



Implementation of the European Retail Action Plan

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In January 2013, the Commission adopted the European Retail Action Plan (ERAP)¹ aimed at improving the competitiveness of the retail sector and at enhancing the sector's economic, environmental and social performance.

This report describes the measures taken by the Commission to implement the 11 concrete actions identified in ERAP. In addition, a High Level Group on Retail Competitiveness was set up to advise on retail policy.²

Action 1: *Through dialogue with stakeholders, the Commission will develop good practice guidelines and/or codes of conduct to facilitate consumer access to transparent and reliable information, making it easier to compare prices, quality and the sustainability of goods and services.*

The Commission set up in June 2012 the Multi-Stakeholder Dialogue on Comparison Tools (MSDCT), composed of representatives from consumer organisations, national consumer authorities and regulators as well as from business associations. The purpose of this group was to provide a better understanding of the functioning of various types of comparison tools, analyse the interaction between stakeholders and identify potential areas for improvement. The MSDCT's report was presented at the European Consumer Summit on 18 March 2013³.

The MSDCT made a number of recommendations concerning the transparency and impartiality of comparison tools, the quality and accuracy of the information they provide as well as their user-friendliness.

As a follow-up, the Commission launched a dedicated study on the coverage, functioning and consumer use of comparison tools and third-party verification schemes for such tools. The study was published in March 2015⁴ and confirms a number of shortcomings such as a lack of transparency in the functioning of comparison tools and inaccuracy about the offers they display.

The Study's recommendations support those put forward in the MSDCT report, namely that enforcement in relation to comparison tools needs to be stepped up and that principles on the functioning of comparison tools need to be defined at EU level and effectively taken up by comparison tools operators.

Building on the MSDCT report and the findings of the study, the Commission is working with stakeholders, including comparison tools operators, at the development of a series of principles aimed at ensuring the compliance of the comparison tools with the relevant legislation, notably the Unfair Commercial Practices Directive, and at further improving their reliability and user-friendliness.

¹ Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions setting up a *European Retail Action Plan* (COM(2013) 036 final of 31 January 2013).

² The report of the Group is available at http://ec.europa.eu/growth/single-market/services/retail/index_en.htm

³ http://ec.europa.eu/consumers/events/ecs_2013/docs/comparison-tools-report-ecs-2013_en.pdf

⁴ http://ec.europa.eu/consumers/consumer_evidence/market_studies/comparison_tools/index_en.htm

Action 2: *The Commission will propose European methodologies for measuring and communicating the overall environmental impact of products and organisations.*

The Commission adopted in April 2013:

1) A Recommendation (2013/179/E) on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations⁵. It includes methods for calculating the Product Environmental Footprint and Organisation Environmental Footprint and recommends their use by the Member States, companies, private organisations and the financial community.

2) A Communication COM(2013) 196 on Building the Single Market for Green Products - Facilitating better information on the environmental performance of products and organisations⁶. It contains a set of principles for communicating environmental performance. It also announces a three-year testing period to develop product- and sector-specific rules through a multi-stakeholder process.

The Environmental Footprint pilot phase was launched in November 2013 and will be concluded at the end of 2016. One of the pilot cases selected was the development of Organisation Environmental Footprint Sector Rules for retail⁷. The main objectives of the pilot phase are to test the development of product category- and sector-specific rules, to test different approaches towards verification and three to four communication vehicles for each pilot. Another important element is to propose a proof of concept for SME software tools that help non-expert users provide life cycle performance information, substantially reducing the effort and cost of the exercise.

The pilot phase will be followed by a peer review and evaluation. Policy proposals will be developed and discussed based on this evaluation.

Action 3: *Member States must remove all remaining instances of non-compliance with unequivocal obligations under the Services Directive concerning access to, and exercise of, retail activities, including eliminating economic needs tests within the meaning of Article 14§5 of the Services Directive. The Commission will apply its zero-tolerance policy through infringement procedures, where appropriate.*

Following the Commission Communication of 8 June 2012 on the implementation of the Services Directive, the Commission has launched investigations, on its own initiative, to check for any violation of the unconditional prohibitions contained in the Services Directive. Regarding retail, investigations concerned more particularly whether economic need tests were still being applied in some Member States.

⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013H0179>

⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52013DC0196>

⁷ General information about the pilot: http://ec.europa.eu/environment/eusssd/smgrp/oef_pilots.htm; access to documents and consultations (subject to registration): <https://webgate.ec.europa.eu/fpfs/wikis/display/EUENVFP/OEFSR+Pilot%3A+Retail>

The Commission is also examining restrictions on grounds that some conditions applied for retail establishment would not be appropriate and proportionate to the public policy objectives pursued (such as town and country planning, protection of the environment, protection of consumers).

Action 4: *Launch a performance check in the retail sector to explore how commercial and spatial planning rules and plans are applied on the ground by the competent authorities where a potential service provider wishes to set up a small, medium or large retail outlet.*

Through exchange of best practices, provide for greater clarity regarding the proper balance between freedom of establishment, spatial/commercial planning, and environmental and social protection.

In 2014, the Commission launched a peer review of rules governing the establishment of retail outlets in Member States with the view to identifying best practices in retail establishment.

In the discussions, Member States were invited to explain the rationale behind their regulatory approach, i.e. the objectives pursued and the effectiveness of the measures to achieve these objectives. Particular attention was paid to the frequently stated objective of maintaining the vitality of city centres. Member States were also invited to explain their procedure for retail establishment, particularly as regards the transparency, predictability and efficiency of the process. In parallel, two workshops were organised with stakeholders.

Discussions have continued in the Service Directive Expert Group on potential Best Practices for retail establishment. Such Best Practices should provide guidance to Member States on how to assess the appropriateness and proportionality of the measures in place. This should support Member States to carry out reforms towards more open and competitive retail markets without prejudicing the public policy objectives at stake.

Action 5: *The Commission will adopt a Green Paper detailing the common features of UTPs in the B2B food and non-food supply chain and open a consultation the results of which will be available by late spring 2013. The results of the consultation will feed into an impact assessment of the different options identified to address the issue at EU level.*

A Green Paper on unfair trading practices (UTPs) was adopted in January 2013. Following the results of the public consultation based on the Green Paper, the Commission decided to concentrate its work on UTPs in the food sector and adopted a Communication on tackling unfair trading practices in the business-to-business food supply chain⁸.

The Communication suggests a number of stakeholder priorities to facilitate an effective EU-wide framework against such practices. These are based on three building blocks: (1) support to the voluntary [Supply Chain Initiative](#), (2) promoting EU-wide standards for principles of good practice, (3) promoting effective enforcement at national level.

⁸ Communication from the Commission to the European Parliament, the Council, the European and Economic Social Committee and the Committee of the Regions Tackling unfair trading practices in the business-to-business food supply chain (COM(2014) 472 final of 15 July 2014).

The Commission will assess the progress on the suggestions made in the Communication and report back to the European Parliament and Council in the first half of 2016. On the basis of the assessment, the Commission will decide whether further action is required at EU level.

Action 6: *In the context of existing EU Platforms, the Commission will support retailers to implement actions to reduce food waste without compromising food safety (awareness raising, communication, facilitating of redistribution to food banks, etc.) e.g., through the Retail Agreement on Waste; and work on developing a long-term policy on food waste, including a Communication on Sustainable Food to be adopted in 2013.*

The Retail Agreement on Waste was signed in October 2012 by 20 retail companies and associations that committed to implement at least two awareness-raising initiatives on waste reduction by mid-2014. Since then, the number of signatories has grown to 26 companies and associations. The implementation report was adopted in May 2015⁹.

The Commission remains committed to implementing its policies and legislation on safe and sustainable food in close co-operation with stakeholders, Member States and the European Parliament. Actions related to food waste continue to progress and will be further considered in context of the new, more ambitious Circular Economy package to be published by end 2015.

In addition, a dedicated Expert Working Group on Food Losses/Waste¹⁰ bringing together policy experts from Member States was established in November 2014. This group will help the Commission and Member States to identify and prioritise actions to be taken at EU level to prevent food waste, facilitate sharing of best practices, and support Member States in defining and implementing national food waste prevention programmes.

Retailers are closely involved in the work of the Working Group and some retail associations have already submitted good practices¹¹.

Together with other stakeholders, retailers are also helping the Commission to identify any regulatory or operational hurdles that might hinder the donation of safe, edible food and to scope the conditions for the possible development of EU guidelines on food donation.

Action 7: *Through dialogue with stakeholders, the Commission will define best practices to make supply chains more environmentally-friendly and sustainable and minimise the energy consumption of retail outlets. The Commission will encourage retailers in the context of existing fora to apply these best practices.*

The Commission identified, evaluated and documented Best Environmental Management Practices for retailers in close co-operation with a technical working group gathering stakeholders from the sector. These best practices, together with a set of sector-specific environmental performance indicators, and a set of benchmarks of excellence, are laid out in a report published by the Joint Research Centre.¹² This report formed the basis of the Sectoral Reference Document on Best Environmental Management Practice for the Retail Trade Sector adopted as Commission

⁹ http://www.eurocommerce.eu/media/120522/12_wastereport2014.pdf

¹⁰ http://ec.europa.eu/food/safety/food_waste/eu_actions/member_states/index_en.htm

¹¹ http://ec.europa.eu/food/food/sustainability/good_practices_en.htm

¹² <http://susproc.jrc.ec.europa.eu/activities/emas/documents/RetailTradeSector.pdf>

Decision in May 2015¹³ in the context of the Eco-Management and Audit Scheme framework¹⁴. Both documents are intended for voluntary application and inspiration throughout the entire sector.

The Commission established the Retail Forum¹⁵, a multi-stakeholder platform set up to exchange best practices on sustainability in the European retail sector and to identify opportunities and barriers for the achievement of sustainable consumption and production. This cooperation resulted *inter alia* in a series of 'issue papers'¹⁶ on the retail sector that address relevant sustainable development topics. After nearly two full cycles of three years of cooperation in this setting, the Commission and retailer side are in the process of defining future avenues for working together, including setting the priorities and deliverables for the next cycle.

Action 8: *The Commission will launch a retail innovation initiative in 2013 whereby the Commission, with the help of high-level experts, will explore how to ensure that the retail sector can contribute to, and benefit from, innovative products, services and technologies. On that basis, the Commission will design concrete actions focused on boosting retail competitiveness, such as bringing research results to the market faster, integrating the e-commerce and brick-and-mortar environments, new ways of informing consumers about products, and the development of innovation-friendly regulations and standards, etc.*

An Expert Group on Retail Sector Innovation was established in 2013 to identify the main innovation drivers and barriers in the European retail sector, and to recommend possible priority actions to help increase the sector's competitiveness through innovation.

In its final report of 2014¹⁷, the Group has made concrete recommendations targeted at:

- Building awareness of the potential of retail innovation for competitiveness, and of opportunities to boost retail innovation and to stimulate cooperation among stakeholders;
- Ensuring greater participation by retail firms of all sizes in European innovation projects;
- Identifying and stimulating investment in retail skills that increase potential for retail sector innovation;
- Ensuring that regulations work as a driver for retail sector innovation.

As a follow-up, the Commission has been in contact with European retail associations to discuss with them the findings of the report. Horizon 2020, the European Union Research and Innovation funding programme includes calls that are relevant for the retail sector, addressing issues such as energy efficient buildings, authentication of food products or synergies within the supply chain.

¹³ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:JOL_2015_127_R_0011

¹⁴ http://ec.europa.eu/environment/emas/index_en.htm

¹⁵ For a list of members, see: <http://ec.europa.eu/environment/industry/retail/pdf/members.pdf>

¹⁶ The full list and papers are available on: http://ec.europa.eu/environment/industry/retail/index_en.htm

¹⁷ The report is available at:

Final report: http://ec.europa.eu/research/innovation-union/pdf/Report_from_EG_on_Retail_Sector_Innovation_A4_FINAL_2.pdf#view=fit&pagemode=none

Annex to the report: http://ec.europa.eu/research/innovation-union/pdf/Six_perspectives_on_Retail_Innovation_EG_on%20Retail_Sector_Innovation_web.pdf#view=fit&pagemode=none

Action 9: *The Commission will examine the feasibility of setting up a dedicated database containing all EU and domestic food labelling rules and providing a simple way to identify labelling requirements per product.*

The creation of a food labelling information system grouping all existing labelling obligations can help food businesses in identifying and understanding the rules they should comply with. The system would become a central repository for all mandatory EU and national labelling requirements for certain categories of foods.

A study was carried out to analyse the feasibility of setting up such a system¹⁸. The study, which paid particular attention to the views of SMEs, shows that the majority of stakeholders have clearly expressed their interest in such a dedicated system.

After analysing the results of the study, the Commission intends to set up a food labelling information system by the end of 2017, in close collaboration with the national competent authorities and stakeholders. This action will particularly benefit SMEs and will contribute to the improvement of the business environment and ease of market access.

Action 10: *The Commission will take measures to ensure better market integration for card, internet and mobile payments through:*

- a) Revision of the Payment Services Directive;*
- b) An enhanced governance model for retail payment services; and,*
- c) A legislative proposal on multi-lateral interchange fees for payment cards.*

In July 2013, the Commission put forward a package including a legislative proposal for a revised Payment Services Directive (“PSD2”); and a proposal for a new Regulation on interchange fees for card payments.

Action 10(a): a political agreement on a compromise between the European Parliament's report and the Council's position on PSD2 was adopted in May 2015. The final adoption is planned for the third quarter of 2015. The compromise text has maintained the Commission's philosophy on the main elements, i.e. to modernise the legal framework, to ensure fair access to new players in the payments market and to enhance overall security of payments.

Action 10(b): the European Retail Payment Board (ERPB) was set up in December 2013 to respond to the need for an enhanced governance model for retail payment services, representing both the supply and demand side of the market. The objective of the ERBP is to contribute to and facilitate the further development of an integrated, innovative and competitive market for euro retail payments in the EU.

Action 10(c): the Interchange Fee Regulation was adopted on 29 April 2015, and entered into force on 19 May¹⁹. It introduces caps on the interchange fees paid for payments by consumer credit and debit cards. The caps will apply as from 6 months after entry into force of the

¹⁸ http://ec.europa.eu/growth/single-market/services/retail/index_en.htm#maincontentSec2

¹⁹ Regulation (EU) No. 2015/751, OJ L 123, 19.5.2015, p.1

regulation. The Regulation will also give more freedom of choice to retailers and enhance transparency on costs for card transactions.

Action 11: *The Commission will strengthen cooperation with social partners to create conditions that make it possible to match skills with labour market needs in the retail sector, particularly by identifying and anticipating skills needs through an EU Sectoral Skills Council, and by improving retailers' training and reskilling policies.*

The European Sectoral Skills Council for the commerce sector (EESC Commerce) – covering retail and wholesale – was launched in December 2012 composed of representatives from social partners and national organisations for vocational training from several Member States.

A report summarizing the main trends in the sector and presenting recommendations was published in December 2014²⁰. The key findings are that the sector is changing dramatically due to economic and technological drivers, in particular internationalization and digitalization. Besides critically summarizing the available sectorial information from Eurostat, EU Skills Panorama and other European sources, the report identified a number of emerging occupations. EESC Commerce has also identified a series of different examples of best practice in innovative tools, national and regional strategies, local initiatives and methods to monitor skills needs and address skills mismatches and gaps. Each of the practices was analysed with a view to identify their success factors and conditions for transferability.

EESC Commerce has proposed a series of recommendations for future activities. The social partners plan to put more effort into ensuring wider coverage in terms of countries and active bodies to address the issues of inaccuracy of the available labour market information and data about the sector, to deal with skills mismatches between companies' needs and employees' skills, and to contribute to improving the attractiveness of the sector.

²⁰ <http://www.eurocommerce.eu/media/113775/European%20Commerce%20Skills%20Council%20Report%202014.pdf>