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The European Parliament spurs the Commission to do more for franchising

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European background

1. By the [Resolution](#) of 12 September 2017 on the functioning of franchising in the retail sector, the European Parliament adopted a text aimed at encouraging a broader dissemination and an extent of harmonization of the franchising model across the EU.
2. The MEPs express disappointment that franchising 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, with 83,5 % of franchising turnover being concentrated in only seven Member States. On the other hand, franchising possesses the full potential to help achieve the single market in the retail sector, as a convenient means to establish a business through a shared investment by franchisor and franchisee. It can lead to job creation, entrepreneurship development, and acquisition of new capabilities and skills.
3. Moreover, considering that franchising presents a significant cross-border dimension, the fact that existing legislation on franchising considerably varies among Member States is at the source of technical barriers and may discourage both franchisors and franchisees from expanding their activities internationally. This, in turn, can adversely impact consumers' choice.
4. For such reasons, MEPs address some specific issues on franchising in the EU, encouraging the Commission and Member States to take steps towards improvements.

Specific principles ensuring balanced contractual relationships

5. Noting that franchisee is often the weaker contracting party, MEPs emphasize the need for specific principles to ensure balanced contractual rights and obligations, such as clear, correct and comprehensive pre-contractual information, as well as continued commercial and technical assistance by franchisor for the entire duration of the agreement.
6. The requirement that franchisee purchases from franchisor products and services not related to the franchise formula could easily amount to an unfair trading practice. Non-competition clauses should be clearly formulated, reasonable, proportionate, and not apply for a longer duration than what is strictly needed.
7. Besides, observing that traditional franchise agreements do not cover online sales, which nonetheless constitute an increasingly important part of any business model, MEPs suggest including liberalizing provisions in franchise agreements where appropriate, especially where the franchisee is a small or medium enterprise.

More information on franchising

8. MEPs see a persistent lack of information on the functioning of franchising across all industry sectors. In relation to franchise agreements, there is no mechanism at EU level for collecting information on potentially unfair contract terms or unfair trade practices. Generally, such information is not in writing or is to be found in side letters accompanying contractual texts, which remain confidential.
9. Therefore, Member States are called upon to designate contact points for information on problems encountered by franchisors and franchisees. Complaints and other relevant information received through a contact point or otherwise should be then submitted to the Commission.
10. The Commission is furthermore invited to examine the functioning of franchising in the retail sector and request Eurostat to pay attention to this model when collecting and producing statistical information, without any additional administrative or other burden for businesses. If necessary, the Commission should consider setting up an expert platform in order to obtain further information, particularly on unfair competition practices.
11. Moreover, MEPs request the Commission to open a public consultation in order to collect unbiased information as to the real situation in franchising.

Guidelines on franchising contracts

12. The Commission is requested to produce 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 submit them to Parliament by January 2018.
13. According to the Resolution, specific attention should be paid to any tensions arising between franchisors and franchisees with respect to e-commerce (e.g. in relation to the right of exclusivity of the franchisee for a specific geographical area) and to the increasing relevance of consumer data for the success of franchising businesses. Guidelines should furthermore aim at ensuring compliance with labour standards, as well as high-quality service.
14. In particular, Commission is invited to draw up a non-exhaustive list of unfair trading practices, which should be published and made accessible to all stakeholders.

More dialogue

15. The Commission and Member States are called upon to encourage dialogue between franchisors, franchisees and decision-makers, and to facilitate the creation of associations representing franchisees. A major concern is to make sure that the voice of franchisees is listened to, whenever policies or legislation possibly affecting them are prepared.

Antitrust law

16. In the antitrust perspective, the Commission is called upon to check, in particular, whether it would be appropriate to revise Regulation (EU) No. 330/2010 on vertical agreements, in connection with its impact on the functioning of franchising. The Commission should verify, among others, to what extent exempted vertical restraints are in fact necessary and proportionate, or are rather outweighed by negative effects on the market and consumers.