

# studies

**The cooperation between  
firms in the Community**

**Franchising**



COMMISSION OF THE EUROPEAN COMMUNITIES

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firms in the Community**

**Franchising**

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## **Introduction**

At its meeting of 1 October 1976 the CEC's working party of experts on 'Commerce and distribution' decided to set up a subgroup on 'Cooperation between firms' which was to report on the situation concerning cooperation between firms in the retail trade of the various Community countries, particularly as regards the development of cooperation in the form of franchise organizations. The group was also instructed to analyse franchising on the basis of information obtained from the various Member States and additionally to outline the advantages and disadvantages that might be connected with this system.

The group's task was to state whether or not legislation on this relatively new form of cooperation in the Community was desirable and whether other measures should be taken in the Community to help this system develop as effectively as possible.

The working party entrusted the functions of Chairman and rapporteur to the Netherlands delegation. Mr Quaedvlieg was appointed chairman and Mr de Bouter rapporteur. A list of the members of the subgroup (see Annex).

The delegations were sent a questionnaire (see Annex). This report was drawn up from the delegations' answers to this questionnaire and from the discussions held between the delegations. The subgroup met three times for this purpose.





## SECTION I

### Forms of cooperation in the trade sector

#### 1.1. Survey of the various forms of cooperation

No regular statistics are collected in any of the Member States on the absolute or relative extent of the various forms of cooperation in the trade sector. The data available is fragmentary and difficult to compare because of the different methods of preparation in the various countries. It is usually taken from publications by the various cooperating groups.

##### *Belgium*

The information supplied suggests that a very high proportion of distribution is probably conducted by retailers who do not operate in a cooperative framework. Buying groups (21, 7 of which are in the food sector) and voluntary branch operations account for a very modest share of the retail trade's total turnover with 1.57% and 2.48% respectively. The number of franchising chains is estimated at 45 (in all sectors), 15 of which are international. They account for around 3% of the retail trade's total turnover. There has been a rapid increase in the number of franchising organizations.

##### *United Kingdom*

In 1971 different forms of cooperation accounted for 14% of the retail trade's total turnover.

Of this consumer cooperatives accounted for 52%, retail traders' buying groups for 25%, wholesaler sponsored groups for 17% and

retailer and wholesaler sponsored groups for 6%. There is no information about the size and extent of franchising organizations.

##### *Ireland*

The last retail census took place in 1971. 13% of the food retailers covered stated that they operated within some type of cooperative arrangement.

This group of 13% of all food retailers accounted for 24% of this branch's total turnover.

No statistics are available about franchise organizations operating in the retail trade.

##### *Federal Republic of Germany*

Purchasing groups account for an estimated 16% of the retail trade's total turnover and voluntary branch operations for 14%.

The number of franchise chains is estimated at 85 (around 11 000 franchise-holders). Following to the definition of franchising, the market shares could be situated between 1% and 5% of the total retail turnover (particularly if the retail trade of motor-cars is included). Actually two international franchise systems, other than car retailing, are existing on the retail level.

##### *France*

The proportion of total French retail trade accounted for by the most important cooperative forms was as follows in 1972 and 1975 (as a percentage of turnover):

	1972	1975
— buying groups	8.1 %	5.8 %
— voluntary branches	6.2 %	9.6 %
— franchising	not known	10.4 % (uncertain figure)

Buying groups have thus suffered a decline. At the beginning of the 70s there were 123 buying groups (54 of them in the foodstuffs sector) and 15 voluntary chains (seven of them in the foodstuffs sector).

In 1972 there were 23 008 undertakings attached to buying groups and 36 386 to voluntary branch organizations. A study on forms of cooperation by the 'Conseil Économique et Social' (Section de l'industrie et du commerce)<sup>1</sup> reveals that the buying groups, voluntary branch organizations and small department stores are not developing rapidly.

The department lists the following causes:

- inadequate information for the retailer about the importance of cooperation;
- the great value attached to complete independence;
- a shortage of sponsors ('animateurs').

Unlike the traditional forms of cooperation, franchising is rapidly spreading (now around 75 chains, including many previous voluntary branch organizations or networks of concession-holders). There are many international franchising chains in France.

The department considers that cooperation between small undertakings is necessary in order to provide an adequate counterbalance to large retail organizations.

### *Italy*

The tradition retail trade still takes up a predominant place in the Italian distribution network. In 1975 non-cooperative undertakings accounted for 85 % of the total turnover of the retail trade.

<sup>1</sup> Journal Officiel, N° 16, 4.9.1976.

Buying groups accounted for 4.3 % and voluntary branches for 5.2 % of the total turnover while large stores accounted for 4.2 %. Statistics on franchising do not exist actually. The impression is that this type of trade is not spread very much, and it occurs less in the retail trade than in the hotel and restaurant sector.

### *The Netherlands*

The commercial organizations of independent enterprises play an important role in the Dutch retail trade. The voluntary branch is found only in the foodstuffs sector whereas the buying groups occur in many retail trade sectors.

In the groceries branch, 54 % of the total number of selling points<sup>1</sup> are attached to a voluntary branch organization and 15 % to a buying group. In the dairy branch, 62 % of the total number of selling points are attached to commercial organizations.<sup>2</sup>

There are 12 voluntary branch chains and 30 buying groups in the groceries sector. Other branches in which buying groups play an important role are potatoes, vegetables and fruit (24), milk and dairy products (17), butchers (19), bakers (13), textiles (19), and furniture (9). There were 195 buying groups in 1974. At present there are around 110 franchising chains in the retail trade, 33 of them in the foodstuffs sector, 31 in the footwear and clothing sector (excluding cleaners) and six in the do-it-yourself sector. Around 18 of these franchising chains operate internationally.

The turnover of the franchising organizations can be estimated at a minimum of 15 % of the total turnover of the retail trade in the Netherlands.

<sup>1</sup> Independents, large branch organizations and cooperatives.

<sup>2</sup> Comparable to voluntary branches.

## 1.2. Franchising as a form of sales organization

### 1.2.1. The term franchising; distinction from other forms of cooperation

In practice there is not always a clear dividing line between franchising and other forms of cooperation. Voluntary groups may be indistinguishable from certain forms of franchising.

There is no legal definition in any of the countries involved. This is understandable as (hitherto) there has been no specific legislation on franchising in the Member States of the Community.

The basic features of the franchising system are as follows:

- the joint name or trademark;
- the marketing of a range of products or services of equal quality;
- permanent connection between the contractual partners who remain legally independent;
- provision by the franchiser of know-how, services and goods to the franchise-holder;
- permanent monitoring and supervision by the franchiser;
- (in many cases) a definition of the territory within which a franchise-holder may operate;
- a written agreement between the partners covering the points;
- a contractually fixed payment by the franchise-holder for the rights granted to him by the franchiser or a membership fee paid on coming into force of the contract.

In practice, franchising agreements are found between:

- manufacturer and wholesaler;
- manufacturer and retailer;
- wholesaler and retailer;
- service industry and retailer;
- undertakings in the same distributive branch.

Although franchising mainly occurs in the retail trade and consumer-oriented service industry sector, franchising organizations may also be found at the levels of industry and production.

What position does franchising occupy among the various forms of retail trade? If franchising is compared with other forms of cooperation — and taking account of the social image *vis-à-vis* the consumer — the answers received from the Member States reveal that franchising combines features of both the voluntary group system and the usual multiple chain system.

The franchise-holder has the same legal independence as a retailer belonging to a *voluntary group organization*.

But franchising differs from voluntary group operations on one essential point: the franchising agreement is an individual contract between the franchise-holder and the franchiser. Voluntary group organizations link groups of retailers on the one hand with one or more wholesalers on the other. As a result, the retailer or wholesaler belonging to a voluntary group organization preserves a much larger degree of independence.

Relations under a franchising agreement involve much closer cooperation and much stricter supervision. However, some franchising organizations are less rigidly organized than voluntary group organizations. Some voluntary group organizations are tending to use a common symbol, a trend which increases their similarity to forms of franchising.

The aim of franchising — the promotion of a specific trademark — is not the main aim of the voluntary group organization. Businesses forming part of a voluntary group organization often stock a wide range of trademarks despite coordinated purchasing policy. Franchising as a form of cooperation between wholesalers and producers on the one hand and retailers on the other normally occupies a position somewhere between a voluntary group organization and a buying group.

The features they share with multiple chains are centralized direction and supervision; though these features are less pronounced in franchising than in normal branch operation they are nevertheless very much in evidence.

Despite the similarities between franchising and concession agreement, there are also differences. The cooperation and assistance undertaking goes much further in the franchising agreement than in the concession agreement. Furthermore, the concession normally applies to one or more articles while the franchising agreement usually applies to a more or less wide range of goods of varying types, representing all or nearly all of the franchise-holder's supplies.

The term franchising is also popularly used for forms of cooperation that do not fit into the category described above. This is for instance the case with the 'shop within a shop' (independent retailers within a larger shop, usually a department store).

### **1.2.2. Advantages and disadvantages of franchising**

This paragraph is meant to provide a survey of the advantages and disadvantages of franchising agreements for both parties, as revealed in the reports available. Of course, these advantages and disadvantages will not occur in all franchising agreements at the same time or to the same extent.

#### *Advantages for the franchise-holder:*

- the benefits from a national or international reputation;
- the benefits from opportunities which are not generally available to a small independent tradesman (e.g. as regards purchasing, cost surveillance, finance, administration, sales strategy, advertising, research and if the prospective franchise-holder does not have premises choice of selling point);
- as part of a large organization he may have a greater guarantee of survival and less operating risk than an individual tradesman;

- a well-organized franchising system will give him good preparation, training and information;
- fewer subsidiary responsibilities and thus more time for the main objective (selling);
- compared with the individual tradesman, the new franchise-holder may only need modest investment as the franchise allows him to make use of the franchiser's investment in symbols, advertising organization, installations, etc.;
- reduction of teething troubles.

#### *Advantages for the franchiser:*

- the franchiser can expand his organization with relatively little investment of his own more quickly than would be the case if he had to set up his own network of branches;
- the franchiser can use existing good selling points owned by already established retailers;
- the franchise-holder has more motivation to achieve good results than a branch manager;
- as a result, the franchise-holder does not require as much supervision as a branch manager;
- the franchise-holder shares the operation risk.

#### *Disadvantages for the franchise-holder:*

- the franchise-holder is dependent on the franchiser in many respects (reputation, efficiency, financial capacity);
- he is also dependent on the other franchise-holders in the chain as they too help create the organization's reputation;
- he depends on the franchiser for supplies (this occurs in varying degrees), in the quality of which the franchise-holder has little or no influence;
- he has little or no influence on range, shop furnishings, etc.;
- transferring the business to members of the family may be made more difficult;

- prior assessment of the economic advantages versus the loss of independence is very difficult.

*Disadvantages for the franchiser:*

- depending on the contents of the franchising agreement, the franchiser has less influence on the franchise-holder than a branch organization on branch managers who have to carry out instruction from headquarters;
- one disadvantage compared with branch organizations is the sharing of profits with the franchise-holders; this may also lead to strain if the franchising organization records much better or much worse results than originally assumed.

### 1.2.3. Franchising organizations

Progress has been made in organizing *franchisers* and a European organization (the 'Fédération Européenne du Franchising') was set up a number of years ago as an umbrella for national franchiser organizations. It is noteworthy in this connection that various correspondents stated that there were no franchiser organizations in their country or at least as far as they knew.

In the *Netherlands* the overwhelming majority of franchisers are organized in the Dutch Franchise Association. The *Belgian* franchise association (20 members) exists since 1974, the 'Associazione italiana del Franchising' (35 members) exists since 1971, and in *France* there is the 'Fédération Française du Commerce associé'. In the *United*

*Kingdom* the British Franchising Association was formed in December 1977. There are no franchiser organizations in the *Federal Republic of Germany* or *Ireland*.

There are no franchise-holder organizations in these countries though it is intended to set up an organization of this type in Belgium. As franchising gains ground, it may be expected that franchise-holders too will feel the need to combine their interests at national and perhaps international level. At the level of the individual franchising chain there is a tendency for franchise-holders to have discussions among themselves and with the franchiser about the organization's policy. Negotiations are being conducted in Belgium to include the franchise-holders as a special category in the franchisers association.

Thirdly, mention may also be made of the existence of *independent consultancy bureaux* which provide expert assistance for franchisers and franchise-holders planning to join a franchising organization — the Netherlands and Belgium). It is desirable for franchise-holders usually the weaker party in franchising agreements to have the contracts they are offered examined by independent persons or organizations which have legal, economic and specialised qualifications and are independent of and completely unconnected with a franchiser. Some franchise associations (Belgium, the Netherlands and France) have drawn up codes of honour which their members must obey. The British Franchising Association is also drawing up such a code. This encourages the standardization of franchising contracts and helps prevent the inclusion of unfair terms in these contracts.

## SECTION II

### **Assessment of franchising as a form of cooperation**

Paragraph 1.2.2. lists the advantages and disadvantages of franchising for the franchiser and the franchise-holder. But this is not sufficient for an overall assessment of franchising.

Like other forms of cooperation, franchising affects a country's distributive structure, and increasingly so as it gains a bigger share of distribution. It is appropriate to ask in this connection whether this system serves the interests of the consumer, what influence it has on the position of small tradesmen in the outlets in question and whether any undesirable social consequences are likely to result, perhaps only in the longer term.

#### **2.1. From the trader's viewpoint**

The admittedly strict limitation of the franchise-holder's independence is mentioned above as an important part of the franchising system. On the other hand, franchise-holders enjoy opportunities that are practically unattainable for independent traders and available at best in part for those who have joined voluntary group organizations and purchasing groups.

It could be claimed that there has been specialization on certain aspects of business. The franchise-holder has more time than the completely independent trader to spend on the sales aspects of his venture as he can leave part of the other aspects such as purchasing, range, administration and advertising to the franchising organization.

As regards the independence of the trader, in a number of sectors the completely independent trader who does not belong to a commercial organization or coordinate some of his policies with other traders may find it increasingly difficult to survive. If the small independent trader wishes to survive in the face of competition, he often has to consider a form of cooperation with others.

By cooperating in one way or another with other undertakings, he can also benefit from certain advantages enjoyed by large stores, large branch organizations and cooperatives (e.g. as regards automation, the flow of goods and bulk transport) without having to surrender his basic independence. Moreover cooperation does not present only financial advantages; less attention need be paid to activities that can be conducted in collaboration and more time remains for the most essential business activities. From the macro-economic viewpoint, cooperation can contribute to the maintenance of healthy competition.

The answers to the questionnaire reveal as a general tendency that small and medium-sized undertakings do not consider the loss of independence as one of the great disadvantages of franchising. They are far more worried about contracts which enable the franchiser to exploit the franchise-holder. This is of course a completely different matter from a conscious surrender of some independence in exchange for greater security of existence and easier day-to-day operations.

## **2.2. From the consumer's viewpoint**

The standardized image of selling points — an important aspect of franchising — is nothing new; multiple chains, the coops and the voluntary groups have long recognized the favourable effects this has on the consumer. The public will generally be unaware or hardly aware of the difference between franchising and the above mentioned forms of cooperation.

The large degree of standardization in the range and presentation of the franchise selling points appear to satisfy the modern consumer's desire to do his shopping quickly and efficiently. The international franchising chains also speculate on the modern traveler's need, latent or not, to find a familiar selling point abroad.

The consumer's verdict will also depend to a considerable extent on the degree to which the franchising principle is applied. The standardized approach may be considered favourable on a limited scale; if applied on the large scale however, the range may be

undesirably restricted as regards choice and atmosphere.

## **2.3. From the general social viewpoint**

Only a few observations need be made here about this viewpoint as Section III describes the public authorities' attitude to franchising in greater detail. Assessing the general public angle is evidently first and foremost the matter of the public authorities, in particular the central government. The agenda includes subjects such as the desired social structure of the distributive trade (the public assessment of independent traders as compared with other forms of distribution), the justification for features such as standard prices which are typical of the franchising system and the acquisition of the better sites in new shopping centres as a result of the great financial strength which the franchising organizations often enjoy. The public authorities in countries where franchising plays an important note in the retail trade should consider all these questions and define their position.

## SECTION III

### **The public authorities' attitude to franchising**

Only in recent years has franchising been practised on anything approaching a large scale in Western Europe. It is hardly surprising, therefore, that the public authorities in the various Community countries have not yet formulated a considered view on the matter although it is fair to say that they are generally in favour of the idea of cooperation embodied in franchising.

The fact that franchising is still a fairly recent phenomenon also explains why there is no specific legislation in the various countries to control this form of cooperation. It is far from clear, therefore, if there is a need for legislation, whether franchising can be accommodated satisfactorily in the existing legislative structure. If it cannot, but this seems desirable, either the general legislative framework could be modified to include franchising in some way, or else specific legislation could be introduced.

The public authorities generally adopt a wait-and-see attitude to new social phenomena. In an early stage of the development of such phenomena it is difficult to judge whether legislative provisions are required.

It is different matter where the phenomena, e.g. abuses, evasion of the law, and the like, do not meet the standards prevailing in a society.

#### **3.1. Abuses in the franchising sector**

##### *Belgium*

The franchisers generally attempt to maintain the spirit of the system, e.g. cooperation

and trust based on an even balance of rights and obligations. A fair practices code has been drawn up in consultation between the Belgian franchising association and the Belgian distribution committee.

##### *Federal Republic of Germany*

No abuses of franchising agreements are known. One possible grievance could be an unfair balance of rights and obligations between the franchise partners (excessive royalties or too little participation by the franchise-holder). Furthermore, the agreements must be compatible with the monopoly laws. Competition policy regards cooperation between small and medium-sized business as a favourable means of achieving a practical market structure without loss of independence on the part of the undertakings involved. This is considered a counterweight to concentrations of power which restrict competition. Franchising is apparently not expected to result in a concentration of power of this type.

##### *United Kingdom*

No abuses have become known so far. Certain similar activities known as 'pyramid selling' which involved the sale of distributorships to purchasers who could then divide and re-sell them were open to abuse and were the subject of legislation in 1973.

##### *Netherlands*

Although franchising is gaining considerably in importance, no abuses are known, apart from one exception in the initial period. The Dutch franchising association and organiz-



ations representing small and medium-sized business have together drawn up minimum conditions which a good franchising agreement must satisfy. Franchise-holders thus have a good opportunity to gain information. In some cases franchisers have attempted to recruit franchise-holders by giving incorrect information about the legal requirements which a franchise-holder must satisfy as an independent trader. These attempts failed.

### *France*

The following points are the most important objections made against franchising contracts:

- contracts often involve a policy of fixed prices for all franchise-holders; this leads to selling prices drawn up by the organizations, often at a relatively high level;
- the franchiser, who is also a wholesaler, does not always supply his franchise-holders with products that are fully competitive;
- it is often not clear where the goodwill belongs — to the franchiser who gives his reputation to the franchise-holder's store or to the franchise-holder who can obtain goodwill of his own through his own personal efforts (service) — this can lead to disputes when the contract is ended;
- termination of the contract can lead to the 'commercial death' of the franchise-holder.

## **3.2. Franchising legislation**

### *Federal Republic of Germany*

There are no special provisions applying to franchising in view of the fact that there have been no cases of unfair franchising contracts hitherto in the Federal Republic of Germany. Abuse could take the form of an imbalance between the rights and obligations of the franchise-holder, e.g. as regards the franchising fee, length of the agreement and participation on the part of the franchise-

holder. In the light of the provisions applying in the Federal Republic of Germany to cooperation in general — including the law concerning the restriction of competition as regards large stores — there appears to be no need for binding rules applying specifically to franchising. Non-binding rules at Community level could be of use as guidelines as franchising develops further.

### *United Kingdom*

There is no legislation specifically controlling franchising contracts. However the general law controlling monopolies (but not in some circumstances restrictive trade practices) and certain types of terms in contracts applies. The relative strength of the bargaining position of the parties is at present relevant to the control over contracts only in very limited circumstances. Experience so far has not indicated any need for specific legislation.

### *Belgium*

So far no legal provisions apply to franchising. But a broadly-based working party (Ministry for Economic Affairs, Ministry for Small Firms and Traders, Economic and Social Institute for Small Firms and Traders, the Belgian franchise association, franchise-holders and the Belgian distribution committee) has drawn up a draft regulation at the request of the Minister for Small Firms and Traders. The aim is to give franchise-holders a considerable degree of protection. A CEC regulation for international franchise chains is considered useful as long as it goes further than the listing of general principles.

### *Netherlands*

No specific legislation on franchising exists and this is not considered desirable or necessary. Although the public authorities recognize the danger of unfair contracts, this cannot be assumed to be a problem that applies to franchising alone.

There is a risk of an abuse of a position of power in contracts other than franchising contracts where economically stronger and weaker partners form a relationship (e.g.

dealer contracts). Furthermore, this raises the question of whether specific measures against franchising would not lead to agreements which, although not formally franchising agreements, differ little from them in effect. Consideration is thus being paid to general legal provisions on the terms of agreements between firms in order to protect small business. Consideration should be made first and foremost of a regulation on the termination of contracts under which the weaker partner's interests are threatened. The law on economic competition covers only certain aspects of franchising agreements, namely the price maintenance aspect which is nearly always present.

### *France*

The public authorities consider cooperation between small independent traders as a worthwhile aim and believe that they ought to encourage this. They regret that this cooperation is in practice finding difficulty in getting off the ground. Small business should make greater use of the special credit conditions available for it (Article 47 of the law on orientation of trade and artisanat).

The price policy of the franchise chains is looked upon critically as it is thought that

there could be a danger of monopoly situations in certain sectors. There is no special franchising legislation in France and at present no plans to introduce any. This is because there is no clearly-defined area to which this legislation could apply.

The following general legal provisions apply to the franchising sector:

- le 'droit commun des obligations'. This cannot prevent unbalanced contracts from being signed but it does provide an opportunity for taking action against any injurious effect on one or other of the partners.
- the law of 21 March 1941 which provides a certain degree of protection to traders who are in an almost dependent position vis-à-vis their suppliers. The scope of this law and its possible consequences for the social insurance schemes are not fully explained. France's reluctance concerning national franchising legislation also extends to legislation at Community level.

### *Italy and Ireland*

No abuses have become known so far. No special legislation exists in this sector and none is planned in the near future.

## SECTION IV

### **The CEC and franchising**

In connection with the survey in the previous section of the views of the authorities in the different Member States, thought should be given to whether specific Community rules should be formulated, especially as franchising is often transnational.

It emerged from an exchange of views on the matter — in which CEC representatives also took part — that, in certain cases, individual

franchising contracts may run counter to the principles embodied in Article 85 of the EC Treaty. However, in view of the size of this field, this aspect should not be pursued in greater detail in this report. The sub-group considers, therefore, that this issue should be examined in a separate study, in which a closer look could be taken at the possibilities of harmonizing existing national codes of conduct.

## SECTION V

### Conclusions

#### 1. Franchising: the factual situation

Cooperation between undertakings, particularly in the form of franchising, already plays an important part in several Community countries. In other Community countries it is less widespread, but in all countries this form of cooperation is acquiring increasing significance. In the business sectors where franchising is carried on, it frequently transcends national boundaries.

#### 2. Franchising: an evaluation

Like other forms of cooperation, franchising has many advantages both for the franchiser and for the franchisee and for consumers. For the first two categories, it provides new opportunities as regards distribution; moreover, effective franchising may augment the attractiveness of purchasing for the consumer. On the other hand a franchise contract—like any contract—may have certain potentially burdensome disadvantages, particularly for the weakest party to the franchise contract, i.e. franchisee, e.g. onerous conditions of contract. Large-scale abuses, however, have not so far occurred, anywhere.

#### 3. National attitudes towards franchising

At the time of this report there is no Community country which has special legislation concerning franchising. In Belgium the question of such legislation is under consideration, while in the Netherlands there is a proposal to amend the law of contract (but not exclusively in connection with franchising); in the other Community countries the rules of competition law and contract law apply to franchising and apart from this a wait-and-see attitude is being adopted. In various countries (Belgium, France, Netherlands) codes for franchise contracts have been adopted by the intervention of commercial interests themselves in an attempt to prevent abuses.

#### 4. CEC attitude towards franchising

It has emerged from contacts with expert CEC officials that, in certain cases, individual franchising contracts may run counter to Article 85 of the EEC Treaty. In view of the scale of this problem, a separate study would be a more appropriate forum for examining it and the possibilities of harmonizing existing national codes of conduct.

## **APPENDIX**



## A — Questionnaire

### I. *Factual data*

1. What is the quantitative impact in your country of the different forms of commercial cooperation in the retail trade? In particular that of retailer buying groups, voluntary chains and franchising chains.

Please mention separately the amounts of the different sorts of cooperation forms as mentioned before that do exist in your country as well as their respective shares in the total turnover of the retail trade.

2. Do there exist in your country establishments of internationally operating franchising chains in the field of retail trade? If so, how many chains are being represented in your country?

3. What do you understand in your country by the word franchising? Is there a legal definition?

How the differences are seen (juridically) between franchising and the other cooperation forms, as retail buying-groups and voluntary chains?

4. (a) Which incentives are moving in your opinion enterprises (big and small) to enter into a franchising contract for cooperation?  
(b) How does it work, franchising?  
(c) Advantages and disadvantages for both parties?
5. In your countries do(es) there exist private association(s) of franchisers (please, name and address)?

### II. *Data concerning appreciation and policies*

1. How is commercial cooperation in general appreciated and franchising in particular, by the organizations in the trade—especially those of the small and medium sized businesses—regarding aspects, for instance, of
  - distribution in general, notably from the consumers' standpoint;
  - the competitive position of the small and medium-sized businesses in the market;
  - a certain loss of independence of the small entrepreneur who becomes a franchisee.
2. Have there been signalled in your country during the last years important abuses in the field of franchising?
  - (a) at the termination of the contract?
  - (b) Are there any other points on the (unequal) distribution of rights and commitments between the contracting parties possibly giving cause to future conflicts?
3. Which possible abuses in franchising-contracts should have been counteracted in particular?
4. Does (do) there exist in your country (a) private code(s) that can serve as a guideline for drafting franchising contracts? If this is the case, please add a copy.

5. (a) What is in your country the governmental view regarding commercial cooperation, respectively franchising?
- (b) Does there exist in your country a legal regulation concerning franchising or is such a regulation being contemplated? In this context you should not regard solely a specific legal regulation of the franchising contract, but also consider regulations of a more general character regarding contacts between—economically speaking—comparatively strong and weak partners.  
If this isn't the case, why not?
6. Do you think it desirable if the CEC outlined a regulation, especially with a view to international franchise-chains, for instance a franchise-code, it should be obligatory or not?
7. Please give a list of the principal recent publications that appeared in your country regarding franchising.



## **B — List of the members of the sub-group**

### *FR of Germany*

Dr. GROSS, Ministerialrat, Bundesministerium für Wirtschaft, Bonn.  
Dr. HIRSCH, Oberregierungsrat, Bundesministerium für Landwirtschaft, Bonn.  
Herr MÜLLER, Hilfsreferent, Bundesministerium für Wirtschaft, Bonn.  
Frau DUEKER, Angestellte, Bundesministerium für Wirtschaft, Bonn.

### *France*

M. SOL-ROLLAND, Sous-directeur, Ministère de l'Économie et des Finances, Paris.  
M. DOREAU, Chef de bureau, Ministère de l'Industrie, du Commerce et de l'Artisanat, Paris.  
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