The e-commerce Sector Inquiry

Key Findings of the Preliminary Report
Context: Digital Single Market Strategy

- Political priority of the Commission, adopted on 6 May 2015
- Aim: Better access for consumers and businesses to online goods and services across Europe - Remove unjustified barriers
- Actions:
  - Legislative actions → regulatory barriers
  - Complemented by Sector Inquiry → company erected barriers
Timeline

- Launched May 2015
- Questionnaires sent until Q2 2016
  - About 1,800 respondents
  - More than 8,000 distribution agreements
- SWD on geo-blocking published March 2016
- Preliminary Report published September 2016
- Final Report due Q1 2017
Respondents - Consumer Goods

<table>
<thead>
<tr>
<th>Retailers</th>
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<tbody>
<tr>
<td>Belgium</td>
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<td>Sweden</td>
<td>36</td>
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<tr>
<td>United Kingdom</td>
<td>132</td>
</tr>
</tbody>
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Retailers: 1051
Marketplaces: 37
Price comparison tools: 89
Payment system providers: 17
Manufacturers/Suppliers: 259
Total: 1453
Respondents

<table>
<thead>
<tr>
<th>Country</th>
<th>Content Providers</th>
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<td>Latvia</td>
<td>2</td>
<td>United Kingdom</td>
<td>24</td>
</tr>
</tbody>
</table>

**Content Providers - Total**: 248

**Right Holders - Total**: 53

**VPN and IP Routing**: 9

**Large Groups and Hosting Operators**: 30

**Total**: 340
Consumer Goods
B. 19: Frequency of modifying online prices based on the responses of retailers
Price Monitoring

B. 76: Most commonly reported methods of monitoring retail prices by manufacturers
B. 13: Rating the parameters of competition by manufacturers
B. 15: Rating the parameters of competition by pure online players
B. 20: Measures taken by manufacturers in the last 10 years to react to the growth of e-commerce

- Opening of own online shop(s) (64%)
- Admitting pure online distributor(s) (55%)
- Increased support for your retailers' online shops (54%)
- Increased support for your retailers' brick and mortar shops (41%)
- Introduction of new criteria in your distribution agreements (39%)
- Introduction of selective distribution system(s) (19%)
- Others (16%)
- Selling directly to end users via marketplace(s) (14%)
- Integration of manufacturing and distribution activities (3%)
- Moving towards an agency model (1%)
- Expansion of selective distribution system to other types of products (1%)

Manufacturers' Strategies
Selective Distribution

B. 32: Number of respondent manufacturers that sell via selective distribution and introduced new selection criteria in the last 10 years

- Clothing and shoes
- Other
- Cosmetic and Healthcare
- Consumer electronics
- House and garden
- Household appliances
- Sports and Outdoor
- Toys and childcare

Legend:
- New criteria
- No new criteria
Contractual Restrictions

B. 36: Proportion of retailers having contractual restrictions, per type of restriction

- Pricing limitations/recommendations: 42%
- Limitation to sell on marketplaces: 18%
- Limitation to sell cross-border: 11%
- Limitations to sell on own website: 11%
- Limitation to use price comparison tools: 9%
- Limitations to advertise online: 8%
- Other limitations: 4%
### Price Recommendations

<table>
<thead>
<tr>
<th>Product Category</th>
<th>Proportion (%)</th>
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<tbody>
<tr>
<td>Clothing and shoes</td>
<td>51%</td>
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<tr>
<td>Sport and outdoor</td>
<td>42%</td>
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<tr>
<td>Consumer electronics</td>
<td>39%</td>
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<tr>
<td>Cosmetics and healthcare</td>
<td>38%</td>
</tr>
<tr>
<td>Household appliances</td>
<td>38%</td>
</tr>
<tr>
<td>Media</td>
<td>37%</td>
</tr>
<tr>
<td>Toys and childcare</td>
<td>37%</td>
</tr>
<tr>
<td>Computer games</td>
<td>36%</td>
</tr>
<tr>
<td>House and garden</td>
<td>30%</td>
</tr>
</tbody>
</table>

B. 75: Proportion of retailers that reported pricing recommendations per product category
Cross-Border Sales Restrictions

B. 53: Retailers that have contractual restrictions to sell cross-border in at least one product category, by Member State

France: 23%
Belgium: 17%
Spain: 16%
Germany: 15%
Poland: 13%
Netherlands: 13%
Sweden: 11%
United Kingdom: 8%
Austria: 8%
Italy: 5%
Denmark: 3%
EU 28: 11.4%
Marketplace Sales Restrictions

B. 65: Proportion of retailers that have agreements containing different types of marketplace restrictions

- No use of any marketplace: 12%
- No use of marketplaces which offer sales through auctioning: 7%
- No use of marketplaces which don't fulfill certain product presentation criteria: 2%
- No use of marketplaces which sell second-hand products: 1%
B. 64: Proportion of retailers in each Member State that have agreements containing marketplace restrictions
Relevance of Marketplaces

B. 55: Proportion of retailers using different sales channels for selling online

- Own online shop only: 61%
- Marketplace only: 31%
- Both: 4%
- Neither: 4%
Relevance of Marketplaces

B. 59: Proportion of retailers in each turnover category that sell on marketplaces
Digital Content
Exclusive Transmission Rights

C. 24: Proportion of agreements including exclusive transmission technology rights – All agreements submitted by right holders
Bundling Online Rights

C. 27: Proportion of agreements that contain online rights together with other technologies – All agreements submitted by content providers
Territorial Scope

C. 29: Proportion of agreements including rights licensed for a certain territorial scope – All agreements submitted by content providers
Exclusive Territorial Rights

C. 35: Proportion of agreements including exclusive rights licensed for a certain territorial scope – All agreements submitted by right holders
Reasons for Content Unavailability

- Content is not available to purchase in certain territories: 63%
- Cost of purchasing content for certain territories: 48%
- Other: 43%
- Insufficient consumer demand in certain territories: 37%
- Appropriate language versions are not available for certain territories: 22%
- Cost of preparing appropriate language versions for certain territories: 20%

C. 37: Reasons provided by digital content providers for catalogue differences between Member States - EU 28
Contractual Geo-Blocking

C. 42: Proportion of agreements requiring providers to geo-block by category – Average for all respondents – EU 28

- Fiction TV: 74%
- Films: 66%
- Sports: 63%
- Music: 57%
- Children TV: 55%
- Non-Fiction TV: 51%
- News: 24%
Duration of Contractual Relationships

C. 65: Average length of the contractual relationship - All agreements submitted by right holders - Per genre
C. 72: Proportion of agreements including each specific payment mechanism – All agreements submitted by right holders

- Fixed price component: 72%
- Revenue sharing agreement: 24%
- Variable price component: 17%
- Minimum guarantee: 16%
- Advance payment: 12%
- Other: 11%
- Performance-based remuneration mechanism: 6%
Key Findings – Consumer Goods

- More price transparency and price competition
- More selective distribution and vertical integration of manufacturers
- Vertical Restraints
  - Pricing restrictions
  - Territorial restrictions
  - Online sales restrictions
Key Findings – Digital Content

- Availability of licences for online distribution is key for competition

- Impact of current licensing practices on competition?

- Potential issues to be assessed case by case
  - Scope of agreements (Bundling)
  - Duration of agreements
  - Geo-blocking
Public Consultation

Comments by 18 November 2016

All comments should be sent to the following e-mail address:

COMP-E-COMMERCE@ec.europa.eu