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PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**SETTING UP A EUROPEAN RETAIL ACTION PLAN**

(Text with EEA relevance)

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## 1. INTRODUCTION

Retail and wholesale services, also known as distributive trades, represent 11 % of the EU's GDP and account for almost 15% of the EU's total employment. More than 6 million companies, i.e., 29% of all EU undertakings, are active in this sector. The retail sector is characterised by a very high share of SMEs, particularly micro companies (more than 95%)<sup>1</sup>. Retail and wholesale are closely linked to each other, and to other economic sectors such as agriculture, manufacturing, IT services, energy, logistics and transport<sup>2</sup>. These sectors are becoming more and more integrated, and the distinction among them is increasingly blurred, as some retailers are now acting also as wholesalers, or even manufacturers.

The retail and wholesale sectors have an essential role to play in stimulating growth and job creation under the Europe 2020 strategy: they are among the key sectors that can drive the transition to both a more sustainable economy and consumption patterns. Efficiency in this sector has implications for competition, innovation, price trends and competitiveness.

Retailers play an important role in bringing the Single Market to the EU's consumers. However, barriers remain that hamper the creation of an efficient and competitive Single Market in Retail. According to the Consumer Conditions Scoreboard of May 2012, the EU Retail Single Market is "still far from being fully integrated"<sup>3</sup>. There are also various barriers that hinder processes such as cross-border sourcing or market entry by retailers themselves. Obstacles to the development of the Single Market in Retail have been identified in the Commission's *Retail Market Monitoring Report*<sup>4</sup>, the European Parliament Report '*Towards a more efficient and fair retail sector*'<sup>5</sup> and the workshops<sup>6</sup> organised by the Commission during the preparation of this Action Plan. While the Services Directive<sup>7</sup> and its follow-up measures<sup>8</sup> define a general strategy in the field of services, this Action Plan specifically targets the retail and wholesale sector. It provides a roadmap towards a Single Market in Retail.

The bottlenecks identified in the retail sector - often cutting across various policy areas - need to be addressed through a coherent plan to enhance the sector's economic, social and environmental performance, and to ensure that it fully contributes to the goals of the Europe 2020 Strategy. As already identified in the context of the Country Specific Recommendations

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<sup>1</sup> Source: Eurostat SBS (2010).

<sup>2</sup> This Action Plan covers all distributive trades (Section G of the NACE Rev 2 classification: NACE), including automotive, wholesale and retail trade. Therefore, the title "Retail Action Plan" is intended to have a wider scope than "retail" *stricto sensu*.

<sup>3</sup> [http://ec.europa.eu/consumers/consumer\\_research/editions/docs/7th\\_edition\\_scoreboard\\_en.pdf](http://ec.europa.eu/consumers/consumer_research/editions/docs/7th_edition_scoreboard_en.pdf)

<sup>4</sup> Retail market monitoring report, '*Towards more efficient and fairer retail services in the internal market for 2020*' (COM(2010) 355 final, of 5 July 2010).

<sup>5</sup> European Parliament resolution of 5 July 2011 on a more efficient and fairer retail market (2010/2109(INI)).

<sup>6</sup> Organised during the first quarter of 2012 with representatives of the main stakeholders in the retail supply chain (summaries of the meetings are available at [http://ec.europa.eu/internal\\_market/retail/index\\_en.htm](http://ec.europa.eu/internal_market/retail/index_en.htm)).

<sup>7</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ No L 376 of 27 December 2006, p. 36.)

<sup>8</sup> Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions on the implementation of the Services Directive: "*A partnership for new growth in services 2012-2015*" (COM(2012) 261final of 8 June 2012); and Staff Working Documents (2012)146 final, 147 final and 148 final of 8 June 2012.

(CSRs) issued by the Council in July 2012, two major challenges exist in the EU retail sector: (i) restrictions on establishment; and more generally, (ii) lack of competitiveness in the retail sector, in particular in some Member States, and a need to lower barriers and reduce operational restrictions.

This Action Plan aims at addressing the above-mentioned key obstacles to achieving a Single Market in Retail by setting out a strategy to improve the competitiveness of the retail sector and enhance the sector's economic, environmental and social performance. Its strategic goals cannot be met, however, simply by top-down measures, but will require the active collaboration and initiative of the retail sector itself. For example, responsibility for the investment in skills will have to be shared, and the retail sector must play an important role here, alongside governments, individuals, and the educational sector.

European retail services present a diverse and complex picture. Hence, there is no "one size fits all" solution or approach to the challenges they face. The diversity of the retail sector includes differences in terms of the type of providers (SMEs or larger companies), organisation (groups of independent retailers, cooperatives, corporations, etc.), outlet sizes, formats, product lines, the supply chains involved, locations, business models, levels of vertical integration, ownership structures and size of operations.

Productivity levels in the distributive trades sector need to be improved in Europe, while preserving the quality of jobs and current levels of employment. Micro companies and SMEs contribute a relatively large share to EU value added, which is why actions are needed that will stimulate their productivity even further so as to bring both more growth and more jobs to the EU. Some of the measures proposed in this Action Plan (e.g., the measure on labelling) will help companies reallocate resources to those activities that generate real growth, thereby boosting their productivity. This is especially true for SMEs, which often have to devote a large proportion of their human and financial resources to information gathering, in particular on rules applicable in other Member States. Some of the other measures proposed in this Action Plan (e.g., the measure on electronic payments) will encourage distance sales through the internet and thus create opportunities, in particular for SMEs, to expand their consumer base, possibly beyond national borders. They will also help achieve the objectives defined in the Communication "A Digital Agenda for Europe"<sup>9</sup> and the "E-Commerce Action Plan"<sup>10</sup>.

## **2. ACHIEVING A SINGLE MARKET IN RETAIL**

Over the last decades, the EU Retail Sector had undergone sweeping changes, and currently faces a number of challenges that hamper the ability of the sector to fully contribute to the Europe 2020 goals of growth and job creation.

Therefore, it is essential to propose a strategy for achieving a well-functioning Single Market in Retail, thereby contributing to the EU's territorial and social cohesion - through improved access to more sustainable and competitive retail services. Such a strategy would make a

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<sup>9</sup> Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions 'A Digital Agenda for Europe' (COM(2010) 245 final of 26 August 2010).

<sup>10</sup> Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions 'A coherent framework for building trust in the digital single market for e-commerce and online services' (COM(2011) 942 final of 11 January 2012 also known as the E-Commerce Action Plan).

substantial contribution to economic growth, and would enable retailers to deliver even greater value to European consumers.

## **2.1 Change in the Retail Sector**

Over the past two decades, modernisation of the EU economy has resulted in many changes in retail. Networks of outlets have emerged selling multiple product lines. Vertical integration has enabled retailers to benefit from more efficient distribution and logistics. Large retailers have come to enjoy significant economies of scale in the purchasing process, increasing their bargaining power *vis-à-vis* suppliers. Centralised purchasing has led to a gradual internationalisation of supply, both within the EU and when buying from third countries. Buying alliances and groups of independent SME retailers have been created to pool their expertise and to benefit from economies of scale. Finally, the retailers' quest to respond better to consumer demand has led them to increase their control over the supply chain (e.g., through private labels)<sup>11</sup>.

Together, such changes have led to an increase in outlet numbers, formats and product lines, and a relative decrease in end-consumer prices. However, increased competition and squeezed margins have also driven many small independent shops and SME producers/suppliers out of business. Increased pressure on working conditions has not necessarily produced only advantages for consumers, and has sometimes even increased the EU's environmental footprint.

## **2.2 The Retail Sector Faces Multiple Challenges**

Currently, retailers face varied challenges depending on their size and sectors of activity. The development of e-commerce is also putting pressure on the retail sector to reinvent its business models. In addition, a blurring of the borderline between sectors (the scope of retail services continues to broaden through the constant addition of new products and services, including financial, telecommunications and travel services, utilities, etc.) means that business models are becoming more and more multifaceted. Global phenomena, such as the consequences of the financial crisis for consumers' purchasing power, rising commodity prices, demographic trends, in particular the aging of the EU population, and the drive for sustainability, all challenge existing retail business models and processes.

As explained above, the challenges in the retail sector may be different for various types of retailers and may differ across Member States due to differences in national markets. For example, new technologies for paying via smart phones (mobile payments) are emerging. However, this requires setting up the necessary infrastructure for accepting these payments at the point of sale. For large retailers, operating in more than one Member State, one of the main challenges in this respect is the absence of pan-European standards for the acceptance of mobile payments. Smaller retailers may not always have the necessary skills for dealing with new technologies.

## **2.3 A Retail Single Market for the Benefit of All Actors**

Addressing the key bottlenecks in achieving the Single Market in Retail has the potential to bring benefits to all the actors concerned, and to the environment:

- Consumers: improved access to quality retail services and products, more competitive prices and better information on quality and prices, as well as on the environmental

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<sup>11</sup> Staff Working document accompanying the Retail Market Monitoring Report (SEC(2010) 807), p. 11.

characteristics of products, would enhance consumer choice within both ‘bricks and mortar’ and e-commerce retail formats.

- ***Businesses***: retailers and their suppliers, especially SMEs, would benefit tangibly from the Single Market through the development of a more predictable legal environment, enabling them to deliver even greater value throughout the supply chain. Similarly, by addressing unfairness in the supply chain, upstream and downstream players would enjoy more sustainable relationships and would be encouraged to increase both innovation and investment. Further development of e-commerce will benefit retailers by providing them with more opportunities to find new markets.
- ***Employees***: the retail sector should benefit from more qualified staff and improved working conditions, leading to higher job satisfaction. Improving employee training would also help provide better job opportunities, especially for the young and less qualified.

These varied issues cannot be addressed in isolation. The policy actions proposed must strike the right balance between economic freedoms and public-interest objectives. To achieve these goals, this Communication sets out a European Retail Action Plan based on 11 concrete actions, forming a coherent, holistic European strategy<sup>12</sup>.

In addition, the Commission will set up a permanent ***Group on Retail Competitiveness*** involving Member States and all relevant stakeholders, especially SMEs, to help trigger a ‘*retail reflex*’ in the political agenda, increasing awareness of retail issues and concerns. This Group will help develop further specific objectives for the areas identified, monitor progress achieved, issue recommendations to ensure full implementation of the actions included in this Plan and, where necessary, will advise the Commission on additional new actions that could be proposed.

### **3. FIVE KEY DRIVERS FOR MORE COMPETITIVE AND SUSTAINABLE RETAIL SERVICES**

The Commission has identified the following five key priorities:

- (1) *Consumer empowerment* - through, *inter alia*, more transparent, more reliable and more directly comparable information on the price and quality of products.
- (2) *Improved access to more sustainable and competitive retail services* - both ‘bricks and mortar’ and e-commerce retail could benefit from improved market access, in particular through clearer and more transparent establishment rules.
- (3) *Fairer and more sustainable trading relationships along the retail supply chain* - stakeholders would benefit from a framework effectively tackling unfair trading practices.
- (4) *More innovative solutions* - stakeholders would benefit if research results were brought more rapidly to market.

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<sup>12</sup> The proposed approach is in line with the principles announced in the Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions “*EU Regulatory Fitness* ” (COM (2012) 746 final of 12 December 2012). In this context the Commission is committed to reviewing existing legislation in the retail sector with a view to identify the potential for simplifying rules and reducing regulatory costs for business and citizens without compromising public policy objectives.

- (5) *Better working environment* - both employees and employers will benefit from creating better working conditions and addressing mismatches between skills required and those available.

### 3.1 Consumer empowerment

The European Consumer Agenda<sup>13</sup> emphasised that empowering consumers in an integrated Single Market requires a robust set of principles and tools. Such a framework ensures a proper enforcement of consumer rights, as well as access to effective redress, reliable and meaningful information and improved consumer education.

Empowered consumers can make better purchasing decisions. They search for information and make use of it. They also know and use their rights. More knowledgeable and involved consumers are not only more capable of finding the '*best value for money*', but are also more interested in sustainable and ethical consumption. Consumer choices and preferences are among the key factors driving the development of the retail sector. Retailers are well-positioned to inform consumer purchasing decisions positively: through day-to-day contact with their clients and the influence they have on other actors in the supply chain, retailers can inform consumers of products that are of higher quality, ethically produced, or which are distinguished by their better environmental and/or social performance.

By improving transparency for consumers, the retail sector has the potential to create a true Single Market in Retail. Giving consumers easier access to reliable, relevant and meaningful information about the variety of offers available across the EU will enable them to take full advantage of the Single Market. Facilitating the comparison of offers would help consumers choose the products and services that best fit their needs, thus promoting healthy competition. In combination with other measures that can address the persistent cases of fragmentation of the EU market, this should contribute to EU-wide price convergence. Actions to improve the transparency and reliability of information for consumers would be especially beneficial if implemented at EU level, given that strictly national measures, however well-designed, would fail to capture the benefits that could be derived from a truly integrated Single Market.

#### 3.1.1 Consumer Information

According to existing research, a majority of Europeans who use the Internet search for information in order to compare price or quality, before buying goods on- or off-line. Faced with an information overload, they often turn to intermediaries, such as online comparison tools, that can help them identify the best offers available. Although this type of websites can help consumers compare offers, the practices of such information intermediaries also show significant shortcomings<sup>14</sup>. To really be of benefit to consumers, comparison tools should be relevant to their needs, as well as transparent, reliable and comprehensive and easily-accessible. The inclusion of cross-border offers by comparison websites is important for consumers to be able to take full advantage of the Single Market.

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<sup>13</sup> Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions "A European Consumer Agenda - Boosting confidence and growth" (COM(2012) 225 final of 22 May 2012).

<sup>14</sup> Consumer market study on the functioning of e-commerce and internet market and selling techniques in the retail of goods, CIVIC consulting, 2011:  
[http://ec.europa.eu/consumers/consumer\\_research/market\\_studies/e\\_commerce\\_study\\_en.htm](http://ec.europa.eu/consumers/consumer_research/market_studies/e_commerce_study_en.htm)

Moreover, better consumer information entails not only raising consumer awareness so as to support their ability to uphold their rights, but also raising businesses' awareness of their obligations stemming from consumer legislation applicable across the Single Market.

As indicated in the European Consumer Agenda and the E-Commerce Action Plan, the Commission will work with intermediaries and traders with a view to developing codes of good conduct, good practice guidelines, and/or other tools for price comparison, as most appropriate.

In addition, as part of the Digital Agenda, the Code of EU online rights compiles legal consumer rights set in EU legislation related to the digital environment in a transparent and comprehensive way. The Code is an important tool for inspiring trust and confidence among consumers and contributes to greater use of online services<sup>15</sup>.

### 3.1.2 More Sustainable Consumer Choices

The environmental performance of organisations and products is currently measured and communicated using a range of channels and formats, under different private and public initiatives, with different levels of ambition, and using different assessment methodologies. This leads to a diverse landscape of labels, claims and reporting schemes. Introducing harmonised European methodologies will bring more transparency for consumers. While developing such methodologies, the Commission will ensure that a level playing field exists for businesses and that costs are kept to a minimum, especially for SMEs.

#### **Actions:**

- (1) *Through dialogue with stakeholders, the Commission will develop good-practice guidelines and/or codes of conduct to facilitate consumer access to transparent and reliable information, making it easier to compare prices, quality and the sustainability of goods and services.*
- (2) *The Commission will propose European methodologies for measuring and communicating the overall environmental impact of products and organisations.*

### 3.2 Access to More Competitive Retail Services

The accessibility of retail services has substantially increased in recent years, in terms of both location and availability. The development of e-commerce has become an integral part of retailers' business models, increasing the range of products/services available and facilitating price comparison. Nevertheless, a number of issues remain to be addressed to boost competition in retail services.

The need to eliminate existing barriers to establishment, and more generally to strengthen competition in the retail sector, was one of the main CSRs arising from the 2012 European Semester whose goal was to bring more growth and more jobs to Europe. Introducing pro-competitive measures, in particular those linked to e-commerce, would help strengthen the Single Market, especially for SMEs. Moreover, according to some recent estimates<sup>16</sup>, the economic impact of the Services Directive could lead to an increase of up to 2.6% in the EU's GDP if fully implemented. Given that the retail and wholesale sectors represent a quarter of

<sup>15</sup> <https://ec.europa.eu/digital-agenda/en/code-eu-online-rights>

<sup>16</sup> [http://ec.europa.eu/economy\\_finance/publications/economic\\_paper/2012/ecp456\\_en.htm](http://ec.europa.eu/economy_finance/publications/economic_paper/2012/ecp456_en.htm)



the value added of all sectors covered by the Services Directive, the impact of eliminating the remaining barriers in these sectors should be significant.

### 3.2.1 Commercial Establishment

Competition between retailers can be boosted by facilitating market entry. Selecting the right location for retail development and the timely start of operations are decisive for business success. Execution depends not only on the availability of suitable real estate, but also on the existence of commercial and spatial planning rules and procedures that do not inappropriately hamper competition.

The responsibility to ensure balanced and sustainable territorial development lies primarily with Member States. Their action may lead to restrictions on the location or the range of products/services retailers can offer. Such restrictions have a major impact on: (i) territorial organisation (e.g., traffic and transport infrastructure); (ii) the scope businesses enjoy to open and operate shops; (iii) retailers' formats; and (iv) consumer choice. As recognised by the Court of Justice of the European Union, restrictions on the freedom of commercial establishment may be justified by overriding reasons in the public interest, such as environmental protection, town and country planning and consumer protection, provided that they are appropriate and proportionate<sup>17</sup>.

It is therefore important to ensure, on the one hand, respect of the freedom of establishment and avoiding distortion of competition, and, on the other hand, respect for other relevant objectives and interests enshrined in the EU's general policies. There is a need for a balanced approach which can take into account, *inter alia*, planning for sustainable development, for territorial cohesion, and for a high quality of both urban and rural life, as well as minimising environmental impacts<sup>18</sup>.

The Services Directive, which applies in this field, also contains a number of unequivocal obligations for Member States. One of these is the obligation to eliminate requirements prohibited by the Services Directive, such as economic tests which make the granting of an authorisation to carry out a service activity subject to proof of the existence of an economic need or market demand, an assessment of the potential or current economic effects of the activity, or an assessment of the appropriateness of the activity in relation to the economic planning objectives set by the competent authority. In the Communication on the implementation of the Services Directive<sup>19</sup>, the Commission has announced a zero-tolerance policy to eliminate the remaining cases of non-compliance with unequivocal obligations such as the one to remove economic tests that still apply in some Member States despite being forbidden by the Services Directive. The zero-tolerance policy does not, however, concern those planning requirements that serve overriding reasons relating to the public interest<sup>20</sup>.

Therefore, taking into account certain important EU objectives such as territorial cohesion and environmental protection, efforts should be made to identify and disseminate good practices

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<sup>17</sup> CJEU judgment C-400/08, *Commission v/ Spain* of 24 March 2011.

<sup>18</sup> To assess the appropriateness of environmental measures, various tools will be used, including the Strategic Environmental Assessment (SEA) Directive (Directive 2001/42/EC). In addition, for concrete projects such as the construction of shopping centres and car parks, a 'screening' under Article 4(2) of the Environmental Impact Assessment (EIA) Directive (Directive 2011/92/EU) has to be carried out, on the basis of which it will be decided if a full EIA procedure is necessary.

<sup>19</sup> COM(2012) 261 final.

<sup>20</sup> Staff Working Document to the Communication on the implementation of the Services Directive (SWD(2012)148 final of 8 June 2012).

of commercial planning that can ensure the successful marriage of a competitive retail sector with fair and sustainable development of cities, towns and rural areas across the European Union.

### 3.2.2 E-commerce

The significant spread of e-commerce has led to enhanced competition between traditional retailers and on-line distribution channels, and is generating fresh opportunities that can unleash significant growth potential. However, e-commerce currently represents only 5% of total EU retail sales<sup>21</sup>, and only 10% of EU citizens have shopped online in another Member State, while 39% do so in their own Member State<sup>22</sup>. These numbers demonstrate the vast unexplored potential of the digital economy. Adapting to these new realities by developing multichannel strategies would pave the way for SMEs to tap the potential for growth linked to the on-line channel. Indeed, SMEs that make substantial use of Internet technologies grow and export twice as much as others. They also create twice as many jobs<sup>23</sup>. For example, 97% of eBay "commercial sellers", including 94% of the smallest 10% of "commercial sellers", sell goods abroad<sup>24</sup>. This shows that, with limited investment, SMEs can use an on-line platform to reach foreign markets and develop a potentially significant cross-border activity. In this changing environment, the Commission will follow developments closely in both the on- and off-line retail markets, examine their respective roles in modern retailing, and shape its possible actions so as to respond positively to this dynamism.

In this context, it is important to verify that new legislative proposals would have no detrimental impact on either traditional retail or e-commerce, especially as regards cross-border sales. Careful reflection is therefore needed when contemplating any new legislative proposal. The Commission will pro-actively examine these issues in preparatory work on all such new proposals.

#### **Actions:**

- (3) *Member States must remove all remaining instances of non-compliance with unequivocal obligations under the Services Directive concerning access to, and exercise of, retail activities, including eliminating economic needs tests within the meaning of Article 14§5 of the Services Directive. The Commission will apply its zero-tolerance policy through infringement procedures, where appropriate.*
- (4) *The Commission will:*
  - a) *Launch a performance check in the retail sector to explore how commercial and spatial planning rules and plans are applied on the ground by the competent authorities where a potential service provider wishes to set up a small, medium or large retail outlet.*
  - b) *Through exchange of best practices, provide for greater clarity regarding the proper balance between freedom of establishment, spatial/commercial planning, and environmental and social protection.*

<sup>21</sup> Source: Eurostat, ICT usage and e-commerce in enterprises, 2011.

<sup>22</sup> Source: Eurostat, ICT usage in households and by individuals, 2011.

<sup>23</sup> Internet Matters, the net's sweeping impact on growth, jobs, and prosperity, McKinsey Global institute, May 2011.

<sup>24</sup> Source: EBay study, "Enabling traders to enter and grow on the global stage", June 2012.

### **3.3 Developing a More Balanced Business-to-Business Food and Non-Food Supply Chain**

Unfair Trading Practices (UTPs) are practices and terms that grossly deviate from good commercial conduct and which are contrary to good faith and fair dealing in business-to-business (B2B) relationships. The B2B retail food and non-food supply chain is the chain of transactions between undertakings or between undertakings and public authorities that leads to the delivery of goods destined mainly to the general public for personal or household consumption or utilisation. It is composed of a number of actors (producers/processors/distributors). A well-functioning B2B food and non-food supply chain is key to achieve the maximum economic potential of those sub-sectors. UTPs are typically imposed in a situation of imbalance of power by a stronger party on a weaker one.

Fairness in B2B relationships ensures the proper functioning of the B2B food and non-food supply chain. It is alleged that UTPs' negative impact may affect the capacity of companies, especially SMEs, to invest and innovate. An example of a UTP could be the case of practices enabling retailers to transfer back to suppliers part of the risk involved in retailing. This may be applied in case of low sales, sales discounts, season-end inventory, etc. Further example of a UTP could be the case where territorial supply constraints imposed by certain multi-national suppliers impede retailers from sourcing identical goods cross-border from a central location from where they could be distributed to other Member States. Such constraints segment the market and can result in significant wholesale price differences between countries. Addressing these issues would diminish such differences and help retailers bring the benefits of the Single Market to consumers.

Different approaches exist to address UTPs at national level. Where UTPs are addressed, national (regulatory or self-regulatory) rules usually differ from one Member State to another. In Member States where no specific frameworks on UTPs exist, the reasoning usually provided is that general competition law is sufficiently effective to address the issue or that there is a certain reluctance to interfere with the contractual freedom of the parties, especially in the absence of a breach of competition rules.

In the food sector, the work of the High Level Forum for a Better Functioning Food Supply Chain represented a concerted effort by stakeholders to bring forward a self-regulatory solution to this problem. The Expert Platform on B2B Contractual Practices has delivered a set of principles of fair practices in vertical relations in the food supply chain signed by eleven organisations representing different interests across the European food supply chain<sup>25</sup> and has been working on an enforcement mechanism. Despite common efforts, the proposed framework did not gain the support of representatives from across the entire supply chain and failed to identify effective remedies for non-compliance. Work is on-going to find a compromise through this sector-specific approach, and the Commission will continue to monitor the specific developments in the food supply chain.

In order to ensure that effective solutions can be found, the issue of UTPs in relationships throughout the B2B supply chain should be approached through a broader perspective. Evolution in the retail sector, in particular "mixed" formats, means that UTPs may occur in other sectors of the B2B food and non-food supply chain.

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<sup>25</sup> AIM, CEJA, CELCAA, CLITRAVI, Copa-Cogeca, ERRT, EuroCommerce, EuroCoop, FoodDrinkEurope, UEAPME and UGAL.

### 3.3.1 Addressing UTPs

As a part of this Action Plan, the Commission is adopting in parallel a Green Paper on UTPs in the B2B food and non-food supply chain. The Green Paper will open a consultation on this topic, the results of which are expected to be available by late spring 2013. Based on the results of the consultation, the Commission will consider appropriate next steps in 2013.

#### **Action:**

- (5) *The Commission will adopt a Green Paper detailing the common features of UTPs in the B2B food and non-food supply chain and open a consultation the results of which will be available by late spring 2013. The results of the consultation will feed into an impact assessment of the different options identified to address the issue at EU level.*

### 3.4 Developing a More Sustainable Retail Supply Chain

Optimising the environmental performance of the EU's retail and wholesale sector (e.g., by reducing food-related waste and unnecessary packaging, and by promoting sustainable sourcing) could result in an increased standard of living and better quality of life in the EU, while at the same time saving resources and supporting innovative SMEs which promote environmentally friendly activities.

#### 3.4.1 More Sustainable Production and Consumption

Retailers are in a pivotal position to promote more sustainable consumption patterns, not only through their daily contact with millions of European consumers, but also through their own actions and their partnerships with suppliers. Research results<sup>26</sup> illustrate that it is crucial that retailers strive to offer product ranges that are more sustainable and environmentally-friendly and thus move towards greener supply chains<sup>27</sup>. Some retailers have already developed such strategies, and have successfully implemented them as part of their daily business practices.

Retailers have an important role in guiding consumers to make more sustainable choices and in tackling confusion generated by multiple green-labels and claims, by promoting clear and comparable product environmental footprinting<sup>28</sup> and awareness of the EU Eco-label.

Another key question is the issue of energy savings. The potential for food retailers to improve their energy efficiency is especially big. The most important measures would be

<sup>26</sup> E.g., the EU EMAS Sectoral Reference Document on Best Environmental Management Practices (BEMPs) in the Retail Trade Sector.

<sup>27</sup> JRC/IPTS Pilot Reference Document on Best Environmental Management Practice in the Retail Trade Sector (2011), <http://susproc.jrc.ec.europa.eu/activities/emas/documents/RetailTradeSector.pdf> and JRC/IPTS (Styles et al), Environmental Improvement of Product Supply Chains: A Review of European Retailer' Performance, Resources, Conservation and Recycling 65 (2012) 57-78, and, Environmental Improvement of Product Supply Chains: Proposed Best Practice Techniques, Quantitative Indicators and Benchmarks of Excellence for Retailers, Journal of Environmental Management 110 (2012) 135-150.

<sup>28</sup> As announced in the Single Market Act, the Commission will adopt a Communication on the Single Market for Green Products in 2013 including harmonised criteria and methodologies for environmental footprinting for certain product categories.

covering display cases, and recovering refrigeration heat waste in order to use it for space heating, as well as using natural refrigerants<sup>29</sup>.

### 3.4.2 Reducing Food Waste

Building awareness and helping consumers fight food waste are vital to achieving sustainable patterns of consumer choices. Such waste stems mainly from: (i) supply-chain inefficiencies; (ii) stock-management inefficiencies; (iii) marketing strategies; and (iv) marketing standards (product rejection due to packaging issues, where neither food quality nor safety is affected). To address this pressing issue, the Commission is assessing how best to limit food waste throughout the food supply chain in order to achieve the milestone of reducing by 50% edible food waste by 2020 set in the Resource Efficiency Roadmap.

The role of retailers as intermediaries is crucial for food-waste reduction. The Retail Forum for Sustainability<sup>30</sup> is a multi-stakeholder platform set up in order to exchange best practices on sustainability in the EU retail sector and to identify opportunities and barriers that may further or hinder the achievement of sustainable consumption and production. It was set up following the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan<sup>31</sup> and it is already tackling key environmental issues, including food waste through common voluntary action<sup>32</sup>.

#### **Actions:**

- (6) *In the context of existing EU Platforms, the Commission will support retailers to implement actions to reduce food waste without compromising food safety (awareness raising, communication, facilitating of redistribution to food banks, etc.) e.g., through the Retail Agreement on Waste; and work on developing a long-term policy on food waste, including a Communication on Sustainable Food to be adopted in 2013.*
- (7) *Through dialogue with stakeholders, the Commission will define best practices to make supply chains more environmentally-friendly and sustainable and minimise the energy consumption of retail outlets. The Commission will encourage retailers in the context of existing fora to apply these best practices.*

## 3.5 Developing More Innovative Solutions

Innovation is one the most crucial factors in ensuring economic growth. Retailers are major drivers of innovation. They closely follow consumer trends, which they also help to form, and they pass this information on to suppliers. They act as ‘*innovation multipliers*’ that rapidly adopt and deploy novel technologies throughout the supply chain. Retailers are early adopters of new technologies, bringing innovation and added value to the whole of the retail chain. In

<sup>29</sup> JRC/IPTS Pilot Reference Document on Best Environmental Management Practice in the Retail Trade Sector for a description of techniques to explore the Retail Sector's significant energy-saving potential.

<sup>30</sup> [http://ec.europa.eu/environment/industry/retail/index\\_en.htm](http://ec.europa.eu/environment/industry/retail/index_en.htm)

<sup>31</sup> Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions “*on the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan* (COM (2008) 397 final of 16 July 2008).

<sup>32</sup> The Retail Agreement on Waste ([http://ec.europa.eu/environment/industry/retail/event\\_2012/pdf/retail-agreement-on-waste.pdf](http://ec.europa.eu/environment/industry/retail/event_2012/pdf/retail-agreement-on-waste.pdf)) was signed in October 2012 at the Retail Forum annual event by 19 retail companies and associations that committed to implement at least two awareness-raising initiatives on waste reduction by mid-2014.

the logistics sector, for example, intelligent retailers' warehouses allow heavy loads to be moved effortlessly and faster than they can be manually, and therefore more efficiently, thus reducing the risk of occupational accidents, while increasing productivity. Some retailers have also developed dedicated facilities allowing the pick-up and delivery of goods ordered on-line, contributing to a more sustainable supply chain.

However, many EU retailers have not reinvented themselves fast enough to reap the full potential of new technologies. This may be partially due to the specific features of retail services (e.g., easily copied, always customer-driven, often non-technological and service-oriented). Nevertheless, in an international context, most players in the United States can be seen to have invested heavily in retail innovation.

Adequate mechanisms should, therefore, be put in place to improve retailers' involvement in the Innovation Union flagship initiative that provides for a comprehensive innovation strategy from research to retail<sup>33</sup>. Innovative technological solutions should be explored to help overcome the fragmentation of markets due to divergent regulatory regimes between Member States, and to relax burdensome and costly mandatory rules. Bringing research results and ideas to the market faster through better involvement of retailers in this process would also help boost productivity levels in the retail sector.

Achieving a level playing field for actors in the area of innovation could help promote even closer integration of the Single Market, while at the same time promoting the best practices coming from SME innovators. Most SMEs have a great capacity for innovation regardless of whether they are young high-tech companies or traditional craft enterprises, whether they are mainly active in local markets or have customers world-wide. More than a quarter (27%) of SMEs pursuing innovation activities in the EU introduced new or improved products to the market in 2008 alone<sup>34</sup>.

In the retail sector, SMEs perform a very important role in ensuring the availability (in terms of space, time and range) of products and services for consumers. Since retail is a consumer oriented sector, SMEs' in-depth market knowledge allows them to rapidly identify where new technologies can help meet consumer demand. Moreover, due to their organisational flexibility, SMEs are able easily to develop new products and services, or modify existing ones, so that they best meet consumer needs.

### 3.5.1 Product Labelling

Different mandatory labelling requirements can hinder operators from freely sourcing across the EU when looking for a better price. The existing EU regulatory regime on labelling of foodstuffs<sup>35</sup> harmonises mandatory food information. However, it also allows for the introduction of additional mandatory labelling requirements at national level on certain specific grounds. Thus, even though the rules applied in the Member States are similar, in some cases product marketing requires country-by-country compliance assessment. The resulting legal complexity can hamper cross-border sourcing, and make it difficult to reap the benefits of economies of scale.

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<sup>33</sup> Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions “*Europe 2020 Flagship Initiative Innovation Union*” (COM (2010) 546 final of 6 October 2010).

<sup>34</sup> Innovation Union Competitiveness Report (2011); [http://ec.europa.eu/research/innovation-union/index\\_en.cfm?section=competitiveness-report&year=2011](http://ec.europa.eu/research/innovation-union/index_en.cfm?section=competitiveness-report&year=2011)

<sup>35</sup> Directive 2000/13/EC harmonises general provisions on labelling of foodstuffs; to be replaced by Regulation 1169/2011 as of 13 December 2014.

Increased transparency in this area would bring benefits to all stakeholders. A feasibility study for a pilot database bringing together both EU and national labelling requirements in the food sector will be launched, in order to make information on labelling rules accessible to all. Innovative technological solutions can be explored (e.g., using bar-code scanners in shops to provide the required information *in lieu* of traditional labels), that could provide cost-efficient, consumer-oriented solutions.

### 3.5.2 Electronic Payments

According to a recent study published by the European Central Bank<sup>36</sup>, the costs to society of providing retail payment services are substantial. On average, they amount to 1% of GDP, or some €130 billion for 2009. Around half of these social costs are incurred by banks and payment infrastructures, while 46% are borne by retailers. Social costs exclude fees paid to other market actors in the payment service transaction chain. If such fees are included, the total cost of payments for retailers is even higher than for banks and infrastructures. Hence, payments represent a significant component of the cost of doing business for EU merchants.

Electronic payments offer important opportunities in this field. The market for retail payments is dynamic and has seen significant developments with the emergence of e-commerce. While banks and card schemes are still dominant in retail payments, other payment methods have emerged, such as non-card-based internet and mobile payments, driven by the growing penetration of smartphones, and show strong future growth potential<sup>37</sup>.

The Commission Green Paper on card, internet and mobile payments<sup>38</sup> strives to promote an integrated European market in these areas for the benefit of consumers and merchants. The benefits stemming from greater integration include:

- More competition between payment providers, and a level playing field between incumbents and new players.
- More choice and transparency in payment services for consumers and merchants.
- More innovation in payment services, and enhanced security supporting the development of e-commerce.

The Green Paper and the ensuing stakeholder consultations identified a number of possible hurdles for the market integration of card, internet and mobile payments. These include:

- Restricted market access for new, card- or non-card-based, payment service providers; (e.g., access to information on payment accounts by third-party providers, or access to clearing and settlement systems for new payment providers).
- Strongly varying (between Member States) and possibly excessive levels of multi-lateral interchange fees (MIFs) for card payments. Such fees represent the major share of the fees being charged by acquirers to merchants for accepting card payments.
- Obstacles that prevent merchants from benefitting from cross-border or centralised acquisition of card payments.

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<sup>36</sup> "The social and private costs of retail payment instruments: a European perspective", Occasional Paper Series, ECB, No. 137, Frankfurt, September 2012.

<sup>37</sup> Report of the Working Group on Innovations in Retail Payments — Bank for International Settlements, May 2012.

<sup>38</sup> Green Paper "*Towards an integrated European market for card, internet and mobile payments*", (COM(2011) 941 final of 11 January 2011).

- Standardisation and inter-operability gaps for the provision of card, internet and mobile payments, and resulting disincentives for merchants to invest in the necessary infrastructure, such as payment terminals;

Some of the measures addressing these issues could be introduced through the revision of the Payment Services Directive<sup>39</sup> and the introduction of an enhanced governance model for retail payments in the EU. The Commission has also announced a legislative proposal on MIFs in its Communication on the Single Market Act II<sup>40</sup>.

**Actions:**

- (8) *The Commission will launch a retail innovation initiative in 2013 whereby the Commission, with the help of high-level experts, will explore how to ensure that the retail sector can contribute to, and benefit from, innovative products, services and technologies. On that basis, the Commission will design concrete actions focused on boosting retail competitiveness, such as bringing research results to the market faster, integrating the e-commerce and brick-and-mortar environments, new ways of informing consumers about products, the development of innovation-friendly regulations and standards, etc.*
- (9) *The Commission will examine the feasibility of setting up a dedicated database containing all EU and domestic food labelling rules and providing a simple way to identify labelling requirements per product.*
- (10) *The Commission will take measures to ensure better market integration for card, internet and mobile payments through:*
  - a) *Revision of the Payment Services Directive;*
  - b) *An enhanced governance model for retail payment services; and,*
  - c) *A legislative proposal on multi-lateral interchange fees for payment cards.*

### **3.6 Creating a Better Working Environment**

The fluidity of the job market is extremely important in enabling the retail sector to provide access to jobs for young, unqualified and/or seasonal workers (32% of all retail employees are unskilled or semi-skilled, compared to an average of 27% in the workforce as a whole). Retail services act often as a starting point for those who are entering or re-entering the job market (15% of all workers in the retail sector are under 24-years old, compared to an average of 9%; 30% of retail-sector employees work part-time, compared to an average of 20%)<sup>41</sup>.

Given the significant labour force employed in the retail sector, the sector should fully benefit from facilitated mobility for workers, so that skills can be employed where they are most

<sup>39</sup> Directive 2007/64/EC of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ No L 319, of 5 December 2007, p. 1).

<sup>40</sup> Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions "Single Market Act II -Together for new growth", (COM(2012) 573 final of 3 October 2012).

<sup>41</sup> *Structural features of distributive trades and their impact on prices in the euro area*, ECB, Occasional Paper, No 128, September 2011.



relevant. This is essential to maximise the contribution of the sector to EU growth. The measures proposed will help make better use of available skills, especially for SMEs, given the high share of self-employed in the sector.

### 3.6.1 Skills-Needs Mismatch

Existing mismatches between labour force skills and the needs of the retail sector pose significant challenges for the optimal functioning of the sector. To address this shortcoming, the current and future workforce needs to have the right skills portfolio, which will require an accurate *ex-ante* analysis of skill needs. Identification of the skills needs and mismatches are particularly relevant to enhancing the employability of young people entering the labour market, the long-term unemployed, older workers, immigrants and the disabled. In addition, on-going innovation and the resulting increase in levels of automation in the retail sector would require workers to update their skill sets frequently in order to adapt to changing work and tasks.

To achieve the above aims, public investment alone will not be sufficient. Responsibility for the investment in skills will have to be shared, and the retail sector must play a greater role alongside governments, individuals, and the educational sector. Even in the current situation, where the focus is on controlling budgetary expenditures, reducing investment in education and training should not be an option. On the contrary, substantial and smart investment in skills development will not only secure the best "value for money", but will also help reap the benefits of people's potential. As underlined in the Communication "Rethinking Education"<sup>42</sup>, in order to ensure an adequately and appropriately skilled workforce, efforts to modernise education and training systems will have to be multiplied. Retail sector enterprises should play an important role in shaping the new curricula, developing training and apprenticeship programmes, and cooperating closely with education systems to identify the areas on which to focus, such as increasing environmental skills amongst employees, or achieving better supplier relations. Enhancing school-business partnerships, including dual training systems for apprentices supported by the European Alliance for Apprenticeships<sup>43</sup>, and introducing different forms of traineeships and scholarships, can be useful for both parties: businesses in the retail sector can thus ensure that they have access to a well-trained workforce with the right skills, while schools can attract more students if their curriculum provides a diploma that has a higher value on the labour market. In addition, at EU level, sector specific instruments have been recently developed and tested to support stronger and more structured partnerships between skills providers and businesses. One of them, the Sector Skills Alliances<sup>44</sup> proposed under the new Erasmus for All Programme<sup>45</sup>, might be particularly fitted to address the specific needs of the retail sector. Regeneration projects are good examples of how retailers can work together with local authorities to tackle long-term unemployment.

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<sup>42</sup> Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions "Rethinking Education: Investing in skills for better socio-economic outcomes" (COM (2012) 669 final of 20 November 2012).

<sup>43</sup> Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions "Moving Youth into Employment" (COM (2012) 727 final of 5 December 2012)

<sup>44</sup> [http://ec.europa.eu/education/news/20120425\\_en.htm](http://ec.europa.eu/education/news/20120425_en.htm)

<sup>45</sup> Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions "ERASMUS FOR ALL: The EU Programme for Education, Training, Youth and Sport" (COM(2011) 787 final of 23 November 2011).

Skills mismatches vary widely across sectors and across the EU, and also differ in their duration. In order to reduce the skills gap faced by companies and jobseekers all stakeholders, including companies and social partners in the retail sector, should get involved in defining the qualitative and quantitative skills needs of the sector in the short, medium and long term.

The launch in 2012 of a European Sectoral Skills Council for the commerce sector – covering retail and wholesale – is expected to play a crucial role in building up sector skills intelligence together with national skills councils in this sector. Feeding into the recently launched EU Skills Panorama<sup>46</sup> the work of these skills councils will contribute to anticipate and prevent gaps and mismatches by providing stakeholders with information on the evolution of skills needs and employment. Better anticipation will allow Member States companies, as well as individuals, to make better-informed choices and investments.

### 3.6.2 Informal Economy

Undeclared work is an important issue in the retail sector. Workers in the informal economy<sup>47</sup> are excluded from existing health coverage and social benefits. This entails high social risks, and low income and social protection, for these workers. Moreover, the existence of an informal economy leads to budget revenue losses through reducing taxes and social security contributions paid. Therefore, it adds a higher tax burden on registered labour and affects the competitiveness of Member States.

The Commission will engage all interested parties in a dialogue to assess the impact of the informal economy on working conditions and to determine how to design an EU approach to fight it<sup>48</sup>.

The Commission services will work together to ensure that the particularities of the retail sector are taken into account when implementing any action designed to combat the informal economy.

#### **Action:**

- (11) *The Commission will strengthen cooperation with social partners to create conditions that make it possible to match skills with labour market needs in the retail sector, particularly by identifying and anticipating skills needs through an EU Sectoral Skills Council, and by improving retailers' training and reskilling policies.*

## 3.7 International Dimension

International trade barriers in retail (to establishment and other supply modes, such as restrictions on franchising and e-commerce) constitute a major constraint on growth and jobs creation. Currently, as many as 36 million jobs in the EU depend, directly or indirectly, on

<sup>46</sup> <http://euskillspanorama.ec.europa.eu/>

<sup>47</sup> Activities and income falling fully or partially outside government regulation and taxation.

<sup>48</sup> In particular the 2013 Commission Work Programme mentions the establishment of a "European platform to fight undeclared work". This platform will aim to cover all the key areas influenced by undeclared work and to support a more effective fight against undeclared work by way of improving cooperation, sharing best practice and identifying common principles. This initiative was announced in the Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions "Towards a job-rich recovery" (COM(2012)173 final of 18 April 2012 also known as the "Employment Package").

trade. Accessing third-country markets opens important channels for European actors, especially SMEs, allowing them to tap into the growth of those markets. Retail access to third-country markets has a significant growth-multiplication potential for the EU economy. European retailers can play an important role as export drivers by supplying EU-manufactured products to third countries, paving the way to SMEs' access to markets outside the EU. It is accordingly proposed to set up, in close dialogue with the retail sector, an EU strategy to open up international trade and address existing barriers, in particular by means of:

- Better gathering of information on third-country trade barriers to retail, in order to help the relevant Commission services monitor the implementation of existing Free Trade Agreements and prepare future negotiations; and,
- Improving the SME Helpdesk<sup>49</sup>, as well as the Export Helpdesk and the Market Access databases, in order to extend their respective scopes to cover services.

#### **4. CONCLUSION: CONTINUOUS DIALOGUE WITH THE RETAIL SECTOR**

Given the potential for growth and employment that retail services can contribute to the EU economy as a whole, there is a need for a coherent and holistic strategy addressing the bottlenecks which currently hamper their full development.

Enabling access to more competitive and sustainable retail services, empowering consumers to make better informed choices about the products they wish to purchase, developing a more balanced retail supply chain, supporting innovative solutions, bringing research results to the market faster, and creating a better working environment in retail will all contribute to this goal.

The 11 concrete actions<sup>50</sup> set out in this Action Plan should be implemented by 2014 in order to achieve a Single Market in Retail. It is essential that this Action Plan be executed in parallel with other initiatives, in particular those concerning the full implementation of the Services Directive, the E-Commerce Action Plan, and the on-going initiatives in the payments field.

The Commission will monitor developments and report on the progress in implementing this Action Plan by issuing a report in 2015. This monitoring will be done on the basis of the on-going discussions within the EU institutions, with Member States, and with representatives of the retail sector and other relevant stakeholders through the Group on Retail Competitiveness.

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<sup>49</sup> A specific facility operated by the Commission to address traders' concerns and enquiries by improving its targeted approach towards SMEs.

<sup>50</sup> All actions proposed to be taken up by the Commission in this document are consistent and compatible with the current Multiannual Financial Framework (2007-2013) and with the proposal for the new Multiannual Financial Framework 2014-2020.