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Competition Policy Enforcement in the Retailing Industry

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Outline

I. Groceries sector

II. Specialised and selective distribution networks

III. E-commerce

I. Groceries sector

- Concentrated market: C6=85%
- Regulated market:
  - Commercial zoning + land planning: heavy constraints on opening new stores
  - Regulations on commercial behaviours and negotiations
- Some reforms since 2005
  - Below-cost pricing
  - Price discrimination

I. Groceries sector (2)

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- Internal growth was hindered
- External growth: independent stores were purchased
- Incumbents were favoured
- Led to even higher barriers to entry
- Concentration at local level is higher than at national level:
  - 30% of catchment areas: fewer than 4 competitors
  - Paris: Casino has 60%, Carrefour 20%

I. Role of competition policy

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- Many issues concerning supplier-retailer's relationships are out of the CA's scope of intervention
  - Commercial and civil courts; Consumer law
  - Powers of intervention at local level are with the ministry
- Ex post enforcement on antitrust grounds
  - Few occasions with regards to vertical agreements (RPM)
    - Video tapes, schools calculators, Toys
    - Was argued that ban on below-cost pricing served as a device to set minimum resale price
- Impossibility for French CA to design structural remedies

I. Competition authority's powers

- Merger regulation
  - Turnover thresholds have been lowered, to enable better scrutiny at local level and to address concerns raised by creeping acquisitions
  - No significant operations in the past few years in France
- Main issues are
  - defining catchment areas and assess impact on local concentration level,
  - impact on price, quality, range of products, service

I. Opinions

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- Whether asked or on its own initiative, the French CA has given opinions on several occasions
  - 1997: issues relating to concentration levels in distribution sector
  - 2004: competition in the groceries sector (Consumers' association request)
  - 2007: commercial zoning regulations
  - 2009: importation and distribution in overseas territories
  - 2010: category management; commercial estate management and affiliation contracts between independent stores and retail groups

I. Current concerns

- Ongoing assessment after Paris city council has asked about the current situation as regards food retail sector
- Concerns about buyer power, lack of small suppliers' bargaining power
  - In particular where small food producers are concerned
  - Revenues may be squeezed: increasing cost of agricultural raw material while revenues remain constrained by retailers' strong bargaining power

I. Solutions ?

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- Allow producers to cooperate to strengthen their bargaining positions?
- Improve contractual organisation of some sectors?

- Concerns raised by public announcements
  - By retailers
  - By government
- Coordination mechanism?

II. Distribution networks

- In France, selective distribution is quite widespread
  - Enforcement in relation to vertical agreements
  - Issues regarding the organisation of online sales within a selective distribution network
- Number of decisions concerning vertical agreements
  - Retail price maintenance
  - Restrictions of active and passive sales
  - Exclusive dealing

III. E-commerce

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- European Commission wishes to see development of e-commerce
  - Market integration
- Many issues
  - Consumer protection (payments, deliveries,...)
  - Competition concerns
- Fine balance between online sales and protection of distribution networks
- Debate during revision of Vertical block exemption regulation and its accompanying guidelines

III. Online sales and selective distribution networks

- 4 decisions on restrictions of online sales by suppliers
  - Festina (06-D-04)
  - High-end hi-fi products (06-D-28)
  - Skin-care products (07-D-07)
  - Pierre Fabre (08-D-25) – in-depth investigation (others were resolved with commitments)
- Negative effect of restriction on competition
- Suppliers' justification: prevent free-riding problems