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HELLENIC COMPETITION COMMISSION

Autoridade da Concorrência

Office for the Protection of Competition of the Czech Republic

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Your reference	**Our reference**	**Date**
		15 July 2026

Territorial Supply Constraints (TSC's)

Dear Ms Jorna,

We are writing to you regarding territorial supply constraints ("TSCs") in our capacity of National Competition Authorities of Mid-sized EU Economies ("MIDs") to express our strong support to DG Growth's current initiative against unjustified TSCs.

TSCs are measures imposed by manufacturers to hinder retailers or wholesalers' ability to source from or sell in the Member State of their choice so as to benefit from the best market conditions. Unjustified TSCs fragment the Single Market, whether direct, in the form e.g. of obligations to sell in a given Member State, or indirect, especially through packaging requirements that make products unsuitable for sale in every Member State.

TSCs can contribute to persistent price differences across the EU by limiting cross-border sourcing and resale. As a result, TSCs may operate as artificial barriers that restrict sourcing efficiency and weaken cross-border competitive pressure. The issue is particularly severe for MIDs where higher prices for fast moving goods are typically observed.

As explained by the Commission in a 2020 study on the subject: "*TSCs are most prevalent and problematic in smaller and less competitive markets, which are situated close to larger and more competitive markets with low prices (e.g. Austria, Belgium and Luxembourg).*"[1] The study suggested that eliminating TSCs would result in an average reduction in purchase prices for retailers of 8.8% and an average reduction in consumer prices of 7.6%, with overall consumer savings estimated at €14.1 billion.

TSCs may therefore act as a structural ceiling on the growth of efficient buyers, including retailers and wholesalers. By fragmenting sourcing and negotiation along national lines, TSCs may force the acceptance of higher local prices and prevent the emergence of EU buyers with greater countervailing buyer power. In particular, retailers and wholesalers in smaller markets, including some MIDs, may have weaker bargaining power vis-à-vis manufacturers because their purchase volumes are lower.

While it is true that TSCs can be tackled by competition law and competition authorities, competition law enforcement can address TSC only to a certain extent.

When TSCs are implemented by a dominant company, they can infringe Article 102 TFEU, which prohibits abuses of dominance. For instance, beer producer AB InBev received in 2019 a EUR 200 million fine for, among others, having changed the packaging of its beer and limited the volumes sold to Dutch wholesalers to dissuade them from selling in higher-priced Belgium. When TSCs are agreed between two undertakings, they can fall under Article 101 TFEU, which prohibits anticompetitive agreements. For instance, Mondelez received a EUR 337.5 million fine in 2024 for, in particular, having put in place contractual restrictions preventing some wholesalers and exclusive retailers from serving certain territories.

However, many TSCs fall outside the scope of Articles 101 and 102 TFEU because they are implemented unilaterally by non-dominant undertakings. As the Letta Report argues, when markets malfunction for reasons not addressed by competition law, this may call for EU-level intervention rather than fragmented national responses.[2] TSCs also fall outside the scope of the Geo-blocking Regulation, that only addresses unjustified cross-border sales restrictions in the context of business-to-consumers (B2C) interactions and does not cover the broader range of business-to-business (B2B) interactions. Finally, TSCs neither correspond to any of the prohibited practices by Directive (EU) 2019/633 on unfair trade practices in business-to-business (B2B) relationships in the agricultural food supply chain.

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[1] European Commission, 2020 *Study on territorial supply constraints in the EU retail sector*, p. 105 (pdf). Also quoted in European Commission, 2023, Staff Working Document (2023) 283 final, *Co-creation of a transition pathway for a more resilient, digital and green retail ecosystem,* p. 14 (pdf).

[2] Enrico Letta, "Much More Than a Market: Speed, Security, Solidarity - Empowering the Single Market to deliver a sustainable future and prosperity for all EU Citizens", Report to the European Council (2024).

For those reasons, we believe that a specific EU legislation against unjustified TSCs is probably the best way forward.

This position was already expressed in May 2024 in the Council, in an information note by seven Member States (the Netherlands, Belgium, Croatia, Czech Republic, Denmark, Luxembourg and Slovakia) highlighting the need to eliminate territorial supply constraints in the Single Market. The note stressed that TSCs are a major limitation to the free movement of goods, and therefore to the achievement of the Single Market.[3] The issue was emphasised by an even larger number of middle-sized Member States (Croatia, Czechia, Estonia, Finland, Ireland, Latvia, Lithuania, Malta, the Netherlands, Portugal, Romania, Slovakia, and Slovenia), alongside larger Member States such as Germany and Spain, in the blueprint for a new Horizontal Single Market Strategy dated March 2025[4]. It was further raised by Austria, Czechia, Greece, the Netherlands, and other Member States at the Council Meeting in September 2025.[5] All information notes pointed at a possible prohibition of unjustified TSCs, as well as measures against indirect TSCs such as unnecessary requirements on labelling and product differentiation.

In this context, the MIDs support the findings of the 2025 Annual Single Market and Competitiveness Report[6] that TSCs are problematic market barriers. We equally support the launch by the Single Market Enforcement Taskforce (SMET) of a fact-finding exercise on TSCs and a dialogue with stakeholders.[7]

We further welcome DG GROW's initiative for a pilot project creating standardised digital labelling solution for food products to tackle packaging differentiations.[8] This solution is particularly suitable for food products for which labelling requirements are largely harmonised.

In this context, we warmly welcome the Commission's commitment to develop, by the end of 2026, tools to act against unjustified TSCs beyond the reach of competition law.
We note that soft law and other possible incentives to tackle TSCs may not send a sufficiently strong message to operate the required changes in business practices. The nature of B2B negotiations and the financial incentives for manufacturers make voluntary compliance unlikely to achieve meaningful results.

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[3] General Secretariat of the Council, Information by the delegations on the need to eliminate territorial supply constraints on the Single Market - Information by the delegations of the Netherlands, Belgium, Croatia, Czech Republic, Denmark, Luxembourg and Slovakia (pdf).

[4] AOB for the meeting of the Competitiveness Council of 12 March 2025: A blueprint for new Horizontal Single Market Strategy - Information from Croatia, Czechia, Estonia, Finland, Germany, Ireland, Latvia, Lithuania, Malta, the Netherlands, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden (pdf).

[5] General Secretariat of the Council, Information from Austria, Czechia, Croatia, Greece, Luxembourg, the Netherlands and Slovenia https://www.parlament.gv.at/dokument/XXVIII/EU/34431/imfname_11514051.pdf.

[6] January 2025, pdf.

[7] 7 April 2025, Stakeholder Dialogue on Territorial Supply Constraints - Internal Market, Industry, Entrepreneurship and SMEs

[88] March 2025, pdf.

We also doubt that TSCs can be adequately tackled by a legal act based on relative market power. Many Member States, including some MIDs, already have stricter rules on unilateral conducts, as allowed by Regulation 1/2003. However, their implementation depends largely on the proactiveness of retailers and requires difficult economic assessments, particularly in terms of showing anticompetitive effects for each affected product or product group separately.

A legal instrument based on Article 114 TFEU would remove the need for a case-by-case assessment, advance the Treaty objective of improving the functioning of the Single Market, reduce legal uncertainty through a harmonized EU Regulation, and remain consistent with the Geo-blocking Regulation by extending the principles of non-discrimination from business-to-consumers (B2C) interactions to business-to-business (B2B) interactions.

Given the ongoing burden on European consumers, we stress the urgency of this matter and look forward to working with the Commission to deliver swift and coordinated EU action on this fundamental issue.

Yours sincerely,

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President of the Belgian Competition Authority (BCA)

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02.07.2026 09:00

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