Basic information

2016/2244(INI) INI - Own-initiative procedure	Procedure completed
Functioning of franchising in the retail sector **Subject** 2.10 Free movement of goods 2.40 Free movement of services, freedom to provide 3.40.17 Manufactured goods 3.40.18 Services sector 3.45.02 Small and medium-sized enterprises (SME), craft industries	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
IMCO Internal Market and Consumer Protection	DE JONG Dennis (GUE/NGL)	25/01/2016
	Shadow rapporteur POSPÍŠIL Jiří (PPE) TARABELLA Marc (S&D) SULÍK Richard (ECR) SELIMOVIC Jasenko (ALDE) ŠOLTES Igor (Verts/ALE)	

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs (Associated committee)	FRUNZULICĂ Doru-Claudian (S&D)	15/06/2016
EMPL Employment and Social Affairs	MARTIN Dominique (ENF)	07/10/2016

European Commission

Commission DG	Commissioner
Taxation and Customs Union	MOSCOVICI Pierre

Key events

Date	Event	Reference	Summary

06/10/2016	Committee referral announced in Parliament		
06/10/2016	Referral to associated committees announced in Parliament		
11/05/2017	Vote in committee		
17/05/2017	Committee report tabled for plenary	A8-0199/2017	Summary
12/09/2017	Decision by Parliament	T8-0322/2017	Summary
12/09/2017	Results of vote in Parliament		
12/09/2017	End of procedure in Parliament		

Technical information	
Procedure reference	2016/2244(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/8/08004

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE597.399	09/01/2017	
Amendments tabled in committee		PE599.674	08/02/2017	
Committee opinion	ECON	PE595.762	29/03/2017	
Committee report tabled for plenary, single reading		A8-0199/2017	17/05/2017	Summary
Text adopted by Parliament, single reading		T8-0322/2017	12/09/2017	Summary

European Commission

Document type	Reference	Date	Summary
Commission response to text adopted in plenary	SP(2017)780	21/02/2018	

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 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.

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.

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.