ASSESSING RECENT ECONOMIC POLICY CHANGES IN THE HUNGARIAN RETAIL SECTOR

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ABSTRACT

The thesis aims at investigating and reflecting on the competition concerns arising from recent (2010-2015) economic policy measures imposed in the Retail sector of Hungary, with a special focus on the law on Sunday closing. Besides a general overview of retail-specific competition concerns, the Hungarian retail sector and its regulatory developments are introduced, followed by an assessment of four specific policy measures of the retail sector. As no hard evidence is provided for the anticipated mechanisms, arguments should be interpreted as parts of an inductive analysis that gains relevance first and foremost from policy perspectives. The most important finding inferred from the investigated cases is that in contrast to the promoted regulatory aims, the protectionist policy approach taken by the Hungarian regulator in the period 2010-2015 may impose considerable indirect harm on consumers; and by undermining their competitiveness, to exert negative impacts on local producers as well.

TABLE OF CONTENTS

INTRODUCTION

The question of utmost relevance in designing legislation is definitely the one that concerns the potentially conflicting interest- and stakeholder groups. National legislations may pursue objectives that either explicitly or implicitly protect one group more than the others. Recent regulatory measures imposed on the Hungarian Retail sector provide illustrative examples for that. While the promoted regulatory aim of the retail-specific regulatory measures is to protect *domestic SMEs (i.e. small producers and retailers)* by taking a more protectionist attitude towards abuses of dominance, in light of current market conditions and regulatory environment, measures can be considered to miss the mark in reaching the above goal. Bargaining power is more shifted horizontally across retailers than is buyer power vertically along the chain. Regulatory measures are expected to shift bargaining power from consumers towards retailers and also, from producers towards retailers. At the same time, it is also expected that certain groups of retailers would be more protected by the measures than others, in an arguably discriminatory way. My thesis aims at investigating and reflecting on the competition concerns arising from the recent economic policy measures imposed in the Retail sector of Hungary, with a special focus on the law on Sunday closing, entered into force a few months ago[1].

Choice of the topic was inspired by a law recently passed by the Hungarian Parliament on the mandatory Sunday closing, applicable for actors along the Retail supply chain. However, the Sunday closing regulation is not a unique one regarding the utmost regulatory aim of recent measures; there are several further challenges competition policy faces with regards to the Retail sector-specific changes and legal amendments. I was motivated to discuss three broad topics within the area of retail regulation: (1) the competition concerns arising upon such

1 On March 15, 2015.

manifestations of a vigorously protectionist policy making approach, based on theoretical and empirical literature; (2) the mechanisms through which these measures are likely to exert an impact and potentially harmful welfare effects; (3) the major economic stakeholders involved

The fundamental research hypothesis of my thesis is formed as follows. The economic policy measures that are subject to inductive analysis in Chapter 4 are seen to favor retail chains with higher prices on average (smaller, domestic retailers); while remarkably erode the competitive advantage and the profitability perspectives of larger, multinational competitors (operating with lower prices on average). Ultimately, the rather protectionist policy approach taken by the Hungarian regulator in the period 2010-2015 indirectly harms consumers and potentially exerts contra-productive effects to the promoted regulatory aim, by undermining the competitiveness of domestic suppliers as well.

The thesis is organized as follows. *Chapter 1* provides a brief overview on how sector-specific regulations and competition policy considerations interact with one another. In *Chapter 2*, literature review will be presented on the theory of retail-specific regulation and the unfair trading practices in the sector. I will also discuss the in the context Hungarian and European approach towards those practices. *Chapter 3* provides an overview of the Hungarian retail sector; focusing on the development of regulatory approaches, market structure and on the attributes of competition in the sector. In *Chapter 4,* I will investigate four specific policy measures introduced in the last years, designed for and implied specifically in the retail sector. Inductive assessment of the measures in the chapter will focus (a) on the relevant stakeholders and (b) on the relevant mechanisms through which the identified stakeholders may be affected as a direct or indirect impact of the measures. In *Chapter 5,* the case of the Hungarian regulation on Sunday trading will be discussed in more details, to illustrate the latest episode of the subject of my thesis. Finally I will draw conclusion and provide policy recommendations for the potential ways of improvement of regulatory approaches taken in the retail.

CHAPTER 1: FROM COMPETITION POLICY TO SECTOR-SPECIFIC REGULATION

As suggested by the 2014 report on retail sector regulatory challenges of the European Commission (EC, 2014, p.117), an essential precondition for launching regulatory initiatives in any sectors of the national economy is to correctly identify the policy problem to be addressed. The study further implicates that the explanation for the presence and emergence of unfair trading practices in retail (covered in more details in the next chapter) is twofold. On one hand, policy problems may be stemming from some inherent market failure (in particular: by transactions costs, strategic behavior, abusively exploited market power or asymmetric information). On the other hand, the underlying cause may also be a kind of regulatory failure, the most relevant appearance of which is an inadequate mixture of public and private enforcement, resulting in an insufficient level or no enforcement.

There are clearly areas and cases that are out of the scope of traditional antitrust and competition policy, yet involve unfair trading practices, and thus should be addressed in form of intervention. Such cases are UTPs that emerge due to considerable and permanent imbalances in the contractual power, mostly in concentrated markets (EC, 2014, p.118). Such cases principally emerge when: exit costs are very high (e.g. due to remarkable transaction-specific investments that have been made predominantly by one of the contracting parties only; to significant dependence of one of the contracting party on the other; to contract incompleteness). Such cases, often emerging in trading relationships, should be considered as targets on the interface between sector-specific regulation and competition policy considerations.

The regulatory measures discussed in the thesis illustrate the challenges, mechanisms and drawbacks of competition policy problems that are (a) either successfully or mistakenly addressed by regulation or (b) emerge just as a result of certain regulatory agenda and scheme.

CHAPTER 2: RETAIL SECTOR: UNFAIR COMMERCIAL PRACTICES AND COMPETITION CONCERNS

In this chapter I cover three major issues that are relevant for all countries: the attributes of unfair trading practices that are specific to the Retail sector, the major interest groups that can be identified in Retail and the ultimate grounds for the potential conflicts of interest amongst them.

2.1 Unfair Trading Practices in Retail

The 2014 study of the European Commission (hereinafter: "EC", 2014) on Unfair Trading Practices (hereinafter: UTPs) in the Retail Chain highlights that UTPs emerging in the Retail Chain mostly stem from imbalances of bargaining power between two parties of a commercial relationship. Although the EC (2014) study does not tell apart imbalances of bargaining power in the case of two specific kinds of commercial relationship; the UTPs presented below may stem from imbalances in the bargaining power (a) between *producers and retailers* or (b) between *retailers and consumers*. In Chapter 4 of this thesis, I make distinction between the two with an aim to discuss impacts of various economic policy measures in both dimensions separately.

Some imbalances of bargaining power is always present in contractual relations (EC, 2014, p.25), these, however greatly differ in terms of the source of imbalances. The EC study provides a relevant categorization for the most likely grounds for UTPs, which categorization I will refer to in the upcoming chapters of the thesis. In the approach of the EC (2014), source of UTPs can be categorized as follows:

1. Extent and nature of switching costs

For the sake of simplicity, here I engage with the interpretation of switching costs as the costs stemming from the action when a party decides to change counter-party and enter a new commercial relationship. In Williamson's framework of transaction costs (1975, 1985), a core example of switching costs is the case when one party of a bilateral relationship bears larger transaction-specific (relation-specific) investments than the other party. Examples for the relation-specific investment are: training employees, buying a specific machine or engaging in specific production patterns in order to satisfy the need of the other party (most often this latter one is a customer). (EC, 2014, p.26)

2. The "Economic dependence condition"

De facto dependence in a contractual relationship usually stems from two different kinds of dependence. The first one is the case when there is a clear and significant dependence regarding the share one party currently represents in the sales or the supplies of the counter-party. The second one is related to dependence due to certain other factors (e.g.: technology, know-how, no other specific-enough alternative counterparty). Often, sunk costs might be created on purpose from one side of a commercial relationship – just in order to reduce the risk that the other party abandons the relationship over time. Such practices might include, for instance: imposing a *minimum level of supply*; imposing *minimum advertising requirements* or presuming *sunk facility requirements* (EC, 2014, p.27). Here the direction of imbalance is determined by the relative size of the transaction-specific investment that has been encountered by each of the parties.

3. Information asymmetries and incomplete contracts

Stigler (1961) investigates cases of "rational ignorance", referring to situations in which small suppliers or retailers do not intend to get fully informed about terms and conditions of the contract based on economic rationality. However, relatively smaller market actors often face limited ability to fully negotiate the contract and acquire all the necessary information on all the specific clauses - thus, the driving force is more often inability than unwillingness. In fact, contract incompleteness is often exploited by the relatively stronger party ex-post: in these situations no unfair contract terms are included on purpose, prior to the signature of the contract - but one of the party is able to fill contractual gaps ex-post, in a way that commercial risk is shifted towards the weaker party. (EC, 2014, p.27)

4. Perishable nature of goods sold

Product features, especially those concerning storability and tenability of the good has a significant impact in determining dimensions of the relevant geographic market – market is shrinking as costs and risks attributed to storability increase. In this case, suppliers are in a weak bargaining position when negotiating on terms and conditions. Nature of the product and seasonality are of high importance in the grocery sector, thus attributes of the products play an important role in determining relative imbalances in commercial relationships. (EC, 2014, p.28)

5. The "Fear factor"

Optimally, in a commercial relationship parties are fairly and equally protected by a system of institutionalized legal rules. In most member states of the EU, there is a set of rules aiming to protect small market players by preventing large players from abuse of their superior bargaining power to the detriment of the counter-party (EC, 2014, p.28).

6. Problems of access to justice for the weaker parties

If one of the parties lacks the necessary resources to gain access to justice, moreover, if that party features considerable dependence on the other party – e.g. has no alternative to the existing commercial relationship, thereby bears large, irrational switching costs – than the likelihood of engaging in presumably long and costly legal procedures is very low. The chance that a party in weaker bargaining position will sue against the counter-party (given that the counter-party either does - or credibly threats to - abuse of its superior bargaining power) will be lower: the greater the legal uncertainty is, concerning (a) how the case would be handled; (b) the duration of lawsuit and (c) the types of remedies that are likely to be imposed. (EC, 2014, p.31)

Listing the above sources of UTPs was necessary concerning the upcoming assessment for two reasons. First, they serve as basis of reference when discussing the concept of buyer power versus seller power in retailer-supplier trading relationships in the retail sector. Second, the policy measures addressed in Chapter 4 may be found to successfully address some of the potential sources, but also, to deepen and/or scale up some others.

In a paper on competition policy concerns stemming from the presence of large retail chains in the retail sector, the Hungarian Competition Authority (2000) stresses that the regulator's role with respect to the retail sector is, indeed, to protect *small and under-informed consumers* from the producers by aggregating demand and thereby strengthening bargaining power of end consumers. The Hungarian Competition Authority (hereinafter: "HCA") names three core functions of the retail sector: producer relationship management, logistics management (distribution and inventory), maintenance and constant improvement of consumer relationships. The HCA study suggests that there are four major dimensions along which competition in the retail sector is shaped: (1) price- and cost-efficiency, economies of scale- and scope; (2) geographical area; (3) product variety and (4) quality of retail services provided. Further according to the HCA, competition policy concerns in the retail sector mostly stem from (a) bargaining- and information asymmetries, (b) large transaction costs and (c) vertical restraints. (HCA, 2000, p.16)

2.2 Addressing UTPs: Legal environment in Hungary and in the EU

The 2014 report of the European Commission investigates the national legislative environments concerning enforcement mechanisms and practices in case of selected UTPs in the EU28. In more than half of the Member States (16 countries) there is no administrative body who is in ultimate charge of enforcement of UTPs in the Retail chain; in 12 countries there is specific institutional actor and in 8 countries out of these, it is the competition authority – in Hungary, the Competition Authority is the enforcing body in Retail-specific cases. As for the specific national legal contexts and forms of litigation, the report provides a Member State-level comparison of the relevant aspects. According to the conclusive statements of the Commission's study, there are two Member States in which the legal rules seem to produce *significant* level of litigation: France and Hungary. In order to point to factors that may contribute to such conclusions, I shortly discuss the attributes and elements of the Hungarian practices in UTP cases.

First, it should be recognized that the Hungarian regulatory scheme can historically be seen striving to create an environment in which weak parties are effectively protected against various UTPs - current market conditions seems to reflect these efforts too. Enforcement is a key issue in addressing various UTPs and in general, ordinary courts are considered to be less effective in performing such tasks. In Hungary, the HCA is the entitled administrative body to effectively enforce authority and to launch ex officio investigations in cases of the UTPs in the retail chain. The set of legislation consists of a mixture of competition law, specific laws applicable for Business-to-Business (B2B) relations, sector-specific laws for the Retail and for the food-subsector. Currently there are five regulatory schemes in force that have been designed for tackling Business-to-Business unfair trading practices. The pieces of application addressing the potential malpractices are (EC, 2014, p.72):

- Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices (*area of competition law*);
- Act CLXIV of 2005 on Trade (*B2B*);
- Act XLVIII of 2008 on Essential Conditions of and Certain Limitations to Business Advertising Activity (*B2B*);
- Act XCV of 2009 on Prohibition of Unfair Distribution Behavior against Suppliers in Relation with agricultural and food Products (*food-subsector*);
- Act IV of 1959 on the Civil Code of the Republic of Hungary

From the point of view of the focal policy issues of my thesis, the most relevant one out of the five schemes above is the *Act CLXIV of 2005 on Trade*. Initially, the Act set provisions that were applicable to trade sector actors having significant market power (SMP), which, as a 2014 OECD study notes, gives a definition on that as the Hungarian equivalent of "buying power". The Act forces that companies falling under the scope of the Act should not abuse their significant market power towards their suppliers. (2014, p.199) While this regulatory aim is unchanged, interpretation and scope of the notion '*abuse of significant market power'* has been altered since (as of the beginning of the year 2015). Changes and their implications will be described and discussed in more details later in Chapter 4.

It is important to stress that the emerging UTPs can be manifestations both of seller power and of buyer power: "*vertical restraints may be applied in either direction between trading parties*" (EC, 2014, p.32 cites Dobson, 2010). Buyer power and seller power are going hand in hand (HCA, 2000, p.22), undermining the competition between traders and suppliers in Retail. In the following subchapter I elaborate on how the concepts are related to each other and why they both should be addressed by retail-specific regulatory approaches.

2.3 Buyer power vs. Seller power – Ideological differences and economic considerations

To better understand the nature of competition and the underlying mechanisms in cases of abuse of market power in the retail sector, it is inevitable to characterize buyer power and seller power. There are a few overlapping notions in the terminology used in the general assessment of buyer power itself – academic literature and practical policy making tend to take slightly different approaches on the notion and on its application as well.

2.3.1. Academic approach

In the interpretation of Inderst and Shaffer (2008, p.1), the notion of *buyer power* refers to the ability of buyers (downstream firms) to obtain advantageous terms of trade from their suppliers (upstream firms). The authors use the notion of *countervailing power* in a general sense to describe downstream firms' (buyers') ability to resist adverse changes in their terms of supply. The notion of *countervailing buyer power* most probably originates from Galbraith (1952, in Mills, 2013), who first used that in referring to the ability of a large buyer (or buyers) in concentrated downstream markets to win pricing concessions from suppliers. He argued for the countervailing buyer power to be a crucial force that is able to offset the increased market power of suppliers by extracting better terms of trade and by passing those on to final consumers. In his interpretation, once large buyers won the concession (the described model of causal relationship was not extended to small buyers), lowering retail prices will follow. Galbraith primarily focused on supplier oligopolies and on "the opportunity of a strong buyer to play one seller off against the other" (1952, p.123 in Mills, 2013, p.282) and applied the framework only for the multi-market "chain-store" kind of organizations (such as Sears and A&P chains in the US).

Papers by Ungern-Sternberg (1996) and Dobson-Waterson (1997) argue that exercised buyer power, even when resulting in lowered input prices, can imply positive effects for final consumers *only if* competition at the retail level is very fierce. In parallel, total social welfare may not be improved given that the suppliers are likely to protect their profits by imposing a refusal to supply restraint and by engaging in exclusive trading. These also suggest that advantageous price effects are not necessarily (or not sufficiently) passed through to final consumers. At this point the empirics seem to refute Galbraith's assumption on the effective downstream transmission of price decreases.

2.3.2. Policy approach

When assessing UTPs thus in more practical situations (e.g. in competitive assessment of merger investigations), it is inevitable to account both for buyer-driven restraints (when **retailers** are considered to be in a relatively more powerful situation) and for seller-driven restraints (with larger **producers/brands** imposing restraining conditions on the retailers).

As suggested by the HCA study (2000, p.24), manifestations of **buyer power**, i.e. restraints that **retailers** may be impose **on producers** are most often executed in the form of:

- Exclusionary practices
- Threat of delisting
- Requirements about the minimum level of supply
- Requirements about the minimum level of marketing activities
- Opportunity costs
- Price discrimination – below cost selling and predatory pricing

In turn, **seller power** is exercised when **producers** impose vertical restraints **on retailers.** These types of restraints include:

- Fixing recommended resale price
- Setting non-linear producer prices (including franchise fees)
- Raising quantity requirements (requirements on sales and inventory)
- Enforcing full-range of product offering

- Engaging in geographically exclusionary practices
- Refusing to deal

In accordance with the European Commission's (2004) Guidelines on the assessment of horizontal mergers ("EC Guidelines"), the concept of *countervailing buyer power* is framed as follows. The competitive pressure on a supplier is not exercised solely by its competitors, but can come from its buyers as well. In this context, countervailing buyer power should be interpreted as "*the bargaining strength that the buyer has vis-à-vis the seller in commercial negotiations due to its size, its commercial significance to the seller and its ability to switch to alternative suppliers*" (EC, 2004, par. 64). Under certain market conditions, a (retail) firm can possess countervailing buyer power vis-á-vis **(a)** the producers or **(b)** its wholesale suppliers.

Finally, in his 2014 study Kocsis discusses the nature of recent changes in the Hungarian regulatory approach to the concept and application of *buyer power* as a central problem and marks that as perhaps the most frequent ground for competition policy concerns. He gives a definition on buyer power referring to Whish and Bailey (2012) on competition law and decribes that as the case when market position of the buyer puts *constraints* to the behavior of the seller. In such a case prices are expected to increase and thus, buyers are able to incentivize other sellers to increase their output or to induce new entry. The definition describes an asymmetric bargaining position of buyer and seller, where suppliers are in a considerably worse bargaining position. Thus, as Kocsis (2014) points out, under such conditions the concept of buyer power should rather be considered as a *specific manifestation of market power* and *not as a countervailing factor* to seller's dominant position. Buyer power often represents ground for Retail sector-specific competitive concerns – especially for suppliers in Food Retailing – and thus, indirectly for the consumers as well.

CHAPTER 3: OVERVIEW OF THE HUNGARIAN RETAIL SECTOR

The upcoming analysis is narrowed down to the Hungarian Food retail subsector for two reasons. First, this subsector is responsible for a dominant portion of total Retail turnover, representing a constant 45-47% of total retail turnover in Hungary (KSH, 2015a).[2] Second, most of the policy measures discussed in Chapter 4 of this thesis carry implications first and foremost for the relevant stakeholders of the Food retail. In this chapter I provide an introduction of the most important attributes of competition in the Hungarian Food retail sector, of the relevant actors in the sector and I give a general overview of the market structure. Illustrative data will also be provided to describe market structure, in terms of estimated market shares, turnover and the number of stores of the most relevant actors.

3.1. Food retail in Hungary – General overview

In their study Minten and Reardon (2008) investigated the phenomena of how global supermarket chains have been spreading in developing countries. The authors negotiate the debatable issue of whether these chains charge *higher or lower prices on average* or offer *higher quality* than their traditional local competitors do. They offer survey-based evidence on ten developing countries, pointing out that these chains are able to charge lower prices on average for processed products, most often by taking advantage of procurement systems that allow them for achieving economies of scale.

In the following overview of the Hungarian retail sector I primarily rely on the work of Jankuné Kürthy et al. (2012). The above phenomena of spreading supermarkets is applicable for the case of Hungary as well, where the massive spreading of multinational supermarket chains has been a well recognized phenomena since the early years of the 1990s. During the of

[2] Development of food retail turnover and total retail turnover in the period 2011-2015 is illustrated in Figure 4 in Appendix.

the Hungarian privatization a few foreign-owned food retail chain managed to acquire a large number of stores, thereby have ensured themselves a relatively safe and strong market position in the sector in the longer run. The most relevant actors of the sector emerging at the earliest stage were:

- the Tengelmann group (*Plus; Kaiser's*),
- the Louis Delhaize group (*Profi; Match*)
- the ASPIAG (*Spar*)

British retail chain Tesco emerged in Hungary only later, followed by the entry of the Auchan and Penny Market. The 2004 entry of Lidl and the 2008 entry of Aldi have both resulted in remarkable realignments of the sector, as both chains managed to gain considerable market share within a relatively short period. Besides the foreign-owned chains, a few domestic-owned chains are also present in the market, CBA, Coop and Reál being the most relevant ones. These chains are operating in a franchise system, which results in more complex and resource-demanding processes with a need to align operations on the strategic level. In 2008 the Hungarian Retail sector started to consolidate; the 2008 acquisition of Plus by the Spar; the 2012 acquisition of Cora by Auchan are two notable episodes in the period. As for the most relevant macro impacts of the economic crisis in the Hungarian retail sector, Jankuné Kürthy et al. (2012) report stagnating growth in the sector, resulting from the sudden and severe drop in purchasing power. In the years following 2008, there has been a clear drop in the variety of product offerings; coupled by a remarkable increase in own-branded products and a clear spread of smaller-size stores, which ultimately involve lower fixed investment- and maintenance costs.

3.2. Food retail in Hungary – Market structure

The Hungarian retail food sector is considered to be moderately concentrated, with a few larger foreign retailers and a couple of relevant domestic actors being present in the market; out of the latter three chains stay at the competitive edge vis-á-vis their foreign competitors (these are: CBA, Coop and Reál). According to the Jankuné Kürthy et al. (2012) report on the sector, in 2012 three chains realized more than 40% of total sectoral turnover; while five were responsible for a slightly more than 50% of it. Popular and frequently used indicators for market concentration are the CR indicators, which reflect cumulative market share of the first 3, 5 or 10 largest players by individual turnover in proportion of total market turnover (thus most often CR-3, CR-5 and CR-10 are used, consequently). As of 2010, CR-3 indicator in food retail was slightly above the EU average, at 45%. In a European comparison, several other Member States featured a notably higher concentration in the Retail sector; with Denmark, Finland, the Netherlands and Sweden reaching above 80% (Jankuné Kürthy et al., 2012, p.51). Concentration was the lowest (approximately 20%) in Italy, Poland, Bulgaria and Romania.

Table 1: Estimated market share (in %) by value, according to retail store type in the 90 major food product categories measured by AC Nielsen
Source: Own edited based on AC Nielsen data (*Trade Magazin, 2011 - 2015*)

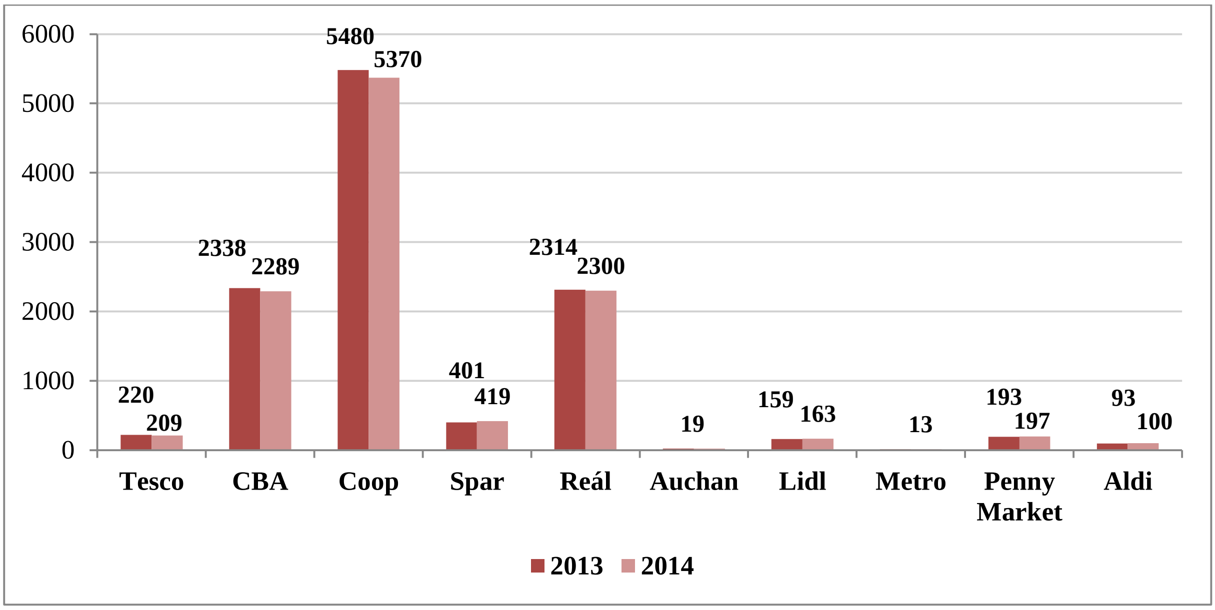
	Estimated market share by value (%)			
Type of food retail store (Size, in sq m)	Dec 2011 – Mar 2012	Dec 2012 – Mar 2013	Dec 2013 – Mar 2014	Dec 2014 – Mar 2015
2500 and larger	**31**	**31**	**29**	**28**
401 - 2500	**35**	**36**	**37**	**39**
201 - 400	**8**	**8**	**8**	**8**
51 - 200	**17**	**17**	**17**	**17**
50 and smaller	**9**	**9**	**9**	**8**

As for the 2014 Hungarian market structure, concentration has not changed significantly in the recent years. Table 1 illustrates the development in estimated market share by value according to store size. Firms in the Hungarian food retail sector today can be classified into three categories by store type:

- **Foreign discount food chain stores:** Penny Market, Lidl, Aldi
- **Domestic-owned supermarkets**: CBA, Reál, Coop
- **Foreign hypermarkets**: Auchan, Tesco, Spar – Interspar, Metro

Figure 1 presents the number of stores of the ten largest retail chains in Hungary, as of 2013. Middle-size domestic-owned chains have considerably high number of stores countrywide, partly due to heavy acquisition of stores carried out by CBA and Coop when the Belgian-French Profi and Match chains left Hungary (Facsinay, 2014). There is a clear tendency that the largest foreign chains (i.e. Spar and Tesco) open smaller size shops in more central urban locations. This tendency, however, is not reflected in the number of stores; partly because they are doing so by closing down larger stores at the same time (portfolio.hu, 2015).

Figure 1: Number of stores of various retail chains in Hungary offering daily consumer products (total, 2013 - 2014)
Source: Own edited based on AC Nielsen data (*Trade Magazin, 2011 - 2015*)



Finally, Table 2 below presents changes in net annual turnover of the largest chains for the period 2010-2013. Developments in annual turnover seem to justify the underlying trends in the expansion strategy of the chains in the recent years. Foreign discount stores demonstrate considerable growth in the period on average, which is partly explained by their heavy expansion (see: Table 3 on the changes in the number of stores by each chain). At the same time, domestic-owned supermarkets are either stagnating (Coop) or featuring considerably decreasing annual turnover (CBA, Reál).

Table 2: Annual turnover of the largest retail chains in Hungary in the period 2010-2013 (net, in million EUR).
Source: Own edited based on AC Nielsen data (*Trade Magazin, 2011 - 2015*)

Net turnover (million EUR)	2010	2011	2012	2013
Tesco	2420	2526	2450	2373
CBA	2015	2024	1999	1756
Coop	1852	1827	1831	1852
Spar	1385	1395	1455	1528
Reál	1307	1314	1278	1246
Auchan	817	824	891	929
Lidl	803	840	1006	885
Metro	762	659	-	652
Penny Market	584	604	649	661
Aldi	191	247	294	329

Table 3: Number of stores of the largest retail chains in Hungary (2010-2014).
Source: Own edited based on AC Nielsen data (*Trade Magazin, 2011 - 2015*)

Number of stores (total)	2010	2011	2012	2013	2014
Tesco	205	212	216	220	209
CBA	3072	3077	3225	2338	2289
Coop	5250	5225	5459	5480	5370
Spar	399	389	391	401	419
Reál	2320	2140	2300	2314	2300
Auchan	12	12	19	19	19
Lidl	135	148	156	159	163
Metro	13	13	13	13	-
Penny Market	186	189	191	193	197
Aldi	73	78	86	93	100

Konig (2009) investigated the impact of investment and concentration among retailers and producers in food retail across a number of countries. According to his major findings, in transition countries – with Hungary being the core example of the study – foreign direct investment (FDI) commonly flows more into food retailing than into food production and processing. Intense FDI into food retailing implies increased concentration in the market; while as a result of increased concentration, efficiency increases and consumer prices considerably fall. In this study Konig (2009, p.5) also points to the potentially harmful effects of buyer power exercised by foreign retailers, who put unreasonable burden on domestic food producers. The main consideration of the concerns links us to the phenomena of large foreign chains limiting the ability of local producers – lacking the necessary capital and bargaining power – to compete, first and foremost by offering predominantly cheaper foreign import products.

Konig (2009) also admits that there is a healthy degree of selection in this sense (also serving as a pro-competitive incentive for domestic producers to increase their efficiency); yet his concluding remark on the Hungarian case is that it is a nation's strategic interest to maintain its own production by engaging with a more protectionist approach in Retail. Although such considerations and measures are surely arguable from an ideological point of view, they may easily fail to be proof of solid and rational regulatory will when taking into account their economic and social impacts. I will return to this logic of argumentation when discussing recent policies in the Hungarian retail.

3.3 Concluding notes on the Hungarian retail sector

With regards to the empirics on how prices and average store size (often also serving as a proxy for chain type) are related, I turn to the relevant research of Voss and Seiders (2003). The authors provide hard evidence on the relationship between firm characteristics and retail price promotion strategy. Voss and Seiders find that The authors also cite the empirical work of

Shankar and Bolton (1999, in Voss and Seiders, 2003, p.41) to support that there is a negative relationship between size of the stores and average prices and price variability in the retail sector: larger stores are more likely to engage in competitive pricing motivated by defending their significant market shares. These chains greatly benefit from the economies of scale and scope, from their market power and are able to negotiate better terms of contract; accordingly, actors with larger average store size feature lower prices on average than smaller competitors.

As for the potential grounds upon which policy measures addressed in Chapter 4 may be considered to be discriminatory, I consider (average) store size to be a differentiating factor in this sense. In Hungary, domestic-owned chains mostly operate as supermarkets, while foreign ownership is mostly attributed to the largest hypermarkets (possessing significant market shares and presumably the largest store size on average) and foreign discounts (with only moderate market share). Thus along my thesis large (foreign-owned) hypermarket chains are assumed to feature larger store size on average than domestic-owned supermarkets or foreign discount stores do.

Along this chapter I did not use hard data to evidence the relationship between price variation and store type (in terms of firm characteristics - such as average size of the stores, pricing strategy, cost- or ownership structure). However, both economic intuition and the cited empirics indicate that (mainly) for cost reasons, "*larger chains*" feature lower prices on average (from the Hungarian retail sector I consider Tesco, Spar, Auchan and Metro to belong to this category); while "*smaller firms*" tend to have higher prices on average (from the Hungarian retail sector I consider CBA, Reál, Coop, Aldi, Lidl, Penny Market and small, family-owned businesses to belong to this category). The measures assessed in the next chapter are presumed to favor the latter group. I will investigate whether - despite the regulatory aim - measures may result in considerable consumer- and producer-harm.

CHAPTER 4: ECONOMIC POLICY CHALLENGES IN THE HUNGARIAN RETAIL SECTOR

The fundamental research hypothesis of the upcoming policy assessment can be formed as follows. The economic policy measures discussed in Chapter 4 tend to favor retail chains with higher prices on average (smaller, domestic retailers); while remarkably erode the competitive advantage and profitability of their large, multinational competitors (with lower prices on average). Ultimately, the rather protectionist policy approach indirectly harm consumers and potentially exerts contra-productive effects by undermining the competitiveness of domestic suppliers as well.

4.1. Retail regulation in Hungary: Overview

In the first part of this chapter I provide a simple description of the regulatory developments in the Hungarian retail up until 2010, based predominantly on Csorba et al. (2010, pp.409-411). The authors (2010, p.408) name three reasons for the particular sensitivity of the Retail sector towards anticompetitive lobbying activity. First, the efficiency of the (retail) trade sector greatly affects that of the whole national economy, resulting from its significant contribution to total output of the country. Second, the 2010 trends in the sector already suggested that smaller retailers become less competitive and bargaining power is shifted towards suppliers to large retailers[3]. Third, trade sector is a heavy employer in the Hungarian economy, with approximately 500 thousand employees, historically representing a stable 13-14% of all employees in the country (KSH, 2015b). This latter certainly implies that interest groups with the highest bargaining power are likely to gain considerably strong support in reaching their objectives and perhaps, in capturing regulation as well.

3 This tendency has further evolved since then and was discussed in a more illustrative manner in Chapter 3 of this thesis as well.

As stressed by the authors (2010), retail regulation in Hungary has historically been surrounded by concerns stemming from its – assumed and evidenced – anti-competitive effects. A prominent example of the concerns is related to the ban on *resale below cost (RBC)* activity[4], being in force in Hungary since the late 1990s. At a 2005 workshop organized by the HCA, a team of OECD experts presented about RBC regulations and their potential welfare-reducing effects. The conclusive opinion suggested a couple of empirical and economic disadvantages of the RBC regulation, claiming that they are hard to enforce, are likely to result in price increase and are rather unnecessary as their assumed benefits are provided already by other laws. Partly due to a mixture of such external pressure and low internal support, the RBC approach in the Hungarian regulatory scheme was not extended at that time. Indeed, it was forbidden for goods where the supplier remained the owner. Furthermore, additional regulations were also included in the *Act CLXIV of 2005 on Trade*, making it thereby more complex.

Although the initial 2005 Act provides a solid basis and offers effective tool for the enforcing agent (i.e.: the Competition Authority) in covering antitrust activities (cases of restrictive agreements and/or abuses of dominance); it also has its potential shortcomings by design. Csorba et al. (2010) point to some of the drawbacks and argue that the Act protects not only SMEs, but large suppliers as well, implying that retailers cannot successfully mitigate the seller power of the large suppliers through exercising their buyer power. The next subchapter of my thesis will address five recent policy measures that were placed in effect in the Hungarian retail sector. In the assessment of the changes implied by the measures I will focus on the anticipated impacts imposed on the relevant stakeholder groups in each cases.

[4] For an overall assessment of RBC regulations and an informative overview of national regulatory approaches, see the 2005 study of the OECD on RBC laws and regulations (OECD, 2005).

Recently implemented policy measures can all be seen as manifestations of a rather protectionist policy making approach, taken ultimately by the political regime being in power since 2010. Based on the series of policy measures, it can be argued for that a governing aim behind the protectionist approach is to redistribute market shares.

4.2 Recent policy measures in the Retail sector of Hungary

In this subchapter I discuss five recent and remarkable policy measures from the period 2010-2015. These are: (1) the 'shopping mall ban'; (2) sectoral surtax; (3) retail supervision fee; (4) the 2015 tax amendments; and (5) regulation of Sunday trading. Chapter 5 will then investigate this – chronologically also – last measure, the regulation of Sunday trading in more details.

In the upcoming assessment I seek to provide a brief description about the relevant attributes of each measures and discuss the anticipated impacts they either have imposed or are expected to impose on four major group of stakeholders; identified here as: *large retail chains, low market share firms (small competitors)*, *suppliers* and *consumers.*

Along the discussion I use illustrative data to demonstrate the claimed impacts and rely mostly on secondary sources. Thus, partly due to data unavailability, no hard evidence will be provided for the anticipated mechanisms. Comments and arguments should rather be interpreted as parts of an inductive analysis, gaining relevance first and foremost from policy perspectives.

4.2.1 'Shopping mall ban'

Entering into force on January 1, 2012, modifications were added to the *Act LXXVIII of 1997 on the Formation and Protection of the Built Environment*, restricting the legal and administrative process of retail real estate development. Initially, the law applied to the construction and expansion of retail units over 300 square meters; with additional rules providing for derogation that could only be applied for by the Minister of National Economy. The design of the amendment[5] necessarily gave rise to ambiguity of the rules for derogation; the major concern being that instead of an independent authority, exemptions were to be judged by the government. In May 2014, the European Commission launched an infringement procedure against the Hungarian regulator concerning the law (Landry, 2014b).

The law was initially set to remain in effect until the end of the calendar year of 2014. Despite of the infringement procedure commenced by the Commission, the law is still in force and has been modified only slightly as of the end of 2014. The recent amendment concerns the effective size of the stores covered by the law, which was increased to 400 square meters from the initial binding lower threshold of 300 square meters.

The expected impacts of the amendments for the most important stakeholders can be summarized as follows.

Stakeholders, anticipated impacts and potentially discriminatory attributes

Large retailers

Design of the 'plaza ban' and the system of derogation allowed for discrimination even with no real justification. The ban effectively constrained the expansionary policy of large malls, hypermarkets and other retail chains. As a result, incentives for investment reduced to a great extent.

Firms with low market share

Building restrictions that are discriminatory with respect to the size of the unit to be constructed or restored can be seen as manifestations of a rather protectionist policy-making approach, aiming at favoring principally local smaller businesses, while undermining the

[5] Also referred to as the '*shopping mall ban'* or *'plaza ban'* - given its special relevance for shopping malls, the construction and/or expansion of which, by their size, were obviously required to apply for derogation and to get supported by the Minister responsible for commerce.

competitive advantage of larger market actors that stems from the exploited economies of scale and scope.

Suppliers and Consumers

Domestic suppliers were affected by the ban indirectly: most of the large producers were not subject to the modifications (those not involved in retail real estate investment activities) – yet considerable negative spillover effects were imposed on them by the constraints imposed on the buyers' side. 'Plaza ban' exerted negative impact on final consumers as well by cutting on investment of retailers, thereby causing consumer choice and value to shrink; potentially consumer prices to increase as well.

4.2.2 Sectoral surtax

In 2012 the Hungarian government passed an Act – Act No XCIV of 2010 on a special tax on certain sectors of activity - on sectoral surtaxes to be levied on firms in the Retail, Telecommunication and Energy Services sectors. Design of the surtax was considered to be rather unorthodox for two reasons (Hegedüs, 2014). First, taxable amount was calculated based solely on net turnover. This financial indicator is not entirely indicative and does not adequately represent firm performance, efficiency or its economic relevance to the sector. Second, the surtax was initially designed as a 3-level progressive tax rate according to the scheme illustrated in Table 4: the applicable rates ranged from 0% to the amount of 2.5% calculated on total net turnover.

Table 4: Sectoral tax rates according to the Law XCIV of 2010 on sectoral surtaxes.
Source: National Tax Authority, 2010, p.4.

Activity subject to surtax	Tax base (relevant portion of net revenue falling in the range, HUF)	Applicable tax rate
Retail	Under HUF 500 million	0%
	HUF 500 million – HUF 30 billion	0.1%
	HUF 30 billion – HUF 100 billion	0.4%
	Over HUF 100 billion	2.5%

The progressive design of the tax, however, gives rise to ambiguity - first and foremost because no solid justification is given on the drastic increase in between the rate applicable for the second (relevant tax base falling between HUF 30 billion – HUF 100 billion) and the third (relevant tax base being over HUF 100 billion) revenue brackets. The sharp increase in the rate implied that profitability of firms falling under the highest rate was expected to erode significantly. It could also be inferred that the surtax represented an effective incentive for turnover consolidation, potentially bringing about a considerably distorting effect in the Retail sector.

Although the law was subject to very mixed public responses from the beginning, major concerns from the European Union arose when sporting goods retailer Hervis[6] filed a case against the National Tax Authority (NAV) of Hungary, claiming that the tax based on consolidated turnover is indirectly discriminatory against large and often foreign-owned corporations (Landry, 2014a). The application of Hervis to be exempted from the surtax was rejected by the NAV and has been filed to the European Court of Justice.

In February 2014, the European Court of Justice ruled a non-binding decision that the surtax constituted *indirect discrimination* against certain retail actors (in particular those operating as affiliated firms), on the basis of the registered office of the companies. The Court further argued that the Hungarian legislation on the surtax differentiated between taxable persons on the basis of whether they belong to a group, thereby disadvantaged linked undertakings, compared to undertakings that are not part of a group. (Court of Justice of the European Union, 2014, p.1)

Stakeholders, anticipated impacts and potentially discriminatory attributes

Large retailers

On one hand, as highlighted above in Table 4, the sectoral tax was a progressive tax with three effective bands. The design of the tax, however, resulted in large retailers being subject to excessively high absolute burden compared to smaller or middle-size chains in terms of net turnover, thereby can be considered discriminatory against large (and potentially, foreign-owned) chains. In the short-run, the profit loss due to the surtax is likely to be recouped from supplier-relations: either by restricting the contractual terms (i.e. forcing exclusive dealership agreements) or by stipulating more advantageous terms of purchase. In assessing the he Fiscal Council of Hungary (2010, p.5) indicated that the surtax could have a negative impact on investments made by dominant actors in the sector as well.

6 Hervis is a legal subsidiary of SPAR.

Firms with low market share

Micro-firms, often family-owned businesses with only a couple of employees can be considered as the positively discriminated ones under the law on sectoral tax, as no businesses under net turnover of HUF 500 million are covered by the surtax. However, as to the argumentation of the Court of Justice of the European Union (2014) on the case of Hervis, surtax was calculated based on consolidated group turnover (for linked undertakings); but in case of a legal person not being part of a group (such as an independent franchisee), basis of the tax was limited only to the turnover of the taxable person. This implies that by its design, the surtax placed firms operating in franchise in a relatively advantageous position compared to linked undertakings.

Suppliers

As a response to the profit loss, it is anticipated that retailers would seek to exploit their buyer power and negotiate more advantageous terms of purchase with their domestic suppliers. Furthermore, retailers may consolidate their purchasing policies by relying predominantly on import, which may deteriorate the competitive advantage of domestic suppliers.

Consumers

Anticipated impacts of the sectoral tax on consumers were similar to that of other consumption-type of taxes (Fiscal Council of Hungary, 2010, p.5). In the short-run, the levied tax is transmitted into consumer prices, resulting decreased real income and a drop in consumer demand. This effect is multiplied given that small chains (featuring presumably higher prices on average) were favored more by the tax brackets than large ones, indicating that consumers were exposed to potential price increases and thus, were indirectly harmed by the tax. In the long-run, this pass-through to consumers tends to disappear.

4.2.3 Increased retail food chain supervision fee [7]

According to the *Act XLVI of 2008 on food chain and its official control*, individuals and enterprises involved in retail food chain supervision activity are required by law to pay a supervision fee. The law entered into force in 2012, in the year when sectoral surtax in the retail was revoked. Regarding their design and the targeted stakeholders, there are remarkable similarities between the two measures: the fee can be seen as a transformation of the preceding surtax. Alike in case of the sectoral surtax, size of the fee is determined based on net turnover (the specific part of previous financial year's net sales turnover realized on goods being subject to the supervision activity).

The fee is imposed on the owner of the relevant undertaking as a legal person; implying that size of the fee is greatly affected by the ownership structure of the retail chain. Initially the size of the fee was determined in 0.1% of the above-named base of calculation. However, recent modification of the law – approved by the Hungarian Parliament on November 18, 2014 and entered into force from 2015 – implies that the amount of the fee should also be progressively banded, in accordance with the brackets highlighted in Table 5. In each case, different rates are charged for different parts of net sales revenue falling in the relevant bracket.

Table 5: Supervision fee rates applicable from January 1, 2015 on, imposed on retail food chain stores selling daily consumer goods

Source: own edited, based on *Hegedüs (2014).*

Total net revenue bracket (relevant proportion of net sales revenue, HUF)	**Applicable rate to calculate fee**
Under HUF 500 million	0%
HUF 500 million – HUF 50 billion	0.1%
HUF 50 billion – HUF 100 billion	1%
HUF 100 billion – HUF 150 billion	2%
HUF 150 billion – HUF 200 billion	3%
HUF 200 billion – HUF 250 billion	4%
HUF 250 billion – HUF 300 billion	5%
Over HUF 300 billion	6%

[7] The introduction of the initial and the modified design of the supervision fee of this subchapter are based primarily on the piece of Hegedüs (2014).

Besides the drastic changes in the supervision fee rates imposed on retailers, Hegedüs (2014) discusses two further modifications of the 2015 tax changes affecting actors in the retail sector: (1) changes in the value of intermediated services and cost of goods sold that is deductible from local business tax and (2) changes in the calculation of the minimum corporate income tax. Using 2013 financial data of seven top firms in the Hungarian retail sector (namely Auchan, Tesco, Spar, Lidl, Penny Market, Metro and Aldi), the author (2014) provides informative illustration on the anticipated impacts of the modifications for the financial year of 2015. The anticipated financial impact of the changes in the fee, compared to the amount of surtax these chains faced in the last year it was levied on them, is presented in Table 6. As there is no publicly available information on what portion of sales revenue is realized on goods being subject to supervision fee; along his calculations Hegedüs (2014) determined that in 60% for Auchan and Tesco, while in 70% for the other chains.

Table 6: Anticipated aggregate financial impact of changes in the supervision fee and of tax changes implied by modifications (1) and (2) (based on 2013 financial data, in HUF, thousands)

Source: own edited, based on *Hegedüs (2014).*

	Auchan	Tesco	Spar	Lidl	Penny Market	Metro	Aldi
Net sales revenue (million HUF)	272 150	600 766	384 632	227 787	160 143	105 436	80 168
Effect of changes in (1) (th HUF)	556 037	106 617	123 087	240 534	167 564	142 838	772
Effect of changes in (2) (th HUF)	1 024 191	2 330 927	1 450 908	842 015	572 669	370 586	262 442
Net effect of changes in the supervision fee (th HUF)	1 676 050	10 576 310	5 626 988	1 605 240	631 369	182 117	30 509
Aggregate impact of tax changes (1), (2) and changes in the supervision fee (th HUF)	3 256 278	13 013 854	7 200 983	2 687 789	1 371 603	695 542	293 723
Sectoral tax imposed (th HUF)	4 613 250	12 828 650	7 425 300	3 504 175	1 813 096	445 407	230 172

Estimations of Hegedüs (2014) suggest that the aggregate revenue impact of the current modifications is very similar in volume to the surtax levied on these chains until 2012 (for

Metro and Aldi, the estimated negative revenue impact is even larger). A significant drawback of the estimations by Hegedüs (2014) obviously stems from taking 2013 financial indicators; yet his calculations gain relevance in illustrating the order of magnitude of the fees.

In the absence of hard data, the specific size of the surtax to be imposed on the domestic-owned chains (CBA, Reál, Coop) is not determined here. However, it is presumed that franchise operations enable these chains to fall – one-by-one – into lower-rate brackets, thus being subject to lower aggregate burden.

Stakeholders, anticipated impacts and potentially discriminatory attributes

Large retailers

The supervision fee imposed on retailers disfavored large foreign-owned firms primarily due to the fact that it is levied on total revenue of these chains as opposed to chains operating in franchise. Facsinay (2014) discusses the case of Spar as a practical example to illustrate the implication of the changed fee. Until now, the supervision fee imposed on Spar amounted to HUF 320 million. For the year 2015 it will be raised 30-fold its initial value, to HUF 9 billion. Tesco is in an even worse scenario: in 2013 it realized sales of HUF 704 billion. Given that it belongs to the above-300 billion band, it supervision fee raised 60-fold its previous amount, resulting in an at least HUF 12 billion of fee to be covered.

Firms with low market share

Under the law, the progressive, banded supervision fee is levied on the owner of the retail chains. While the ownership structure of the foreign-owned relevant multinational firms in the Hungarian food retail is relatively simple: chains belong to one specific owner; dominant domestic-owned firms (CBA, Reál, Coop), operating in Hungary in a franchise system, feature a more complex and much fractioned ownership structure involving several individual owners. Difference in terms of ownership thus translates into differences from a legal point of view;

implying that foreign chains are de facto negatively discriminated by design of the law (equivalently, legal settings indicate a de facto positive discrimination of the domestic franchise firms).

Suppliers

The drastic fee imposed on retailers may be – partly – passed through to suppliers by the means of reduced prices. Retailers (but especially, large foreign firms) can exercise their higher bargaining power vis-á-vis their domestic suppliers; potentially perishing the competitive advantage of these producers/suppliers by relying more and more on cheap import products.

Consumers

Consumers are expected to suffer from pass-through in the short term; furthermore, as a result of cutting back investment, consumers may be offered lower quality products on higher prices – often, motivated by recoupment efforts, large chains under high burden of fee will tend to increase their prices on average. In the long run, this impact is expected to disappear.

4.2.4 The 2015 amendments of the Commercial Act[8]

Recent changes in the Trade Act are expected to place considerable obstacles to the operations of large retail chains. The two recent amendments in the Act concern (a) the alteration in the concept of irrefutable presumption of dominance; (b) the prohibition of loss making operations.

(a) Irrefutable presumption of dominance

This amendment has come into force on January 1, 2015. As to the Act, retail businesses are automatically considered to be in a dominant position in the retail market for consumer goods in case their consolidated net yearly turnover (affiliated companies included) for that relevant market is above HUF 100 billion. The Hungarian Competition Authority will sanction the cases of abuse of dominant position realized after January 1, 2016 in accordance with the relevant parts of the Competition Act.

(b) Prohibition of loss making operations

The second amendment will be in effect from January 1, 2017 on. As to the modification, retail businesses will be prohibited from retail selling of daily consumer goods if the following criteria apply:

- More than 50% of their net yearly turnover is realized on daily consumer goods;
- Business has a net turnover of HUF 15 billion or more for two consecutive financial years (the first financial year accounted for by the Act beginning after December 31, 2014);
- Business reports no profit or a loss realized in both of the above two financial years. Exemptions will be given for newly established businesses for the first four financial years of their operations.

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8 Officially referred to as the *Act CLXIV of 2005 on Trade*. Introduction of the amendments to the *Act CLXIV of 2005 on Trade* is based on the relevant volume of the Magyar Közlöny (2014), pp. 26168-26169.

Stakeholders, anticipated impacts and potentially discriminatory attributes

According to the official formal communication as cited by Horányi (2015), the core regulatory consideration behind the new amendments is 'to protect consumers and **domestic SME-s**'. In the following I will cover how these two-fold goal is expected to work out with respect to the most important stakeholders in the Hungarian Retail sector. The recent policy measures addressed in this chapter, but especially the amendments of the Trade Act, can be seen as severe aggravations of the RBC ban that is already enforced in retail sector. Horányi (2015) argues that the introduction of effective rules applicable for cases of *irrefutable presumption of dominance* implies heavy difficulties with respect to the assessment of the relevant cost standards for competition law (AAC - average avoidable costs; LRAIC – long-run average incremental costs[9]); thereby increases legal uncertainty and multiplies risk factors as well. The expected impacts of the amendments for the most important stakeholders can be summarized as follows[10]:

Large retail chains

In sum, the new amendments can be seen to overregulate predation; a potential result of which may be an increase in consumer prices exerted predominantly by the large chains. Would the changes be interpreted for certain individual products/product categories, even the daily pricing strategy of these firms may be effectively and directly constrained by the changes in regulation.

[9] **Average Avoidable Cost** (AAC) refers to all costs that could have been avoided if (a) a certain quantity had not been produced or (b) certain event – e.g. an entry – had not taken place. AAC is most often used as a proxy of "profit sacrifice" in cases involving predatory pricing behavior. **Long-Run Average Incremental Costs** (LRAIC) refer to the average of all variable and fixed costs occurring during the production of a particular product. In assessing predatory behavior, LRAIC is an even better proxy than AAC, in case the products involved feature huge fixed costs and low marginal costs of production (e.g. Pharmaceutical industry, Telecommunication; Software industry). (International Competition Network, 2012, pp.24-26)

10 Along the assessment of the potentially harmful impacts I will mostly rely on the referred work of Horányi (2015).

Firms with low market share

Introduction of the new amendments have been primarily argued for with the ambitioned regulatory aim, i.e. the protection of small competitors. The modifications, however, carry somewhat contradictory impact potential - given that they apply for these relatively smaller competitors as well. The prohibition of (abusive) exclusionary conduct by undertaking is now applicable for these firms too, thus puts an effective restraint to their operations and potentially reduces their relative bargaining power compared to the dominant undertakings. Under the new amendments, it is strictly prohibited to engage in selling above purchasing price but under AAC or LRAIC – that is, there is an effective hard 'safe harbor' where the prices of the undertaking cover its above-mentioned cost levels; regardless of any further competitive conditions on the market (such as the competitors, input suppliers or consumers of the undertaking), the duration of the (*irrefutably presumed*) exclusionary conduct or further direct evidence on the anti-competitive behavior. Prohibition of loss making operations will be applicable for firms with lower turnover (with a threshold of HUF 15 billion), which may also have severe negative implications for small competitors.

Suppliers

Current authority and judicial practice applied in cases involving exclusionary conduct or exploitative behavior (typically predatory type of behavior) is now supplemented with the rules indicated by the amendments. This implies that the regulations and rules that have already been in force up until now should to be considered analogously with the new amendments.

On one hand thus, regulation became more complex as a result of the changes. On the other hand, it is going to be applicable not only for cases of unilaterally anti-competitive behavior, but also, it has further implications for the vertical system of trading relationships, i.e. for the supplier-retailer relations. An illustrative example on that is when certain exclusivity clauses that – under appropriate compensation – have not been considered as unlawful so far, will now likely give ground to competition concerns, thereby imposing increased harm on suppliers as well.

Consumers

The application of the *irrefutable presumption of dominance* may affect consumers as well. There are expected negative impacts on consumers both in the short-run and in the long-run. In the short-run it is expected that some kind of - previously lawful - pricing strategies will be categorized as abusive or exploitative behavior the consumers; which may as well result in a notable increase in average retail prices of certain product categories. The long-run effect on consumers stems from the prohibition of loss making operations: it may be expected that the prohibition at hand will disincentivize innovation and R&D activity. R&D spending and innovation are often investments that are not compensated for but in the long-run; thus the losses stemming from such activities are hard-to-recoup by short-run price increases. Thus, investments in innovation and R&D activity are discouraged by the amendments in the short-run, potentially deteriorating consumer value in the long-run.

4.2.5 Regulation of Sunday trading

On December 16, 2014 the Hungarian Parliament approved Law CII of 2014 restricting Sunday opening hours for Retail shops (Magyar Közlöny, 2014). The potential regulatory measure has generated lively and heated public debate long before the Parliament finally passed the law. Assessment of the regulatory motivations, supportive and opposing arguments of various stakeholder groups and the potential impacts on the identified stakeholder groups will be discussed in more details through Chapter 5.

CHAPTER 5: CASE STUDY ON A SECTOR-SPECIFIC MEASURE: REGULATION OF OPENING HOURS IN RETAIL

In this final chapter I investigate the phenomena of Sunday trading regulation, being in force in the Hungarian retail sector since March 15, 2015. The chapter consists of four parts. First I provide a brief and focused literature review of the empirical research on regulation and deregulation of opening hours. Second, Sunday closing practices and regimes will be discussed in a European context. Third, I will introduce the Hungarian case study, focusing on the illustrative description of the regulatory measure and the underlying aims. Fourth, I will discuss the fundamental stakeholders of this specific measure and elaborate the impacts and mechanisms imposed on the relevant stakeholder groups.

5.1. Empirical findings

Morrison and Newman (1983) investigate the redistributive effects of government regulations that restrict the hours of operation of retail firms. Supported by Canadian experience, the specific regulatory measure the authors are concerned with is the restriction of nighttime shopping hours in Canada at the end of the 1970s. In their paper they identify two main reasons for restricting the hours of operation, one of them being backed by a social-ideological argumentation and the other one stemming from economic reasoning. The first one is related to the promotion of the breakdown of family ties - prohibiting the operation during the evening is considered to be a primary tool of supporting the maintenance of close family relationships. In the second argument small independent retail firms cannot even afford to stay open during the evening, as they are severely constrained by their large competitors in the sector. The core hypothesis of the paper is more related to the second one of these reasons and recommends that sales of large retail stores will rise after the introduction of nighttime shopping restrictions.

Goos (2005) investigates the labor and product market effects of two restrictions that were imposed on US shop opening hours, commonly known as the Sunday Closing Laws. In his research he includes both regulating and deregulating industries and seeks to cover the impact of deregulation (and consequently the other side of it, the impact of regulation) on employment, sales and the number of shops. According to his results, deregulation of store opening hours in general and in particular, Sunday openings have a lasting effect on the distribution of employment through its impact on retail markets.

Senftleben-König (2014) investigates the employment outcomes of deregulating the opening hours in the German Retail Sector. In Germany, the so-called “Law concerning Shop Closing Time” was in force since 1956, imposing restrictions on the shop opening hours at the federal level. In 2006, legislation on retail opening hours was shifted from the federal to the state level, which resulted in quick deregulation of shop opening hours in most of the federal states. The empirical approach taken in the study is a diff-in-diff strategy, taking advantage of two non-deregulating states adhering to the federal law, serving as control states in the analysis. The basic outcome variables are: employees in the retail sector, ratio of full-time/part-time employees in the retail sector, ratio of employees of small/medium/large shops. The author finds evidence that deregulation has had negative effects both on retail employment and on establishment size.

Bossler and Oberfichtner (2014) also provide evidence for the positive employment effect of deregulation in the German experience. Similarly, the authors use a diff-in-diff approach to investigate the impact of deregulating weekday shop opening hours, but arrive at contradicting results to the previous ones. They find that on average, relaxing existing restrictions is associated with an aggregate increase of 3.9% in total employment, being equivalent to an average 0.4 increase in the number of employees per shop. Authors continue the analysis by combining the employment effect with recent cross-sectional data in order to estimate the effect of actual opening hours on employment. Results suggest that ceteris paribus, an additional hour of opening is expected to increase employment by 0.1 employees. Bossler and Oberfichtner enhance the observation that - given the created jobs were part-time jobs in particular – this should be equivalent to an increase of one additional worker per ten weekly opening hours, on average.

A recent discussion paper published by the Centre for Economic Performance evaluates the impact of Sunday trade deregulation across 30 European countries over the period 1999-2013. Genakos and Danchev (2015) use a diff-in-diff empirical approach and investigate the impact of deregulation on a set of macro variables (employment, expenditure, prices, market structure). Robust evidence is found for a positive overall impact on employment, resulting on one hand from the job creation of new entrants and on the other hand from existing firms hiring more people. Also, the authors find that turnover of certain retail goods considerably increases after deregulation; however, there is no evidence found for the impact on prices. As for the policy implications, the authors suggest that Sunday deregulation may be a powerful tool in reducing unemployment and in improving the financials of retail firms.

5.2. Regulation of Sunday trading – the European context

In their paper, Genakos and Danchev (2015) constructed an indicator (Sunday Trading Indicator) using information (a) from the OECD Product Market Regulation (PMR) indicator on the regulation of shop opening hours; and (b) based on secondary source legislation search on timing and extent of the regulations/deregulations. An informative figure of the original paper – illustrating how Sunday trading regulations have changed in 30 European countries in the period 1999-2013 – is found in the Appendix (Figure 4). Scaled from 1 to 5, authors named stages representing different extents of regulation concerning Sunday trading, according to the following categories (Genakos – Danchev, 2015, p.18):

1 – no restriction;

2 – restriction on large shops and/or the working hours Sundays;

3 – regulation varies significantly across parts of the country, mostly local regulation;

4 – shops can only open a limited number of Sundays, some variability across regions;

5 – shops are not allowed to trade Sundays.

In order to better illustrate the development in Sunday trading regulation across European countries, I used the findings of Genakos and Danchev (2015) and constructed a summarizing table on the changes in individual regulations during the period 1999-2013. Cells represent the extent of regulation according to the scale described above. More than one colored cell in a row indicates that relevant regulation on Sunday opening hours in the retail sector has been subject to changes in the period (colors represent the regulatory stages that have been in force during the period); direction of the potential change is given as explanation.

Figure 2 (next page) offers a representative comparison of country regulations concerning Sunday closing. In contrast to the figure in the 2015 paper of Genakos and Danchev (see: Figure 4 in the Appendix), the table above accounts for the 2015 Hungarian regulatory change as well. In 12 countries (Bulgaria, the Czech Republic, Estonia, Ireland, Iceland, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia, Sweden) the relevant regulation has been unchanged since 1999 on. In 10 countries regulation has been left almost unchanged and only a few minor modification has been added to the Sunday closing laws. Six countries (Austria, Belgium, Greece, the Netherlands, Norway and Switzerland) feature a particularly restrictive regulatory environment as for Sunday trading, with no change at all in the period. Even if in some cases, e.g. in Austria state regulation allows for federal deviances (exemptions) of the general ban on Sunday trading, empirics point out that these allowances rarely result in effective alterations from the uniform state regulation.

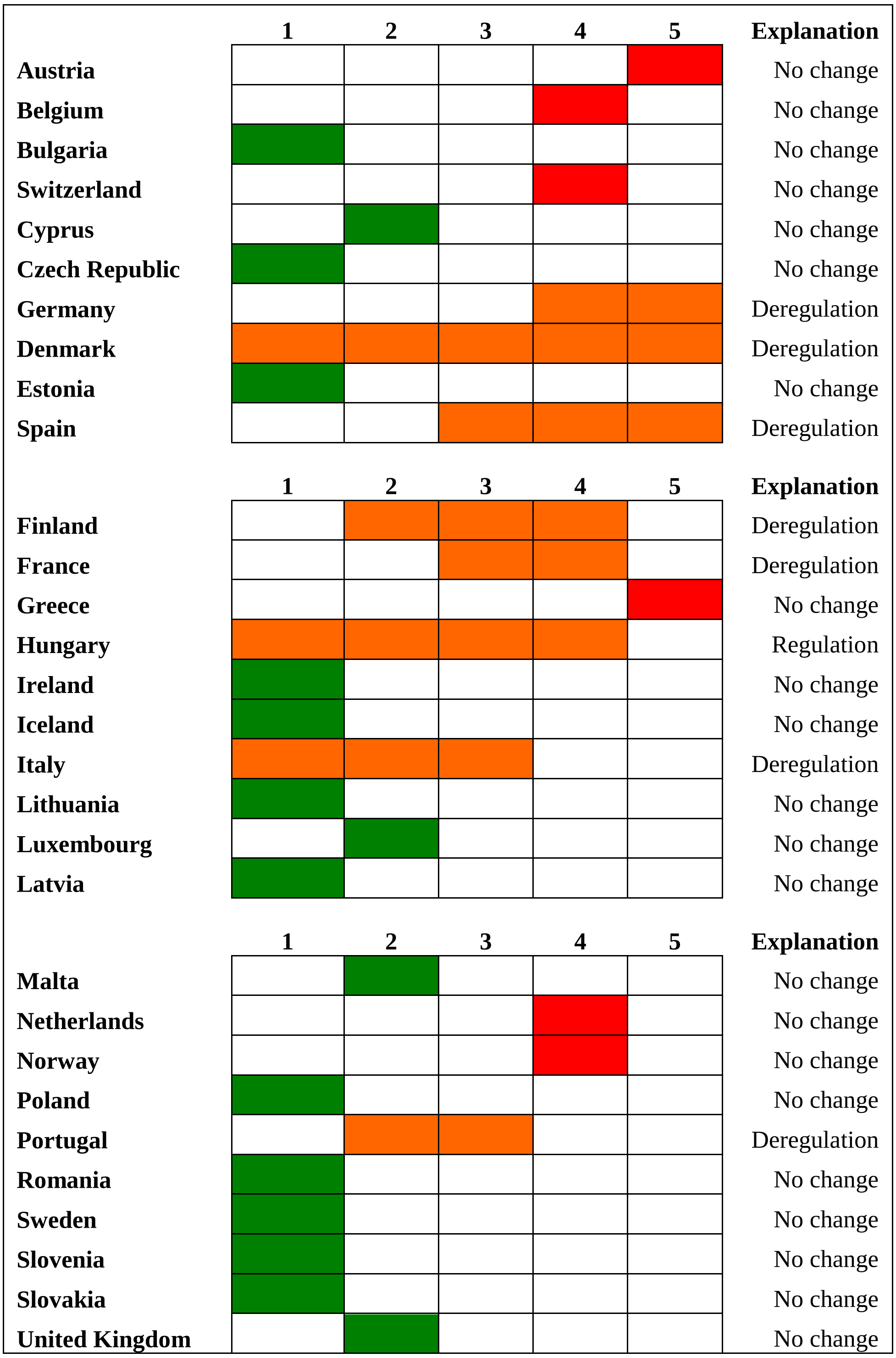

Figure 2: Changes in individual country regulation in 30 European countries: the evolution of the Sunday Trading Indicator (1999-2013) in the Retail sector
Own edited, based on the paper of Denakov –Danchev (2015)

In their study the authors suggest that there are only seven countries where Sunday trading regulation has considerably changed in the period and these are: Denmark, Finland, France, Germany, Italy, Portugal and Spain. Denmark has represented considerable deregulation in Sunday trading and has switched from a very restrictive regulatory approach to a fully deregulated approach towards opening hours in the Retail sector. France has also engaged with deregulation in 2009[11]. Italy, Portugal and Spain have all been subject to deregulation during the period. Germany has provided a prominent example of an effective switch from federal-level regulation to state-level regulation in 2006, resulting in 14 out of 16 states opting for extended trading hours. The above context is already illustrative and implies that recently (mostly during the second half of the period 1999-2013), there is a tendency in European countries to relax the regulations concerning Retail opening hours. (Genakos and Danchev, 2015)

In light of the European regulatory tendencies, the Hungarian regulation should be considered as an additional manifestation of the rather non-conformist and protectionist approach recently taken in Retail regulation. In the following subchapter I discuss the case of the Hungarian regulation on Sunday trading, in force since March 15, 2015.

11 In February 2015, regulation of Sunday trading in France was further relaxed; the French government passed a bill allowing for shops to increase the number of Sundays they are allowed to operate from five days to twelve days a year (BBC, 2015).

5.3 Regulation of Sunday trading – the case of Hungary

In a 2000 study, the OECD investigated government capacity in assuring high quality regulation in Hungary. As a general attitude towards national regulatory environments, the OECD constantly emphasizes the crucial role of understanding regulatory effects and formally recommends governments "*to integrate regulatory impact analysis into the development, review and reform of regulations*" (OECD, 2000, p.32). A commonly used way to institutionalize such an approach is to engage with the systematic preparation of a so-called Regulatory Impact Analysis (RIA), recommended by the OECD as a best practice in improving the regulatory structure. The OECD report stresses that earlier than most of the OECD countries, Hungary did express interest in evaluating the effectiveness of laws and subordinated regulations being in force.

In discussing the potentials of RIA in developing countries, Rodrigo (2005) also points out that transition economies - such as Hungary, Poland and the Czech Republic - have several times demonstrated the need of a regulatory reform as a tool in consolidating the role of the state (a) as a democratic institution; and (b) as a capable regulator of competitive markets. An illustrative fact in support of this is that in Hungary, the *Act IX of 1987 on Legislation* already stipulated that before the approval of a certain regulatory measure, the minister is expected to inform the legislature on the "*social-economic circumstances to be regulated, the observance of rights and obligations of the citizens, the expected effects of the regulation and the conditions of enforcement … based on scientific findings*" (OECD, 2000, p.32). Furthermore, *Act IX of 1987 on Legislation* required the assessment of alternative instruments available for legislation in each specific regulatory case. This OECD study (2000) concludes that despite of developing the appropriate tools, the overall success of the RIA system had been disappointing in Hungary since, with almost no ex-ante and randomly complied ex-post assessments of the specific regulations implemented.

There is thus a consistent message, grounded in theory and in empirics, that policy-makers should be well aware of the importance of integrating the RIA-kind of analysis in the policy development processes – be that about the relevant challenges in SME development policy, in labor market policy or in competition policy. The recent regulation of Sunday opening hours in the Hungarian Retail sector can be considered as a relatively specific – and with respect to the long-term economic growth of the Hungarian economy, a potentially less determining - regulatory measure that may even be revoked in a few months, as it has happened in the case of Croatia in 2009.

Similar law on Sunday closing got accepted and was implemented in the Croatian Retail sector as of January 1, 2009; but was terminated by the Constitutional Court six months after implementation. In Croatia, *Article 58*, *Article 59* and *Article 60 of* the *Trade Act* implied the relevant restrictions for Sunday trading. For further details and implications on the then regulation in Croatia as to the Trade Act, please see the 2009 report by the Government of Croatia (2009, p.12). The abolition by the Constitutional Court was reasoned based on the following: (1) Banning Sunday shopping is not a legitimate aim; (2) It is an unnecessary measure in a democratic society; (3) The initial purpose – protection of workers' rigths – can be realized through other measures that are less intrusive towards entrepreneurial freedom (Venice Commission, 2009).[12]

The Hungarian regulatory approach in this case may well be criticized with respect to the ultimate need of being aware of the possible outcomes of any regulatory decisions that are made.[13] According to the sources cited in footnote (in particular: Batka, 2015), the 2011

12 As to the 2014 October statistics, total Retail turnover was 15% lower in Q1-Q2 of 2009 than was in the same period of 2008 (napi.hu, 2014). There is, however, no evidence presented yet on what proportion of the decrease could be directly attributable to the regulatory measure.

13 Already prior to the introduction of the Law (but mostly short after that), the mainstream Hungarian online media was keen on finding convincing evidence on the existence of such an impact analysis - yet did not succeed in doing so. As to the publicly available information, no ex-ante analysis was prepared on the potential social-economic impacts of implementing the Law on the opening hours of Retail shops in 2015. When the Ministry for National Economy was formally requested by the popular independent Hungarian news portal

Hungarian assessment concluded that regulating Sunday opening was then expected to result in the following social-economic impacts:

- Number of jobs lost as a direct effect of regulation: 10 000 - 15 000
- Increase in unemployment benefits: 2.3-3.4 billlion HUF
- Expected loss in tax- and transfer revenue: 26-27 billion HUF
- Expected drop in turnover: 20.4 billion HUF
- Expected loss in value-added tax revenue: 7.6 billion HUF
- **Total budgetary loss: 43.2-49 billion HUF**

As for their order of magnitude, the above figures can be considered to carry a moderate budgetary impact. Although there is no information of the attributes of the jobs and positions that would be lost, it would arguably be likely to have more negative impact on the less mobile, lower-skilled workers. The jobs indicated to be lost represent no more than 5% of all employees in the sector; however, in absolute terms the magnitude of the effect on unemployment is already considerable. Estimated drop in sectoral turnover (HUF 20.4 Billion), compared to total 2014 sectoral revenue (see: Figure 3 in Appendix: HUF 2 700 Billion) should be considered as a rather conservative estimate, the calculation of which is not transparent. Yet I consider that when taking into account considerable cross-sector substitution outflow; a more moderate reallocation of shopping hours; and a potential drop in consumer demand, figures are likely to translate into a more negative assessment.

In 2011, the Ministry for National Economy placed an order for a wide-scale survey on the public opinion on regulating Sunday trading. The survey and the related report were both

Portfolio (portfolio.hu) to reveal such an information of public interest, the formal communication on the issue of the missing impact assessment was the following: "*The initiative bill was submitted to the National Assembly by an independent representative and not by the Ministry of National Economy; thus itself does not possess and is not aware of any impact studies made in connection to the regulation at hand.*" (Csurgó, 2015)

Shortly after, another actor of the Hungarian online media claimed it had managed to acquire a non-public version of a 2011 impact assessment (an aggregate study collapsed of several independent assessments that were ordered by the Ministry for National Economy in 2011) (Batka, 2015). The claimed study has not yet been made publicly available ever since – only a couple of hard estimations and statistical references were given on the expected social-economic impacts of the regulatory measure by the online media.

delivered by the consultancy firm M.S.Concord in 2011. The survey was conducted with the involvement of 800 people and cannot be considered as entirely representative for the population of Hungary. A preliminary implication of the results was that slightly more than half (54%) of those asked opposed the planned regulatory measure on Sunday trading; the core underlying concern being that the population "does not want their Sunday habits and activities to be subject of exercised *political power*" (M.S.Concord, 2011, p.3). Further conclusions of the survey included:

- About 18.5% of shopping is realized Sundays (in terms of the frequency of visits);
- Approximately 38% of the surveyed arrange shopping purposefully on Sunday, while 26% of them admitted that they tend to behave spontaneously in doing so;
- Dominant part (69%) of the surveyed acknowledged visiting first and foremost multinational firms when shopping on Sunday. (M.S.Concord, 2011, p.3)

The episode of the lacking impact assessment has obviously pointed to a questionable and problematic attribute of the regulatory procedure. On one hand and more in a practical sense, it has provided a clear surface of attack for mavericks of the governing party since then. On the other hand and in a more ideological context, also it may serve as a salient example of the less deliberate and conceptualized nature of economic policy making in Hungary today.

5.4 Regulation of Sunday trading: stakeholders and impact factors

In assessing the anticipated impacts of the changed regulation towards Sunday opening hours in the retail sector, I return to the stakeholder groups introduced in Chapter 4 (*Large retail chains, Smaller competitors, Suppliers, Consumers),* but discuss the assumed impact mechanisms of the regulation on two further groups: *Retail sector employees* and *Other stakeholders: Religious organizations and Labor unions.*

As for the most critical sets of macroeconomic variables that may be the most affected by the regulation, Genakos and Danchev (2015) suggest to investigate the effects on employment-, price-, sales volume- and market concentration. In the absence of hard data on the effect of regulation on the four essential macroeconomic factors suggested by the authors (2015), I provide a more soft assessment of the attitude various stakeholder groups are expected to take as a response to the regulatory measure and of the expected impacts along the above four dimensions.

5.4.1 Stakeholder analysis

Large retailers

Intuitively, large, foreign-owned firms form the ultimately harmed group of the regulation. Already suggested by the preliminary survey conclusions provided by M.S. Concord (2011), these chains realized a significant proportion of revenue and turnover on Sunday (slightly more than on the other days of the week, on average). Thus, the regulation places them in a relatively disadvantageous situation compared to the smaller competitors, implying that (a) in the absence of high switching costs, consumers are likely to switch to the smaller stores; (b) revenue loss needs to be recouped by the chains – most likely resulting in price increase in the short-run.

Small retailers

Small, predominantly domestic-owned retailers in the market are likely to be positively discriminated by the regulation. Sunday closing regulation allows for exemptions, most often decided based on shop size, ownership structure or product profile of the firm. Thus, regulation is supported and advantageous for relatively small firms, a vast majority of whom being domestic-owned family businesses.

Suppliers

While the formally and informally promoted aim of the regulation was to protect domestic SMEs and consumers, the former group is more expected to be subject to negative impacts of the regulation. First, domestic producers engaged in long-term contractual relationships with retailers covered by the regulation are expected to face worse contract terms – retailers may exploit their buyer power and negotiate terms that are harmful for domestic suppliers. In turn, it is expected to lead to an increased competition amongst suppliers and potentially involve an increase in considerable production efficiency.

Consumers

As an indirect impact of the regulation, the opportunity cost of shopping time increases for final consumers; at the same time, their choices shrink with regards to where to shop and when to shop. Further in parallel to this, there is less space for impulse purchases to take place - which, argued for from a pure economic rationality point of view, could be regarded as a positive effect of the regulation. However, given consumers have effectively less time to allocate on shopping but their incentives to do so will not be significantly altered, crowded stores and considerable congestion costs are expected to arise.

Retail sector employees

Regarding the interests of those employed in the retail sector, regulations tend to have mixed implications on this group, i.e. by placing some of them in a relatively disadvantageous situation, while damaging less some others. Those employees preferring to fill non-traditional working hours (for instance, students and part-time workers) are affected more negatively than those who can afford not to work in such hours (presumably the better skilled or the more experienced employees).

Other stakeholders - Religious organizations and Labor unions

Religious bodies argue that Sunday should be protected as a day of rest for religious reasons and also, for the sake of protecting the social institution of families by allowing them more time to spend on other things than shopping around – the core of this idea is that many positive externalities can arise from spending free time together with family.

Labor unions mostly agree in that these laws protect workers from working overtime, which is even more likely in societies with weak labor market institutions and poor systems of enforcement. Hungary tends to be such a country; thus by taking a protectionist point of view, this aspect gains special relevance and support.

5.4.2 Anticipated impacts

Besides assessing the most important stakeholders of the regulation, its anticipated impacts and the underlying mechanisms should also be investigated here. Genakos and Danchev (2015) discuss and evidence the effect of a *deregulation* of opening hours and Sunday trading. I find that the authors provide a complete and consistent framework to assess the potential impact of deregulation, which may serve as a relevant categorization for assessing the potential implications of a regulation as well. As to the categorization of the authors, the following effects should be distinguished: (a) *Employment effect*, (b) *Price effect*, (c) *Sales volume effect* and (d) *Market concentration effect*. Concerning deregulation of opening hours, conclusive remarks of Genakos and Danchev (2015) about these effects can be summed up as follows.

(a) Employment effect

Strong evidence was found that lifting Sunday closing restrictions has a positive employment effect[14]. Increase is driven by an increase in threshold labor, which is not equivalent to an increase in working hours of existing employees. On average, impact on full-

14 See e.g: Goos (2005), Skuterud (2005) or Bossler and Oberfichtner (2014).

time employment is expected to be larger than impact on part-time employment. In sum, any effect on employment is more likely to be a **short-run effect.**

(b) Price effect

Deregulation may induce more competition between retailers, as a result, consumer prices are expected to fall. Deregulation may also cause certain clusters of shops to remain open for longer hours or reallocate opening hours; these shops are also expected to charge higher prices for the service. Finally, deregulation is expected to lower access costs for larger stores, thereby shifts consumer demand and results in increased prices of larger stores. In sum, any effect on price is likely to be a **short-run effect.**

(c) Sales volume effect

Impact of a deregulation of opening hours greatly depends on the extent of substitution. Deregulation is *impact-neutral* if consumers simply reallocate their purchases from the previous to the altered opening hours; *positive* if consumers spend more of their income or even redirect their expenditure from other segments to retail. Deregulation may also imply an increased cross-industry substitution and an increase in turnover realized on purchases switched to food retail from other sectors. In sum, any effect on sales volume is likely to be a **short-run effect.**

(d) Market concentration effect

Market concentration is expected to increase following deregulation if larger shops are in a considerably stronger bargaining position than smaller shops are. In such a case, despite being positively discriminated, smaller market actors cannot successfully exploit their relative advantage. The impact of deregulation is expected to be negative on smaller shops that are substitutes for larger stores (ie: small boutique and large department store with similar product offerings); but positive on smaller shops that are complementary to larger stores (ie: a hair dresser in a retail shopping mall). As empirically evidenced by Genakos and Danchev (2015), deregulation increases the total number of shops, by (a) encouraging investment and (b) incentivizing entry. In sum, any effect on concentration is essentially a **long-run effect.**

CONCLUSION AND POLICY IMPLICATIONS

In my thesis I investigated recent economic policy measures imposed in the Retail sector of Hungary. Along the assessment I did not use hard evidence to address potential impacts of the regulatory measures; rather I was seeking to carry out an inductive analysis and to point to the potential drawbacks of the protectionist policy making approach identified in retail regulation in the period 2010-2015.

In the first two chapters I provided an overview of the interaction of sector-specific regulations and competition policy; provided a review of the theoretical background of retail-specific regulation and introduced unfair trading practices specific to the sector. In the third chapter I provided a glance on the Hungarian retail sector, focusing on the development of regulatory approaches, on market structure and on the nature of competition in the sector. Along Chapter 4, I investigated four specific policy measures designed for and implied specifically in the retail sector in the last years. Along the inductive analysis I focused on the relevant stakeholder groups and on the mechanisms through which the major stakeholders may be affected by the measures. Finally, the case of the Hungarian regulation on Sunday trading was discussed in more details; to illustrate the latest episode of the current regulatory scheme.

The policy measures discussed along the thesis can be considered to favor retail chains with higher prices on average, while to potentially erode the competitive advantage and profitability of large, multinational competitors in the market. The most important finding of the analysis that can be inferred from the investigated cases is the following. Regulatory objectives tend to - either explicitly or implicitly - protect certain group(s) of stakeholders more than the others. The central problem of the regulator, i.e., to minimize the trade-offs arising from this phenomenon, is considered to be addressed to a very low extent, as inferred from the recent retail regulatory measures in Hungary. In contrast to the promoted regulatory aim, the protectionist policy approach taken by the Hungarian regulator in the period 2010-2015 is expected to impose significant indirect harm on consumers; and by undermining their competitiveness, to exert negative impacts on local producers as well.

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APPENDIX

Figure 3: Food retail turnover and total retail turnover in Hungary (Jan 2011 – March 2015, HUF million)

Source: KSH (2015a)

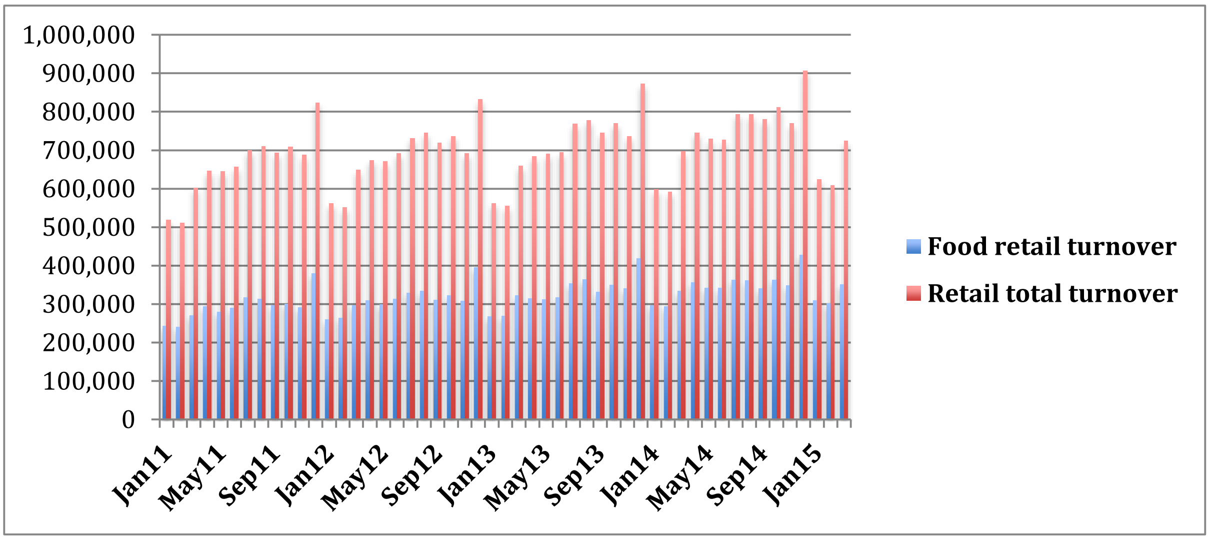
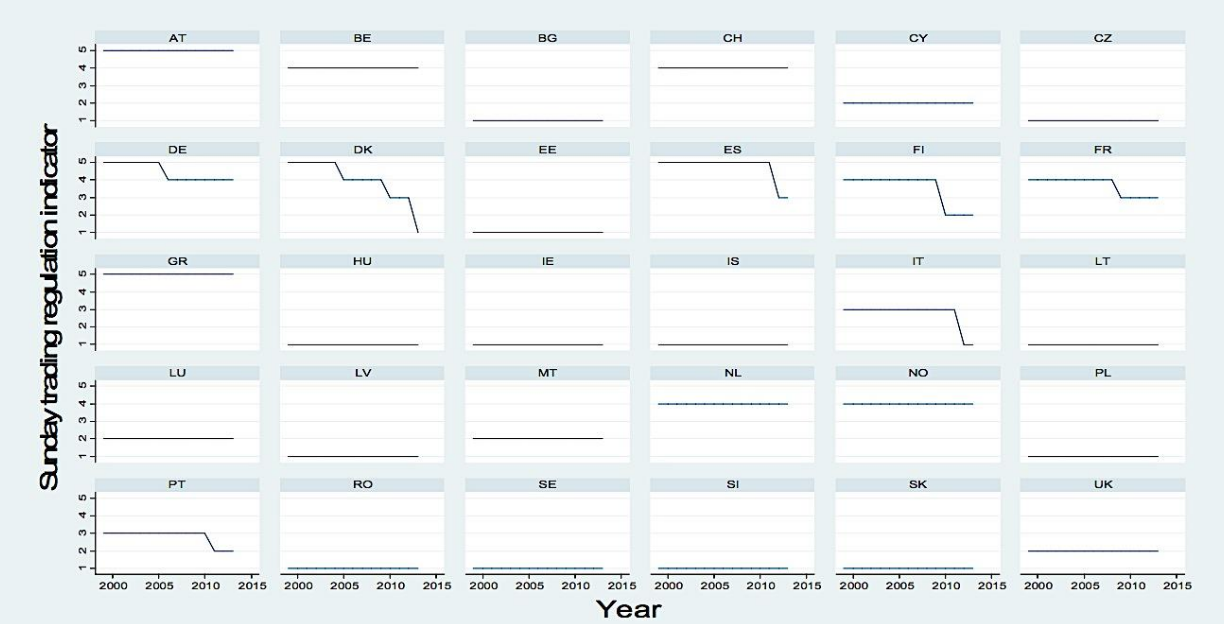


Figure 4: Representation of individual country regulation in 30 countries: the evolution of the Sunday Trading Indicator (1999-2013) in the Retail sector.

Source: Denakov –Danchev (2015, p.17).



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