

Functioning of franchising in the retail sector

2016/2244(INI) - 17/05/2017 - Committee report tabled for plenary, single reading

The Committee on the Internal Market and Consumer Protection adopted the own-initiative report by Dennis de JONG (GUE/NGL, NL) on the functioning of franchising in the retail sector.

The Committee on Economic and Monetary Affairs, exercising its prerogative as an associated committee in accordance with [Article 54 of the Rules of Procedure](#), also gave its opinion on the report.

Members recalled that there is **no common European definition** of franchising and franchising agreements differ from one business to another. They expressed disappointment that it is currently underperforming in the EU, representing only 1.89 % of GDP, as opposed to 5.95 % in the USA and 10.83 % in Australia, 83.5 % of franchising's turnover being concentrated in only seven Member States.

This is why they proposed to encourage a **wider dissemination of this business model** throughout the EU insofar as it has a significant potential cross-border dimension.

Guidelines: Members called on the Member States to apply effective measures against any **unfair trading practices** in the field of franchising. Given the high degree of divergence between Member States, they considered it important that non-legislative homogeneous guidelines, reflecting best practices, on the functioning of franchising in the retail sector be put in place.

The Commission should introduce guidelines on **franchising contracts**, in order to better shape the normative environment of franchising contracts ensuring compliance with labour standards and decent and high-quality service.

Members stated that franchise agreements should fully respect the principles of **balanced partnership**, under which the franchisor and franchisee must be reasonable and fair towards each other and resolve complaints, grievances and disputes through frank, transparent, reasonable and direct communication.

The report stressed the need to:

- encourage **dialogue** between franchisors, franchisees and decision-makers, to facilitate the creation of associations representing franchisees, and to make sure that their voices are heard, whenever policies or legislation are prepared that may affect them;
- include provisions relating to **online sales** in franchise agreements;
- ensure that **non-competition clauses** should be clearly formulated, reasonable and proportionate and should not apply for a longer duration than what is strictly necessary;
- designate, in the Member States, **contact points** for information on problems encountered by franchisors and franchisees;
- include **specific principles** to: (i) ensure the balanced contractual rights and obligations of the parties, such as clear, correct and comprehensive pre-contractual information; (ii) set clear limits concerning confidentiality requirements, to be available in writing and with sufficient notice prior to the signing of the agreement; (iii) the introduction of a cooling-off period after signing the agreement.

Members took note of the **European Code of Ethics for Franchising**, developed by the European Franchise Federation (EFF), as a potentially efficient tool for promoting best practices in the franchising sector on a self-regulatory basis. They also noted that the Code has been subject to fundamental criticism from franchisees and there were concerns about the lack of an independent enforcement mechanism.

Competition law: Members called for [Commission Regulation \(EU\) No 330/2010](#) on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices to be **uniformly applied** in the Member States. They invited the Commission to check to what extent application of the Regulation could be improved through a mechanism of assessment within the European network of competition authorities.

The Commission is called on to check whether it is necessary to **revise the Regulation** and to verify and inform Parliament as regards:

- whether the model of franchising adopted in the Regulation reflects market reality;
- to what extent the so-called ‘permitted vertical restraints’ are proportionate and have a negative effect on the market and consumers;
- what new challenges franchisors and franchisees have to face in the context of e-commerce and digitisation;
- collecting market information in terms of new trends, market developments regarding network organisation and technological advances.