

Dear Mr. Allister,

Thank you for your letter of 30 January 2008 in which you express your concerns over alleged anti-competitive practices across the EU retail sector. You call upon the Commission to investigate alleged unfair practices within the supermarket sector and to suggest remedial action where appropriate.

The primary objective of EC competition policy is to make markets work better for the benefit of consumers in the EU. As mentioned in the reply to the recent questions E - 5055/07, E-5091/07 and E-0807/08, the Commission, together with the National Competition Authorities forming the European Competition Network, monitors markets in order to prevent and sanction distortions to competition to the extent that these distortions can potentially harm consumers. The Commission only acts when it is better placed than National Competition Authorities to take action. Indeed, since the issues related to the retail sector are frequently national in scope, the Member States are well placed to address them.

General EC competition rules are applicable to the retail sector. Articles 81 and 82 of the EC Treaty apply to agreements and abuses of dominance insofar as they may affect trade between Member States. The Commission and the National Competition Authorities constantly monitor the retail sector for potential anti-competitive effects.

Examples of recent analyses carried out by National Competition Authorities include the decision of the Office of Fair Trading (OFT) in May 2006 to refer the supply of groceries by retailers in the United Kingdom to the Competition Commission for a market investigation. The Competition Commission published its provisional findings report on 31 October 2007 and a final report is expected in the first half of 2008.¹ Similarly, the Austrian Federal Competition Authority has conducted a sector inquiry on supermarket buyer power and published its findings in August 2007.² It is also worth mentioning that the Portuguese Competition Authority published in October 2006 a working paper exploring the issue of retailer buyer power and potential pass-through effects to end

¹ The UK Competition Commission's provisional findings in its market investigation are available at: <http://www.competition-commission.org.uk/inquiries/ref2006/grocery/index.htm>

² The Austrian Federal Competition Authority's findings are available at: http://www.bwb.gv.at/BWB/English/groceries_sector_inquiry.htm

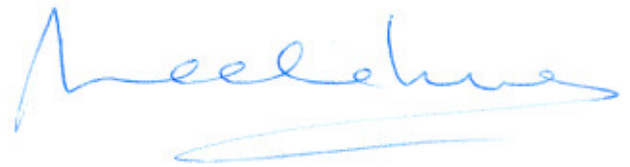
Mr. James H Allister QC MEP
European Parliament
Bât. Bâtiment D4
05M073
60, rue Wiertz / Wiertzstraat 60
B-1047 Bruxelles / Brussel

consumers.³ Furthermore, my services have also recently fostered exchanges of experience and best practice within the framework of the sectoral food subgroup of the European Competition Network.

I would like to reiterate that should any specific practice contrary to articles 81 or 82 of the EC Treaty be confirmed and supported by legal and economic evidence, the Commission will not hesitate to take action.

The Commission is aware of the European Parliament's Written Declaration on "investigating and remedying the abuse of power by large supermarkets in the EU". The Commission will provide an answer to Parliament within the deadline laid down in the rules governing such procedure.

Best regards,

A handwritten signature in blue ink, appearing to read 'Neelke', with a horizontal line underneath it.

³ Autoridade da Concorrência; Working Paper No 14 October 2006, available at: http://www.autoridadedaconcorrancia.pt/download/WP14_Study_Sep-06_PubVers.pdf