



ANTIMONOPOLY  
OFFICE  
OF THE SLOVAK  
REPUBLIC

# TERRITORIAL SUPPLY CONSTRAINTS

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## 1. Introduction

Territorial supply constraints (TSCs) are commercial practices of manufacturers/suppliers of goods that affect the countries from which wholesalers or retailers can purchase their goods or to which countries they can subsequently sell these goods. TSC can thus affect the functioning of the EU single market, the level of competition, and contribute to price differences for goods between Member States.

Recently, the European Commission and individual Member States have been paying increased attention to the issue of TSC. Several reports and evaluation studies have been prepared in connection with TSC, and some competition authorities have conducted sectoral investigations in this area. At the same time, discussions are underway at the European level on strengthening existing or introducing new instruments (including new legislation) to address the issue of TSC.

The purpose of this document is to explain the nature and possible negative effects of TSC, summarize existing and proposed ways of addressing TSC, and finally present the activities of the Slovak Antimonopoly Office relating to TSC, including the conclusions of the sector inquiry conducted in this area.

## 2. What are TSCs and what can they cause?

**Territorial supply restrictions (TSCs)<sup>1</sup> are restrictions imposed by sellers (suppliers) on buyers (customers) in the supply of goods.** The party imposing the restriction is usually the manufacturer of the goods. Restrictions are imposed on customers, in particular wholesalers and retailers. Restrictions on the supply of goods relate to or are linked to a specific territory and essentially prevent or restrict the ability of wholesalers or retailers to obtain goods in EU countries other than the country in which they are established and/or prevent them from reselling goods to other countries.

**TSC restrictions can be divided into direct and indirect. Direct TSCs represent a direct restriction on the supply of goods, and their most common forms include:**

- **Refusal to supply:** the supplier refuses to sell goods in a particular country to a domestic or foreign customer because it assumes that the goods would be sold in another country.
- **Quantitative restrictions:** the supplier sets limits on the quantity of goods that can be sold to a particular customer in a particular country because it expects the goods to be sold in another country.
- **Restrictions on marketing (special offer) promotions:** the supplier restricts advantageous marketing (special offer) promotions of goods for customers in a

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<sup>1</sup> According to [Study on territorial supply constraints in the EU retail sector - Publications Office of the EU](#).



certain country because it assumes that the goods have been sold in another country.

- **Target territory obligation:** the supplier will only supply goods if they are sold in a specific territory.
- **Prohibition of reselling:** goods are sold to the customer only on condition that they will not be resold to other wholesalers or retailers.

**Indirect TSCs** do not in themselves constitute a restriction on the supply of goods, but they can help achieve the same objective as direct TSC, e.g. by making it more difficult to sell goods between countries. Indirect TSC include, for example:

- **Differences in goods in terms of content/composition:** suppliers may change the composition of seemingly identical products in different national markets.
- **Differences in goods in terms of packaging:** suppliers may, for example, label goods only in the national language or refuse to place multilingual labels on them or differentiate package sizes by country.

**However, differences in packaging and content/composition of goods may also arise for legitimate reasons**, e.g. marketing (response to local preferences) or legislative requirements (requirements for labelling products in a certain way). TSCs essentially prevent wholesalers or retailers from freely purchasing and selling goods across borders at the best (lowest) prices. They thus disrupt the free movement of goods within the EU single market and lead to the division of the single market into national markets or regional areas, which can result in reduced competition and different prices for goods in Member States or certain regions.

**The European Commission addressed the issue of TSC in more detail in its 2020 Study on territorial supply restrictions in the EU retail sector<sup>2</sup>.** The study mapped TSCs in 12 member states, including Slovakia<sup>3</sup>, for six categories of food and non-food products<sup>4</sup>. The study surveyed manufacturers, wholesalers, and retailers in individual member states<sup>5</sup>. **Conclusions of the Study were as follows:**

- Nearly half of surveyed buyers (49%) had encountered territorial supply constraints (TSC)—meaning they attempted to source goods from a country other than their home market and were refused due to geographic restrictions<sup>6</sup>.

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<sup>2</sup> Available at [Study on territorial supply constraints in the EU retail sector - Publications Office of the EU](#)

<sup>3</sup> Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, France, Luxembourg, Netherlands, Portugal, Romania, and Slovakia.

<sup>4</sup> Breakfast cereals, confectionery (chocolate bars and chocolate sticks), dairy products (milk and yogurt), soft drinks (cola drinks, non-cola carbonated drinks), household products (detergents and dishwashing liquids) and personal care products (shampoos, shower gels and soaps).

<sup>5</sup> One of the Slovak entities surveyed stated that it had been subject to TSC restrictions.

<sup>6</sup> The study notes that it can be assumed that the proportion of retailers affected by TSC (49%) may be lower due to sample selection bias: companies affected by TSC are more likely to participate in the survey than those that are not affected, as the latter are likely to be less interested in the topic.



- The most common form of TSC was outright refusal to supply (reported by 46% of respondents), followed by packaging differences (30%) and territorial exclusivity requirements (29%).
- Most TSC practices involved international brands that are widely recognized and easily tradable. These constraints primarily affected “must-have” products, where consumer loyalty to the brand outweighs loyalty to the retailer. Retailers consider these products essential and are therefore more willing to accept TSC to secure supply.
- TSC occur more frequently with goods that have a long shelf life and are easier to transport.

### Impact of TSCs according to the Study was highlighted in following areas:

- **Higher prices:** Goods subject to TSC were priced higher than they would be in the absence of such restrictions (reported by 72% of respondents).
- **Lower availability:** Products affected by TSC were not readily available to retailers (67% of respondents).
- **Cross-border shopping:** Consumers in border regions often purchase TSC-affected goods in neighbouring countries (56% of respondents).
- **Different product composition:** Goods subject to TSC often differ in formulation (44% of respondents).
- **Different packaging:** Packaging of TSC-affected goods varies across markets (44% of respondents).

**As regards the impact of TSC on consumer spending, the Study concluded that the removal of TSC could lead to an average reduction in purchase prices for retailers of 8.8% and an average reduction in consumer prices of 7.6%<sup>7</sup>.** The removal of TSC could thus represent a quantifiable saving for consumers of €14.1 billion. The estimate of €14.1 billion in savings should be viewed as indicative only, as the actual effect could range from €0.5 billion to €28 billion according to calculations. Such a wide confidence intervals point to the uncertainty of the result and its sensitivity to the assumptions used. The result cannot therefore be interpreted as an accurate quantification, but rather as an approximate illustration of the possible range of impacts<sup>8</sup>.

**Also several EU Member States have examined TSC through national studies and analyses. Examples include:**

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<sup>7</sup> The 8.8% decrease in purchase prices is an average for several countries; in individual countries, this figure ranged from 0% to -30%.

<sup>8</sup> However, it is important to note that the conclusions reached by the Study are based on complex econometric analyses and several hypothetical assumptions, with input data relating only to certain countries and certain goods. The consumer price data is limited to a 90% confidence interval, as is the calculated value of consumer savings. In terms of consumer savings, the 90% confidence interval ranges from €0.5 billion to €28 billion.



- **Netherlands (2023)** – A study<sup>9</sup> commissioned by the Dutch Ministry of Economic Affairs found that TSC are most prevalent in the food sector and are primarily imposed by large manufacturers of brand products. The most common form was refusal to supply when buyers attempted to source goods outside the Netherlands, with suppliers redirecting them to the Dutch distribution branch.
- **Belgium (2023)** – A study<sup>10</sup> commissioned by the Belgian Ministry of Economic Affairs analysed price differences between Belgium and neighbouring countries and the factors driving these disparities. The findings indicate that branded goods are 8–10% more expensive in Belgium compared to neighbouring markets, while unprocessed foods and private-label products are cheaper. The study lists several reasons for these price gaps but concludes that the impact of TSC on prices remains unclear.
- **Austria (2023)** – The Austrian Competition Authority published the results of its sector inquiry into food prices<sup>11</sup>. It found that international food manufacturers tend to apply differentiated pricing strategies across countries, which significantly influences price variations. These strategies contribute to higher prices in Austria, where net purchase prices for retailers are 10–15% above those in neighbouring countries. This “Austrian premium” is considered a cross-border issue linked to the EU internal market, and the findings were referred to the European Commission.
- **Luxembourg (2020)** – A study<sup>12</sup> examined the TSC faced by Luxembourg retailers when sourcing goods from suppliers in other Member States.

### 3. How to tackle TSC

**Currently, there is no specific legislation that directly addresses TSC and any problems arising from them.** Some TSC can be addressed through competition legislation as agreements restricting competition or abuse of a dominant position (these situations are described in Chapter 3.1 of this document). However, competition law cannot address all types of TSC, which is why there has been recent discussion about ways to address the issue of TSC by other means, including the proposal of new legislation (these activities are described in Chapter 3.2 of this document).

#### 3.1 TSC as anti-competitive conduct

Behaviour that essentially constitutes TSC may, in certain cases, fulfil the criteria for an agreement restricting competition or abuse of a dominant position and may thus be sanctioned and prohibited by the competition authority.

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<sup>9</sup> Available at: [Territoriale leveringsbeperkingen | Rapport | Rijksoverheid.nl](https://www.rijksoverheid.nl/onderwerpen/terreerovername/rapporten/2023/04/20-territoriale-leveringsbeperkingen-rapport)

<sup>10</sup> Available at: [Vergelijking van het consumptieprijsniveau in België, Duitsland, Frankrijk en Nederland | FOD Economie](https://www.fod.be/vergelijking-van-het-consumptieprijsniveau-in-belgie-duitsland-frankrijk-en-nederland)

<sup>11</sup> Available at: [AFC A presents final report on sector inquiry into food industry: BWB Bundeswettbewerbshörde](https://www.bwb.bund.de/SharedDocs/Pressemitteilungen/DE/2023/04/auftrag-der-bundeszustandshaft-der-bundeszustandshaft-der-bundeszustandshaft.html)

<sup>12</sup> Available at: [Les restrictions territoriales de l'offre](https://www.bwb.bund.de/SharedDocs/Pressemitteilungen/DE/2020/04/les-restrictions-territoriales-de-l-offre.html)



**Agreements restricting competition** represent a situation where two independent entrepreneurs (i.e. not belonging to the same economic group)<sup>13</sup> consciously replace the risks of competition with mutual cooperation, whereby such an agreement has the object or effect of restricting competition. According to competition case law, **agreements aimed at dividing markets along national borders or hindering the interconnection of national markets must, in principle, be considered agreements whose purpose is to restrict competition**<sup>14</sup>.

It follows from the above that agreements between undertakings preventing trade between countries constitute (with certain exceptions) agreements restricting competition. In practice, these are mostly vertical agreements, i.e. agreements concluded between a supplier of goods and its customer, containing restrictions whereby

- the supplier restricts the territories to which the buyer may further supply the goods or restricts the groups of buyers to whom it may further supply, or
- the supplier restricts the buyer's active and passive sales<sup>15</sup>.

However, it is sometimes possible to restrict territories or groups of suppliers, as well as to restrict active and passive sales, for legitimate reasons, e.g.:

- If a manufacturer decides to distribute products through an exclusive distribution system, it may create a system whereby it assigns individual distributors a territory to which they will supply or a group of customers to whom they will supply. In such a system, it is also possible to restrict distributors' active sales to other territories or other customer groups (but not passive sales).
- If a manufacturer decides to distribute its products through a selective distribution system<sup>16</sup>, it undertakes to sell its products only to distributors selected on the basis of predetermined criteria<sup>17</sup>. These distributors may be restricted from selling the goods to unauthorized distributors.

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<sup>13</sup> An agreement between, for example, a parent company and a subsidiary does not constitute an agreement restricting competition within the meaning of competition law. For the purposes of competition law, a parent company and a subsidiary are considered to be a single economic entity and therefore a single entrepreneur.

<sup>14</sup> E.g., ruling in Football Association Premier League, C-403/08 a C-429/08, point 139.

<sup>15</sup> For competition purposes, a distinction is made between so-called active and passive sales. Active sales represent a situation where the seller of goods actively approaches customers with the aim of supplying them with goods. Passive sales represent sales to customers who themselves approached the supplier and requested the supply of goods.

<sup>16</sup> Manufacturers use exclusive distribution systems in cases where it is necessary to motivate distributors to make the investments necessary for the development of the manufacturer's brand in an area where the brand is not well known, or to sell new goods in a specific territory or to a specific category of customers, or to motivate distributors to focus their sales and promotional activities on the goods in question. The protection afforded by exclusivity enables distributors to secure a certain volume of sales and a margin commensurate with their investment efforts.

<sup>17</sup> A selective distribution system can be used for high-quality goods based on the latest technologies or for luxury goods. In such cases, the requirement to sell goods through authorized distributors may be legitimate in order to maintain the quality of the goods, ensure their proper use, or preserve the feeling of luxury.



**Regarding the abuse of a dominant position**, conduct that prevents trade between Member States, when carried out by an undertaking in a dominant position<sup>18</sup>, may be considered anti-competitive. According to case law, "Practices by undertakings in a dominant position which have as their object the prevention of any parallel exports from one Member State to other Member States, i.e. practices which would close off national markets, neutralize the benefits of effective competition in terms of supply and prices that such exports bring to end consumers, cannot, in the light of the objective of the Treaty and the objective of ensuring undistorted competition in the internal market, be exempted from the prohibition laid down in Article 82 EC,"<sup>19</sup> i.e. from the prohibition on abuse of a dominant position.

In practice, TSC in the context of abuse of a dominant position has been dealt with mainly as a practice of refusal to supply, where a manufacturer of goods in a dominant position refused to supply goods to a customer who would subsequently export the goods to other Member States.

### **Box 1: Competitive resolution of TSC practices – European Commission cases**

#### **The AB InBev case**<sup>20</sup>

In May 2019, the European Commission issued a decision concerning the conduct of AB InBev, a global beer producer. AB InBev is the largest beer manufacturer in Belgium, producing brands such as Jupiler, Leffe, Stella Artois, and Hoegaarden, which are exported to other EU Member States, including the Netherlands. These beers are considered "must-have" products in the Belgian market.

AB InBev held a dominant position in Belgium in the off-trade segment—sales to retail chains and wholesalers who then supply smaller stores. In the Netherlands, AB InBev did not hold a dominant position, and wholesale beer prices there were lower than in Belgium.

**The objective of AB InBev's anti-competitive conduct was to restrict imports of beer from the Netherlands into Belgium to maintain higher Belgian prices. This conduct constituted abuse of dominance and included the following practices:**

- Limiting volumes supplied to a Dutch wholesaler to reduce exports to Belgium.
- Changing packaging of beer sold in the Netherlands (different can sizes and designs, removal of multilingual labels) to make cross-border resale into Belgium more difficult.

<sup>18</sup> An undertaking has a dominant position if they are not exposed to significant competition and, given their economic strength, can behave independently to a significant extent. The existence of a dominant position results from a combination of several factors, which may not be decisive on their own. One of these factors is market share, with an entrepreneur in a dominant position usually having a market share of 50% or more.

<sup>19</sup> Ruling - Sof. Lélös kai Sia, C-468/06 – C-478/06, point 66.

<sup>20</sup> Available at: [AT.40134 - AB InBev Beer Trade Restrictions](#)



- Conditioning supply of beer varieties sold exclusively in Belgium on the retailer also purchasing beer that could otherwise be sourced from the Netherlands.
- Restricting promotional offers to a Dutch retailer by requiring that the beer not be resold in Belgium.

For its anti-competitive conduct, the European Commission imposed a fine of €200 million on AB InBev.

### **The Mondelēz case<sup>21</sup>**

In May 2024, the European Commission issued a decision regarding the conduct of Mondelēz, a manufacturer of chocolates, biscuits, and other confectionery products, whose portfolio includes brands such as Milka, Côte d'Or, Toblerone, Cadbury, Marabou, Daim, Oreo, Ritz, and Mikado.

The objective of Mondelēz's anti-competitive practices was to restrict parallel trade of its products, implemented through anti-competitive agreements and abuse of dominant position.

### **Anti-competitive agreements**

Mondelēz engaged in the following practices:

- **Exclusive distribution agreements:** Mondelēz concluded contracts with distributors acting as exclusive distributors for certain products in specific Member States and prohibited them from making passive sales outside their designated territory. For example, a Czech distributor selling Mondelēz products exclusively in the Czech Republic and Slovakia agreed not to engage in passive sales beyond these markets and inserted clauses in its contracts prohibiting exports of Mondelēz products outside these countries.
- **Territorial and customer restrictions:** Mondelēz signed agreements limiting the territories where distributors could sell its products or restricting customer groups (e.g., products were sold under the condition that they would not be exported to Germany or Benelux countries, or that they would only be sold to smaller stores rather than large retail chains).

### **Abuse of dominant position**

**Mondelēz held a dominant position in the market for tablet chocolate in Austria, Belgium, Romania, and Bulgaria. Its conduct included:**

- **Refusal to supply:** Mondelēz refused to supply tablet chocolate to a German wholesaler due to concerns that the products would be exported to Austria,

<sup>21</sup> Available at: [AT.40632 - Mondelez trade restrictions](#)



Belgium, Romania, and Bulgaria—markets where Mondelēz had a dominant position. The company feared such exports would reduce prices in these markets.

- **Withdrawal of products:** Mondelēz stopped selling a particular chocolate brand in the Netherlands because Dutch retailers were reselling these products into Belgium, where prices were generally higher. Mondelēz feared that lower Belgian prices would negatively impact profitability.

For these anti-competitive practices aimed at restricting parallel trade and maintaining higher prices, the European Commission imposed a fine of €338 million on Mondelēz.

### The Pierre Cardin case

In November 2024, the European Commission issued a decision in the Pierre Cardin<sup>22</sup>, case, which also involved territorial supply constraints (TSC). Unlike previous cases, this one concerned the clothing sector rather than food products. The anti-competitive conduct, assessed as a restriction of competition through agreements, consisted of:

- Limiting passive sales of Pierre Cardin-branded clothing.
- Restricting customer groups to whom Pierre Cardin clothing could be supplied.

The total fine imposed amounted to €5.7 million.

However, competition law cannot penalize TSCs that do not constitute an agreement restricting competition or abuse of a dominant position. For example, if an entrepreneur who does not have a dominant position refuses to supply goods to a customer on the grounds that the customer would export them outside their home country, this behaviour cannot be punished under competition law as an abuse of a dominant position. Similarly, competition law cannot penalize the relatively common practice of a manufacturer instructing its subsidiaries to whom they may and may not supply goods. The reason is that the manufacturer and its subsidiaries form a single economic entity, and agreements between them cannot therefore constitute an agreement restricting competition.

It should also be noted that competition law deals with problems ex post; competition authorities can only assess and evaluate past conduct, but do not have the tools to set/determine the conditions for companies' future conduct.

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<sup>22</sup> Available at: [AT.40642 - Pierre Cardin](#)



### 3.2 Proposed approaches to TSC

As follows from the previous chapter, competition legislation can only address TSC in certain cases. Recently, there have been calls for the introduction of instruments or mechanisms to address the issue of TSC.

The issue of TSC was addressed in the so-called Letta Report of April 2024<sup>23</sup>, an important analysis of the future of the EU single market. The report highlights the negative aspects of TSC and states that the EU should strengthen the capacity of national authorities to address suspected TSC<sup>24</sup> by introducing a common formal procedure for all Member States in cases with a cross-border dimension, and that the EU must also ask itself whether it should also intervene when the market fails for reasons other than those covered by competition law.

In March 2025, the Competitiveness Council held a policy debate on the forthcoming Single Market Strategy. This was followed by a public debate at the request of 16 Member States, including Slovakia. In the background material<sup>25</sup>, these countries called for an "assessment of the possibilities for eliminating TSC" as part of the proposed measures to improve the free movement of goods in the Single Market.

These activities were reflected in the new Single Market Strategy published in May 2025<sup>26</sup>. According to the Single Market Strategy, TSC fragment the single market, limit consumer choice, and contribute to significant price differences within the EU, especially for everyday consumer goods. **The Single Market Strategy proposes to develop tools to combat unjustified TSC so that they also cover situations that do not fall within the scope of competition law.**

## 4. Sectoral inquiry by the AMO SR regarding TSC

The Antimonopoly Office of the Slovak Republic conducted a sector inquiry pursuant to Section 16(1)(a) of Act No. 187/2021 Coll. on the Protection of Competition and on Amendments to Certain Acts (hereinafter referred to as the "Act") in order to obtain information on the state of competition in relation to the existence of different price levels for food within the EU internal market. Specifically, the Office investigated whether Slovak retailers and wholesalers face artificial barriers to cross-border trade in branded food products. The responses presented are formulated in such a way as to protect the trade secrets of all respondents (entrepreneurs).

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<sup>23</sup> Available at: [Enrico Letta - Much more than a market \(April 2024\)](#)

<sup>24</sup> According to the report, retailers wishing to purchase branded packaged consumer goods are obliged to refer to their manufacturer's national branch. They also face deliberate barriers to parallel trade (the ability to import products from low-price Member States to high-price Member States through channels other than those designated by the brand owner). They emphasize that such TSC prevent them from obtaining the best deal for consumers.

<sup>25</sup> Available at: [pdf](#)

<sup>26</sup> Available at: [The Single Market: our European home market in an uncertain world - European Commission](#)



In order to determine whether TSC practices occur at the retail and wholesale levels in the Slovak Republic, the Office contacted various entities at different levels of the distribution chain and requested retail chains and other traders to provide data on suppliers, distribution companies, and purchasing habits and business practices in this sector<sup>27</sup>.

In the first step, the Office focused on identifying the relevant entities operating in the sector. Given the general knowledge of which retail chains operate in this sector, this identification mainly concerned those stages of the distribution chain that precede the retail sale of products. The Office was also interested in purchasing policies in relation to parallel imports of products from the EU internal market, especially in cases where the purchase prices of identical goods abroad are lower than the prices from official suppliers. As part of its sector inquiry, the Office also requested information on whether chains and retailers had attempted to obtain identical products from suppliers in other EU Member States in the last five or ten years, including product specifications, countries and any failures to conclude contractual relationships with these suppliers, as well as the reasons why the contracts were not concluded.

During the sector inquiry, in order to obtain the best possible information on the functioning of the sector, the Authority held informal meetings with various entities, namely retail chains and associations of suppliers and retailers.

## 5. Findings

**In general, it can be stated that the sectoral survey did not clearly identify the occurrence of TSC practices, but at the same time, it cannot be clearly ruled out. However, it was found that the purchase of goods outside the territory of the Slovak Republic or from suppliers designated for territories/markets other than the Slovak Republic occurs to a lesser extent for various reasons, some of which appear to be objective, while others are ambiguous. Another important finding of the sector inquiry is that the Authority's findings differed between groups of retailers, and that some wholesalers also had different experiences with the supply of goods. The dominant form of procurement of branded products by traders<sup>28</sup> in Slovakia remains their purchase from official manufacturers or distributors.**

Given the different interests and experiences of different types of traders, and thus also the different findings of the Office in relation to these types of traders, the Office will further present the findings of the sector inquiry broken down by type of entity, and/or nature of answers provided.

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<sup>27</sup> Brands concerned: Nestlé, Coca Cola, Ferrero, Mondelez, Danone, Unilever, Bel Brands, Savencia, Mars, Heinz Kraft, PepsiCo, Jacobs, Dr. Oetker, Storck, Lavazza, Barilla, Red Bull

<sup>28</sup> Unless otherwise specified, the term "trader" refers to both retailers and wholesalers.



## Group 1

**The first group consists of large multinational retail chains, which make up the largest part of the retail market.** In this group of businesses, the main finding of the Office was that although parallel trade with the possibility of obtaining cheaper identical branded goods is possible, this strategy is not systematically applied among traders. The main obstacles are mainly objective economic reasons, such as transport costs, conditions for procuring unsatisfactory quantities of goods, regulatory and legislative restrictions, and the instability of parallel imports from other EU Member States.

**A specific barrier to parallel trade for Slovak retail chains is the transaction costs associated with repackaging goods (labels) or other forms of packaging.** On the one hand, the differentiation of (identical) products may be caused by national regulations in the area of food and health protection (e.g., listing ingredients or energy and nutritional values in the national language). On the other hand, under certain circumstances, it may constitute an indirect TSC practice aimed at increasing costs of or preventing cross-border trade.

**Based on the information obtained, the Office found that respondents are aware of price differences when purchasing identical products across Member States.** This appears to be one of the possible reasons why importing goods from abroad would make economic sense. Some retail chains have alternative forms of importing goods from abroad within the EU internal market at their disposal. **This option involves the so-called transshipment of goods**, where a chain within its business group organizes parallel imports from the countries in which it operates and purchases goods from local suppliers through affiliated companies within the group. This process allows for supply chain optimization and more efficient logistics based on internal resources and warehouses.

The second alternative for importing identical products **is so-called external parallel imports**, where the chain purchases branded goods from suppliers in other EU Member States through independent importers outside its business group. This approach allows the retail chain to diversify its supply channels. However, this type of import is not carried out systematically.

**Two chains from this group of respondents admitted the existence of artificial barriers to cross-border trade.** They saw packaging differentiation and language variations in labels, or the creation of language clusters on packaging, as the main "artificial" barriers to parallel purchasing of goods. The Office also found that some identical products have different brand names across national markets, which also restricts their movement between countries. Under certain conditions, these practices can be considered an indirect restriction on supply.

**National regulatory frameworks in the areas of food, health, or environmental protection were also considered to be another, but no less important, barrier to trade** (e.g., bottle



deposits/recycling system costs represent a significant barrier to the purchase of non-alcoholic beverages from other manufacturers of identical products). This type of restriction on international trade is not caused by the practices of manufacturers, but it can significantly increase the price and limit parallel imports of goods. The fragmentation of national regulations across Member States in some cases effectively prevents trade (e.g., the aforementioned plastic bottle deposits). **Information obtained by the Authority indicates that both manufacturers and traders agree that, in this particular area, Europe-wide measures should be taken to remove these barriers and reduce the administrative costs of intra-EU trade.**

## Group 2

**This group consists mainly of medium-sized and smaller Slovak chains and some wholesalers. Due to logistics costs and purchase volumes, parallel imports of the brands in question are not usually carried out.** Due to the small size of their stores and the absence of their own distribution systems, smaller chains procure goods from local wholesale companies operating in Slovakia for some brands.

**Some chains and wholesalers stated that they do not engage in parallel trade from other EU countries due to the volumes purchased.** Smaller local retailers may face the problem that manufacturers/suppliers make trading conditional on large quantities (full truckloads/containers). In order for suppliers to cover their logistics costs, there may be optimal minimum quantities of goods at which transport is profitable. With low delivery volumes, the entire transaction may be loss-making, and for this reason the manufacturer has no objective reason to carry it out. Based on the Authority's findings, it is not possible to conclude whether this classifies as a restriction or a question of, for example, transaction costs, although the negative effect on intra-EU trade may be similar.

In the case of purchases from local wholesalers, some entrepreneurs from this group of respondents (medium-sized and smaller chains) **stated that such purchases offer a higher degree of flexibility in securing supplies compared to official manufacturers/distributors.** In some cases, smaller chains stated that partner wholesalers were able to procure branded goods from an official or other supplier within Slovakia or the EU, ensure their labelling and logistics, and subsequently sell them to retail stores. Provided that the economic parameters were favourable, retailers then sold such goods to final consumers.

## Group 3



**This group of respondents consisted mainly of wholesalers.** Purchasing directly from official distributors also dominated in this group of entrepreneurs, but there was the greatest scope for alternative supplies. Some traders had more than one supplier for a single brand's product range. One trader was able to purchase a branded product from another supplier in another EU Member State. However, this transaction was isolated and one-off in nature.

### General arguments applicable to all respondent groups

**In the long term, consistency and stability of goods supply is one of the most important factors for retail chains in their business.** Inconsistency and instability in the supply of goods through imports outside the usual and standard distribution channels is therefore an important factor for them and significantly reduces the scope for retail chains to import goods in ways other than the usual official ones. Some retail chains stated that parallel imports or transshipment of goods are economically advantageous only in isolated cases, but it is not possible to systematically search for alternative suppliers and enter into long-term business relationships with them. The stability and predictability of supplier-customer relationships was presented across stores as one of the key aspects of ensuring the required range of goods.

**If the logistics costs are borne by the customer (chain or wholesaler), parallel imports of cheaper identical goods do not automatically mean lower end prices on the shelves.** The same applies in cases where imports are made to compensate for a shortage of goods in standard distribution channels. According to the information provided to the Office, transport costs and the costs of affixing labels (in the case of beverages/soft drinks plastic bottles, also the administrative costs associated with the recycling system) represented significant cost barriers, which in many cases prevented parallel imports from taking place.

## 6. Conclusion

During the sector inquiry, the Office communicated with various entities at different levels of the distribution chain in order to identify whether the issue of TSC practices is relevant in the Slovak Republic. The sector inquiry did not clearly identify the existence of TSC practices with an impact on the Slovak Republic, but their existence cannot be clearly ruled out either.

**It was found that parallel trade does not occur to a significant extent, with the extent depending mainly on the type of entities – traders – and being determined by their position in the market and specific needs.** This is due to objective reasons that limit the scope for parallel trade, but it cannot be ruled out that less objective reasons may also play a role. In the case of Slovak retail chains not engaging in parallel imports, the reasons are primarily economic, with an emphasis on the stability of supplies in terms of time and quantity as a key factor in the business of large retail chains in particular.



**As evidenced by the information provided to the Authority and the findings of the EC (2020)<sup>29</sup>, the different price levels of identical goods may not necessarily be due to supply restrictions, but rather to a strategy of maximizing profits in the supply chain.**

Manufacturers prefer to optimize the composition of products for each individual market separately. The product catalogue and pricing strategy are adjusted to respond effectively to local market specifics, such as consumer demand and preferences, cost structure including cost minimization, competitive environment, technological constraints, and institutional rules (e.g., regulations). In addition, all manufacturers face a choice between an international or local strategy when designing their approach to entering (new) markets. The local approach leads to the specification of the product offering based on product differentiation and adaptation to local markets due to differences in culture, consumer preferences, competitive environment, legislation, demand (e.g., based on consumer income), and consumer demographics. In many cases, the local approach dominates.

**From the perspective of purchasers (wholesale and retail), the main barriers to parallel imports are logistics costs and regulatory requirements.** Both food and non-food products are subject to various regulations, ranging from permitted composition to the provision of information to consumers. These can discourage retailers and wholesalers from purchasing products across borders due to the need to repackage goods or replace labels.

International retail chains are also entities that often seek to centralize their supply across different countries in order to gain a strong bargaining position when negotiating with producers. Parallel imports may not be economically attractive due to the additional transaction costs of creating alternative supply chains.

**Based on the information obtained and the above facts, the Office currently does not have clear findings to continue further investigation in this area.** However, the Office has expressed its support for certain Member States and the current activities of the EC regarding the need to prepare pan-European legislation that would reduce the administrative costs of cross-border trade in identical products. This mainly concerns efforts to harmonize the labelling and marking of products, with an impact on the partial modification of the packaging of identical products, which will reduce transaction costs. The harmonization of certain aspects of public health protection and food regulation would also reduce the costs of international trade in goods.

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<sup>29</sup> Available at: [link](#).