



# BUYING ALLIANCES

STRUCTURAL IMPACTS  
ON THE FOOD  
SUPPLY CHAIN

## 1. Retail alliances overview

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  - ii. Economic analysis of retail alliances: supply chain distortion?
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- i. ... On upstream suppliers
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## 3. Legal framework

- i. Legal authorities and levers
- ii. A Case study: *Horizon* Retail Alliance



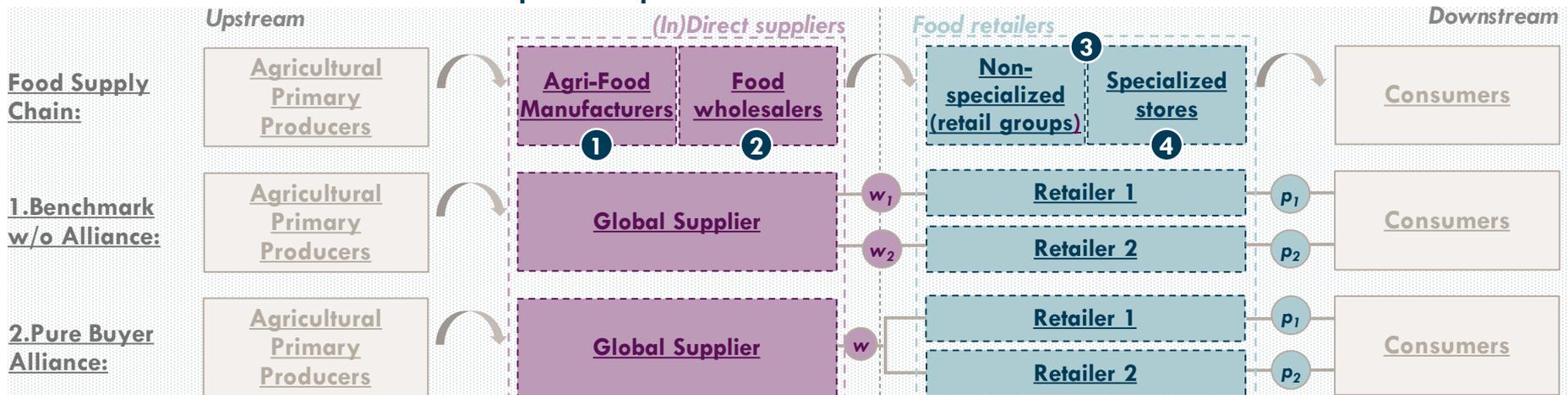
# Retail alliances overview

## A traditional food supply chain distorted by retail (buying) alliances

### — Retail alliances reshapes the B2B intermediary market on the food supply chain —

- Retail alliances can be defined as “**horizontal alliances** of retailers, retail chains or retail groups that cooperate in pooling some of their resources and activities, most importantly **relating to sourcing suppliers**” (cf. European Commission, 2020 quoting Dobson, 2019)
- Retail alliances encompass a **large scope of activities**:
  - **Joint-buying with A-brand manufacturers**
  - On-top agreements (service contracts) with A-brand manufacturers
  - **Joint sourcing of private label products (PLB)**
  - Networking (promotion of small brand manufacturers and/or private label suppliers to join tender offers)
  - Other activities: **sourcing of not-for-resale goods**, data sharing and processing
- These horizontal alliances – from the uncommon arm’s length transactions to M&A in its most extreme form – **affects the B2B intermediary goods market** but doesn’t change the structure of primary agricultural goods market nor the one of the consumer market

### — Traditional structure and additional pressure points



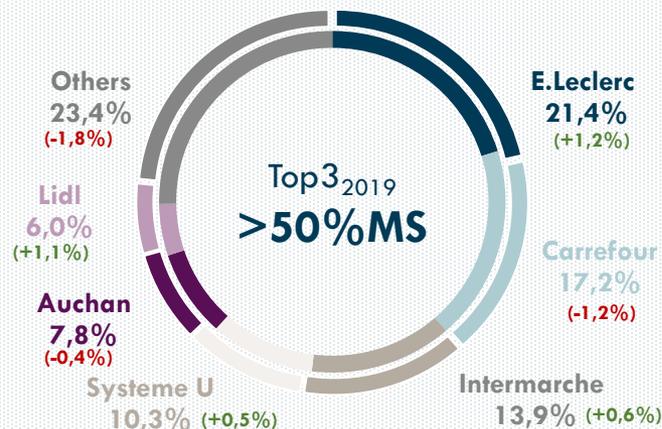
# Retail alliances overview

## The specific context of modern retailing

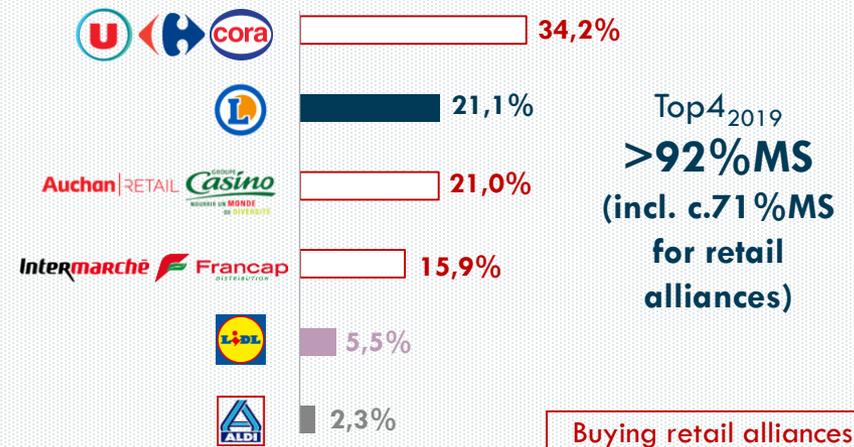
### — Increasing buying alliances to be seen within a context of high competitive pressure

- Increased **competition, concentration** and **internationalization**:
  - Independent retail outlets are facing the **expansion of discount stores and online retailing**
  - In **2016**, the **CR5** (joint market share of the 5 largest firms) is ranged from **35%** in Greece to **90%** in Finland
  - In **France**, **3 retail groups** (E.Leclerc, Carrefour, Intermarche) are concentrating more than **50%** of the French food retail market share. In the French food upstream market, suppliers are facing buying concentration with **4 large players gathering >92%** of the buying market (cf. figures below)
  - High number of **M&A transactions** and **expansion of discount stores across borders**
- In this **high pressure context**, **retail alliances** are argued to be **essential for retailers to remain competitive** by:
  - **Reducing the administrative costs of procurement** (transaction and/or negotiation costs) to generate scale efficiencies
  - **Increasing bargaining power with suppliers** to ensure better purchase conditions from suppliers
  - **Offering expertise and technology (formation) within the alliance**

### — Top French Retailers – 2015-19 Downstream MS



### — Top French Buyers – 2019 Upstream MS



# Retail alliances overview

Private Label (PL) standalone/w. alliance has particularly strong buying power

## As market matures, a successful PL strategy becomes a requirement for retailer success

- **PL continues to take market share globally:** in almost all regions we've seen PL grow its share of sales, with the UK (37%) and Germany (35%) among the most prevalent of PL markets. This trend is **driven by joint sourcings of PL products:** by pooling volumes, PL can be offered to retailers in a more efficient way, or for product categories in which retailers individually do not reach sufficient volume. Several reasons for this:
  - Price and price relevance invariably become a more important driver of relative market share
  - Retailers look for ways in which to differentiate their offering, other than through price: PL is an obvious answer to this, enabling a retailer to develop smaller local suppliers and **drive product innovation**
  - **PL has strong buying power:** the marginal cost of running the production line a bit longer for a given product will generally be some way < average cost => mutual agreement on beneficial productions runs can be reached
  - PL is invariably dilutive to sales mix, it **can be accretive to GP margin**, at least in percentage terms
  - PL **strengthens the retailer's negotiating position with branded suppliers:** retailers can use the implied threat of growing PL penetration, to try and gain better trading terms from branded suppliers, or to intensify price competition between suppliers, to the benefit of their own margins

## PL penetration is closely correlated to retailer concentration (2019)



# Retail alliances overview

Preliminary views on the impact of retail alliances & modern retailing pressure

1

## Agri-food manufacturers

- **Private labels**/own brands development either through vertical integration or special requests

**(-) Reduction in the number of suppliers / concentration through retailers practices**

2

## Wholesalers

- Central purchasing by retailers (through direct negotiation with the agri-food manufacturers or **buying alliances** with retail competitors)

**(-/-) Increased concentration and substitutability of wholesalers**

3

## National Retailers

- Increased national market concentration and internationalization

**(-) Reduction in the number of national smaller players (vs. key large national players and international groups)**

4

## Independent stores

- Development of modern retail owning stores and franchised stores + COVID crisis (negative effect of lockdown on independent stores without online platform)

**(-/-) Development of modern retail shops replacing specialized and independent stores**



# Buying alliances snapshot

## Mapping and Typology

### — Main European group purchasing partnerships and hubs

Partnerships	Creation Date	Geographic Reach	Agreement Structure		Private Labels	National Brands Products excl. PL	International Products/Services excl. PL
			Central	Individual			
<b>Horizon</b> (Auchan/Casino/Schiever/Metro)	2018		✓		✓	✓	✓
Carrefour/Tesco	2018		✓		✓		✓
Carrefour/Systeme U	2018		✓			✓	✓
Carrefour/Cora	2016			✓			
Intermarche/Casino	2014		✓			✓	
Auchan/Systeme U	2014		✓		✓	✓	
EMD (13 European retailers)	1989		✓		✓		

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### Potential Positive Effects

#### Volume and market shares:

- **Market expansion** through new entry (European Retail Alliances) and/or larger revenues derived from possibly reduced consumer prices
- **Volume guarantee** and access to a **larger retail network**

#### Service Proposition:

- **Better knowledge** of (foreign) markets
- **Harmonised demands, promotion services**
- **Access to data** on retail sales across new entered markets

#### Innovation:

- Expected **increase in innovation** (if the buying power of the retail alliance is not too large)

#### Supplier competition:

- **Enhanced competition** among food manufacturing players

### Potential Negative Effects

#### Volume and market shares:

- **Negative impact on volume** following delisting threats (and executions)
- Potential **decrease in margins** if facing a strong bargaining partner
- **Overwhelmed smaller suppliers**

#### Service Proposition:

- **Fee to be paid** whatever added value resulting from the retail alliance

#### Innovation:

- Expected **decrease in innovation** (if the buying power of the retail alliance is too large)

#### Supplier competition:

- **Increased consolidation** among food manufacturing players

Direct suppliers



### Potential Positive Effects

#### Efficiencies from joint activities:

- **Joint negotiation, marketing, logistics...etc.**
- **PL development:** provides retail with greater control across the supply chain, and the ability to extract cost and efficiency savings, providing better value for customers

#### Bargaining power :

- **Access to price discounts** by combining volumes
- **Better purchasing terms** through increase buyer power

#### Retail competition :

- Expected **increase in competition for smaller retailers**, avoiding further consolidation of the sector

### Potential Negative Effects

#### Bargaining power :

- **No effect on purchasing prices and consumer prices**, applicable under specific circumstances **if RA members compete eventually in the final good (end-use) market** with significant joint market share despite efficient central negotiation

#### Retail competition :

- **Price collusion risks in national markets** (if RA members compete eventually in the final good (end-use) market with significant joint market share)
- **Potential collusion** through market allocation
- **Potential increase in consolidation**

Retailers



### Potential Positive Effects

#### Consumer prices:

- Pass-through of **cost efficiencies**
- **Countervailing power effect:** buying power can act as counterweight to upstream market power, and such, benefit consumers in the form of lower consumer prices
- **Increase in competition in food manufacturing and retail sector**

#### Assortment (diversity of products offered):

- **Access to a larger choice of private labels**
- **Increase in variety** through supplier innovation

### Potential Negative Effects

#### Consumer prices:

- No pass-through of **cost efficiencies and countervailing power** if central negotiation purchasing terms + retail alliance members compete in final good market with significant joint market share
- **Higher prices** due to a **reduced retail competition**

#### Assortment (diversity of products offered):

- **Potential decrease in variety** due to a potential harmonization of private label products
- **Decrease in variety** if retail alliances reduce supplier innovation

Consumers



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### — Not any specific legal corpus tackling retail buying alliances issues

- At the **EU level**, there is **no legislation specifically addressed to retail alliances** which do not fall into merger regulation
- But there are **competition laws at the European and national level** (rules on agreements, dominant undertakings...) generally applied to the conduct of any undertakings on the markets, incl. retail alliances (and its members)

### — At the EU Level

- **Article 101 TFEU<sup>(1)</sup>**: targets **collective action which could restrict competition** on the internal market. Possible economic efficiencies can be considered, and an exemption may be granted (economic benefits must outweigh negative effects of a restriction of competition)
- **Article 102 TFEU**: targets unilateral conduct of undertakings in a dominant position which could lead to a **dominance abuse** towards other players of the supply chain (or to explicitly exclude competitors)
- **EU Soft law: Horizontal Cooperation Guidelines** (2011, from the EC Merger Control Regulation), analytical framework and guidelines for the applicability of Articles 101/102 TFEU on horizontal alliances (and their general assessment), provided by the European Commission (not binding on national courts and authorities)

### — At the National Level (France)

- Joint purchasing practices essentially within the scope of action of the **DGCCRF<sup>(2)</sup>**
- Government and Senate seek **opinion from FCA** regarding the impact of buying alliances on competition:
  - **Opinion of 31 March 2015**: Recommendations to the French Ministry for the Economy following many joint buying agreements between 2014 and 2015 (Système U/Auchan, Casino/Intermarche, Carrefour/Cora)
- General focus of the FCA on the presence of Market Power and **assessment of competition risks** on selling and procurement markets
- **Oct-2018 Egalim Act**: under this law, the FCA can conduct **examinations** regarding buying alliances **on its own initiative**, which **may lead to the suspension** of the agreements

# 'Horizon' Case Study (1/2)

An illustration of the French Competition Authority (FCA) activism

## Initial Agreement Content

- **Jun-2018 – Announcement** of the creation of a set of alliances in purchasing called '**Horizon**' gathering together 4 European players (Auchan, Casino, Metro, Schiever)
  - 3 areas covered in **France**: (i) Purchase of **national brands** from the main manufacturers/(ii) Invitations to tender for **private label brands**/(iii) **Common development of agricultural sectors**
  - 3 areas covered **worldwide**: (i) **International Services offering** from main brands suppliers/(ii) Invitation to international tender for **private label brands**/(iii) **Support of SMEs** in their international development

c.€130bn Global  
Combined Sales



>€39bn French  
Combined Sales



+17,000  
Combined PoS



+110  
FMCG<sup>(1)</sup> Suppliers



## Potential competition risks identified by the French Competition Authority

- **Moy-2018 – Competitive Impact Assessment following the notification** – cf. Egalim Law:
  - **Upstream Market**: (i) Supply contractual conditions are seen as potentially unfavorable to suppliers (lack of exclusivity, short-term contracts, lack of volume commitments) / (ii) A large share of small suppliers, which are more exposed to a sudden drop in price or loss of volumes that could result from the joint buying
  - **Downstream Market**: (i) Potential limitation of the variety of the assortment offered / (ii) Potential decrease in competitive intensity between retailers

## Proposed commitments by the members of the alliance, subject to FCA's approval

- **June 2020 - Pledges** made by the alliance in relation to their cooperation agreements **under review**, to see whether they eliminate any trust concerns
- Commitment proposals aim to **revise the cooperation agreement relating to products marketed under their private labels**
- Also seek to **exclude from the scope of the agreement the purchase of several categories of products**, notably agricultural, and to **limit the volume of purchases of other products**
- **If the proposed commitments** – which could have been amended until Jul-2020 – **address competition concerns**, they **could be made binding** and the regulator **would close the case**



# 'Horizon' Case Study (2/2)

The FCA approved the commitments proposed by the alliance

## — Initial cooperation agreement amended, reducing the scope for joint purchasing of PL products



- **Exclusion of 6 agricultural product categories** [from sectors in economic turmoil]

*{drinking milk, fresh milk, eggs, self-service cooked charcuterie, cold meats, cider}*



- **Limitation of cooperation for 12 product categories** [up to 15% of market volume]

*{potatoes, flour, sugar, syrup, canned meat or fish...}*



- **Cooperation maintained for non-sensitive products** [which are not agricultural products or from sectors in difficulty]

*{coffee, salt, pepper, water...}*



