

# A cocktail of “fresh” issues on the role of retail alliances

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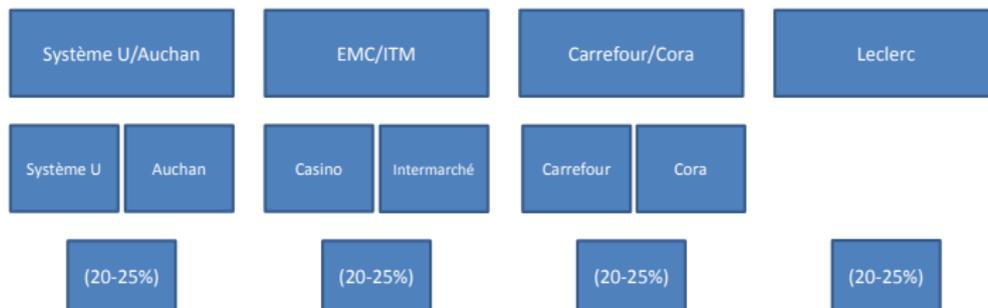


# Introduction (1/5)

Retail alliances: Some examples,

- In France, 2015,

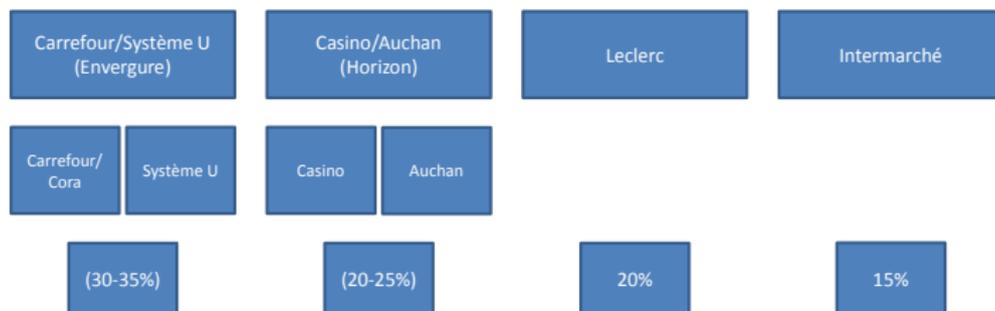
Opinion by the French antitrust authority, 15-A-06, "Joint purchasing agreements in the food retail sector".



# Introduction (2/5)

- In France, 2018,

Investigation, in progress; inquiries opened at 16 July 2018, "Joint purchasing agreements in the food retail market sector".



# Introduction (3/5)

- In Europe,

- EMD, European Marketing Distribution, since 1989, 16 retailers from 16 countries,

- Agecore, since 2015, 6 retailers from 6 countries,

...

- Carrefour-Tesco, since 2018, retail alliance on Private Labels;  
Under investigation by the French antitrust authority.

...

- Some moves of national retail alliances to other countries in Europe:  
For example, from France to ...: Leclerc to Belgium, Horizon  
(Auchan-Casino) to Switzerland.

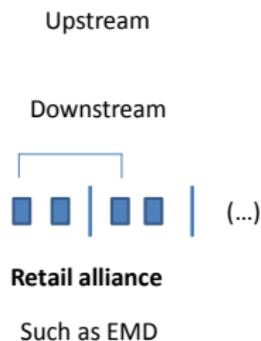
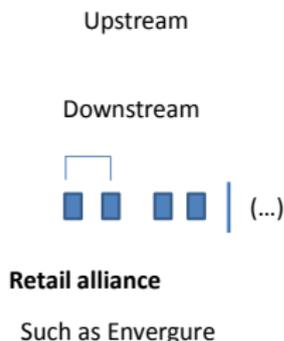
# Introduction (4/5)

- National / European retail alliances (e.g., Envergure versus EMD):

We are not speaking about the same thing.

Envergure (Carrefour-Système U): members of the retail alliance are competitors in the French retail market, locally.

EMD: 16 retailers from 16 countries, members of the retail alliance are not competitors in national retail markets.



- Other points:

- Structures of the retail alliances may be different:

For example, in France, in 2015,

- Casino-Intermarché: Listing decisions bind all members, but purchasing terms are still negotiated individually.
- Carrefour-Promovera (Cora): Purchasing terms are centrally negotiated.

- In France, between 2015 and 2018, the composition of the retail alliances has completely changed.      Exchange of information?

- The product perimeter of retail alliances may be different:  
For example, Carrefour-Tesco only focus on Private Labels.

# An overview (1/3)

- Retail alliances do not fall in merger regulation.
- However, they fall in article 101 (TFEU), i.e., agreements.
- Article 101(3) (TFEU): These agreements are exempted if they generate objective economic benefits that outweigh negative effects of a restriction of competition,

e.g., by contributing to improving the production or distribution of goods, while allowing consumers a fair share of the resulting benefits.

"Positive view" as long as consumers receive a fair share of the resulting benefits (i.e., there exists a countervailing effect, size discounts are passed on to consumers).

- Potential benefits of retail alliances

For example, focus on European retail alliances (e.g., gaining bargaining power vis-à-vis large suppliers):

- Organise competition between production sites of large suppliers (Think about Coca-Cola, for example),
- Break some bundling practices of large suppliers related to national markets (with respect to local customer preferences),  
Fizzi drinks, bundling practices by Coca-Cola (See the decision addressed to Coca-Cola, by the EC, in 2005),
- Re-organise the schedule of negotiations in favor of retailers.

## An overview (3/3)

- Evidence with respect to higher bargaining power and countervailing effect of retail alliances:

See, for example,

- Collard-Wexler et al. (2019), Section V, "relation of their model to the applied literature", review of the empirical literature on the topic;
- Noton and Erdberg (2018), Molina (2019).

- But, nothing is white or black!

- Noton and Erdberg (2018), Molina (2019): specific cases?

Noton and Erdberg (2018), coffee in the UK; Molina (2019), mineral water in France.

- Other studies, mainly at the national level.

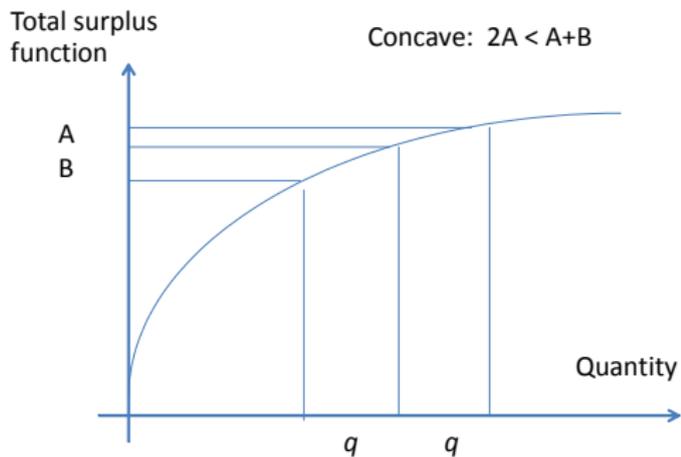
Studies on buyer alliances across countries?

By contrast, price disparities across European countries persist in the EU.

# Buyer size discounts and the curvature of the surplus function (1/3)

- References: Chipty and Snyder (1999), Inderst and Wey (2007).
- The setting: One supplier,  $N$  retailers in  $N$  independent retail markets.
- Examples: EMD, Agecore, ... (across European countries).

# Buyer size discounts and the curvature of the surplus function (2/3)



# Buyer size discounts and the curvature of the surplus function (3/3)

- If the curvature of the surplus function is concave, the retailer benefits from its larger size.
- Recent studies: Inderst and Montez (2019), Jeon and Menicucci (2019).
  
- Size discounts do not mean that consumers benefit from lower prices:
  - If efficient contracting, buyer-size discounts are not passed on to consumers;
  - Potential countervailing effect if inefficient contracting (e.g., linear contracting).
  
- Discuss whether the size discounts are passed on to consumers or not.

# Cross-border retail alliances and product variety (1/3)

- References: Inderst and Shaffer (2007), Dana (2012).
- The setting: For example, two suppliers, two retailers (i.e., two outlets, one for each country); local preferences of consumers.
- Example: Carrefour-Tesco (across countries, the UK and France; PLs).

## Cross-border retail alliances and product variety (2/3)

- First scenario: the two outlets are operated by different retailers.
- Second scenario: the two outlets are operated by the same retailer.
- By committing to a 'single sourcing' purchasing strategy (in the second scenario), a retail alliance may enhance buyer power of its members.
- Consumer surplus and total welfare decrease as product variety decreases (negotiations are efficient).
- Furthermore, anticipating further concentration in the retail industry, suppliers may strategically choose to produce less differentiated products, which further reduces product variety.

## Cross-border retail alliances and product variety (3/3)

- These retail alliances do not benefit to consumers (less product variety).
- Possible countervailing effect if negotiations are not efficient (e.g., linear tariffs).
  
- Discuss Carrefour-Tesco retail alliance on PLs:

Less product variety (local consumer preferences are quite different between the UK and France),  
versus whether negotiations are efficient or not (PLs, they are efficient because suppliers evidently are small).

# Buyer power from joint (de)listing decisions (1/4)

- References: Caprice and Rey (2015); see also Molina (2019).
- The setting: One main supplier, an alternative supplier that is less efficient;  $N$  retailers that compete in the retail market.
- Examples: In France,
  - Casino-Intermarché, 2015,
  - Carrefour-Promovera (Cora), 2015,
  - Or, more recently, Envergure (Carrefour-Système U) and Horizon (Casino-Auchan), 2018.

## Buyer power from joint (de)listing decisions (2/4)

- Two scenarios with respect to the structure of the retail alliance:
  - First scenario: the creation of the retail alliance transforms individual listing decisions into a decision that binds all of its members; purchasing terms are still negotiated individually (e.g., Casino-Intermarché, 2015),
  - Second scenario: purchasing terms are centrally negotiated, instead of being negotiated individually (e.g., Carrefour-Promovera (Cora), 2015).
- Result: Cost savings, following the creation of the retail alliance do not lead to lower retail prices (in any of the above scenario, if efficient contracting).
  - First scenario: neutrality result (i.e., retail alliance only benefits to its members, by enhancing its bargaining power vis-à-vis suppliers, without affecting final prices),
  - Second scenario: consumer face higher retail prices (and retailing competitors benefit from the formation of the retailing alliance).

## Buyer power from joint (de)listing decisions (3/4)

- What's more (long term effect)?

When retailers join forces to enhance their buyer power,

Enlarging a retailing chain,

- may foster suppliers' investment incentives, when the retailing chain is not too large,
- but tends instead to reduce investment incentives, when the retailing chain is already quite large.

Economic dependency?

## Buyer power from joint (de)listing decisions (4/4)

- The creation of the retailing chain evidently enhances the bargaining position of its members with respect to suppliers (i.e., veto power), but does not benefit to consumers (retail prices are either not affected or higher).
- Possible countervailing effect (i.e., lower retail prices) if negotiations are not efficient (e.g., linear tariffs).

- Discuss possible effects of retail alliances in France, 2015 and 2018:

- 2015: neutrality result as some retail alliances were in the first scenario (assuming efficient contracting), or lower retail prices (as negotiations may be inefficient),

- 2018: consumers face higher retail prices as all the retail alliances now are in the second scenario, or possible lower retail prices if negotiations are inefficient.

Results obtained by Molina (2019)?

# Buyer alliances and tacit collusion in retail markets (1/3)

- References: Normann et al. (2015).
- The setting: for example, three retailers compete in the retail market.

Assumption: the creation of a buyer alliance helps to obtain lower purchasing prices from the suppliers.

- Example:

National market; possibly think about the French market?

## Buyer alliances and tacit collusion in retail markets (2/3)

- Buyer alliance may facilitate tacit collusion in the retail market; two channels:

- First, the threat to abandon the buyer alliance altogether facilitates tacit collusion (i.e., veto power),
- Second, closed buyer alliance, which has the power to exclude specific firms following a deviation facilitates tacit collusion even further.

- Experiments partially confirm these predictions:

- First channel, results of experiments are contrasted,
- Second channel, experiments support the theory (i.e., the possibility to exclude a single firm from a buyer alliance following a deviation); buyer alliance may result in significantly less severe retail competition.

- National buyer alliances (in the same retail market) may facilitate tacit collusion in the retail market,

which will evidently harm consumer surplus (higher retail prices).

- In this analysis, purchasing terms are equal for all the members of the buyer alliance:

- Symmetry among firms is a factor that facilitates tacit collusion in the product market (Motta, 2004, for a review of the literature).

As purchasing terms are equal for all the members of the buyer alliance (when purchasing terms are centrally negotiated), buyer alliance may facilitate tacit collusion by enhancing symmetry among members.

See also the composition of the retail chains at the national level, which changes often. Open question.

- Furthermore, see whether some retail alliances offer the possibility to exclude a single firm from the buyer alliance, which will reinforce potential tacit collusion.

# Discussion (1/3)

- Coming back to the rules:

- At the European level, article 101 (TFEU), i.e., agreements.

- Focus on France,

Article 101 (TFEU) + some abuses (i.e., article L 442-6 of "code de commerce", simplified recently, 24 April 2019).

Abuses, mainly three: "payments not related to a specific transaction", "sudden commercial retaliation by the buyer", "contractual imbalances associated with unequal bargaining power".

Focus on "contractual imbalances associated with unequal bargaining power": See the judgment by the "cour de cassation", 25 January 2017, that confirms LME, 2008 on commercial price discrimination and allows for compensation in case of contractual imbalances.

French specificity? Not sure, see for example the recent Unfair Trading Practices (UTP) directive.

- Coordination between European rules and national rules:

With respect to abuses in case of contractual imbalances (see, e.g., the recent moves of French retail alliances to other European countries); rules with respect to commercial zoning too?

- Do we need to revise the rules?

Simple and stable rules are one the goals to reach (See the recent simplification of some abuses in France, 2019).

- Change the view with respect to retail alliances?

The view is biased possibly; buying alliances, which were fined in the past were mainly processor alliances (see, e.g., in France, "buyers of live pigs" (slaughterers), decision 13-D-03 by the French authority, 2013, or Cyprus decision on the raw milk (the report from European commission, 2018)).

## Discussion (3/3)

- Potential benefits of retail alliances to consumers (i.e., countervailing effect):

Clarify the efficiency gains of these retail alliances and see whether they allow consumers a fair share of the resulting benefits.

- Open questions:

- Retail competition (one-stop shoppers versus multi-stop shoppers): Chen and Rey (2012, 2019) (or see also, Caprice and von Schlippenbach, 2013, Caprice and Shekhar, 2019); for an empirical study, see Oyvind et al. (2017).

- Potential competition of digital actors (such as Amazon, ...).

- Lastly, coming back to the French "specificity":

Rules of the LME, 2008, which were confirmed in appeal by the "cour de cassation", in 2017:

**"Terms of sales** should be the basis of the negotiation".

Instead of "purchasing terms"?

Thank you! Any questions?

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