19 March 2010: Mass retail distribution in the food sector

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Do “category management” contracts hinder the proper operation of competition in the sector ?

> Version française

After a self-referral[1] last month for an opinion on two issues relating to the operation of competition in the mass retail distribution sector (firstly, the contractual clauses between the member distributors of a franchise network or a consortium and the franchisor at the head of the network and, secondly, the management of commercial real estate), the Autorité de la concurrence is continuing its examination of the sector and proceeds, on its own initiative, with a self-referral for an opinion in order to assess the effects of “category management” contracts on competition.

Such contracts, that are tending to become more widespread, allow a distributor to base certain aspects of its commercial policy on the recommendations of one of its suppliers, known as a “category captain”, relative to a given range of products (such as dairy desserts, biscuits...). As such, this “category captain” has leverage on the sale conditions of its own products, but also on those of its competitors. The services provided by the “category captain”, and the extent of its influence over the distributor’s commercial policy, can vary considerably. Depending on the contracts, the “category captain” may simply verify the quality of the products and their positioning on store shelves, while in other cases, it acquires influence over crucial competition aspects: pricing policy, promotions, distribution of sales exposure surfaces between products, introduction of new references...

The effects of such agreements would appear to be ambiguous: while they can lead to better adaptation between supply and demand, they could also reduce both the upstream and downstream competitive intensity, by hindering the arrival or development of competing references, or by generating information exchanges between distributors and “category captains”, and even between distributors if the supplier is the “category captain” for several firms.

In view of this ambiguity, the opinion that will be issued by the Autorité in the second half of 2010 will strive to estimate the frequency and scope of such agreements, the motivations that would prompt operators to use this type of collaboration and the power of influence that the “category captain” has over its distributor. The opinion will also attempt to identify the risks on competition of such agreements, notably by examining the conditions and selection criteria for “category captains”, the possibility that a single supplier might provide these functions for several distributors, and the effects of such agreements on the commercial policies of both distributors and suppliers.

[1] *See the press release of 25 February 2010*