



European Retail
Round Table

CONSULTATION: TOWARDS A SINGLE MARKET ACT

28 FEBRUARY 2011

SUMMARY OF ERRT POSITION

1. Emphasize the central, pivotal role that consumers play in the relaunch of the single market
2. Prioritize the relaunch of the single market in the political agenda
3. Create a task force to enhance and promote the European retail sector
4. Use SEPA to put €13 billion back into the economy annually
5. Investigate and propose alternatives to the current infringement process
6. Ensure that national laws guarantee choice, competition and freedom of establishment
7. Support measures which will allow e-commerce to flourish
8. Improve transport services within Europe to support efficient logistics
9. Support initiatives on environmental footprint of products based on life cycle thinking
10. Allow European citizens to benefit from the opportunities deriving from open trade
11. Promote inclusive growth through jobs and life-long training
12. Ensure consumer right to redress via systems based on evidence and need

ERRT

35 SQUARE DE MEEÛS

1000 BRUSSELS

REGISTER OF INTERESTS ID NUMBER: [38903821041-54](#)

ERRT@ERRT.ORG

CONSULTATION: TOWARDS A SINGLE MARKET ACT

28 FEBRUARY 2011

- The single market is already a great achievement. It is also the bedrock on which future economic growth, competitiveness and employment creation will be based. Recovery from the current economic crisis will be built on the competitive advantage that the single market can offer.
- The European Retail Round Table welcomes the Commission's Communication 'Towards a Single Market Act, for a highly competitive social market economy', and appreciates the opportunity of submitting our views on the relaunch.
- ERRT proposes 2 general points concerning the Single Market Act, and proposes 10 priority initiatives from the 50 included in the Communication.

TWO GENERAL POINTS

- I. **Consumer-centric:** We stress the central, pivotal role that consumers play. While the relaunch will open new opportunities for firms large and small, those opportunities can only be realised if there is a final net gain in consumer advantage from each proposal put forward.
- II. **Political leadership:** We encourage the Commission to put the relaunch of the single market to the very top of its political agenda, in the same way that the original programme was pushed and championed by Jacques Delors and his colleagues through the late eighties and early nineties.

TEN PRIORITY INITIATIVES

1. **Proposal 9 (redux): High Level Group on Retail:** We urge the SMA to create a task force, or 'high level group', to enhance and promote the European retail sector, to provide a political momentum and a platform for discussion on sector-specific recommendations aimed at improving its overall competitiveness and productivity.

European retailers not only depend on the single market to grow, to expand and to employ – but they also help underpin the market, by opening new stores, offering EU citizens greater choice and competitive prices, and offering EU-wide opportunities to many manufacturers who otherwise struggle to break out of their national markets.

Such a group should develop a pro-retail strategy to promote and support the sector through 2020, to improve its competitiveness, to encourage its sustainable growth within Europe and globally, and defend the sector – and consumers – against protectionist, anti-competitive, anti-single market initiatives that exist today and will arise in the future. A number of the conclusions of the Retail Marketing Monitoring report could form the basis for this new high level group.

2. **SEPA for all, not only for the financial institutions (Proposal 40 - basic banking services)** : We urge the Commission to broaden proposal 40 to include a legislative proposal to define a core basic payment service available on all credit and debit cards; to improve transparency of the costs incurred in card transactions; and to insist on open cross border acquiring. The current, non-competitive system imposes a hidden tax of some €13 billion on European consumers.

The SMA could rectify this by deciding that a basic card payment service should be part and parcel of the SEPA offer to Europeans citizens: a service that guarantees a basic minimum payment functionality on every card, terminal or card payment solution issued in SEPA-area; a service whose cost is based on the processing of those minimum functions, and not based on the expensive, bundled add-ons currently demanded by the schemes and banks; a service accepted by every merchant within SEPA who accepts any card payment.

Note: Each year, the multilateral interchange fee mechanism and merchant service charges used by the card schemes and banks takes an estimated €13 billion out of the hands of European consumers and retailers. Retailers are the unwilling collection mechanism used by the banks for this purpose. Banks and card schemes hide behind anti-competitive rules (the interchange fee, the 'non-discrimination rule', limits on cross-border acquiring, etc.) to maximise their profits at the expense of other stakeholders in the payments chain.

Interchange fees are bank & card network charges collected from retailers every time a customer pays with a plastic card. These fees are non-transparent and non-negotiable, cover many services that have little or no relation to benefits to retailers and can amount to an average of 2% of the total transaction. The fees paid by retailers to banks for card transactions can amount to 1% of a company's total sales. Such costs have an enormous impact on the profitability of a company and its ability to pass savings on to consumers – in this regard, the smaller enterprises suffering most.

3. **Proposal 47: Enforcement:** We urge the Commission to investigate and propose alternatives to the current infringement process. These procedures do not work as quickly as they should, and appear to be too dependent on intra-institutional politics. Is it not possible to develop a fast-track approach? Could there be a role for the Parliament in highlighting errant Member States? A more robust defence of the single European market is urgently needed.

An excellent current example of this is the speedy and persuasive EU objection to the new media law in Hungary. Why do we not see a similarly robust stance taken with regard to the Hungarian crisis tax levied on foreign retailers in that country?

4. **Proposal 4: Business Services:** We welcome the proposal that the Commission will, during 2011, indicate specific measures towards developing the internal market for services. European consumers

should be allowed have the widest choice of retailers, offering valuable products and services at prices made keen through competition. Member States should not be permitted to prevent that choice – through unreasonable urban planning laws, moratoria on the opening of new outlets, national rules that diverge significantly from Article 102 TFEU, denial of competition in certain sectors e.g. sale of petrol, bakeries, opticians, para-pharmacies, etc., or through the imposition of socio-economic tests - sometimes administered by existing competitors to the potential new entrant.

In particular, the health sector was excluded from the scope of the Services Directive. This means that in a number of Member States, pharmacists practicing in pharmacies have a monopoly on the sale of medicines and a number of other over-the-counter drugs and personal hygiene products. This uncompetitive situation appears to be in conflict with the aim of the single market, and inimical to public health objectives. In addition, this monopoly appears economically unjustified as it is likely to substantially reduce the access of foreign products to some national markets. The prohibition of sale of such products in hypermarkets and supermarkets restricts consumers' access to competitively priced alternatives and reduces the opportunities for less well-known products to enter the market.

Often, also Article 49 and 56 are breached in some Member States: in the last two years Central and Eastern European countries have approved laws that interfere considerably with the ideas of freedom of establishment and of services. These laws, often in the form of codes of conduct, interfere directly into the contractual relations between commerce and industry and ban fees for services that had previously been permitted and eventually increase costs. We believe that it is a task of the European Commission to ensure that community law is applied correctly, including article 49 and 56 TFEU and we are concerned about the attempts by some countries to translate these national laws and codes at European level, regulating the relationship between retailers and producers before establishing the need.

An additional problem stems from the different deposit, collection and recovery systems in the Member States related to packaging waste that are now mandatory. Apart from creating additional barriers to retailers trying to engage in legitimate parallel trade, differences between such national systems also constitute significant establishment barriers to retailers wishing to export their business models to new markets without having to adapt their in-store return systems, logistical planning and sourcing strategies. Also, we do not believe that a wide European deposit scheme, such as the one analysed by the current feasibility study on a European refund system for metal beverage cans, would provide a solution to the problem.

5. **Proposal 5: Electronic Commerce:** We support measures which will allow e-commerce to flourish.

Albeit not 'pure' e-commerce operators, many of the ERRT members operate significant online retail services. For grocery products, these services tend to be national in nature, as food buying is a very localised activity and necessitates short home delivery times.

Textiles, electronics and other non-perishable products are less time-sensitive, but please note that retailers who look to expand their online offer across borders to other Member States still face a number of significant challenges, both internal – such as developing and maintaining a logistics infrastructure that will deliver products safely, on time, in perfect condition; language/translation costs, etc. - and external, including:

- differing payment systems,
- differing standards,
- differing post-sales environmental responsibilities, and
- differing rules concerning consumer protection.

We urge that the Consumer Rights Directive should form a key part of the Single Market Act. Unless the laws and rules are simplified and harmonized to a significant degree, cross-border sales will not be maximized, e-commerce will remain impeded.

6. **Proposal 7: Transport Bottlenecks:** We support the proposal to improve transport services within Europe. The nature of the retail sector, based on trade and distribution, makes it dependent on transport. Retailers source their products and raw materials both locally and globally. Sometimes goods travel thousands of kilometres, sometimes just a few, to reach the shops. Fresh food and other similar goods need quick and smooth transport systems; non-perishable items can be transported over a longer time, but they still need an efficient and reliable supply chain.

The size and the geographical spread of retailers' business require the use of different means of transport in various regions of the world. At the same time, sustainable and efficient transport has become a major focus in the retail and fast moving consumer goods industry in recent years. However, inefficiency is often caused by elements such as insufficient infrastructure, lack of coordination amongst Member States and the need for technological development. Intermodality is key: we welcome any proposal that promotes co-operation between modes of transport, in particular between rail and road as well as the recognition of the need of all modes of transport. We urge the Commission to investigate the possible use of fiscal incentives for investment in equipment and facilities in connection with terminals and other loading points for combined transport

7. **Proposal 10: Ecological Footprint of Products:** Retailers are strongly committed to sustainability and this translates into an increasing offer of environmentally friendly products and operations. Individual commitments have been made by ERRT members and other retail companies and associations via the REAP (Retailers' Environmental Action Plan). Currently the environmental impact of products is measured on certain aspects (i.e. water, energy, carbon emissions...) according to the nature of the product and to the market where it is sold.

We believe that any initiative to assess the overall environmental footprint of products should be based on the concept of life cycle thinking. The 'life expectancy' of a product plays a critical role: an LCA based on sole standard average life expectation may provide a wrong perception of the impact of the product. Therefore uncertainties may arise due to inevitable assumptions. In addition, full transparency regarding the methodology, underlying assumptions and data needs to be ensured. Quality and coherence are essential. The flourishing of not fully comparable methodologies for calculating product carbon footprint is an example of how the presence of a diversity of approaches may become counterproductive and hinder their applicability and the achievements of the objective for which they have been conceived.

8. **Proposal 23: Open Trade:** Retailers do not just see free trade as about delivering low prices and increased choice; it is also about creating new jobs, European jobs. For several thousand European workers a product assembled in a third country is a direct result of their own expertise in design, development, marketing and production management. A complex electronic consumer good or a fashionable garment will often be drawn from inputs in several different markets. It may be assembled by workers in another region that specialises in high volume production, but it will be based on a design and product development cycle managed by highly skilled professionals in Europe. Today's consumer products are international products and generate wealth and growth in our own economy.

As a priority, EU trade policy must be shown to have properly adapted to this new reality. At a political level, a stronger voice advocating open markets and free trade would certainly reassure the business community that the gains made in delivering a level of value and product innovation to customers will continue into the future. Retailers have taken advantage of trade liberalisation to reconfigure their value chains on a global scale. This has allowed the sector to extract massive benefits by reducing waste and inefficiencies in the supply chain which translates into a powerful customer offer. But more can be done and more needs to be done in promoting the idea that without open markets EU growth will remain stagnant.

We also think that the a compulsory 'Made in' labeling system would be detrimental for a number of aspects (i.e. it would not better inform purchasing decisions, it would not reinforce safety of products or the veracity of established markings which is today guaranteed by law, it would not influence product sourcing). Moreover, such initiative would contradict the objectives of free trade and support for developing countries. The cost burden of mandating country of origin rules would hit SMEs in developing countries hardest.

9. **Proposal 35: Training outside the Classroom:** We support the proposal to promote and validate training outside the classroom. Retailers have very strong roots in their local communities. It is one of the few sectors that offer significant job opportunities in built-up, densely populated areas. It is a sector that actively recruits those who have been long-term unemployed, and trains many not only in retail skills but in more basic social skills too.

Larger retailers can offer more than 120 different professions in sales, logistics, buying, IT... 90% of these jobs include contact with consumers. Many larger retailers offer apprenticeships for younger people, and also actively recruit and train older workers.

10. **Proposal 46: Collective redress:** We welcome the focus the Commission gives to consumer protection, and to the question of consumer redress. Businesses that cause consumer detriment through failure to observe consumer protection rules should expect to be penalized and consumers who suffer damage should be compensated either individually or on a collective basis.

The question is not whether redress should be available but how that redress is best delivered. The introduction of any new redress system must be based on real evidence of need (either national or cross-border as appropriate) and in order to fill a gap in the available redress procedures. It must also be practical, as simple as possible, and readily accessible.

We therefore believe that the best approach would be to rely on the public authorities for enforcement and for damages cases to proceed if appropriate only once investigations are completed and verdicts

given. We are not yet convinced that the case has been made out for a new system of collective redress at the EU level or that there is reason to believe a new EU wide system would overcome the difficulties and frustrations of existing national mechanisms to which the paper itself points.

- The European Retail Round Table was established to express the views of large retailers on a range of issues of common interest focused on EU public policy. Their businesses operate worldwide and represent a cross-section of the retail sector. Collectively, ERRT members have a turnover of more than €420 billion. ERRT members: Ahold, Asda / Wal-Mart, C&A, Carrefour Group, Delhaize Group, El Corte Inglés, H&M, IKEA, Inditex, Kingfisher, Marks & Spencer, Mercadona, Metro Group and Tesco. www.errt.org
- We commit our resources and support – not as passive bystanders, but as active participants – to the relaunch of the Single Market Act.