

ANNEX 2 : SUPERMARKET CONCENTRATION AND EFFECTS ON SUPPLIERS OF ABUSIVE BUYER POWER PRACTICES BY SUPERMARKETS in EU MEMBER STATES

This annex provides per country information about levels of concentration in the retail sector. To make them comparable among EU member states, the figures of Global retail concentration- 2006 published by Planet Retail are being used, even if these figures are not very recent. The percentage of concentration used relates to the market share of the 5 top supermarkets in a country, the “CR5” ratio. The concentration figures are given to allow a better assessment of both retail power and buyer power of supermarket groups operating in a particular country.

In addition, this annex provides a preliminary survey of evidence about adverse effects on suppliers of abusive buyer power practices by supermarkets in EU member countries.

AUSTRIA

Information about levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 74.2%.

The sector enquiry published by the competition authorities in June 2007 concluded a.o. that:

- ❑ The Austrian grocery sector is highly concentrated.
- ❑ The barriers to entry are high.

Sources:

Republik Österreich Bundeswettbewerbsbehörde, Allgemeine Untersuchung des österreichischen Lebensmittelhandels unter besonderer Berücksichtigung des Aspekts der Nachfragemacht – Zusammenfassung, Vienna, June 2007.
Republik Österreich Bundeswettbewerbsbehörde, “FCA accomplished Sector Inquiry on Buyer Power of Supermarkets”, 30 August 2007, http://www.bwb.gv.at/BWB/English/groceries_sector_inquiry.htm

Adverse effects of supermarket buyer power and abuses on suppliers

The sector enquiry published by the competition authorities in June 2007 concluded a.o. that:

- ❑ There is a strong evidence for the existence of buyer power. In sectors with private labels and especially when neither important brand products (“must-stock-products) nor other forms of countervailing power on the supply side exist, the buyer power of the retailers is almost unlimited.
- ❑ Suppliers are highly dependent (in some sectors more than in others) on the outlets of the leading supermarkets which have high market shares since there was no viable alternative distribution channels for significant sale volumes.
- ❑ There is a lack in transparency and reliability regarding the arrangements between retailers and suppliers who have to pay all kind of costs such as retroactive (post sales) rebates or discounts, payments for advertisements. This results in uncertainty for suppliers and is detrimental for planning their investments. This lack of transparency and sometimes lack of agreement for payments is objectionable from a competition policy perspective.

Sources:

Republik Österreich Bundeswettbewerbsbehörde, Allgemeine Untersuchung des österreichischen Lebensmittelhandels unter besonderer Berücksichtigung des Aspekts der Nachfragemacht – Zusammenfassung, Vienna, June 2007.

Republik Österreich Bundeswettbewerbsbehörde, "FCA accomplished Sector Inquiry on Buyer Power of Supermarkets", 30 August 2007, <http://www.bwb.gv.at/BWB/English/groceries_sector_inquiry.htm>

Farmers protests

There were months of unrest in 2008 among Austrian dairy farmers who protested in June 2008 against falling prices. In November 2008 they protested again in Tirol against Hofer, which is part of Aldi. Hofer had slashed prices for milk, butter, curd cheese and whipped cream only some days before and had reduced the price of its own brand of milk from 79 to 69 cents a litre.

The farmers' union said that the falling prices threatened their livelihoods and the dairy farmers threatened to "march to Brussels" in protest.

Source:

"New agriculture minister concerned about EU milk policy", Austrian Times.at, 08. 12 August 2008, <<http://www.austriantimes.at/index.php?id=10002>>

BELGIUM

Information about levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 77%.

Adverse effects of supermarket buyer power and abuses on suppliers

In February 2009, supermarket chain Delhaize removes around 50 brand products of Unilever which has normally 400 to 500 products in Delhaize stores. This happened after the yearly price negotiations between Delhaize and its suppliers whereby Unilever had asked by price increases which Delhaize had refused. Unilever claims that the conflict was also about more than just prices, but also about the number of products it was able to put on the shelves in Delhaize stores as well as possibilities to have promotional actions.

Source:

"Delhaize bant producten Unilever", De Standaard, 10 February 2009.

In 2008, some 143 million promotional vouchers providing a price cut to the consumer, were being processed in Belgium, which was an increase of some 0.72% compared to 2007. The total promotional repayments to the consumer amounts to more than 100 million euros, paid by the suppliers.

Source:

De Standaard, "Belgen gebruikten ruim 143 miljoen kortingsbons", 13 January 2009 <http://www.standaard.be/Artikel/Detail.aspx?artikelId=DMF13012009_034&kanaalid=13>

In order to increase Delhaize's turnover and profit in the US and in Belgium in 2008, a reform scheme of costing and a lower price strategy was adopted. The strategy of lower prices was among others the result of "improved buying contracts" with suppliers. In the first 6 months of 2008, the share of private label products increased from about 5 % up to 25.2%. This spectacular increase was due a changed price strategy by Delhaize itself and a changed attitude by consumers towards private labels.

Source:

De Standaard, "Delhaize mikt op herstel met lagere prijzen", 5 August 2008
<<http://www.standaard.be/Artikel/Detail.aspx?artikelId=FJ1UUHP5&kanaalid=13>>

Changing the packaging or decrease the real volume, that's how hidden inflation works. It seems to be the most popular tricks for producers to raise the prices of their products unnoticed.

Sources:

The French "L'institut National de la Consommation" and the Belgian "Test Aankoop/Test Achat" provided some examples of products that have raised in price without really raise in price.

De standaard, "Zelfde prijs = Kleiner pakje", 24 September 2008
<http://www.standaard.be/Artikel/Detail.aspx?artikelId=BN20QVTL&kanaalid=13>

In 2007, there have been indications that some big supermarket chains in Belgium did make price agreements on the sales of perfumes, beauty and household products.

Sources:

European Pricing Blog, "Belgian supermarket chains are risking super fines for mutual price agreements", 2 May 2007
<<http://pricingplatform.blogspot.com/2007/05/belgian-supermarkts-are-risking-super.html>>

De Standaard, "Onderzoek naar prijsafspraken bij Belgische supermarkten", 24th of april 2007
<http://www.standaard.be/Artikel/Detail.aspx?artikelId=b16433100070424&kanaalid=13>

Delhaize asked its suppliers to contribute to promotion stunts in 2006. During some time in 2006, Delhaize distributed through newspapers vouchers for "the free product of the week", a free gadget, mostly fairly new on the market, with a value of about one Euro. The vouchers were a huge success and attracted a lot of people to Delhaize outlets where they bought more than only the "free product". However, the suppliers had to pay for the products and the "free vouchers" became no longer bearable since a huge amount was to be distributed free. Many people took the products home, interested or not, and a lot of products ended up in dust bin.

Source:

Webpalet, "Free", 24 August 2006, <<http://webpalet.titeca.net/2006-08/celbel/>>

Farmers' protests

Farmers supplying to supermarkets have been complaining that the supermarkets pay them too low prices for their products such as milk compared to prices charged to consumers. In September 2008, the retailers agreed with the Flemish and Walloon farmers as well as with the Minister of Agriculture and the Minister of Economy that all retailers would provide sales prices of some of their products to the federal economic service that could then investigate whether the price forming has been correctly done compared to the prices paid to farmers. The retailers' branche claims that 80% of the fresh agricultural produce is Belgian and promised to start a campaign to promote Belgian food.

Source:

Supermarkten gaan Belgische voeding promoten, Het Beland van Limburg, 12 September 2008,
<<http://www.hln.be/hln/nl/942/Economie/article/detail/413366/2008/09/12/Supermarkten-gaan-Belgische-voeding-promoten.dhtml>>

In the summer of 2004 there was a farmer demonstration against the lowering of price of milk by GB, a supermarket chain that has now been incorporated by Carrefour. The reason was a temporally lowering of the milk price from 47 to 41 Euro cent per litre by GB. This was part of a strategy to gain some market share back from Aldi and Lidl.

The farmers were afraid the price stunt would produce an uncontrollable price battle, pressuring the dairy cooperatives to lower their price. Exactly this happened some months before in the Netherlands. The fear of the farmers seemed appropriate as Colruyt, another supermarket chain, matched its price immediately.

Source:

De Standaard, "Melkbetaling symbool voor breder voedseldebat", 17 July 2004

<<http://www.standaard.be/Artikel/Detail.aspx?artikelId=gh17f026>>

BULGARIA

Information about levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 17.8%.

Consolidation of supermarkets (not discounters or hypermarkets) is increasing through acquisitions and expansions among others by Rewe Group, Kaufland, Metro Group.

Sources:

P. Kostadinov, "Trends and future of Bulgaria's retail market", The Sofia Echo, 4 December 2006, <http://www.sofiaecho.com/article/trends-and-future-of-bulgaria-s-retail-market/id_19052/catid_23>

P. Müller-Sarmiento, K. Dengler, "New EU members Romania and Bulgaria: A mixed bag of hope and skepticism", Elsevier Food International, Vol. 10, No. 3, September 2007, <<http://www.foodinternational.net/articles/country-profile/950/new-eu-members-romania-and-bulgaria-a-mixed-bag-of-hope-and-scepticism.html>>

CYPRUS

Information about levels of concentration in the retail sector

Discounters "have recently penetrated the Cyprus market and have begun to establish themselves, gradually gaining market share from large supermarket chains. Penetration is still small but if their growth follows the trend of other EU markets, it could reach anything between 15 and 30 %" Deloitte & Touche Limited' Nicos Papakyriacou said.

Source:

L. Leonidou "Supermarket sweep", Cyprus Mail [2009], <http://www.cyprus-mail.com/news/main.php?id=26553&cat_id=9>

DENMARK

Information about levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 80.7%.

How the market share was divided among the five largest supermarkets in 2005 can be seen in table 4.5 (p. 70) of "Nordic food markets – a taste for competition", report from the Nordic competition authorities, November 2005, which is reproduced from AC Nielsen, "Nordic Grocery Insight", 2004.

In the Nordic countries, supermarkets account for 80-90% of retail food sales. Nearly all supermarkets are organised in different chains or groups where all the stores in the same chain appear the same. There is an ongoing restructuring and consolidation of the grocery trade in all Nordic countries, including at the level of buying desks (wholesale).

Nordic consumers have a much narrower choice of food, and more uniformity of choice across their supermarkets which is partly due to the concentration in the wholesale, retail and food industry, and the increase of hard discounters. “Also, all supermarkets belonging to the same marketing chain offer nearly the same range of products.”

“One reason behind the high food prices and the narrower food supply seems to be the high concentration on both supply and retail level in the Nordic region.”

Source:

“Nordic food markets – a taste for competition”, report from the Nordic competition authorities, November 2005, p. 9, 10,11, 12, 13,17.

Dansk Supermarket, operates a series of different private brands for dairy products as higher quality alternatives to major manufacturer brands.

Sources:

M. Gehlhar, A. Regmi, “Processed Food Trade Pressured by Evolving Global Supply Chains”, Amber Waves, [February 2005], <<http://www.ers.usda.gov/AmberWaves/February05/Features/ProcessedFood.htm>> based on A. Regmi, M. Gehlhar (Eds), New Directions in Global Food Markets, AIB-794, USDA/ERS, February 2005.

Adverse effects of supermarket buyer power and abuses on suppliers

Supermarkets want to trade with as few fresh vegetables producers/suppliers as possible to keep transaction cost as low but they also want to have enough suppliers so they will not encounter ‘hold up’ situations where farmers can demand their own price or threaten to disrupt supply to the supermarkets.

Supermarkets are reducing cost by setting up a few distribution centers. They have specific demands to their suppliers concerning packaging, how to deliver, using packaging boxes owned by the supermarket. Supermarkets are only interested in those farmer’s who can deliver the packaging, do the cost of trading with other farmers to secure safe and stable supplies to the supermarkets.

“The bargain power among supermarkets and discount chains are growing and filtering a pressure down towards the farmers”. “A pressure that appears as declining terms of trade as well as an approximation of organic farm prices towards the conventional”.

The control mechanisms that the supermarkets and discount chains use are listed in the table below (“Table “)

Table 1. Control mechanisms used by supermarkets and discount chains

Item	2003	2005 proposals
Period of credit	21 days	45 days/ 90 days
Specific marketing fee per sold unit	0,10 Dkr	same
On account fee (fee for renting retailer space)	2-3 %	5 %
Deposit for renting re-tailer boxes	30 Dkr.	same
Rent of using packing boxes	3,80 Dkr. per box	same
New outlet start-up fee		2.500 Dkr

Source: P. Rye Kledal, Growing bargain power of supermarkets presses organic vegetable producers, DARCOFenews (Newsletter from Danish Research Centre for Organic Farming), No. 3, September 2005.

The conditions are changing in favour of the supermarkets, for example by the following practices:

- ❑ “the period of credit when farmers are getting paid is being prolonged
- ❑ Shelf space fees/slotting allowances: the fee for renting space in the supermarket shelves are going up (supermarkets are not really selling food, but they are selling space)
- ❑ the supermarkets/discount chains demand an opening fee when new outlets are being opened.”

“These various control mechanisms make it harder for small time farmers to be a supplier in the future concerning distribution through supermarkets and discount chains.”

Source:

P. Rye Kledal, Growing bargain power of supermarkets presses organic vegetable producers, DARCOFenews (Newsletter from Danish Research Centre for Organic Farming), No. 3, September 2005.

The Nordic competition authorities concluded that there were “fewer opportunities for food suppliers to get their products on the shelves”. The concentration of the buying groups has “significantly strengthened the purchasing groups’ bargaining position vis-à-vis the suppliers, leading to lower purchasing prices.”

By 2005, the Nordic food industry had gone through a period of consolidation and rationalisation in order to achieve volume and large-scale efficiencies, leading to the domination of a small number of vertically integrated chains. This “often creates buying power, as the suppliers grow dependent of a few large retail chains.”

In Nordic countries, the changing conditions for getting access to the supermarket shelves and especially the growing power of the large retail groups has influenced bargaining between producers and retailers. “The supermarkets try to exploit their power to their advantage. The Working Group has found that this leads to lower prices from the suppliers, support for marketing, allowances to cover costs in the shop, better quality and service, joint marketing, slotting allowances, etc. In this bargaining process minor suppliers may be at a disadvantage compared to large producers with market power. Retailers put pressure on suppliers for lower purchasing prices.” Through a systematic mapping of sales, the impact of marketing plays an increasing role in the negotiations with suppliers. “As a consequence, negotiations become more complex and include payment for access to the shelves etc. Suppliers must be willing and able to participate in in-store activities. This may prove difficult for minor suppliers.”

Small suppliers suffer from the high volume requirements by retailers, by which they can easily be replaced by a larger suppliers. For those small suppliers producers that manage to get an agreement with a large retailer an opportunity is provided get access to the shelves in numerous supermarkets.

Small suppliers “can participate in the retailers’ call for tenders for the production of for example private labels and they can submit tenders on equal terms with the large suppliers. Competition in such tenders may be fierce, and winning a contract provides no guarantee of continued presence on the market. An extensive use of calls for tenders by retailers may favour larger suppliers. On the other side, tenders may give small producers opportunity to get a foothold in the market. There are examples where such contracts last for more than five years.”

In addition, the increasing possibility for buying desks in Nordic countries to purchase food from abroad from abroad has resulted in increasing food imports and has also contributed to price pressures for

domestic suppliers. But most of the food found in supermarkets in Nordic countries in 2005 was still of national origin.

Source:

“Nordic food markets – a taste for competition”, report from the Nordic competition authorities, November 2005, p. 12, 15, 17, 85, 86, 92.

Danish supermarket shelves are full of imported apples. Danish apples farmers cannot compete on price, typically lose a penny per apple, and fruit plantations have not earned money for several years. More and more supermarkets offering only foreign fruit in order to fulfill their assortment of red, yellow and green apples, which meet certain requirements for firmness and sugar content.

M. Guldagger, “Det danske æble er truet” [“The Danish apple threatened “], Politiken.DK, 10 April 2008, <<http://politiken.dk/tjek/dagligliv/mad/article493094.ece>>

ESTONIA

Levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 78.8%.

The CR4 was 70% in 2005, which was around 5% more than in 2003. The HHI (Herfindahl Hirschman Index) was 14965 in Estonia in 2005. The concentration process has mainly been driven by foreign actors in Estonia.

Sources:

A. Vanags, A. Paalzow, Competition in the Latvian and Baltic Grocery Retail Markets, SSE Riga/BICEPS Occasional Paper No. 3 (ISSN 1691-3620), September 2007.

I. Gulbe, Grocery retailing and Latvian food marketing chain, Workshop on enhancing competitiveness in the agro-food sector: making policies work, Section 2: Competitiveness in the marketing and retail sectors, Vilnius (Lithuania), 16 – 17 June 2004, <<http://www.oecd.org/dataoecd/30/40/32607029.pdf>>

FINLAND

Information about levels of concentration

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 90%.

In 2007, three leading retail players hold a combined market share of 85.3%. The Market was dominated by domestic players S Group 39.9%, Kesko 33.5% and Tradeka Ltd 11.9%.

Source:

Irish Food Board, Market Overview – Finland, powerpoint presented on Food & Drinks Industry Day, 27h November 2008.

How the market share is divided among the five largest supermarkets in 2005 can be seen in table 4.5 (p. 70) of “Nordic food markets – a taste for competition”, report from the Nordic competition authorities, November 2005, which is reproduced from AC Nielsen, “Nordic Grocery Insight”, 2004.

In the Nordic countries, supermarkets account for 80-90% of retail food sales. Nearly all supermarkets are organised in different chains or groups where all the stores in the same chain appear the same.

There is an ongoing restructuring and consolidation of the grocery trade in all Nordic countries, including at the level of buying desks (wholesale).

Source:

“Nordic food markets – a taste for competition”, report from the Nordic competition authorities, November 2005, p. 10,11, 12.

In Finland, large supermarkets and hypermarkets accounted for about 55% of retail food sales (2007). A few central wholesalers (S-Group, K-Group, Tradeka) together dominate the food industry with an aggregate market share of 85%. These chains have closely knit wholesale and retail arrangements comprising a compact and efficient goods delivery system and a nationwide network of retail shops as well as department stores and supermarkets.

Source:

B. Dahlbacka, Retail food sector report for Sweden And Finland, USDA Foreign Agricultural Service, GAIN REPORT NUMBER: SW7018, 13 December 2007

MAJOR FOOD RETAIL PROFILE of FINLAND (2007)

Retailer/Type of Outlet	Owner ship	Sales CY06 (\$ Mill.)	No. of Outlets	Location	Mkt Share in %	Purchasing/ Agent Type
S-Group - hyper-markets - dept stores - supermarkets - self-service - small shops - discount stores	Finnish	7,269	869	Finland Estonia Latvia Lithuania	39.9	Importer/ wholesaler (Inex)
Kesko (K-Group) - hyper-markets - dept stores - supermarkets - self-service - small shops - discount stores	Finnish	6,104	1,018	Finland Sweden (hardware) Estonia Latvia Lithuania Russia	33.5	Importer/ wholesaler (Kesko Food)
Tradeka - hyper-markets - dept stores - supermarkets - self-service - small shops	Finnish	2,168	747	Finland Russia	11.9	Importer/ wholesaler (Tuko Logistics)
Lidl - hard discount	German	746	107	Finland Sweden Norway	4.1	Importer/ wholesaler
Stockmann Group -department stores	Finnish	286	7	Finland Russia Estonia	1.6	Importer/ Wholesaler (Tuko Logistics)

Source: B. Dahlbacka, Retail food sector report for Sweden And Finland, USDA Foreign Agricultural Service, GAIN REPORT NUMBER: SW7018, 13 December 2007.

Adverse effects of supermarket buyer power and abuses on suppliers

The Nordic competition authorities concluded that there were “fewer opportunities for food suppliers to get their products on the shelves”. The concentration of the buying groups has “significantly strengthened the purchasing groups’ bargaining position vis-à-vis the suppliers, leading to lower purchasing prices.”

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“The Finnish Competition Authorities’(FCA) prohibition to the producers to make agreements solely to the retail chains and make invoice through the chains obligatory. The reason for this prohibition was a suspension that the invoice agreements led to a decrease in suppliers assortment.”

Small suppliers suffer from the high volume requirements by retailers, by which they can easily be replaced by a larger suppliers. For those small suppliers producers that manage to get an agreement with a large retailer an opportunity is provided get access to the shelves in numerous supermarkets.

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In addition, the increasing possibility for buying desks in Nordic countries to purchase food from abroad from abroad has resulted in increasing food imports and has also contributed to price pressures for domestic suppliers. But most of the food found in supermarkets in Nordic countries in 2005 was still of national origin.

Source: “Nordic food markets – a taste for competition”, report from the Nordic competition authorities, November 2005, p. 12, 15, 17, 85, 86, 92.

FRANCE

Information about levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio in France is 70%.

Adverse effects of supermarket buyer power and abuses on suppliers

Extra payments required by retailers in some food sectors can reach up to 70% of the value of goods supplied, as is the case for some meat products. The national average for all sectors calculated together is often estimated at 33%.¹ Already in 2003, it was already officially reported by the Minister of trade and SMEs, R. Dutreil, that extra payments in the form rebates had been increasing annually 2 to 3% and could reach 30 to 50% of the invoiced price while the value of the services paid to retailers is not as high. This was considered at the detriment of supplying SMEs who are not in a good bargaining position towards retailers.

The dominant position of the Large Retail Sector in France has, over the years, led to a reduction in the number of food companies.² For example, according to FICT (Fédération française des industriels charcutiers, traiteurs et transformateurs de viandes) data, the number of production companies in the meat processing sector has dropped between 1990 and 2005 from 400 to 353.

The different extra payments include listing fees, rebates (“marges arrière”) and price concessions which leave hardly any profit to suppliers, as well as payments for promotion activities, financial contributions for new store openings or store refurbishments, shelf space fees, etc.³ In total, more than 500 reasons have been used to require suppliers to make extra payments.

The abusive aspect of these payments and low prices to suppliers are based on the fact that they are not negotiated but imposed in an unfair way or just purely extracted, with threats of ending all commercial relation with suppliers. These practices and many other abuses towards suppliers, often not visible, have been extensively researched and described by the two books by C. Jacquiau.⁴

Late payments have been a considerable source of income for French supermarkets for a long time whereby money from the clients is being invested with profit before being paid to the supplier, providing more profit than margins on the products sold. However, of lately, rebates and other contributions or payments by suppliers have become more profitable than late payments. At the same time, the prices to consumers do not seem to reduce as much. On the contrary, as the prices of rebates increase annually, the suppliers have to ask for higher prices which are then reflected by higher prices in the retail stores. In 2003, consumer organisation UFC-Que Choisir indicated ever higher prices. This was analysed as being the result of increasing rebates and non-transparent agreements between the large retailers and large industrial suppliers who were able to continue to negotiate prices that are beneficial to them while paying more to the retailers.

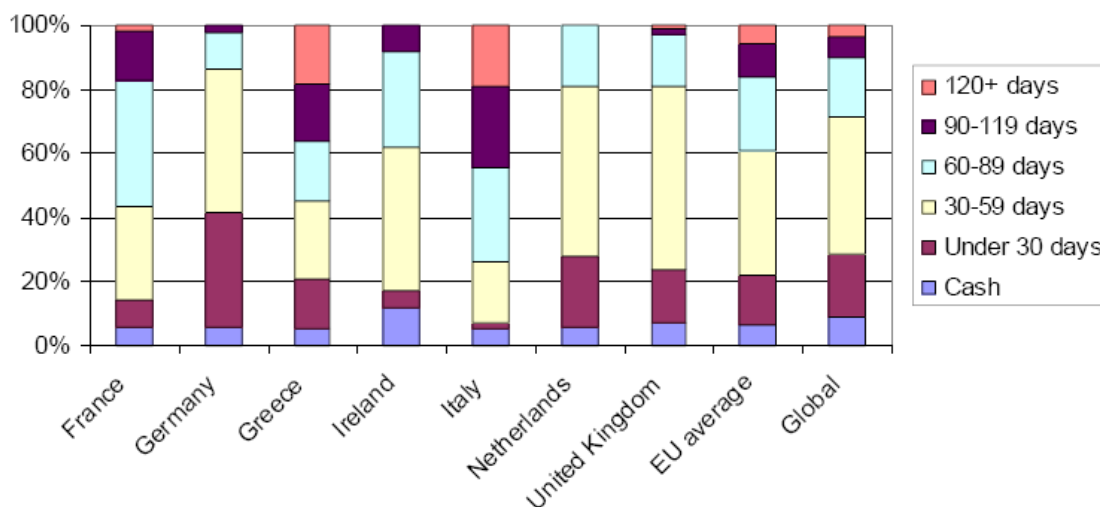
¹ According to FICT (Fédération française des industriels charcutiers, traiteurs et transformateurs de viandes)

² C Jacquiau, *Les coulisses de la grande distribution*, Albin Michel, Paris, 2000.

³ C Jacquiau, *Les coulisses de la grande distribution*, Albin Michel, Paris, 2000.

⁴ C. Jacquiau, *Les coulisses du commerce équitable. Mensonges et vérités sur un petit business qui monte*, Mille et une nuits, Paris, 2006 ; C. Jacquiau, “Producteurs étranglés, consommateurs abusés - Racket dans la grande distribution « à la française »”, *Le Monde Diplomatique*, December 2002, <<http://www.monde-diplomatique.fr/2002/12/JACQUIAU/17253>>; C Jacquiau, *Les coulisses de la grande distribution*, Albin Michel, Paris, 2000.

Average payment period for sales invoices (%) (2006)



Source: IBOS, Grand Thornton

In January 2009, the French consumer organisation UFC- Que Choisir, representing 60 million consumers, published a research report indicating that the large differences between the farm gate prices for beef, porc and chicken, and consumer prices are caused by high margins by retailers, while margins at processors and farmers were not that high. While supermarket prices to the consumer had increased considerably for these products between 1990 and 2008, farm gate prices had fallen or not increased as much over the same period with indications that lower price were not transmitted to the consumers.

While prices for consumers have shown a long term increasing trend between 1990 and 2008, they do not reflect the lowering farm gate prices during the same period. The investigation by the consumer organisation UFC-Que choisir concluded that supermarkets and not processors or farmers were taken the benefits from the increasing prices. For instance beef prices had gone up by 50% between 1990 and 2008 while farm prices for beef/animal prices had declined by 15%. During the same period, consumer prices for chicken increased by 40% and porc by 26% while agricultural prices declined 7% and 30% respectively. The consumer organisation was demanding an observatory of prices as well as bruto and netto margins of consumer prices. It was also concerned about increasing concentration and lack of competition in some food chains and retail sectors.

While low prices are touted to benefit consumers and increase their purchasing power, the constant downward pressure on profit margins and operations of suppliers is also having an lowering pressure on income, social benefits and purchasing power of all workers and employees in the supply chain. Because of the grip of large supermarkets on increasingly more consumer goods, at the end, consumers are estimated to loosing choice and control.

Sources:

UFC-Que Choisir, Prix alimentaires 1990-2008 -Trop de gras dans les viandes !, press communique, 27 January 2009, <http://www.quechoisir.org/pages/communiques/Prix-alimentaires-1990-2008-Trop-de-gras-dans-les-viandes/3C13B1CB2825134AC125754700346E2D.htm>

R. Dutreil, Circulaire relative à la négociation commerciale entre fournisseurs et distributeurs, Press dossier – rectificatif, Ministry of economy, finance and industry, 26 May 2003.

Que Choisir, Nr 400, January 2003, p . 19.

C. Jacquiau, interview, 18 February, 2009.

Farmers' protests

In October 2008, milk farmers in Northern France blocked milk processing companies after the latter had reduced their prices. The farmers required (under threat of retaliation) that supermarkets would

take away milk products of these milk processors. The article does not mention how much the retailers were paying to the milk processing companies. Also other farmers actions have taken place in protest against low milk prices and rebates, which are suspected to cross-subsidise other products on sale in the supermarket.

Source:

A. d'Erceville, "Nouvelles opérations de blocage sur les produits laitiers, LSA, 22 October 2008, <<http://www.lsa.fr/nouvelles-operations-de-blocage-sur-les-produits-laitiers,101049>>

Anti-competitive behaviour

In February 2009, a official Commission (la Commission d'examen des pratiques commerciales (CEPC)) has publicly accused the buying desk of Leclerc groupe to apply unfair practices and blackmail towards its suppliers by proposing contracts that cannot be changed but with very low prices, with guarantees of 25% margins to supermarket Leclerc whatever the selling price is which should always be lower than the competing supermarkets. Another abusive practice buyer power that which was denounced in February 2009 was that suppliers who also produced for Lidl were forced to reduce their prices.

Source :

UFC-Que Choisir, Prix alimentaires 1990-2008 -Trop de gras dans les viandes !, press communique, 27 January 2009, <http://www.quechoisir.org/pages/communiques/Prix-alimentaires-1990-2008-Trop-de-gras-dans-les-viandes/3C13B1CB2825134AC125754700346E2D.htm>

GERMANY

Information about levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 70%.

The CR5 for Germany beginning 2009 is ca. 90% according to Federal Cartel Office.

Source:

M. Wiggerthale (interview), 10 January 2009.

Adverse effects of supermarket buyer power and abuses on suppliers

During the investigation among suppliers by the German competition authorities, published in 2008, when considering the merger between Edeka and Tengelmann (Plus) businesses, the following unfair buying practices were revealed:

- ❑ after sale rebates;
- ❑ delisting;
- ❑ compelled payments of extra costs.

The majority of the suppliers replied that they thought these practices would worsen after the Edeka-Tengelmann merger, as well as lower prices in future contracts as was the case after the Edeka/Spar merger in 2005 (except regarding after sales rebates where the situation was not clear).

Note that a large number of suppliers did not want to be mentioned by name in the publications by the German competition authorities for fear of losing business.

The German competition authorities recognised that the price decided between the supermarkets and the supplier had an important impact on the profitability and sales margins of the supplier. They also

recognised that the retail market situation was such that the remaining small suppliers were not expected to expand their market share at the expense of larger suppliers nor that a new competitor would be able to enter the market and change the bargaining position of the market leader. Because Edeka is an important retail player, its buying volumes and use of private labels have an important impact on the possibility of suppliers to introduce new branded products, especially the number 2 or 3 brands in the market.

Research of the period 1992 and 2006 showed that the part of the expenses for innovation in relation to the turnover in the food sector decreased and became almost constant since 2002.

Sources:

Bundeskartellamt, Beschluss in der Verwaltungsverfahren B 2 – 333/07, 30 June 2008.

Oxfam Deutschland, Entscheidung des Bundeskartellamtes im Fusionsverfahren Edeka-Plus(B 2 – 333/07), Press information, [July 2008], p. 36, 98, 106.

Oxfam Deutschland, Ergebnisse der Befragung der Lieferanten, Press information, [July 2008].

M. Wiggerthale, [interview], 10 January 2009.

ZWE (Zentrum für europäische Wirtschaftsforschung), "Innovationen. Branchenreport. Innovationsreport Ernährungsgewerbe", year 15, Nr. 4., March 2008.

GREECE

Levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 46.4%.

HUNGARY

Levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 58%.

In 2007, in “the Fast Moving Consumer Goods (FMCG) sector, hypermarkets had a share of 25%, cash and carries 3% and discount stores 18%. Supermarkets and independent small stores had a share of 15% each, while small store chains held 14% of the market.”

Source:

“Large retailers continue to grab market share at expense of small independents”, Realdeal.hu, 28 October 2008, <<http://www.realdeal.hu/20081028/large-retailers-continue-to-grab-market-share-at-expense-of-small-independents>>

Between 1991 and 2001, there has been an increasing concentration. The “previously separated retail and wholesale trade have become more and more integrated.”

Source:

Hungarian Competition Authority, “The misleading advertisement made by Tesco hypermarket”, March 2001, <http://www.gvh.hu/gvh/alpha?do=2&st=2&pg=113&m5_doc=2693>

Farmers’ protests

On 21 November 2008, poultry, dairy and meat producers staged protests and held road blocs outside supermarket warehouse facilities in three cities - Gyal, Alsonemedi and Budaors. They demonstrated against the purchasing and payment terms of the country's major grocery retailers. They were demanding that retailer chains like Tesco and Penny Market “keep to payment deadlines and stop using their economic hegemony unfairly.” The poultry association argued that the international retailers “often reclaim as much as 40-45 percent of farmgate payments as various fees and service charges”.

The farmers were also demanding to stock largely Hungarian products and that “chains like Tesco and Penny Market guarantee that 80 % of products on their shelves be Hungarian-made”. Representatives of Tesco and Penny Market said that they did give preference to Hungarian meat and dairy products, which already came close to accounting for 80 % of shelf items.”

Sources:

“Farmers blockade hypermarkets; demands include quota for Hungarian-made products”, Realdeal.hu, 24 November 2008, <<http://www.realdeal.hu/20081124/farmers-blockade-hypermarkets-demands-include-quota-for-hungarianmade-products>>

“Hungarian supermarkets targeted by farmers”, 25 November 2008, Planet Retail [Daily News], <www.planetretail.net> published via <<http://www.regoverningmarkets.org/en/node/2252/print>>

By 1st December 2008, the agricultural minister had proposed an agreement to put a ceiling of 20% for late delivery fines, private labels’ prices to be limited to be not more than 20 % percent cheaper than other brands, and retailers chains to be obliged to sell at least 80 % Hungarian goods which it estimates to be currently at 30% on the shelves.

Source:

“Agriculture ministry said to be preparing draconian bill targeting hypermarkets”, Realdeal.hu, 1 December 2008, <<http://www.realdeal.hu/20081201/agriculture-ministry-said-to-be-preparing-draconian-bill-targeting-hypermarkets>>

IRELAND

Information about levels of concentration

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 81%.

Adverse effects of supermarket buyer power and abuses on suppliers

Food and Drink Industry Ireland (FDII) has called on the Government to introduce a new legal framework to ensure the survival of the Irish food industry, which it says is struggling to cope with the “coercive practices” employed by large supermarkets. Large retailers are increasingly sourcing products and brands from the UK”, whose exports are cheaper because of a weak sterling. FDII said that bypassing Irish suppliers would put 230,000 jobs in the agri-food sector at risk, and lead to a more homogeneous market for consumer foods.

FDII wants competition law to acknowledge that the power held by certain retailers over some food suppliers is monopolistic. “Food suppliers are struggling to meet the increasingly difficult demands of retailers above and beyond normal contractual negotiations on price,” including “funding retailers’ marketing initiatives and promotions.”

The FDII said that “the Government should act quickly to ensure that trading practices between grocery retailers and their suppliers are fair, that the benefits of existing competition are passed on to consumers, and that suppliers are not forced to pay for advertising, display of goods or other promotions.”

Source:

L. Slattery, “Food sector seeks support”, The Irish Times, 20 January 2009, <<http://www.irishtimes.com/newspaper/finance/2009/0120/1232059661605.html>>

Farmers’ protests

In October 2008, the Irish Farmers Association (IFA) was holding protests in front of different supermarkets to highlight to the consumer the difference in pricing between what the farmers were getting and what the consumer was paying for the produce. The supermarket price for “[t]wo legs of

lamb is the equivalent to what a farmer is getting for a whole lamb. The price of lamb is dropping all the time”.

The IFA was making efforts to have meetings with the managers of the bigger supermarket chains in Ireland, which had so far failed, in order to explain the difficult situation of sheep farmers whose numbers were ever declining.

Source:

A. Kiernan, “IFA hold protest at Tesco to highlight lamb prices”, Longford Leader, 17 October 2008, <<http://www.longfordleader.ie/news/IFA-hold-protest-at-Tesco.4589840.jp>>

In August 2008, Irish farmers who are part of a coalition of farming groups calling itself Fairness for Farmers in Europe protested outside the London headquarters of the Tesco supermarket chain. The Irish Cattle and Sheep farmers Association said it wanted “Tesco to rip up a new contract that would require British farmers to disclose sensitive information from their accounts” something Irish farmers would oppose.

Source:

“Irish farmers protest at Tesco's London HQ”, Goreyguardian.ie, 26 August 2008, <<http://www.goreyguardian.ie/breaking-news/national-news/ir...os-london-hq-1463523.html>>

In January and February 2008, the IFA has campaigned against supermarkets accusing them of “using food as a loss leader, selling below the cost of production, and putting the livelihood of farmers at risk.” The IFA accused the large stores of paying potato farmers only 20% of the retail price. Supermarkets responded that farmers ignored the costs of running large stores.

Source:

Farmers criticise supermarkets' potato margins, RTÉ News, 9 February 2008, <<http://www.rte.ie/news/2008/0209/farming.html>>

The decreasing numbers of Fresh vegetable growers in the North Dublin area were continuing in 2007. The stranglehold by Supermarkets was blamed as they were accused of paying too low prices compared to the retail prices to consumers and production costs, requiring additional services to retailers without payment by retailers, and replacing of Irish produce by cheaper imported produce. The retail prices of Savoy cabbage were 300% to 400% higher than farm gate price, which was assumed to be unlikely to change since supermarkets control 80% of the produce from north Dublin. A farmer testified that he had asked the supermarket chain to give him a 10c increase in the price of a head of cabbage but it said they it “could get it cheaper abroad”.

Source:

K. Whelan, “Supermarkets being blamed for fresh growers' exodus”, Farm Management, 3 March 2007, <<http://www.farmersjournal.ie/2007/0303/farmmanagement/crops/>>

In February 2007, the Irish Farmers Association accused large supermarket chains of forcing Irish vegetable growers out of business by paying below cost prices. Food prices had been falling for the past 25 years while farmers were expected to supply higher quality produce.

Source:

“Supermarkets 'force farmers out' “, The Post.ie, 26 February 2007, <<http://www.sbpost.ie/breakingnews/?c=ireland&jp=cwsnsngbqimh>>

According to a Fine Gael survey in July 2006, a consumer pays €22.97 for the basket of basic foodstuffs, for which the farmer gets just €8.77, represents a difference for the big supermarket chains

of 162pc. Supermarkets reacted angrily to the survey, saying that the survey was ignoring the costs borne by retailers after a product leaves the farm gate, including processing, storage, refrigeration, packaging, advertising, marketing, merchandising and distribution costs. However, Fine Gael responded that supermarkets “were making almost a clear profit as there was little or no processing of the foodstuffs in a basket of goods surveyed.” The Commerce Minister reacted that Fine Gael wanted to accuse the removal of the Groceries Order for higher prices for consumers. The Consumers Association of Ireland said the revelations of the outrageous profits made by supermarkets would not shock the Irish consumers any more but that the survey highlighted the difficulty for a production sector to provide their product to their market. This survey was" bound to encourage more consumers to shop directly from farmers' markets.”

Source:
 A.-M. Walsh, “Supermarkets are 'fleecing farmers' with 200pc mark-ups”, Independent.ie, 22 July 2006,
 <<http://www.independent.ie/national-news/supermarkets-are-fleecing-farmers-with-200pc-markups-89264.html>>

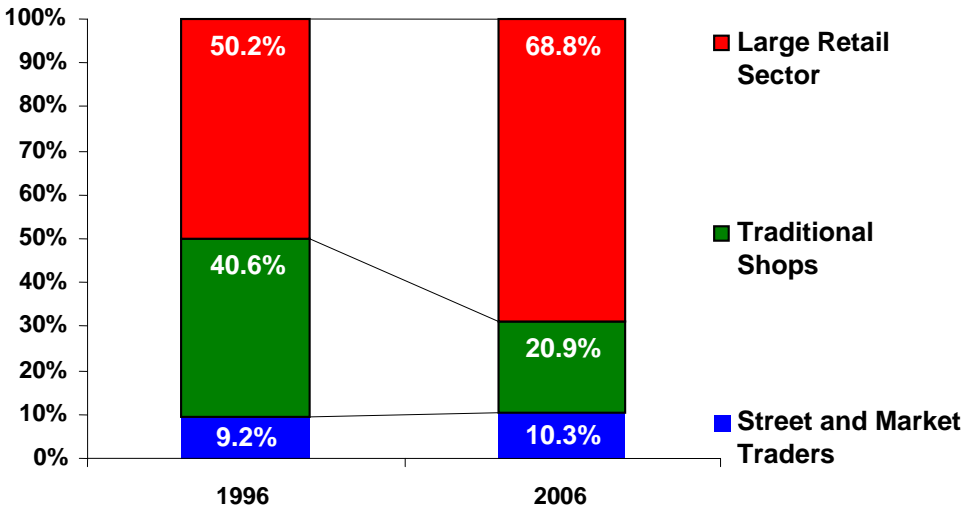
ITALY

Information about levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 35%.

The outlets for food products through traditional shops has decreased between 1996 and 2006 from 40.6% to 20.9%, and through large retailers increased between 1996 and 2006 from 50.2% to 20.9%

Development of food product sales channels 1996-2006



Source: Ismea-Federalimenare quoted in Associazione Industriali delle Carni, The large retail sector and the food industry, 2008, p. 3.

Source:
 Associazione Industriali delle Carni, The large retail sector and the food industry, 2008.

Adverse effects of supermarket buyer power and abuses on suppliers

Over the last years, there have been several articles in the press and branch reviews revealing problems in the relationship between suppliers and retailers, such as high costs of entry of suppliers into supermarkets, increasing listing fees and advertising costs that are preventing many companies

from investing, shelf wars, concentration issues, etc. It was not possible within the timing of this research to report in detail on the issues raised in the articles.

Here are some examples of these articles in the last years:

P. Bricco, "Fornitori nella morsa dei supermarket - gli imprenditori: costretti a versare oltre il 30% dei ricavi", Il Sole 24 Ore, 19 February 2009, p. 19.

[Suppliers in supermarket stranglehold - entrepreneurs: forced to pay more than 30% of revenues].

A. Capparelli, "Prezzi alimentari in frenata - Un'intesa per tagliare gli alti costi d'ingresso nei supermercati", Il Sole 24 Ore, 6 November 2008, p. 22.

[Food prices on the brake - An agreement to cut the high cost of entry in supermarkets]

M.S. Sacchi, R. Scagliarini, "Coop e Caprotti: duello a spese dei grande marchi - Secondo round della causa giudiziaria. La prima sentenza descrive una guerra commerciale senza esclusione di colpi", CorriereEconomia (weekly), 29 September 2008, p. 8.

[Coop and Caprotti (Esselunga): duel at the expense of big brands - Second Round of the Judicial Case. The first sentence describes a war with no holds barred]

A. Frigerio, "Anche i salumieri, nel loro piccolo, s'incazzano", Salumi & consumi, 6 September 2008, p. 3.

[Even meat based producers, despite the fact they are small, got angry]

A. Frigerio, "L'Authority va all'attacco Della distribuzione moderna "No ai contributi indiscriminati" ", Salami & Consumi Newsletter On-line (Edizione Straordinaria), I, nr14, 11 July 2008.

[The Authority attacks modern distribution "No indiscriminate contributions"]

V. Chierchia, "Costi, primo sì all'Antitrust "vigile" ", Il Sole 24 Ore, 18 January 2008, p. 19.

Costs, first yes to the vigilant antitrust

V. Volponi, "Le Supercentrali d'acquisto non hanno ridotto I prezzi – Il progetto nato negli anni '90 non ha influito sui costi, scontentando l'industria, Solo Sma e Crai hanno svoltato", Libero Mercato, 8 January 2008, p. 12.

[The Super purchase centers have not reduced prices - the project born in the 90s has not affected costs, dissatisfying Industry . Only Sma and Crai have succeeded.]

G. Auricchio, "Lettera di Federalimentare a Prodi – Serve la vigilanza dell'Antitrust", Il Sole 24 Ore, 1 December 2007, p. 2.

[Letter of Federalimentare to Prodi. The monitoring of the Antitrust is needed]

"L'agroindustria fa i conti con i rincari delle materie prime – "Gli aumenti sono giustificati"", Il Sole 24 Ore, 1 December 2007, p. 2.

[The agro-Industry is dealing with the price increase of raw materials - "the increases are not justified"]

Z. Kratchmarova, «Scaffali tempestosi, - Prezzi & consumi/1 : La guerra industria-distributori », Economy (il business magazine di mondadori), 24 October 2007, p. 14-22.

[Shelves in the storm. the war Industry – Distributors]

M. Bommezzadri, « Private label : le ultime tendenze emerse al PLMA di Amsterdam sulla marca – Europa, l'ascesa continua », Food, July 2007, p. 44-45.

[Private label: the latest trends at the PLMA in Amsterdam on the brand - Europe, the rise continues]

"Per un futuro di brand" (Editoriale), Food, June 2007, p. 3-4.

[For a future of the brand]

G. Narciso, "Rinnovo contratti, la logica del fiorino – Il rito delle negoziazioni si fa sempre più ripetitivo: perché i retailer non hanno ancora capito che è tempo di evolversi?" Food, June 2007. p. 12.

[Contract renewal, the logic of the forint - The rite of trading is becoming increasingly repetitive, why retailers have not yet understood that it is time to evolve?]

"Sistema retail 7/ Il parere dell'industria sul futuro Della GDO di qui a cinque anni – Negoziare ad armi pari? In un sondaggio realizzato da Food, i produttori si cimentano a prevedere l'evoluzione del sistema distributivo", Food, April 2007, p . 43- 45.

[The opinion of the future of the big retailers from now to five years - to negotiate on equal terms? In a survey conducted by Food (magazine), manufacturers try to anticipate changes in the distribution system]

A.D. Scotti, "Innovare è difficile, ma ci vuole più carattere – L'aumento dei listing fee e dei costi di advertising frena molte aziende dall'investire: ma così si imbrocca un vicolo cieco", food, March 2007, p. 10.

[Innovating is difficult but we need to have more gut - The increase in listing fees and the cost of advertising is holding many companies from investing, but this will lead into a dead end]

V Cornero, "Grande distribuzione tiranna del mercato", La Stampa, 10 December 2006, p. 35.

[The big retailers tyranny of the market]

V. Ch., "P&G sfida il "caro-scaffale » - L'a.d. Vito Varvaro contro la barriera dei costi de accesso", Il Sole 24 Ore, 10 November 2006.

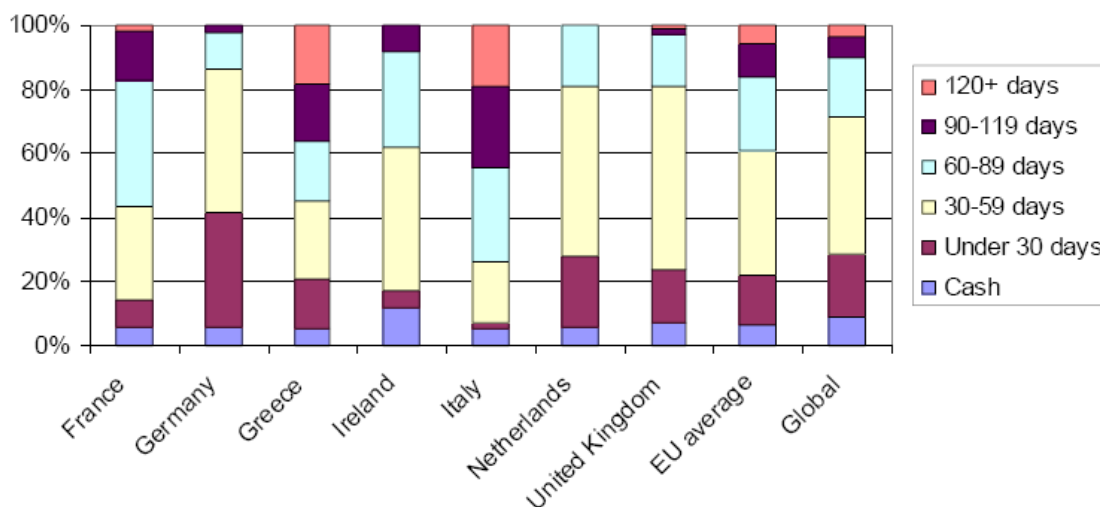
P&G defies the "increase in the shelves cost" - the CEO Vito Varvaro against the barrier of the access costs

The food processing sector is made up for a large extend of small and medium-sized companies which do not have enough bargaining power vis-à-vis the increasing pressure on prices from the retail sector including the ('super') buying groups. This has resulted in contractual stipulations and forms of payment which were unusual with other retailers and which are not directly related to the sale of a product, e.g. :

- ❑ contribution to the cost of promotional services: promotional contributions on the opening of new outlets, flyers, promotional publicity, and co-marketing operations
- ❑ additional fees for: listing fees (between € 800 to € 1,500 for each product and for each sale outlet), preferential shelf-space, product placement and retention of the range;
- ❑ discounts and end-of-period bonuses: unconditional or target discounts/bonuses , discount for centralized purchases, bonuses for meeting terms of payment, or for the purchase of a combination of products or complete shipments;
- ❑ contribution to the cost of services carried out by buying groups: central management of price lists, management of promotional calendar, administration, etc.
- ❑ late payments: according to the EC's own figures⁵ (see table below) above shows how in Italy, the number of payments made within 30 days are clearly lower than the European average, payments within 60 days are less frequent that in all EU countries and payment after 120 days still exist.

⁵ Review of the effectiveness of European Community legislation in combating late payments – Contract 30-CE0039936/00-92 – February 2007, page 223 onwards.

Average payment period for sales invoices (%) (2006)



Source: IBOS, Grand Thornton

The table⁶ above shows how in Italy, the number of payments made within 30 days are clearly lower than the European average, payments within 60 days are less frequent than in all EU countries and payment after 120 days still exist.

Suppliers are obliged to participate in an increasing amount of costs for sales promotion. Buyer power pressure can even lead to breaking the commercial relationship by the retailer if the supplier does not comply. However, since the tax authorities have difficulties to find the corresponding services to the amounts on the invoices, the contractual obligations for extra payments are actually illegal from a taxing point of view.

Since retail chains are continuously changing between different 'super' buying groups, the above described buyer power commercial practices, efficiency or volumes.

The 'super' buying groups imposes that a supplier applies unconditional discounts and payments to all the partners in the buying group, in almost all cases without any negotiation and without receiving anything in return.

These increasing costs for fees, marketing and promotion imposed by supermarkets can be considered barriers to market entry to companies wishing to sell their products through supermarkets. One estimation of the cost to be present throughout in modern retail network (22,00 sales outlets) are a minimum of € 7.6 million and a maximum of € 33 million.⁷ In 2009, the cost of extra payments to suppliers was estimated to be 30% of their revenues.⁸

Source (except otherwise mentioned): Industriali delle Carni, The large retail sector and the food industry, 2008.

Consumers have not benefited from low production prices being passed on to consumers and had to pay relatively higher prices compared to the increase of production prices.⁹ Over the period 1995-2006, the trend for production prices in the sector confirms a slower rate of increase (+12.2%) compared to retail prices (+22.1%) and to inflation (+27.8%).

⁶ Review of the effectiveness of European Community legislation in combating late payments – Contract 30-CE0039936/00-92 – February 2007, page 223 onwards.

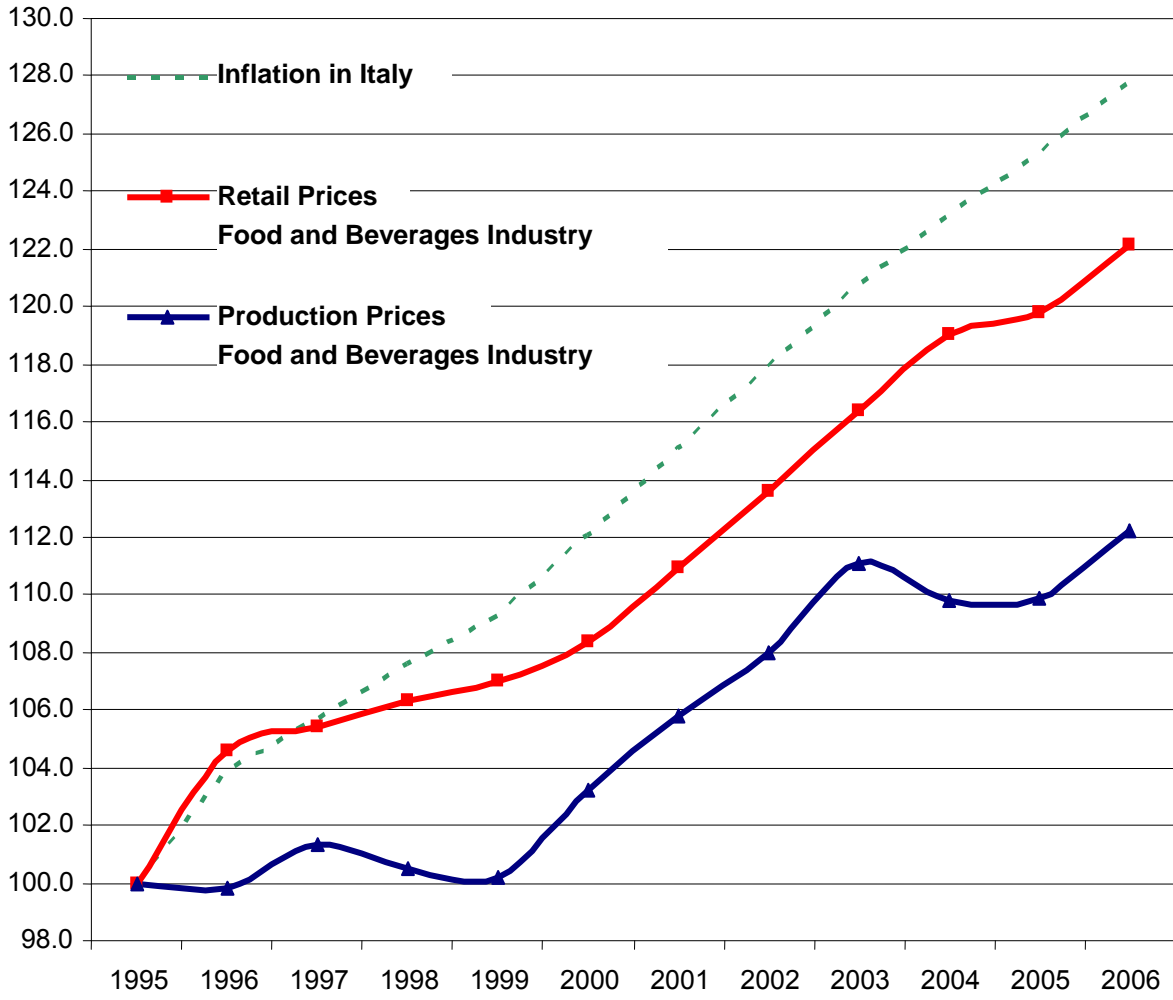
⁷ Il sole 24 ore – 10 October 2006.

⁸ P. Bricco, "Fornitori nella morsa dei supermarket - gli imprenditori: costretti a versare oltre il 30% dei ricavi", Il Sole 24 Ore, 19 February 2009, p. 19. [Suppliers in supermarket stranglehold - entrepreneurs: forced to pay more than 30% of revenues.]

⁹ Source: Analysis by Federalimentare on data issued by ISTAT (Italian National Statistics Office)

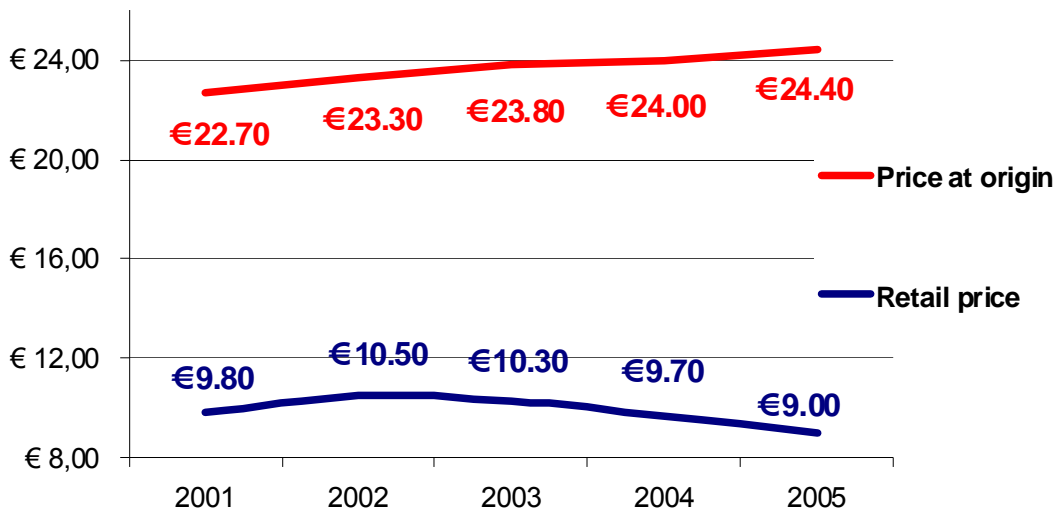
Production Prices and Retail Prices in the Food Industry 1995-2006

(Indices 1995=100 – annual averages)



Source AC Nielsen - CCIAA Milan - Consorzio del Prosciutto di Parma (Parma Ham Consortium)

Prosciutto di Parma - Prices at Origin and Retail Prices



LATVIA

Levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 32.6%.

The CR4 was 50% in 2005, which was around 10% more than in 2003. The HHI (Herfindahl Hirschman Index) calculated from the market shares of the 6 largest firms, excluding Franchises, was 963 In Latvia in 2005. Latvia was the least concentrated compared to Esthonia and Lithuania but more concentrated than many Eastern and Central European countries. In Latvia, the increasing concentration process in retailing “has mainly been driven by foreign actors”.

Source:

A. Vanags, A. Paalzow, Competition in the Latvian and Baltic Grocery Retail Markets, SSE Riga/BICEPS Occasional Paper No. 3 (ISSN 1691-3620), September 2007.

I. Gulbe, Grocery retailing and Latvian food marketing chain, Workshop on enhancing competitiveness in the agro-food sector: making policies work, Section 2: Competitiveness in the marketing and retail sectors, Vilnius (Lithuania), 16 – 17 June 2004, <<http://www.oecd.org/dataoecd/30/40/32607029.pdf>>

Supermarket buyer power and abuses and its adverse effects on suppliers

Among many elements considered to be limiting the competitiveness of the still fragmented Latvian food marketing chain is the “growing impact of cross-border alliances within grocery retailing”.

The relationship between retailers and suppliers in Latvia include the following practices by retailers which are associated with buyer power:

- Usually a listing fee exists for store presence and slotting allowances for shelf space;
- additional allowances are paid to locate products in end-of-aisle displays;
- long terms of payment to suppliers by retailers which allows the latter financing without interest for expansion;
- return of unsold units, especially fresh food and vegetables;
- special promotions, like ‘3 for 2 deals’, are at manufacturers expense;
- discounts for bulk purchases;
- payments for store openings, remodelling, extensions, mergers.

“Fixed end-of-year payments linked to certain volumes of sales achieved are not common, as target levels of sales are not strictly planned. Nevertheless, in cases, retrospective discounts over previous year’s sales take place. Manufacturers refilling the shelves with their products by themselves are not paying fee. Exclusive purchase arrangements are not required by retailers.”

Source:

I. Gulbe, Grocery retailing and Latvian food marketing chain, Workshop on enhancing competitiveness in the agro-food sector: making policies work, Section 2: Competitiveness in the marketing and retail sectors, Vilnius (Lithuania), 16 – 17 June 2004, <<http://www.oecd.org/dataoecd/30/40/32607029.pdf>>

LITHUANIA

Levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 75.6%.

The CR4 was 71.7% in 2005, which was around 6.5% more than in 2003. The HHI (Herfindahl Hirschman Index) calculated from the market shares of the 6 largest firms, excluding franchises, grew to 1903 in Lithuania in 2005. Lithuania had a higher level of concentration to Estonia and Latvia. The concentration process has mainly been driven by large local retail chains in Lithuania.

Source:

A. Vanags, A. Paalzow, Competition in the Latvian and Baltic Grocery Retail Markets, SSE Riga/BICEPS Occasional Paper No. 3 (ISSN 1691-3620), September 2007.

I. Gulbe, Grocery retailing and Latvian food marketing chain, Workshop on enhancing competitiveness in the agro-food sector: making policies work, Section 2: Competitiveness in the marketing and retail sectors, Vilnius (Lithuania), 16 – 17 June 2004, <<http://www.oecd.org/dataoecd/30/40/32607029.pdf>>

Supermarket buyer power and abuses and its adverse effects on suppliers

In November 2007, retailer Maxima decided to withdraw from a code of good business practice for retail chains which was signed in March 2007 with the aim of “ensuring that retailers offered fair prices and had no chance to use the forthcoming introduction of the Euro as an excuse to raise prices. The code also made it more difficult for retailers to negotiate prices and allows suppliers to boost prices in summer and autumn”. “Having withdrawn from the code, Maxima is reportedly aiming to invite suppliers to renegotiate the prices as the retailer will seek to reduce the prices of goods.”

Source:

“MAXIMA withdraws from code of business practice in Lithuania”, Planet Retail, 7 November 2007, published via <http://www.regoverningmarkets.org/en/news/c_e_europe/maxima_withdraws_from_code_of_business_practice_in_lithuania.html> copyright www.planetretail.net

NETHERLANDS

Levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio in 2005 was 63 %.

According to Bunte (LEI) the market share of the five largest supermarket chains in the Dutch Fruit and Vegetable sector is ever growing. In 2003 the CR5 ratio was 63 %, in 2007 this was 66 %. He notes that many supermarkets cooperate in their buying operations and in some cases these combinations operate cross-border. The largest buying combinations in the Netherlands have 73 % market share (Albert Heijn, Superunie and TSN). LEI expects the consolidation process to continue over the next years.

Source:

F. Bunte, W. Kuiper, M. van Galen en S. Goddijn, Macht en Prijsvorming in Agrofoodketens LEI, February 2003 <http://www.lei.dlo.nl/publicaties/PDF/2003/5_xxx/5_03_01.pdf>

Projectgroep Veerkrachtige Pluimveevleesproductie of the University of Nijmegen referred in a research report to a statement of Dobson (2002) who concludes that the concentration of buying desks is the reason that the retail organisations occupy the power in the chain. The Project group visualizes the chain through the size of an egg timer as shown in the Figure 1: ‘supply chain tunnel’ in Europe of Cap Gemini Ernst & Young). It shows that the buying desks in the centre (in Europe) are highly concentrated (to just 90 in number) in comparison to other players in the food chain.

Source:

“Verkenningen voor een veerkrachtige pluimveeproductie,” “Projectgroep veerkrachtige pluimveeproductie, Rapport 308, December 2004

<http://www.verantwoordeveehouderij.nl/Producten/Pluimvleesproductie/Verkenningen_PluimvleesProductie.pdf>

Supermarket buyer power and abuses and its adverse effects on suppliers

According to the Dutch Agricultural Union (NAV) a report from the Agricultural Economical Institute of the University of Wageningen (LEI) - "Prijsvorming Glastuinbouw "(Price Establishing in the Glashouse Horticulture) shows clearly that the buying prices in the fruit and vegetable chain are not decided upon by growers or farmers but by the more powerful actors in this chain, the wholesalers and supermarkets. The same is the case in the potato chain, where the prices growers get for their potatoes are too low (just above cost price or not even that). The NAV considers that this report confirms that there is fundamentally something wrong in the power and force relations in both the agricultural and the food chain.

Recently the NAV has started up initiatives to form strong regional coalitions of growers to withstand the powerful other links in the chain, the wholesalers, processing food industry and supermarkets.

Sources:

"NAV: Kracht- en machtsverhoudingen in de foodsector verdient vernieuwing", NAV, 14 January 2009 (<http://www.nav.nl/content/view/463/2/>)

"Visie op de aardappelkolom" LEI report nr 228 , August 2006 (<http://documents.plant.wur.nl/wewi/228.pdf>)

"Telers ontevreden over contractvoorwaarden", NAV, 2009 (<http://www.nav.nl/content/view/264/55/>)

A study published in 2007 about the income of actors in the different links in the Dutch agribusiness chain related to dairy, pork, fruit and vegetables concluded that the income of the prime producers at the beginning of the chain was much less than in the other parts of the chain being retail, distribution and processing.

Source:

G. Cackus, J. Boone, E. ten Pierick, F. Bunte, K. van Calker, Ketenrendementen in de Nederlandse agribusiness, LEI rapport 5.07.05, May 2007.

Bijlman and Hendrikse conclude from the concentration of buying desks in the food chain and the disproportion between the group of 'supplier/producers' on the one hand and the group of retailers on the other that the retailers are the most powerful and can use their power more easily towards their suppliers. It prevents a fair, competition based market to arise. They added that the market position of an individual grower was (and is) relatively weak vis-à-vis a buyer because of the relatively small quantity he offers for sale, the perishability of the produce, and his lack of market information.

Sources:

"Cooperatives in chains: institutional restructuring in the Dutch fruit and vegetables industry," J. Bijlman, G. Hendrikse, Erim report series research in management, 2003 (<http://ideas.repec.org/p/dgr/eureri/30001179.html>)

The Southern Agricultural and Horticultural Organization (Zuidelijke Land- en Tuinbouworganisatie, ZLTO) indicated in June 2007 that farmers and other suppliers in the chain were forced, through the purchase policy of the supermarkets, to enlarge and concentrate in order to provide cheaper products to their purchasers. The ZLTO argues that the supermarkets in fact already own the suppliers in the chain, considering the fact that suppliers have no choice than following the will of the supermarket concerns. According to the ZLTO, the number of farmers/companies has been decreased in the previous years and supermarkets get more power: 'Farmers become wage farmers who grow exactly what the supermarket wants them to'.

Source:

"Macht supermarkten weerstaan," K. de Vree, Trouw De verdieping, 12 February 2003 (http://www.trouw.nl/archief/article364998.ece/Landbouw_Macht_supermarkten_weerstaan#readmore#readmore).

The power of the supermarkets had its influence on the milk industry. The NMV, the Dutch Union for Milk Cattle (Nederlandse Melkvee Vakbond) found that 95 % of the farmers are unsatisfied with the current milk price. Campina, the second largest dairy cooperation in the Netherlands, wanted to increase the milk price with 5% percent, but Mr. Sanders of Campina explains that the power to determine the price is in the hands of the retailers. Compared to 2006, the cooperation suffered a loss of 37 percent in 2007.

Sources:

"Plan meer melkgeld: The Dutch Dairy Board," NMV, 2007

(<http://www.nmv.nu/sx/article.php?story=2004092110175216&mode=print>).

"Campina rekest op hogere prijs voor melk," Financieele Dagblad, 17 March 2007.

Farmers in the pig sector have no power and no alternatives; they are the so-called price takers. Therefore, the profit of the farmers is strongly connected to the cost price of the best and large pig farmers. According to the Institute of Agriculture and Economics (Landbouwkundig Economisch Instituut, LEI) the purchasers of the supermarkets are the ones who set the prices.

Source:

R. Hoste, N. Bondt, P. Ingebleek, "Visie op de varkenskolom", LEI, November 2004

(<http://library.wur.nl/way/bestanden/clc/1750781.pdf>).

An article in the daily Trouw shows the impact of buyer power of retailers in relation to fixed contracts with suppliers. The newspaper describes supermarkets not to be willing to pass on product price lowerings and -rises to their producers in the supply chain.

Source:

K. de Vree, "Macht supermarkten weerstaan", Trouw De verdieping, 12 February 2003

(http://www.trouw.nl/archief/article364998.ece/Landbouw_Macht_supermarkten_weerstaan#readmore#readmore).

Frank Bunte, researcher of the LEI, argues that not only farmers, but also consumers are the victims of retail buyer power. He indicates that supermarkets contract more and more fixed relations with their subcontractors which makes them dependent of each other. In previous years three large chicory suppliers of supermarket company Albert Heijn (AH) went bankrupt. AH suddenly had to buy from other suppliers in the Netherlands, Belgium and France against higher market prices. It indicates also that supermarkets do not intend to change to other suppliers, which will cost them more.

Source:

F. Bunte, W. Kuiper, M. van Galen en S. Goddijn, Macht en Prijsvorming in Agrofoodketens LEI, February 2003.

<http://www.lei.dlo.nl/publicaties/PDF/2003/5_xxx/5_03_01.pdf>

Also the packaging sector feels the negative impact of the buyer power of supermarkets. Ruud Koster of HZPC Holland explains that through retailer buyer strategies the packing sector, in particular the smaller ones, face more difficulties. Competition between the packing companies will lead to more benefits for the retailers since they, as a concentrated sector, can choose the supplier with the lowest price, which is most often under the cost price. As a result, the packing company has to buy their raw materials again for a cheaper price from their suppliers in the chain, which is according to Koster not a healthy situation for this particular sector. Moreover, it indicates that retailers choose only for one packing company in the form of a protracted contract.

Source:

"De verpakkingsmarkt," R. Koster, HZPC website nieuws, 2007.

According to Kees Hudig of 'Global Info', buying groups such as Superunie, Jumbo, Hoogvliet and Nettorama have made absurd demands to their suppliers particularly in the field of prices whereby in particular farmers and market gardeners had to sell far under the cost price. The constant striving towards the lowest prices has negative consequences on wages, environment, the well-being of animals and the working circumstances of employees.

Source:

"Breek de macht van de supermarkten," J. Schutijser, Algemeen Dagblad, 25 June 2006
<<http://www.ad.nl/economie/article428968.ece>>

The Federation of Dutch Food Manufacturers (Federatie Nederlandse Levensmiddelen Industrie, FNLI) was concerned about the tension in the chain regarding the buyer power, which is seen as a consequence of concentration of supermarkets. Mr Den Ouden of FNLI indicated that the Dutch Competition Commission NMa only "looks down stream" because the prices go down and that would be, according to the NMa, good for the consumer. According to Den Ouden, considering the last price war, the manufacturers have to pay for the concentration of the purchase power. Another FNLI spokesman, Bennemeer, indicated the sector "holds its breath" because a number of employees will be fired and there will be less investments. He expected a number of manufacturers to fall.

Sources:

"Fabrikanten boos over AH-premie," Financieele Dagblad, 13 February 2007.
"Eerst moeten er slachtoffers vallen," P. Couwenbergh, Financieele Dagblad, 16 January 2006.

In a direct and an indirect way the consumer experience the negative effects of the buying power of large supermarket chains by the increase of unemployment that result from the increased competition amongst the retailers. The price war of 2003 - 2007 for example, caused a lot of job losses in the sector (retailers like Laurus, manufacturers like Unilever and Campina). According to the Erasmus Food and Management Institute (EFMI), the price war led to the loss of many jobs in supermarkets.

Some of the more obvious results are loss of income and job security for laid off supermarket employees and their relatives, but also loss of service in the supermarkets because of the need for cost reduction.

Sources:

"Zwaar geschat," R. Schöndorff, NRC, October 2006, <<http://www.nrc.nl/krant/article75126.ece>>
"Duizenden banen weg door prijzenoorlog," Elsevier, 30 April 2005
<<http://www.elsevier.nl/web/Nieuws/Economie/Duizenden-banen-weg-door-prijzenoorlog.htm?long=true>>
"Dierenwelzijn in de markt," M. Binnekamp, P. Ingenbleek, H. van Trijp en K. de Vlieger, February 2005,
<<http://www.lei.dlo.nl/nl/content/agri-monitor/pdf/Febr2005Dierenwelzijn%20in%20de%20markt.pdf>>
"Bodemprijs of Bodem onder de prijs," B. Baarsma, M. de Nooij, SEO, March 2005,
<<http://www.seo.nl/assets/binaries/publicaties/disscusion/2005/37.pdf>>

POLAND

Levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 21%.

Although the retail market in 2006 was still fragmented, a trend of consolidation was going on, among others by Ahold leaving and selling its business to Carrefour (December 2006) and Tesco buying stores from Casino who also left Poland (in 2006?). The Biedronka discount stores chain had the largest

market share in 2006 (estimated at less than 3%) and expanded in 2007, and is owned by the Portuguese Jeronimo Martins group.

Source:

A. Ratajczyk, Carrefour To Buy Ahold, Warsaw voice, 20 December 2006, <<http://www.warsawvoice.pl/view/13364>>
A.R., "JMD Expands", Warsaw Voice, 24 January 2007, <<http://www.warsawvoice.pl/view/13654/>>

Farmers' protests

In November 2008, producers of poultry, meat, processed fruit and vegetables, fish and others were requested to cut prices and additional costs for service by Tesco, sometimes with threats not to take the produce any more. "Due to the deepening financial crisis, dropping prices of materials (milk, grain, oil, vegetable and fruit), increased price aggressiveness of discount stores (Lidl, Biedronka), and our willingness to provide competitive offers to our customers, we are forced to lower purchasing prices and improve commercial terms in 2009," said a letter sent by Tesco to a poultry company. Tesco wanted the company to reduce prices by 5-20 %.

The poultry company argued that such price cuts were impossible since the profit margins were already close to zero in the sector – which was echoed by other producers.

Tesco's demands were seen as a change in its strategy so as to compete with discount retailers in Poland such as Lidl and Biedronka.

Sources:

"Tesco wants its Polish partners to reduce prices by 5-20 percent", Puls Bbiznesu, 7 November 2008, <<http://www.pulsbiznesu.pl/Default2.aspx?ArticleID=2b170e87-20c5-4077-a05a-fd3b5aa27e7b&readcomment=1&page=0&orderBy=up&isbad=2d47a903-9b17-433d-afe0-94a52de65a94>>

W. Szczepaniak, "Tesco will reduce the profits of Polish companies", translated from "Tesco obniży zyski polskich firm", 7 November 2008, <http://gospodarka.gazeta.pl/gospodarka/1,33208,5894020,Tesco_obnizy_zyski_polski>

"Polish Branch of Tesco Pressures Producers", ThePoultrySite Latest News, 7 November 2008, <<http://www.thepoultrysite.com/poultrynews/16380/polish-branch-of-tesco-pressures-producers>>

In 2003, farmers protested against the erosion of their business because new supermarkets destroyed small shops as well as because of cheap imports which led to closure of local abattoirs as well as meat and milk processing plants, and the enormous list of rules and regulations to conform to EU accession.

Source:

J. Rose, "Protests in Poland", International Coalition To Protect The Polish Countryside, March 2003, <<http://www.icppc.pl/eng/index.php?id=102&s=protestinpoland.htm>>

PORTUGAL

Levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 65.3%.

ROMANIA

Levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 19.2 %.

Supermarket buyer power and abuses have adverse effects on suppliers

In March 2008, Romanian food [producer] groups have accused supermarket chains of anti-trade practices which have cut their profits. They are facing high cost of listing fees, promotional services etc. and an inquiry has been set up to address to face these problems.

“The food groups have asked for a "code of good trade practice" for the supermarkets, which should be approved by the Competition Authority, and the Ministries of Agriculture and Finance. They also threatened to take the issue to the European Parliament, as well as to the European Commission.”

Source: “Romanian supermarkets accused of anti-trade 'abuses' “, Planet Retail [Daily News], 7 March 2008, <http://www.regoverningmarkets.org/en/news/c_e_europe/romanian_supermarkets_accused_of_anti_trade_abuses.html>

Anti-competitive behaviour

Food prices are usually dictated by large retailers. An agreement has been reached beginning Summer 2008 between retailers and producers whereby producers will have more flexibility in setting food prices, following a government proposal to help keep food prices stable and low, and avoid the impact of globally rising food prices. However, although the aim is more competition, the agreement required approval from the national competition authorities.

Retailers have been preventing producers selling goods to a competitor at a cheaper price, and the above agreement aimed at stopping that practice.

Source: “Retailers sign Romanian deal”, fruitnet.com, 3 July 2008, <<http://www.fruitnet.com/content.aspx?ttid=15&sid=96&cid=772>>

Food [producer] groups have complained about contract conditions that do not allow producers and manufacturers to supply other shops at cheaper prices.

Source:

“Romanian supermarkets accused of anti-trade 'abuses' “, Planet Retail [Daily News], 7 March 2008, <http://www.regoverningmarkets.org/en/news/c_e_europe/romanian_supermarkets_accused_of_anti_trade_abuses.html>

SLOVAKIA

Levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 36.4%.

Since 2000, large European retailers have established themselves in Slovakia, such as Tesco, Carrefour, Metro, Kaufland, Billa, Ahold and Lidl. Large supermarkets control 70% to 90% of food markets in Slovakia (2008).

Source:

B. Balogová, “New law tackles retail chains - Law 'nonsense' say large retailers, but producers are happy”, Spectator, 21 April 2008, <http://www.spectator.sk/articles/view/31480/3/new_law_tackles_retail_chains.html>

I. Šarmír, [Testimony (in French)], Slovak Chamber for agriculture and food, Directorate Food Industry, Bratislava, November 2008.

Supermarket buyer power and abuses have adverse effects on suppliers

Since 2000 when the large European retailers have arrived in Slovakia, suppliers have been confronted with many malpractices. The domestic retailer Coop Jednota has imitated these malpractices towards suppliers.

Suppliers have little choice as they have become totally dependent on the large supermarkets who control almost all outlets and which impose very similar conditions on suppliers. Suppliers complain about malpractices such as:

Payment for services which have often not materialised or whose prices are exaggerated (after sale rebates) e.g. Payment for refurbishing stores, which are seen as results of buyer power abuses;

Very late payments especially for fresh products;

Listing fees;

Payment for advertisements various marketing activities by the retailer;

Unsold fresh products such as bread, fruit and vegetables have to be taken back by their suppliers who are consequently not paid;

Sales to consumers below production costs.

The extra fees to be paid to retailers by suppliers are claimed to reach 4-19% of suppliers' revenues.

Some supermarkets have required, with threats of delisting, from their suppliers a declaration as a proof that their relationship is advantageous for both sides and that there is no dependency by the suppliers but a voluntary relationship. There are proofs that such declarations have been required by Metro and Kaufman in 2008.

Source:

B. Balogová, "New law tackles retail chains - Law 'nonsense' say large retailers, but producers are happy", Spectator, 21 April 2008, <http://www.spectator.sk/articles/view/31480/3/new_law_tackles_retail_chains.html>

I. Šarmír, [Testimony (in French)], Slovak Chamber for agriculture and food, Directorate Food Industry, Bratislava, November 2008.

When European supermarkets entered the market, there was more choice than before (e.g. more imported food). Later, the choice became more limited. Some Slovak products have disappeared from the shelves. Traditional foods have always been limited, and so far have not disappeared. The quality of the food ingredients has deteriorated due to price pressures.

Source:

I. Šarmír, [Testimony (in French)], Slovak Chamber for agriculture and food, Directorate Food Industry, Bratislava, November 2008.

SPAIN

Levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 65.2%.

Farmers' protests

In 2008, farmers have organised campaigns, actions and a massive demonstration in Madrid to protest against the very low prices they receive and the very large difference between the prices they are paid and the prices the consumers pay for in the supermarket. They argue that in general the money received by farmers is not more than 25% of the retail price, and the commercial margins of large retailers are, on average, bigger than 400%. Prices paid to producers are so low that they cannot face their production cost. They protest against the absolutely lack of transparency in price setting and abusive practices by supermarkets, intermediaries and food processors. They ask the government to intervene. They have presented a proposal of law to all the parties about the commercial margins of the food market.

The IPOD is a new index in Spain that will give monthly information about the food prices at origin and final end user. It gives the differences in prices levels at different stages of the chain.

IPOD

Products	Origen	Destine	Farmer Participation on prices.	Difference Destine / Origen
Beef	3,33	15,01	22%	451%
Pork	1,46	5,87	25%	402%
Milk	0,36	0,96	38%	267%
Chard	0,41	1,52	27%	371%
Courgette	0,32	1,70	19%	531%
Onions	0,21	1,13	19%	538%
Lettuce	0,27	0,89	30%	330%
Pepper	0,82	2,64	31%	322%
Tomato	0,42	2,04	21%	486%
Carrots	0,26	0,97	27%	373%
Apple	0,47	1,74	27%	370%
Orange	0,37	1,44	26%	389%
Pear	0,45	1,84	24%	409%
Banana	0,12	1,83	7%	1525%
Average		24%		483%

Source:

Documentation from UPA (see for instance: <http://www.hoyagro.com/articulo.php?id=1289>; <http://www.preciosjustos.es/>; http://www.upa.es/_noticias/27_05_08.php)

SWEDEN

Levels of concentration in the retail sector

According to Planet Retail (Global retail concentration, 2006, www.planetretail.net), the CR5 ratio is 81.8%.

How the market share is divided among the five largest supermarkets can be seen in table 4.5 (p. 70) of “Nordic food markets – a taste for competition”, report from the Nordic competition authorities, November 2005, which is reproduced from AC Nielsen, “Nordic Grocery Insight”, 2004. In the Nordic countries, supermarkets account for 80-90% of retail food sales (2007). Nearly all supermarkets are organised in different chains or groups where all the stores in the same chain appear the same. There is an ongoing restructuring and consolidation of the grocery trade in all Nordic countries, including at the level of buying desks (wholesale).

Source:

“Nordic food markets – a taste for competition”, report from the Nordic competition authorities, November 2005, p. 10,11, 12.

In 2006, over 70% of Swedish retail food sales went through large supermarkets and hypermarkets. The Swedish wholesale and retail food market is dominated by three nationwide groups - ICA (47.7%), Coop (20.7%) and Axfood (18.2%) – while a fourth, Bergendahlsgruppen (7.9%), is mainly active in Southern Sweden.

Source:

B. Dahlbacka, Retail food sector report for Sweden And Finland, USDA Foreign Agricultural Service, GAIN REPORT NUMBER: SW7018, 13 December 2007.

Supermarket buyer power and abuses have adverse effects on suppliers

The Nordic competition authorities concluded that there were “fewer opportunities for food suppliers to get their products on the shelves”. The concentration of the buying groups has “significantly strengthened the purchasing groups’ bargaining position vis-à-vis the suppliers, leading to lower purchasing prices.”

By 2005, the Nordic food industry had gone through a period of consolidation and rationalisation in order to achieve volume and large-scale efficiencies, leading to the domination of a small number of vertically integrated chains. This “often creates buying power, as the suppliers grow dependent of a few large retail chains.”

In Nordic countries, the changing conditions for getting access to the supermarket shelves and especially the growing power of the large retail groups has influenced bargaining between producers and retailers. “The supermarkets try to exploit their power to their advantage. The Working Group has found that this leads to lower prices from the suppliers, support for marketing, allowances to cover costs in the shop, better quality and service, joint marketing, slotting allowances, etc. In this bargaining process minor suppliers may be at a disadvantage compared to large producers with market power. Retailers put pressure on suppliers for lower purchasing prices.” Through a systematic mapping of sales, the impact of marketing plays an increasing role in the negotiations with suppliers. “As a consequence, negotiations become more complex and include payment for access to the shelves etc. Suppliers must be willing and able to participate in in-store activities. This may prove difficult for minor suppliers.”

Small suppliers suffer from the high volume requirements by retailers, by which they can easily be replaced by a larger suppliers. A Swedish study showed small food processors lost market share in the five years [before 2004] because of retailers shelf management. For those small suppliers producers that manage to get an agreement with a large retailer an opportunity is provided get access to the shelves in numerous supermarkets.

Small suppliers “can participate in the retailers’ call for tenders for the production of for example private labels and they can submit tenders on equal terms with the large suppliers. Competition in such tenders may be fierce, and winning a contract provides no guarantee of continued presence on the market. An extensive use of calls for tenders by retailers may favour larger suppliers. On the other side, tenders may give small producers opportunity to get a foothold in the market. There are examples where such contracts last for more than five years.”

In addition, the increasing possibility for buying desks in Nordic countries to purchase food from abroad from abroad has resulted in increasing food imports and has also contributed to price pressures for domestic suppliers. But most of the food found in supermarkets in Nordic countries in 2005 was still of national origin.

Source:

“Nordic food markets – a taste for competition”, report from the Nordic competition authorities, November 2005, p. 12, 15, 17, 85, 86, 92.

Nordic consumers have a much narrower choice of food in, and more uniformity of choice across their supermarkets which is partly due to the concentration in the wholesale, retail and food industry, and the increase of hard discounters. “Also, all supermarkets belonging to the same marketing chain offer nearly the same range of products.”

“One reason behind the high food prices and the narrower food supply seems to be the high concentration on both supply and retail level in the Nordic region.”

“Private labels are typically cheaper than the manufacturers’ brands. At the same time it is more difficult for consumers to compare the prices of private labels than the prices of manufacturers’ own brands bearing in mind that private labels are only found in one chain.”

Source:

"Nordic food markets – a taste for competition", report from the Nordic competition authorities, November 2005, p. 9, 12, 13,17.

UNITED KINGDOM

Levels of concentration in the retail sector

In 2005, Planet Retail (Global retail concentration, 2006, www.planetretail.net) calculated that the CR5 ratio in the UK was 63%.

In 2008, the Competition Commission (CC) calculated (see Groceries market investigation Report, Fig. 3.1, p. 32) that the CR5 ratio was 69% - not as high as in some other EU Member States, but nevertheless high from a competition policy. In the UK, it is normal to think more in terms of the "Big Four" – in order of size, Tesco, Asda, Sainsbury and Morrison's – since the fifth (Somerfield) has been taken over by Co-op which jointly have a market share of around 8%¹⁰. The CC calculates the CR4 ratio as 65% and the CR3 ratio 56%. Furthermore, concentration is increasing: the HHI value rose from 846 in 2002 to 1309 in 2007. Middle-sized grocery groups have experienced a static market share of close to 20% over the past five years while small (i.e. specialist and convenience) stores have lost share: it is now 15% and falling.

Supermarket margins meanwhile have for the most part risen. Tesco, Somerfield, Marks & Spencer and Waitrose all had higher operating margins in 2007 than in 2000. Morrison's margin was rising until it acquired Safeway. Sainsbury's margin is rising again after a sharp dip in 2004/2005. Asda's margin has remained more or less static. The CC noted that "The average operating margin for large grocery retailers of 3.6 to 4.5 per cent is higher than the 2.9 per cent average margin earned by the 50 largest independent grocery retailers in 2007." (para. 3.21). The CC goes on to report that, "...concerns have been expressed about the rate of recent food price increases in the UK compared with other EU countries. Eurostat data on grocery price levels across the EU and other European countries suggests that prices in the UK for food and non-alcoholic beverages are approximately 13% above the average for the 27 EU Member States."

Although the remit given to the CC by the OFT covered the whole grocery market, it is apparent that the CC's investigation was *de facto* an investigation of the supermarket sector alone and how supermarkets compete against each other. The CC did not believe that smaller retailers effectively competed against supermarkets, and failed to examine why successful smaller non-national retailers should not expand to become local supermarkets able to compete – locally – against the national chains. In other words it did not adequately consider barriers to expansion. Not a single adverse effect on competition was identified in relation to independent wholesalers or retailers.

Impact on consumers

The CC found that the transfer of excessive risk and unexpected costs by grocery retailers to their suppliers will have an adverse effect on investment and innovation in the supply chain, and ultimately on consumers. The CC concluded that if left unchecked, these practices will ultimately have a detrimental effect on consumers by leading to lower-quality goods, less choice of goods, or less product innovation.

Clearly, the loss of over 10,000 small specialist shops and convenience stores diminishes consumer choice. Such loss is likely to bear especially hard on people who do not have a car and/or who may be poorly served by public transport. A survey commissioned by the British Brands Group¹¹ found that

¹⁰ M. Dickinson. "Co-op 'fifth biggest' after Somerfield buyout", The Independent, 16 July 2008, <http://www.independent.co.uk/news/business/news/coop-agrees-somerfield-takeover-868947.html>

¹¹ *Consumers' shopping wants and UK grocery retailing: are consumer needs being met?* BBG, July 2007,

nearly a third of the UK population over 16 find that supermarkets do not satisfy their shopping needs. Prominent among this group were people over 70, people of non-British ethnic origin, and single parents without the use of a car.

Even where consumers are easily able to access supermarkets, it is questionable whether they enjoy much price dispersion in what they wish to buy. An exercise by ACS, comparing some 300 product prices across three major supermarkets as at Quarter 1 2007, found that over 70% of items showed price dispersion of under 3%.

Finally, as the CC inquiry was drawing to a close, the Office of Fair Trade (OFT) began investigating possible price collusion in relation to dairy and some other grocery products, and in tobacco (which did not form part of the definition of grocery).

Economic research¹² indicated that if buyer power malpractices continue and are not dealt with, fewer suppliers might be willing to sell to the UK market, which might cause prices to rise.

Supermarket buyer power abuses: adverse effects on suppliers

The CC found that "...all large grocery retailers, wholesalers and buying groups have buyer power in relation to at least some of their suppliers." (Report para. 9.21). It also found that "...there are features that prevent, restrict or distort competition in connection with [grocery retailers'] relations with suppliers" (Report para. 10.1), and concluded that the transfer of "excessive risk and unexpected costs" by grocery retailers to their suppliers through various supply chain practices, if left unchecked, would have an adverse effect on investment and innovation in the supply chain, and ultimately on consumers.

The CC identified a substantial number of anti-competitive effects on suppliers resulting from the practices of supermarket buyers. The practices include:

- ❑ Debited suppliers' invoices for monies for promotions which were not for the sum previously agreed with the supplier.
- ❑ Seeking discounts from suppliers retrospectively which reduced the price of the product agreed at the time of the sale.
- ❑ Requiring compensation from a supplier when the retailer's profits from a product were less than it expected.
- ❑ Changing the quantities or specification of a product previously agreed with a supplier with less than three days' notice without financially compensating the supplier.
- ❑ Instigating a promotion on a product without the agreement of the supplier and requesting the supplier to fund the promotion retrospectively.
- ❑ Delaying payments to suppliers outside agreed contractual periods, or by more than 30 days from the date of invoice, where deliveries had been made to the retailer's specification.
- ❑ Refusing to provide standard terms of business to suppliers.

The CC also found evidence that primary producers and other indirect suppliers who do not have direct contractual relationships with retailers are also negatively affected by the exercise of buyer power: "*The impact of these practices may be felt not only among immediate suppliers to grocery retailers, but also by those further upstream. In particular, increasing buyer power on the part of grocery retailers and intermediaries may facilitate the adoption of various purchasing practices that shift risks and costs to primary producers.*" (Provisional Findings, 9.43).

¹² <http://www.competition-commission.org.uk/inquiries/ref2006/grocery/pdf/third_party_submissions_bbg_3.pdf>
R. Clarke, "The impact of a groceries ombudsman on consumers' best interests", Briefing Paper prepared on the behalf of the Cross-cutting Group, 2008, <www.rogerclarke.org.uk>

These effects had for the most part also been identified in the CC's 2000 inquiry (Supermarkets: A report on the supply of groceries from multiple stores in the United Kingdom into supermarkets"), and they were not new even then – which means that supermarkets had got away with anti-competitive behaviour against their suppliers for at least eight years and probably more, despite the presence of the OFT as a competition watchdog and the existence of a Code of Practice. At one stage in its inquiry for the 2008 report, the CC referred to a "climate of fear"¹³ (of supermarkets towards suppliers) but such references were removed from the CC's final report, for reasons which it did not explain.

Paragraphs 46 to 53 in the Summary section of the CC's report (2008), cover the adverse effects that the CC decided it should address. Very briefly, the CC is concerned to prevent the transfer of excessive risk and unexpected costs from supermarkets to suppliers, and to that end the CC intends to establish a new Code of Practice (which it has powers to do) and would like to bring about the appointment of an Ombudsman to monitor and enforce the Code (which it can do only with the supermarkets' agreement). At present the supermarkets are resisting such an appointment.

Even if an Ombudsman is appointed, the Code will still require suppliers that bring forward full-blown disputes to reveal their identities, which they were unwilling to do under the old Code. However, the CC proposes that the Ombudsman would be able to receive 'complaints' from suppliers submitted in complete anonymity, and where appropriate, investigate those complaints to address the practice in question without revealing suppliers' identities.

The CC also intends to give primary producers and other types of indirect suppliers who do not have direct contractual relationships with grocery retailers the right to submit complaints to the Ombudsman about the conduct of grocery retailers.

The Ombudsman, if appointed, will also cover international suppliers based outside the UK (both direct and indirect suppliers such as primary producers), as the obligation to comply with the new Code falls entirely on UK-based grocery retailers, not on their suppliers, and so does not infringe the international law principle of territorial sovereignty.

The CC is proposing to leave untouched a number of other practices – such as such as annual lump sum payments for suppliers to remain as suppliers and special payments for special promotions.

The CC did not believe that the supply side had shrunk as a result of supermarkets' buying practices, but it did record a different view from one government department: "The Department for Environment, Food and Rural Affairs has observed that concentration is high in the food and drink manufacturing industry and that there has been a net exit from the sector in the past decade." (para. 3.35)

After the publication of the CC report, there were new media messages of abusive practices by Tesco. The Irish Cattle and Sheep farmers Association protested in August 2008 and said it wanted "Tesco to rip up a new contract that would require British farmers to disclose sensitive information from their accounts" something Irish farmers would oppose.¹⁴

Below cost selling

There is only anecdotal evidence of below cost selling. The Association of Convenience Stores (ACS) provided examples to the Competition Commission of below-cost selling by supermarkets of alcohol at Christmas and of Easter Eggs at Easter. ACS also suggested that some supermarkets sold petrol at below cost in order to attract customers for grocery purchases. It also provided evidence of the targeted use of deep-discount vouchers (by Tesco) to disadvantage local retailers who were seeking to expand.

¹³ The CC's 2000 inquiry had already identified "a climate of apprehension": see para. 2.440.

¹⁴ "Irish farmers protest at Tesco's London HQ", *Goreyguardian.ie*, 26 August 2008, <<http://www.goreyguardian.ie/breaking-news/national-news/ir...os-london-hq-1463523.html>>

Particular examples concerned the towns of Withernsea in Lincolnshire and Ludlow in Shropshire. The smaller retailer in Withernsea (Proudfoots) decided to exit the market. The CC dismissed all these points as not against the consumer interest and therefore not objectionable under competition law. This may be true in the very short term other experts question whether such practices are against the consumer interest in the medium to long term.

Anti competitive practices

A practice that was uncovered in the UK Competition Commission's 2000 and 2008 inquiries, was the requirement that only one supplier would supply a particular product, other than for the grocery retailer's own-label. A lobby note circulated to MPs by the UK supermarket Sainsbury's shows that Sainsbury changed from an arrangement of 2 suppliers to a "solus supply" arrangement whereby one of the two suppliers would cease to supply that product after an assessment process by Sainsbury decided which supplier would be the "solus" supplier.

The evidence available of vertical restraints is only anecdotal, but one example is foreclosure of supplies. ACS provided evidence to the CC that, under supermarket pressure, convenience retailers were denied supplies of Coca-Cola packaged in football-shaped containers during the World Cup 2006.

A survey conducted for the CC by GfK/NOP in January 2007¹⁵ found that smaller retailers would lose out to larger ones in certain circumstances. If they could not supply the total volumes required, some 40% of suppliers would disadvantage smaller retailers by non-availability, and if they were put under pressure by larger buyers 20% said they would disadvantage smaller retailers in respect of service and/or price (see pages 27 and 28). ACS argued that such practices were, in effect, evidence of a waterbed effect, since such effects did not have to be confined to price.

Exclusive category management with anti-competitive effects

The CC defines category management as "a relatively common practice within grocery retailing that aims to improve a grocery retailer's sales or performance in a particular product category through collaboration between that grocery retailer and its suppliers" (para 8.13). The CC goes on to say, "Category management might be a means by which collusion...is facilitated, but in the three product categories that we reviewed, we did not find evidence of this taking place." (para 8.18).

However, category management can go further, developing into a practice known as "category captaincy", in which supermarkets "rely on a single supplier for advice about the management of the category and check this advice against the recommendations of other suppliers and their own data" (CC Working Paper, *Category Management*, para. 16, April 2007)

Since smaller wholesalers and retailers are not directly affected by category management, and since the supermarkets themselves are unlikely to provide adverse evidence against it, the CC saw no need to devise remedies against any anti-competitive effects that it might have. Nevertheless, the 2000 CC inquiry had identified 3 (out of a total of 52) anti-competitive practices which were attributable to category management. It is hard to escape the conclusion that this is yet another area (along with buying price analysis, below-cost selling, and private label practices) where the CC left itself too little time to investigate fully.

¹⁵ http://www.competition-commission.org.uk/inquiries/ref2006/grocery/pdf/uk_grocery_market.pdf