

Large retailing negotiation under pressure.

The yearly negotiations between suppliers and major brands and labels ended a few days ago. These exchanges are known for being some of the most difficult commercial negotiations around the globe. They are spread out over five months approximately – from November to February - and are gruelling for the negotiation teams and manufacturers. Even though these negotiations take place behind closed doors or in a “Buying Box”, they have an impact on millions of people who shop or buy products from the mass market.

The nature of these negotiations – brutal, under pressure and very technical – perfectly resumes what has been happening in the sector for the last few decades.



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THE DOUBLE IMPACT OF THE LEGAL CONTEXT /

The commercial agreements concluded between retail brands and manufacturers include most of the products consumed daily by French people. It is for this reason the public authorities tried to supervise these negotiations that have an impact on household's spending power.

The Galland law was enacted in 1996, with the objective of creating healthier sales relations between manufacturers and distributors, to find a way to regulate the commerce in France. By creating a strict framework and drastic negotiation conditions, the legislator wanted to protect small businesses. One of the main measures of the Galland law is the famous SRP, Suggested Retail Price, which forbids distributors from reselling a product for less than they purchased it for. The consequence of this law is what we call a “minimum selling price”. In theory brands are not authorised to make any other profit than the “float before production” or in other words only make a profit on the difference between the purchase price

and the selling price.

However, the SRP didn't really reflect the distributors real purchase price. Faced with all these constraints the market continued to adapt and to find new ways to optimise. The resulting phenomena attempted to correct the distributor's drop in profitability. Suppliers granted additional reductions allowing them to develop “back profits”: distributors obtained profitability, not from the difference between the purchase and sales price, but from his capacity to negotiate discounts, which helps him develop back profits.

In 2008, the Economic Modernisation Act (LME) freed the SRP by allowing distributors to include all their back profit in their sales prices and therefore allowed them to be ultra-competitive in a more centralised French market. The balance of power, which was already very tough, got only tougher and had a real impact on suppliers.

AT ANY COST /

The consequences of installing these technical mechanisms of negotiation and legislation were immediate: the hypermarket and supermarkets in France began a real price war, always attempting to be less expensive, at any cost, to entice more clients into their shops. To be able to provide their clients with lower prices, the brands began to compete between themselves, creatively and aggressively (promotional mechanisms, store cards, jackpots, passionate advertising...). Large retailing placed more pressure on the suppliers to obtain lower purchasing prices and to maintain their profitability.

This infernal spiral had dramatic consequences on all the actors in the industry: devaluation for brands and farmers. In 2021 the Egalim Act was enacted to protect agricultural raw material suppliers by restricting distributors from raising their price to guarantee decent income. This new law was enacted during an unstable context for commerce in general and especially for large retailing: e-shopping has taken a big place in the life of a consumer, who tends to purchase more from large platforms, where the cost of raw material, ener-

gy and transport has exploded and wreaked havoc with the balance.

As if in answer to all these structural changes in the market and to maintain a favourable balance of power, large retailing has also restructured. Now distributors merge to carry out their purchases: by merging, they are stronger than the suppliers and harden the balance of power in their favour. When you merge with a rival brand and make up more than 20% of a manufacturer's turnover, then your negotiation power is enormous. These super-centrals first appeared in France, then developed all over Europe. The Alliances between distributors vary each year: Auchan with System-U, then System U with Carrefour, Casino with Intermarche, the Auchan with Intermarche, Leclerc with Rewe...

The difficulty of the negotiations with super-centrals is mainly in the unfavourable balance of power for suppliers and the stakes are colossal because the failure of a negotiation could mean the loss of 1/5th of the supplier's turnover. These mergers between buyers, both on the national and European level, have allowed distributors to be more demanding of suppliers.

INAPPROPRIATE BEHAVIOUR /

This unfavourable balance of power has pushed almost all brands to adopt behaviour that is far from what we would imagine as a cooperative exchange: disagreement threats, harmful dereferencing creating heavy loss of turnover for suppliers, ultimatums... are all commonplace. Even if abusive behaviour has reduced in some brands, the use of threats and bad faith remains widely practiced.

The negotiation which was supposed to initially be focused on the products, the consumers and creating market value is now just a balance of power supervised by legislation. This legal framework is used to protect and maintain the distrust.

Over the years this has created a massive trust problem in the relationship: a lack of transparency, no desire to build together and not enough dialogue.

It would have been preferable if we could have been influenced by more collaborative visions, from other countries, but unfortunately, we have seen the opposite happening: these practices have appeared in other fields, such as luxury products or the pharmaceutical industry as well as in other countries.

The different successive crises have only highlighted this model on its last legs that desperately needs to be reinvented by negotiation.



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UNDER PRESSURE /

Once the annual negotiations are over and the agreement between the suppliers and manufacturers is validated, unfortunately, the pressure on suppliers isn't over.

Once the negotiated trade-offs have been rapidly accomplished, which can be an entirely new challenge, then suppliers are often called into a "negotiation box" where buyers regularly make new and innovating demands: French sales discounts, promotional budgets, shop budgets, work or brand funding, an international budget... We have also noticed, in parallel, a drift in the number of logistic penalties which has exploded and become an important source of income for distributors. The financial sanctions imposed by major groups in large retailing on their suppliers begin as soon as their services are deemed insufficient (delays in delivery, changing logistic conditions...). Over the years negotiations have become almost weekly with constant pressure and heavy stakes for manufacturers and farmers.