

Contribution to the forthcoming Commission Single Market strategy 2015

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EuroCommerce and the retail and wholesale sector

EuroCommerce is the principal organisation representing the retail and wholesale sector. It embraces national federations representing 5.5 million companies, both leading multinational retailers such as Carrefour, IKEA, Tesco and REWE and many small family operations. Retail and wholesale provide a link between producers and 500 million European consumers over a billion times a day. It generates 1 in 7 jobs, providing a varied career for 29 million Europeans, many of them young people. It also supports millions of further jobs throughout the supply chain, from small local suppliers to international businesses.

<http://www.eurocommerce.eu>

In the experience of traders:

- authorisation procedures and proportionality assessments for commercial establishment differ widely. This causes real problems for retailers who want to open new stores in other markets;
- some authorisation procedures and levies (e.g. regional taxes in Spain) deter new players from entering new markets;
- some local authorities still use economic needs tests despite this being prohibited by the Services Directive;
- decision-making is not always transparent e.g. unclear procedures, unclear timelines, unclear or absence of objective criteria beforehand, no clear explanation of decisions and with high costs;
- the EU notification procedure for national laws within the scope of the Services Directive is not transparent. It is unclear which and if all relevant laws have been notified, and if the Commission has followed up comments made with the Member State;
- developments in society influence the retail market at local level and regional level, this should be reflected in retail establishment policies.

Recommendations:

- as part of the Better Regulation agenda the **Commission and Member States should simplify existing procedures** based on the work of the Services Directive Expert Group;
- **the Commission should provide guidance** on ensuring that any restrictions to establishment are justified, necessary and proportionate, while respecting the principle of subsidiarity;
- **an objective, transparent and non-discriminator approach should form the basis of all establishment rules and procedures;**
- the Commission should develop a timeline for follow-up of the peer review among the Member States to ensure an ongoing process among all the stakeholders to improve the current situation. This 'roadmap' should include:
 - clear goals and actions of how to improve the proportionality assessments of authorisations for retail establishment
 - regular performance checks of the retail sector
 - development and use principles of good practice
- the Commission should make a proposal to make **the notification procedure for national rules more transparent, accessible for stakeholders and include a standstill period**. This could be modelled on Directive 98/34/EC to prevent non-EU compliant legislation being adopted.

Equal treatment of all business in the Single Market

Many traders have reaped the benefits of the Single Market in the past decades. They have invested in new markets, introduced modern retail concepts throughout Europe and are providing consumers with safe and high quality products and services for the best price. This has brought a new dynamic to local markets, increasing competition, and offering more choice and lower prices to consumers.

In the experience of traders:

- many Member States (especially in Central and Eastern Europe) have introduced legislation to the disadvantage of international retailers, which is very often directly or indirectly discriminating international investors. These laws do not always directly involve the Single Market, but can have an impact on it, by preventing new players from entering the market and diminishing competitiveness in the national economy, thus affecting EU competitiveness overall;
- national laws on tax, food and competition often restrict commercial practices that are legal in other Member States or impose unjustified financial burden to international retailers.

Recommendations:

- **the Commission should together with the Member States involved assess whether national laws which might be restrictive to cross-border retail are in line with EU law** (non-discriminatory, justified and proportionate);
- **Member States' national laws should meet Better Regulation Guidelines¹⁶**, making laws simpler and reducing regulatory costs;
- the Commission should act more rapidly on possible infringement by quickly opening EU pilot cases and speeding up infringement procedures.
- the Commission should use the European Semester and annual country-specific recommendations (CSR) as an additional opportunity for dialogue between the Commission and the Member States to address barriers which do not fall directly under the scope of the single market but hinder competitiveness and market entry.

2. Streamline and simplify labelling & information requirements

Labelling & information enables retail and wholesale businesses to convey important information about the quality and use of products to consumers, professional customers and competent authorities. Retailers are the closest link to consumers, and directly affected by labelling rules for their own-brand products. Wholesalers also need to inform their professional customers who have different information needs from consumers. Competent authorities also need sufficient information to assess a product's compliance and to be able to take action where necessary. Over the years national and EU legislation have imposed increasing labelling and information requirements, covering such areas as compliance, safety warnings, energy labels, food content labels, nutrition labels, washing information, country of origin information, consumer rights information and environmental information, etc.

In the experience of traders:

- the multiplicity of requirements causes an information overload for consumers and unnecessary costs for business (see illustration below). Consumers are not able to distinguish essential from nice-to-know information, ignore labels or don't understand them;
- professional customers (businesses) may require technical information but not what a consumer might need. Professional customers often ignore out of shortage of time, what have become too comprehensive paper instructions manuals, thus defeating their objective;
- information requirements have not embraced modern technology. Digital technology offers new ways of providing information; allowing consumers and professional customers to access information in other ways that suit them (online, mobile phone);
- national authorities sometimes use information requirements to restrict market access to foreign products.

Recommendations:

- the Commission should pursue the European Retail Action Plan¹⁷ proposal of **mapping all national labelling requirements for food products** and developing a database listing all mandatory labelling rules at EU and national level;
- **a similar exercise should apply to non-food products**, combined with an assessment of non-harmonised products. An overview of the situation could provide guidance for the Commission to create common rules on information requirements;
- the Commission could use the results of the audit to
 - undertake a study of consumers' understanding of symbols used;
 - consider how to use **digital technology to provide information in new ways**; and

¹⁶ http://ec.europa.eu/smart-regulation/guidelines/toc_guide_en.htm (17 June 2015)

¹⁷ COM/2013/036 final

- **the Commission and Member States should use digital technologies to create better cooperation and communication between all stakeholders.** Market surveillance authorities should develop strong platforms to exchange information between them and other stakeholders improve trust and improve market surveillance;
- this should include strengthening the Information and Communication System on Market Surveillance (ICSMS) and the proposed European Market Surveillance Forum (EMSF) in the Product Safety Package.

4. Giving businesses (especially SMEs) access to information

The best way to help businesses (and consumers) fully participate in the Single Market is by providing them with access to all of the essential information at one digital information portal. For businesses, this would not only mean becoming active or establishing themselves (Points of Single Contact), but it would also be about product compliance (e.g. different Product Contact Points, national labelling and consumer information requirements), redress (SOLVIT), taxes/VAT, consumer rights, access to consumer & business networks (e.g. CPC network, Enterprise Europe Network), notification procedures, finding and communicating with relevant authorities, etc. Especially SMEs could benefit from this.

Experience of traders:

- **information is scattered across local and national administrations;**
- not all information can be found online, and where information is present, it is not always clear where to seek greater clarification;
- it is at times uncertain which local requirements apply to products or services which traders provide;
- **businesses are unaware of the many online governance tools** that can help them.

Recommendations:

- **the Commission should streamline online tools for businesses²¹** by creating a legal framework that sets the minimum performance requirements for an online business portal in every Member State regardless of their sector. This portal should provide the possibilities of finding all relevant information to become active in a Member State, acquiring all necessary authorisations, interacting with public authorities, finding redress etc.;
- **Member States and the Commission should improve the visibility of online tools for businesses on a national level.**