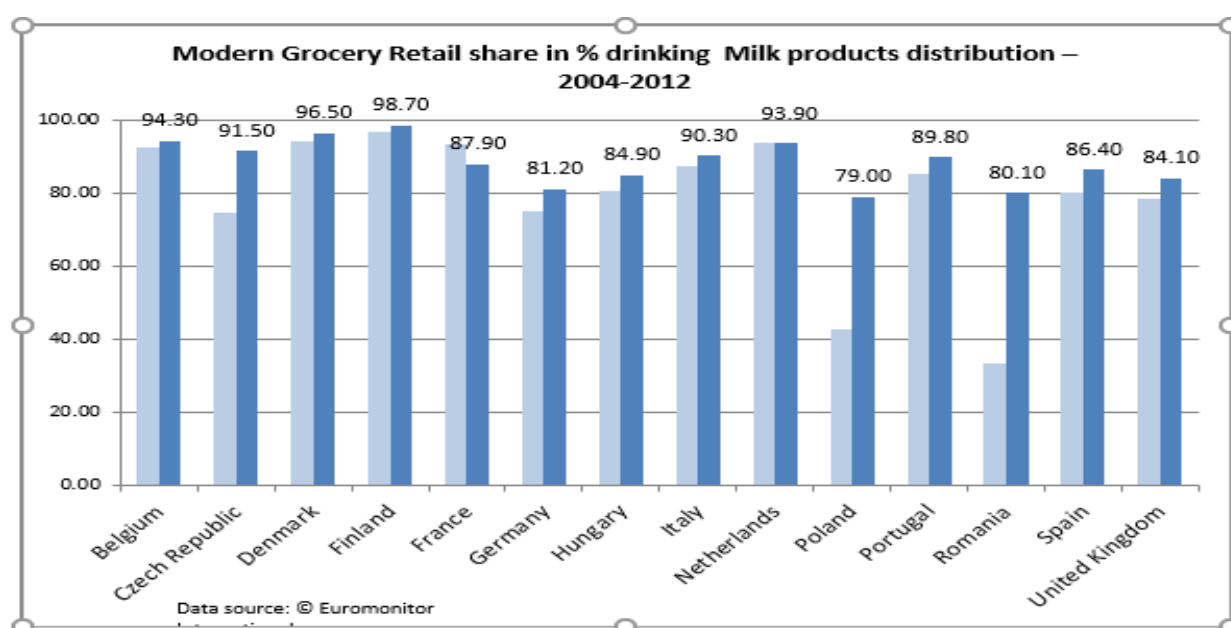
¹ Eurostat, From Farm to Fork, 2011,p.116

- **Wholesalers:** the **retailers** through the development of their organisation and their internationalisation **are taking over in many cases the function and business of wholesalers**. They organise central purchasing, directly negotiating with the industry or primary producers, either by their own or combining these direct purchases with retail competitors, through national and international retail buying group or alliances . **The wholesaler market is concentrating due to these retailer practices.**
- **Suppliers (Industry) :** as well as requiring franchised stores to carry their name, the modern retailers introduced retailer brands i.e. private label / own brand, either by direct vertical integration (own factories) or requesting suppliers to produce exclusive products for their retail shops.
 - The impact of this is that retailers are in fact reducing the number of suppliers - the **supplier market is concentrating under retailer practices.**

As Eurostat has recognised, the grocery market is dominated by a few players “European food and beverage retailing has in recent decades been characterised by consolidation, with the **emergence of a limited number of national and international players**. The grocery retailers **“account for 88.1% of all food and beverages retail sales”**²

The French government in the preamble to its new draft French law for the food supply chain expressed his concern at the disappearance of levels and actors in the supply chain: *“The 400.000 producers have individually very limited negotiation power in front of a retail always more concentrated »*. **4 retail groups are now concentrating 90% of consumer sales distribution**, affecting negatively choice.

The control of modern grocery retail over the market in some product categories is considerable – **over 90%. It not possible to reach consumers beyond leading retailer stores, mostly international players.**



² Eurostat, From Farm to Fork, 2011,p.117

As acknowledged by Eurostat: “Statistics pertaining to **retail sales in non-specialised stores...** show that large enterprises (employing 250 or more persons) **accounted for 0.2 % of the enterprise population**, while **generating three quarters (75.1 %) of sectoral value added**. Although not restricted to food retailers, **these figures give an idea of the market power enjoyed by a relatively small number of retailers.**”³

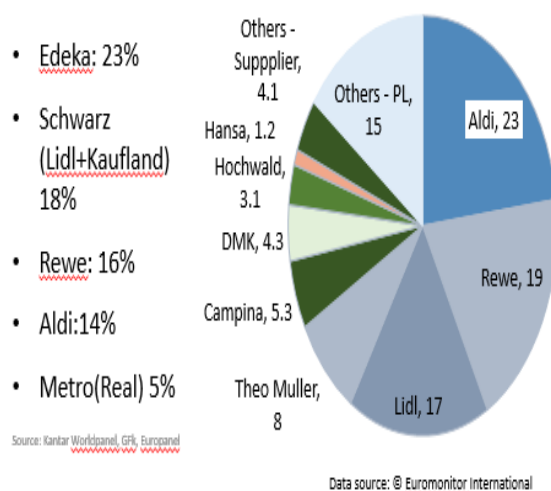
Dual role of retailers: the retailer as a manufacturer

In addition to the control of a retail (distribution) supply chain, retailers compete also on the product market as manufacturer, with its retailer brands. In totally vertical integrated chains (i.e. Ikea, Zara, H&M...), all products sold are the retailers', under the retailers names. In the food supply chain, retailer brands control the categories in direct contact with agro food. **As retail defines consumer price, it is possible for them to distort competitors price to better position their own retail brands.**

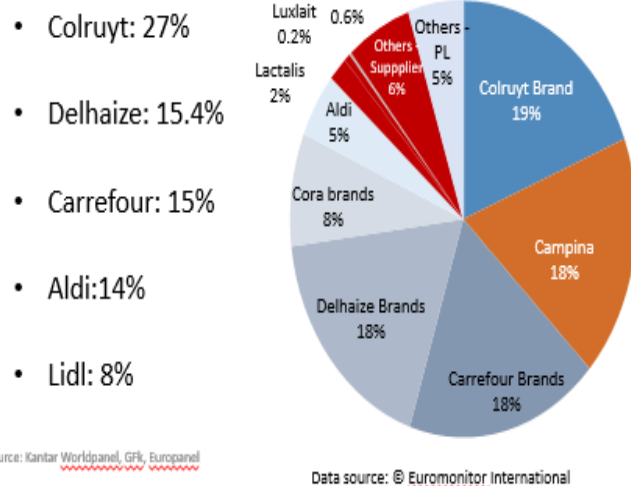
In Belgium for example, the **top five grocery retailers control**

1. 79% of all grocery sales
2. Over **94% of the distribution of milk products**,
3. Their **retailer exclusive retail brands represented 73% of Milk sales**. The 27% of remaining milk sales were shared between a cooperative brand (Campina: 18%) and the remaining through suppliers managing less than 1%. Colruyt, **Carrefour and Delhaize, international retailers, sell more of their retailer brand milk than cooperatives could sell their own cooperative brands**. Yet cooperative have no alternative channel than modern retail as it controls 90% of the milk sales.

Top 5 Retail Market Share (2015): 76%
Share of Milk Sales - Germany
74% Retailer Brands



Top 5 Retail Market Share (2015): 79%
Share of Milk Sales - Belgium
73% Retailer Brands

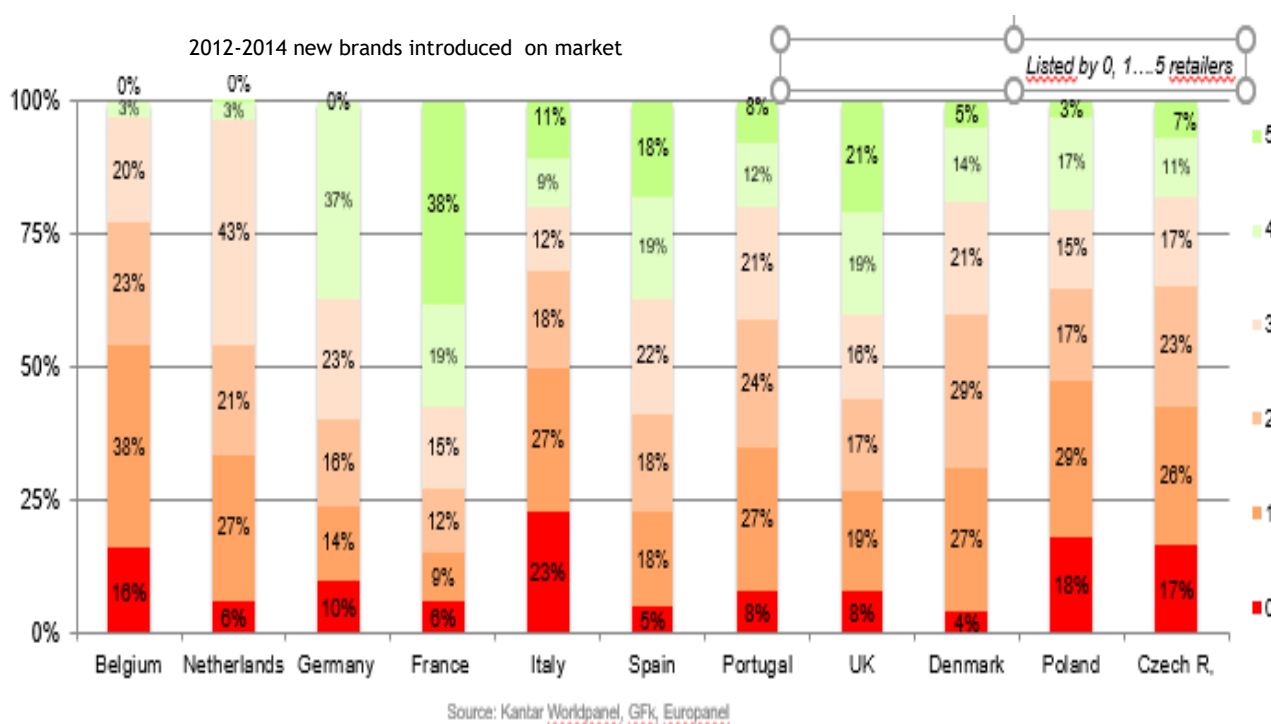


In Germany, the **top 3 grocery retailer exclusive brands represented 59% of Milk sales**, much ahead of any **cooperative or manufacturer brands**, illustrating the **control of the retailers over all levels of supply chain**. The first independant milk manufacturer is Theo Muller, and it manages only 8% of the milk sales, one third of the amount of milk produced for Aldi, only half of the milk produced and sold by Rewe and Lidl.

³ Eurostat, From Farm to Fork, 2011,p.123

The growing difficulties in accessing the markets for any brands manufacturers in grocery markets can also be illustrated by the **request of retailers** to have manufacturer brands suppliers distributing only **exclusive brands** through their shops, or brands variants.

For example, in Belgium, a concentrated market, with several retailers involved in international retail alliances, 38% of the new products can only get listed at one retailer. With such practice, **not only are retailers restricting the choice** to consumers but also they make the **investment in innovation** by suppliers **ineffective** as the restriction of distribution is a **restriction on return-on-investments**.



Assortment - Sourcing – Retail self-restricting geographically their own products distribution

The retail search for exclusivity is emphasised in one way by retail vertical integration⁴ and in another way, in grocery for example, by retailers requesting exclusivity over manufacturer brands or developing retailer brands for their own shops. Such practices do render **price comparison by consumers harder**.

The study conducted by the *Luxembourg* Ministry of Economy⁵ in 2015 highlights this reality:

- « the analysis comparing banners across the 4 markets shows a great heterogeneity at the level of available products: Nielsen's database contains 98,799 EANs for the 4 regions; 48,852 EANs are only present in one of the shops ...
- **Only 0.19% of all scanned products are present in the 4 markets...**
- Over half of the products are only available in one retailer ... France has the highest number of exclusive products – products present in one country only ... Only 3% of products are present in all French shops ... 67.7% of the products available in Luxembourg are only present in one shop.
- **Only 1% of all products are available in all shops of the country (Luxembourg)''**

⁴ Ikea sells only Ikea Products, Zara, Decathlon : their own made brands

⁵ Ministère de l'Economie, "Etude 4 Frontières" Edition 2015, looking at cross border sales in Grand-Duché du Luxembourg, la Lorraine en France, la Rhénanie Palatinat et la Sarre en Allemagne et la Wallonie en Belgique. Nielsen Scan data, p.11-12 ;38-39

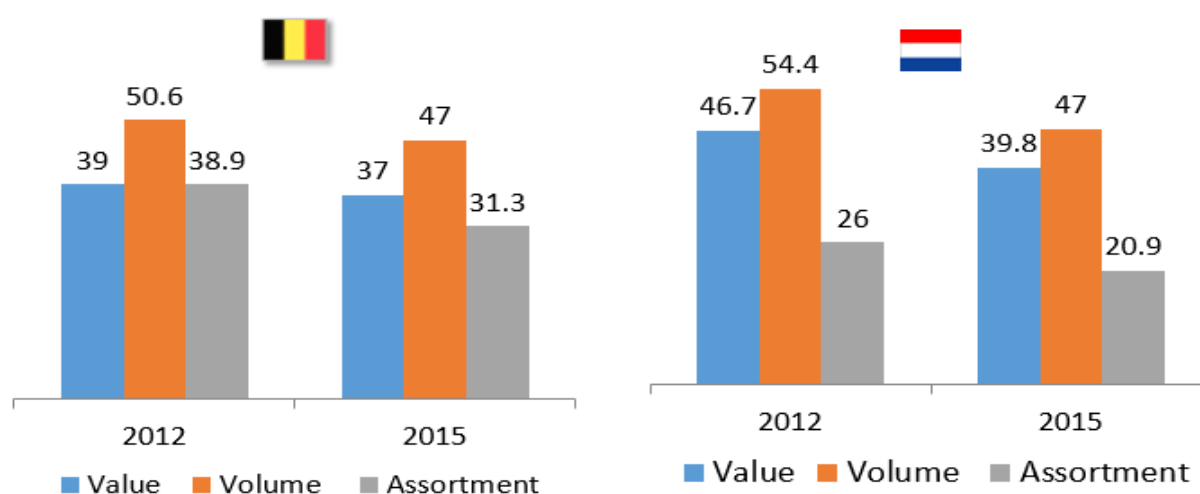
The recent study conducted by the *Belgian* Ministry of Economy⁶ over the four neighbouring markets acknowledges the same variation of retailers assortment:

- **On 180.000 products sold exclusively in Belgium, there are 64.751 products sold in at least one of a neighbouring country (26%): 17% present in France; 10.4% in the Netherlands, 4.7% in common with Germany** (bearing in mind the fact that 2 major German retailers are not included in the study and comparison).
- **21% of the products common between Belgium and France are retailer brands;** in the Netherlands the common retailer brands with Belgium reach only 4.7% while Ahold Delhaize is a leader in both countries.

Looking at the retailer brands (own products) at A.Heijn, Ahold Delhaize banner, a large difference in assortment appears. In Belgium, Ahold Delhaize has its own brands occupying 31% of the assortment offered to consumers. In the Netherlands, Ahold Delhaize own brands only represent 20.9% of the assortment.

As the Belgian study assesses that only 4.7% of the same retailer brands are present in both Belgium and the Netherlands, considering Ahold Delhaize is the only retailer surveyed by the ministry, it actually means that within the 31.3% of A.Heijn retail brands assortment in Belgium, **only 47% is the same assortment to be also found in the 20.9% of retailer brands assortment in A.Heijn in the Netherlands.**

A.HEIJN COUNTRY DIFFERENCES



Source: Kantar Worldpanel, GfK, Euromonitor

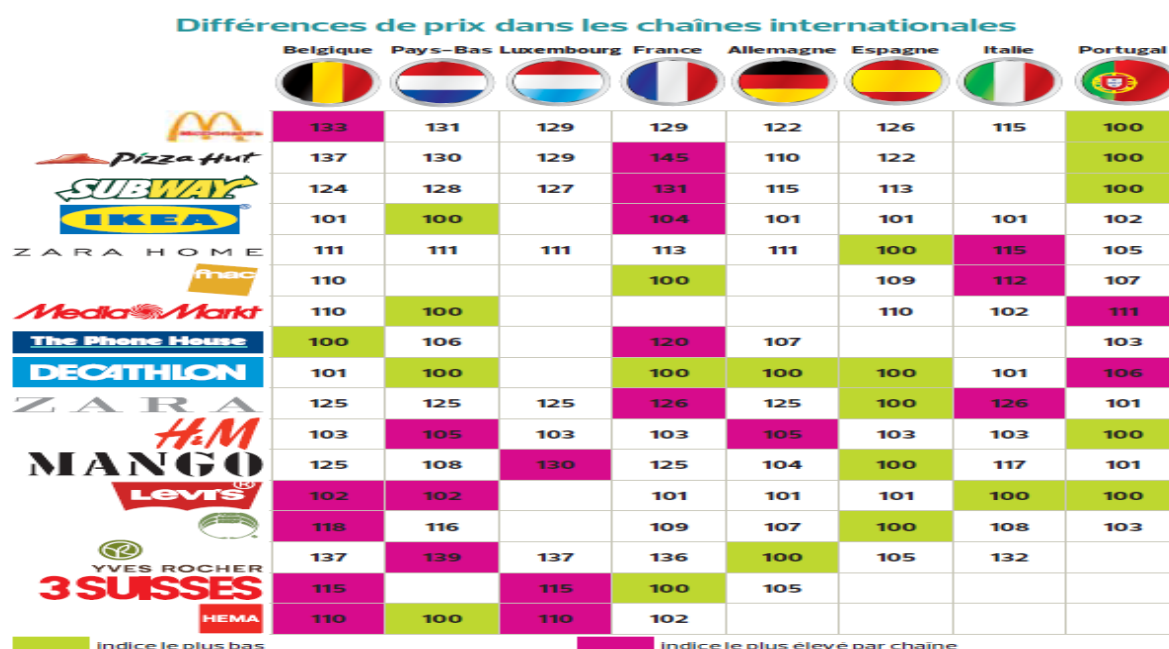
The difference in volume and value between the two countries also underlines the difference in price applied by Ahold Delhaize on its own brands; difference in prices are also clear when looking at the consumer price in the two countries stores.

Such comparison allows to show how retailers can fix price as a marketing tool, either to enter market or as as predatory tactic to try to remove weaker, smaller retailer out of the market. It is a reality which can be illustrated when comparing the price in Central and Eastern Europe of international retail groups, member of international retail purchasing alliance, and the price of local CEE retailer.

⁶ Comparaison du niveau des prix à la consommation des produits en Belgique, en Allemagne, en France et aux Pays-Bas, March 2018, 7 product categories, 180.000 products, in shop of over 400m2 (so excluding convenience, discounts, 2 market leaders (Aldi & Lidl) in Belgium (21.6% market share in 2015), NL (16.3% market share in 2015) and Germany (22.8%). One fifth of market excluded from analysis.p.103



The same variation across retailer own product assortment and price can be quantified with all retailers, across the various countries and supply chains. A simple look at the grocery retailer websites shows their advertising their local sourcing across all members states, even if international retailers. It challenges their claim to support the Single Market and to help SMEs suppliers export to other countries⁷. In fact, it confirms what brand manufacturers have been explaining for many years - assortment and price differences are due to different market realities. The Belgian consumer association⁸ reported similar **price differences across a set of retail chains, vertically integrated⁹, across Member States, on their retail assortment.**



⁷ Lidl: "Approximately two thirds of our products are sourced from within the UK", "70% of our products are sourced from within Ireland"...

⁸ Test Achat number 566, August 2012, p.11

⁹ Vertically integrated: products sold in stores under their names, retail in charge of production, not purchasing from branded suppliers

Ikea is a vertically integrated retailer, centralising purchasing from Sweden. Yet a Bulgarian **consumer has to pay 27.6% more than a Belgian consumer, 5.8% more than a Swedish consumer, 2.3% more than an Italian consumer.** The Italian consumer pays similar price to a Swedish consumer for a product made by a Swedish supplier, yet at a higher price than in Portugal¹⁰.



- Vertically integrated retailers or retailers for their retailer brands restrict their own supply to local markets. A simple comparison of retailer assortment across all member states demonstrate this.
- The Commission should take this into consideration and request evidence to declaration made in its open consultation when applied to upstream suppliers.
- A similar exercise would allow the Commission to quantify the allegations of so-called territorial supply constraints by upstream suppliers toward the retailers.
- The Luxembourg study on 4 cross border regions quantifies at 1% the assortment all retail are willing to have present in all stores for consumers, a result due to retailer choice and pursuit of differentiation, not by suppliers imposing supposed territorial supply constraints as it happens on the own retailer brands, in retail vertical integrated supply.

Purchasing – Sourcing

With modern retail, it is important to differentiate terminology:

- Retail groups which purchase upstream from wholesalers or suppliers, or directly from primary producers in some cases (i.e. fresh food for grocery; raw materials for the production facilities of integrated retailers);
- Shopkeepers which purchase from retail groups when they sell under the retail group banner; from wholesalers or producers sometimes if independent shops.

As illustrated for the food supply chain in France, there are **15 grocery retailers groups**, regrouped for most in retail alliances for purchasing, **which control the access to market of 57.290 food suppliers, and of 472.290 agricultural producers.** At the same time, these retail groups control the supply of 29.452 shops as over 90% of them are under certain retail banners, sometimes as affiliates, but mostly through franchise contracts.

¹⁰ www.ikea.be, www.ikea.bg, www.ikea.it, ikea.se, reference number 002.638.50. Supplier: Gyllensvaans

As the European draft directive on unfair trading practices for the food supply chain illustrates, upstream actors are confronted to many abuses, often by international retailers active in several markets and who have - due to their size – a significant buying power.

The downstream shopkeepers (also called retailers in the Commission communication) are also under strong commercial pressure, confronted by retailer groups which - as per recent Benelux study - “**impose** « their law » (minimum sales volume, obligation to purchase secondary products even when the shops owners don’t want to)”¹¹.

Across numerous Member States retail franchisees are in open conflict with the retail groups, over the product price and volume, retailers force upon them. They are also confronted to retail groups refusal for franchise stores to select their assortment and purchase from other, cheaper, supply sources. **It is to be reminded that franchisees - as per law - must remain free of their management, unlike affiliated companies.**

Franchisees across a set of Member States assigned the retail groups also for the unfair redistribution of profit gathered from upstream suppliers, in France¹², Belgium¹³, the Netherlands¹⁴, Spain¹⁵. **Wider choice to consumers can only occur if shopkeepers are free to define their own assortment. Otherwise, choice is restricted to the central decision of international groups, one oligopolistic offer.**

The French competition authority has reviewed¹⁶ international groups contracts with their local franchisees and they found that the contract provision were **restricting store openings, restricting thereby competition, and choice to the consumers**. It is also a claim against retail groups in a set of court cases brought by franchisees and associations.

Retail alliances:

In the recent Commission Communication on *A European retail sector fit for the 21st century*, some international groups allege upstream suppliers restrict their supply, not allowing central purchasing, among others.

However, closer examination of the issue would demonstrate that these same retailers have international agreements with brands suppliers, through the international central retail office or through international retail alliances. The Commission should include the review of these activities in its announced fact finding study on possible territorial supply constraints.

For Grocery

Ahold Delhaize is a member of both AMS¹⁷ and Coopernic¹⁸, whose bylaws as well as website advertise their **international purchasing and selling activities, jointly carried out with other European retailers**. Spar Austria, a 33 billion € international group, is in a joint purchasing agreement with a set of retailers in a set of countries (i.e. Colruyt in Belgium¹⁹, Casino in France...). Similar international alliances exist between other

¹¹ Secretariat General Benelux : Restrictions territoriales dans le commerce de détail, p.5. 2018

¹² Mediapart , franchises of Casino, Carrefour, Spar 11.10.2013 “the **retail buying group sells to their franchised stores products which are often 10% to 30% more expensive** than the price the shopkeeper could purchase in a regular supermarket ! yet the franchise stores if forced by contract to purchase at the retailer central buying group”

¹³ <http://www.lalibre.be/economie/libre-entreprise/des-franchises-assignent-mestdagh-en-justice-524b968035703eef3a0c3628>

¹⁴ Ahold Delhaize <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBNHO:2016:9360&keyword=%22vahfr%22>

¹⁵ Dia Franchisees against Dia forcing exclusive supply through their central purchase office, fixing consumer prices leading to lost of franchisees margins, Obligation to sell items with negative margins https://www.cnmec.es/sites/default/files/437809_0.pdf , against Carrefour

¹⁶ Avis N°10-A-26.7.12.2010 Franchisees contracts in the grocery sector

¹⁷ Joint purchasing and selling activities of Ahold Delhaize with retail Ica (Nordic), Jeronimo Martins (PT and Poland) Morrison (UK), Musgrave (Ireland), Migros (CH)... <https://www.ams-sourcing.com/ams/>

¹⁸ Joint purchasing and selling activities of Ahold Delhaize, Coop Italia, Leclerc (France), Rewe (Germany),

¹⁹ Colruyt Annual report, 2016-2017, p.72-74

grocery retailers, such as Agecore²⁰, Horizon²¹, EMD²², whose central international purchasing office for Europe is settled for all now in Switzerland, outside the European Union.

For Electronics, retail purchasing alliances such as: Alliance « Mano » (Casino and Conforama) ; Auchan and Boulanger; Carrefour, Media Saturn and Fnac . **For Pharmacy retail**, retail purchasing alliances Auchan – Parashop. **For the Automotive repair**: Rody (Intermarché) et Profil Plus

These alliances effectively lead to a further increased imbalance of bargaining power in the supply chain as well as may restrict cross border trade by forcing alignment of assortment and price as currently debated in the UK further to the announcement of such purchase alliance between Carrefour and Tesco²³.

As the Italian competition investigation demonstrated in 2014²⁴ against the buying alliance of several of the major grocery retailers, these contracts increase not just buying power and unfair trade practices²⁵ but by their complexity, they bring inefficiencies at the detriment of choice to consumers, as well as they increase costs for suppliers. The authority also concluded this alliance lead to anti-competitive behaviours through alignment on product, price, so called marketing activities.

This increased supply complexity can be visualised by the example of French retailer Leclerc having created a set of various retail alliances with various levels of purchase and selling activities with suppliers, from international negotiation to regional then local negotiation - a multiplication, duplication at time, of time and costs.

Increased Complexity: E.Leclerc® France example: where... what

Negotiation points

European agreements with other retailers	Bruxelles: Service agreement – additional (back) margin on national negotiation
European agreements on top with international office of retailer Leclerc	COOPERNIC*   REWE 
(multi-) National 3N negotiation with German retailer	Coopelec (Bruxelles) :Purchasing data - Leclerc stores in F/Sp/Pol/Pol
National 4N/5N negotiation	 REWE  National negotiation / General sales conditions and terms / JBP /commercial cooperation (back margin) for France & Others
Regional (in-country) negotiation	 16 regional centers: Logistic terms / SC penalties / launch of innovation /amplification of promotion , some assortment
Store level negotiation	Local assortment, shelf optimization, execution of promotion, Drives ...

Only for France, negotiation with 16 regional centers are necessary. Through the buying alliance between Leclerc and Rewe, negotiation with the 2 retailers are to include 16 European markets.

The French competition authority reviewing these central purchase retail alliances did warn against a set of possible anticompetitive behaviours leading to the reduction of choice as well as to gradual exclusion of the market of some players, namely SMEs.²⁶

²⁰ Joint purchasing and selling activities of Colruyt, Conad; Coop CH, Edeka (Germany), Eroski (Spain) and ITM (France)

²¹ Joint purchasing and selling activities of Metro, Casino, Auchan, Schiever, moving central office from Luxembourg to Geneva

²² EMD, European Marketing and Distribution <http://www.emd-ag.com/>, active in grocery and drugstore retail

²³ the respective N°1 retailer in France and the UK, n°4 and 5 at the level of the European grocery market.

²⁴ I768 - CENTRALE D'ACQUISTO PER LA GRANDE DISTRIBUZIONE ORGANIZZATA, *Provvedimento n. 24649*

²⁵ Also evidenced by competition enquiries condemning retailers in Spain and in France

²⁶ Avis N°15-A-06,31.3.2015 on retail alliances on assortment and purchasing in the grocery sector

Internationalisation of grocery retailing : top 5 retailers in Member States. Most are international retailers

2017	TOP 1	Top 2	Top 3	Top 4	Top 5
Austria	<u>Rewe</u>	Spar	Aldi	Schwarz/Lidl	<u>MPreis</u>
Belgium	<u>Colruyt</u>	<u>Ahold Delhaize</u>	Carrefour	Aldi	Schwarz/Lidl
Bulgaria	Schwarz/Lidl	<u>Coop Euro</u>	<u>Rewe</u>	Metro	<u>Fantastiko</u>
Croatia	<u>Agrokor</u>	<u>Schwarz(Lidl)</u>	Spar	<u>Plodine</u>	<u>Rewe</u>
Cyprus	<u>Alpha Mega</u>	<u>Schwarz(Lidl)</u>	<u>Sklavenitis</u>	<u>Denbenhams</u>	Spar
<u>Czech Republic</u>	<u>Schwarz /Lidl</u>	<u>Rewe</u>	Ahold Delhaize	Tesco	<u>Coop Euro</u>
Denmark	<u>Coop DK</u>	<u>Dansk Supermarked</u>	<u>Dagrofa</u>	<u>Reitan</u>	Schwarz/Lidl
Estonia	<u>Coop Eesti</u>	<u>Kaubajama</u>	Maxima	<u>Ica Gruppen</u>	Phoenix
Finland	SOK	<u>Kesko</u>	<u>Alko</u>	<u>Schwarz/Lidl</u>	<u>Reitan</u>
France	Carrefour	Leclerc	ITM	<u>Système U</u>	Casino
Germany	<u>Edeka</u>	<u>Schwarz (Lidl/Kaufland)</u>	<u>Rewe</u>	Aldi	Metro
Greece	<u>Sklavenitis</u>	Ahold Delhaize	<u>Schwarz(Lidl)</u>	<u>Metro Gre</u>	<u>Masoutis</u>
Hungary	<u>Coop Euro</u>	CBA	Tesco	Spar	<u>Real Hungaria</u>
Ireland	Musgrave	Tesco	Spar	Aldi	<u>Schwarz(Lidl)</u>
Italy	Coop Italia	<u>Conad</u>	<u>Esselunga</u>	<u>Auchan</u>	Carrefour
Latvia	Maxima	<u>Ica Gruppen</u>	SOK	<u>Aibe</u>	Couche-Tard
Lithuania	Maxima	<u>Norfa</u>	<u>Ica Gruppen</u>	<u>Aibe</u>	Schwarz(Lidl)
Luxembourg	Cactus	Louis Delhaize(Cora)	<u>Ahold Delhaize</u>	<u>Auchan</u>	Carrefour
Malta	Schwarz(Lidl)	<u>Debenhams</u>			
Netherlands	Ahold Delhaize	Jumbo Supermarken	Schwarz(Lidl)	Aldi	Plus
Poland	<u>Jeronimo Martins</u>	<u>Schwarz (Lidl/Kaufland)</u>	<u>Eurocash</u>	Tesco	Carrefour
Portugal	<u>Jeronimo Martins</u>	<u>Sonae</u>	Schwarz(Lidl)	ITM	<u>Auchan</u>
Romania	Carrefour	<u>Schwarz (Lidl/Kaufland)</u>	<u>Profi</u>	<u>Ahold Delhaize</u>	<u>Auchan</u>
Slovakia	<u>Schwarz (Lidl/Kaufland)</u>	<u>Coop Euro</u>	Tesco	<u>Rewe</u>	CBA
Slovenia	<u>Agrokor</u>	Spar	<u>TUS Trgovine</u>	Aldi	Schwarz(Lidl)
Spain	<u>Mercadona</u>	Carrefour	<u>Dia</u>	<u>Eroski</u>	<u>Auchan</u>
Sweden	<u>Ica Gruppen</u>	KF Gruppen	<u>Systembolaget</u>	KF Gruppen	<u>Bergendahls</u>
UK	Tesco	Sainsbury	<u>Asda</u>	Morrisons	Aldi

Source : Planet Retail, 2017