

**Unclassified****English - Or. English****30 October 2019****DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE****Barriers to Exit – Note by Belgium**

4 December 2019

This document reproduces a written contribution from Belgium submitted for Item 8 of the 132<sup>nd</sup> Competition Committee meeting on 3-4 December 2019.  
More documents related to this discussion can be found at  
<http://www.oecd.org/daf/competition/barriers-to-exit.htm>

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## Belgium

1. The (previous) Belgian Competition Authority published in 2012 a study comparing prices of identical products in Belgium and the neighboring countries: *Niveaux de prix dans les supermarchés*<sup>1</sup>. We examined the extent to which existing regulations could explain (part of) the significant price differences<sup>2</sup>.

2. Contrary to what was generally assumed (also in OECD recommendations for Belgium), we did not find evidence that regulatory barriers to entry for supermarkets caused a significant restriction of competition.

3. We concluded, however, that regulatory constraints, mainly in labor law, made the cost of restructuring or exiting the market prohibitive for less competitive chains. We suggested that this had a significant impact on the behavior of more competitive chains and the dynamics of the market:

- Less efficient chains cannot afford an aggressive pricing policy, especially not in combination with a regulatory prohibition to sell at a loss (articles VI.116-117 of the Code of economic law (CEL)). The advocacy efforts of the BCA to eliminate this prohibition have not yet been successful.
- Especially since the then largest chain ranked among the least efficient, the resulting sub-optimal prices could be expected to be the natural benchmark for the other chains.
- This holds even more true when significant more competitive players apply a ‘best price’ policy.

4. We identified as the main barrier to exit or restructuring not only the rigidity of the labour market, caused in turn *inter alia* by high redundancy costs caused by labour law legislation and , trade union action in companies that should have been able to restructure, but also contractual provisions and absence of coordination of various contracts between the same contracting parties (eg. in respect of duration) that made it difficult to switch franchisor.

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<sup>1</sup> Published by the SPF Economy and accessible on the website of the BCA : [https://www.abc-bma.be/sites/default/files/content/download/files/20120213-etude\\_niveaux\\_prix\\_supermarches.pdf](https://www.abc-bma.be/sites/default/files/content/download/files/20120213-etude_niveaux_prix_supermarches.pdf).

<sup>2</sup> The study concluded that there was a general price difference for identical products in supermarkets of 10.6 % compared to Germany, of 10.4% compared with the Netherlands and 7% compared to France. For identical food products the study concluded that there was an average price difference for identical products of 12.50% compared to the Netherlands, 8.6% compared to France and 7.50% compared to Germany.