

Functioning of franchising in the retail sector

2016/2244(INI) - 12/09/2017 - Text adopted by Parliament, single reading

The European Parliament adopted by 617 votes to 31, with 43 abstentions, a resolution on the functioning of franchising in the retail sector.

Members recalled that there is **no common European definition** of franchising and franchising agreements differ from one business to another.

Untapped potential: while the cross-border dimension of **franchising could serve as a business model contributing to the achievement of the single market** in the retail sector, Parliament regretted that it is currently under-performing 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, which is why it is important to encourage a wider dissemination of this business model throughout the EU.

In its [resolution of 11 December 2013](#), Parliament welcomed franchising as a business model which supports new business and small-business ownership, but noted the existence of **unfair contract terms** in certain cases and called for transparent and fair contract terms.

Given that **franchisees are often the weaker contracting party**, particularly in the case of SMEs, Members insisted that franchising systems are heavily dependent upon the functioning co-operation of franchisor and franchisees, taking into consideration that the franchising system depends on good implementation by all parties. Franchisors have organised themselves both at national and European level for the representation of their interests, whereas franchisees often lack such representative organisations defending their collective interests.

Promoting franchising: Members sought to encourage a wider dissemination of this business model throughout the Union.

The Commission is invited to:

- 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;
- 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;
- examine the functioning of franchising in the **retail sector**, including the existence of unfair contract terms or other unfair trading practices;
- open a **public consultation** in order to obtain unbiased information as to the real situation in franchising and to draft non-legislative guidelines, reflecting best practices, on the functioning of franchising in the retail sector, in particular in relation to the latest technological and market developments, such as internet sales, and to submit these to Parliament by January 2018 at the latest.

Parliament 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.

Sometimes franchisors require franchisees to purchase products and services that are not related to the franchise formula. Non-competition clauses should be clearly formulated, reasonable and proportionate.

Competition law: the resolution stressed that [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 should be **uniformly applied in the Member States**. It 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.

Parliament should be informed of the results achieved.