

Trends in Retail Competition: private labels, brands and competition policy

An assessment of choice in European markets

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The Consumers International (CI) report and the reaction of DG Competition

- CI report published September 2012
 - Starting point was the buyer power of supermarkets and how it shows through
 - Damage to suppliers inevitably feeds through as damage to consumers (private label is relevant here)
- DG Competition asked for four follow-up papers on:
 1. Supermarket buyer power and consumer choice
 2. Consumer choice and own brands
 3. Further detail on buyer power abuse
 4. Supermarket buyer power and innovationAll delivered December 2012 (not yet published)

How widespread was our evidence?

- **For the CI report**
 - Market concentration statistics from 18 EU Member States plus USA, Canada, Australia, Norway and Switzerland
 - Other evidence from the UK, Spain, Norway, Australia, South Africa
- **For the follow-up papers**
 - A survey of CI members, with responses on private label from Australia, Greece, Hungary, Norway, Spain, and UK, plus notes on legislation from France and Germany
- **Not a full EU round-up but some useful non-EU material too – a reasonable illustration**

What does the evidence show?

- **Evidence about private label does not all point in the same direction:**
 - some benefits to consumers
 - some benefits to suppliers
 - but also detriments to both
- **The analytical issues are complex:**
 - “plain vanilla” economics and behavioural economics are involved

Varying penetration of private label

- **By country:**
 - highest in Switzerland (46%) and the UK (44%)
 - lowest in Poland (12%) and Greece (11%)
- **By product type:**
 - highest in complete ready meals (47%)
 - lowest in baby food and chewing gum (1% each)

(Source: OXERA, 2010)
- “For milk, fresh produce and chilled meals, there is no obvious limit on how much share private label can take...in other categories it is by no means clear that shoppers want only PL or PL plus a leading brand.”

(Source: Symphony IRI Group, 2012)

Price differentials can be great

- Nielsen found (2005, 17 EU Member States):
 - private label almost 40% cheaper on average
 - UK differential lower, at 36%
 - German differential higher, at 46%
- Symphony IRI found (2012, 6 EU MS):
 - private label on average 30% cheaper
 - UK differential smallest, at just over 20%
 - German differential largest, at close to 40%
- **Differentials may be narrowing but consumers can still reap price benefits**

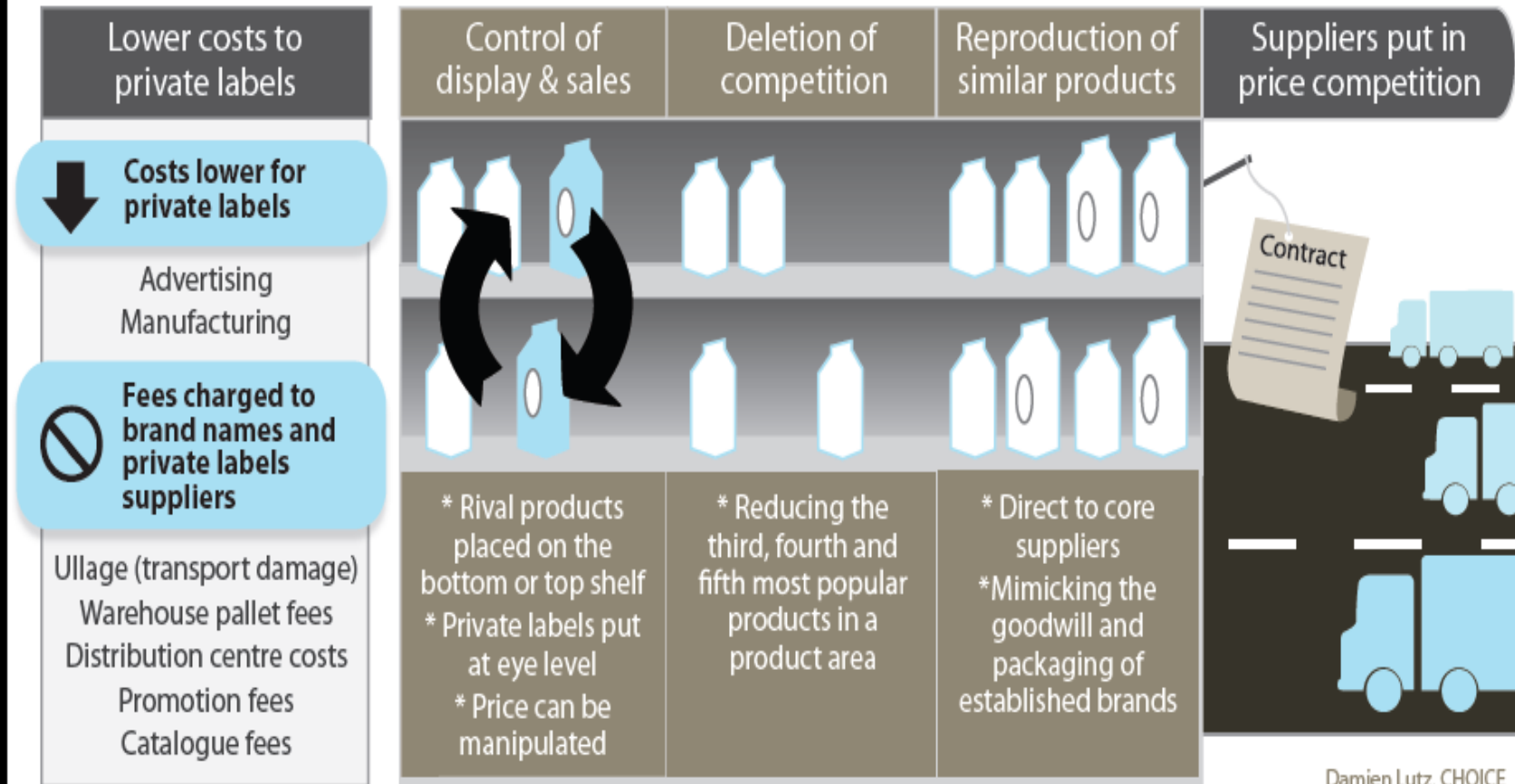
What about consumer choice?

- When private label squeezes out branded goods, **choice becomes highly relevant**
- Supermarkets claim to respond to consumer choice but in reality **is this true?**
 - consumers can express preferences only for what is on the shelves, not for what is absent
 - there is no mechanism by which they can protest *promptly* at what they are being denied

Evidence of the squeeze

- **Australia:** CHOICE <http://www.choice.com.au/reviews-and-tests/food-and-health/food-and-drink/supermarkets/supermarket-private-labels-and-homebrand-products.aspx> (2011)
- **Norway**
 - See Norwegian Inquiry Commission, *The powerful and the powerless in the food supply chain*, 2011 (<http://www.regjeringen.no>)
- **UK**
 - See British Brands Group, evidence to the Competition Commission, 2006-2008, and other publications (<http://www.britishbrandsgroup.org.uk>)
- **Other sources**
 - Denmark, Spain, Greece, Hungary

How they're doing it



Damien Lutz, CHOICE

Source: CHOICE Australia, <http://www.choice.com.au> 2012

Factors favouring private label

- **Private label suppliers have less bargaining power** with supermarkets than a branded goods supplier
- Private label incurs **lower unit promotional cost** since it can be swept up in general corporate or multi-product promotion
- In principle, PL should provide **higher margins**
- Consumer brand **preferences easily ignored**
- **Temptation for retailers to develop and promote private label is well-nigh irresistible**

Where does this leave consumers?

- **Consumer experience is part good, part bad**
 - Lower prices on like-for-like products
 - Additional choice where branded products are not squeezed out...
 - ...or where private label has no branded equivalent (e.g. ready-prepared meals)
 - But branded goods *are* being squeezed out
 - Consumers have no effective redress for this

Dimensions of choice

- **The concept of SPQR can serve us well:**

S = Service

P = Price

Q = Quality

R = Range

- Increasingly, ethical/environmental issues too
- Consumers expect choice in these dimensions
- Do they get it? If not, why not?
- **Competition authorities could do well to use SPQR as a basis of analysis**

Suppliers too experience good and bad

- With private label **supermarkets become competitors** as well as buyers
- **They set branded *and* private label prices**
 - Competition authorities have not challenged this
- **Would they allow Unilever to set Proctor & Gamble's prices, or Mars to set Nestlé's?**

Assaults on branded goods suppliers' intellectual property rights

- **Enforced sharing of development plans**
 - Goes way beyond retailers' legitimate needs to plan ahead: enables PL suppliers to free-ride
 - It is one-way traffic (PL plans not divulged to brand owners)
- **Copycat packaging**
 - Occurs even in sophisticated markets
 - The more developed the market, the more developed the copying

Original - Stones



Copy - ASDA

Original – Jacob's



Copy - ALDI

UK research for British Brands Group

- 64% of consumers say that look-alike packaging can be confusing
- 38% say they have been confused or misled
- 33% say they did buy the wrong product
- Some consumers think that branded and look-alike products are the same thing or come from the same source (Source: BMRB for BBG, 2009)
- **With such strong brand names of their own, why do supermarkets need to copy?**

Private label is just one manifestation of supermarket buyer and retailer power

- CI (and others) also report:
 - late payments to suppliers
 - unilateral price amendments
 - returned goods abuses
 - threats of delisting for supplier “transgression”
 - excessive squeeze on overseas growers...
- **Retailer power and buyer power reinforce each other**
- **Tackling private label abuse is not enough**

In summary

- **There are benefits and detriments arising from private label, but the detriments are serious**
- They touch upon
 - consumer law
 - IP law
 - B2B (contract) law
 - competition law
- The underlying competition problem is the market power of large retailers: **abuse of (collective) dominance**
- **But competition authorities alone cannot fix the problems**

Legislation or regulation on abuses

- CI membership and BIICL* report significant **hard and soft law developments**
- New or emerging:
 - Italy, Latvia, Norway, Portugal, Romania, Spain, UK
- Established:
 - Austria, Belgium, France, Germany

(*British Institute for International Comparative Law, *Models of Enforcement in Europe for Relations in the Food Supply Chain*, 2012)

DG Competition has also made a start

- “Commission launches study on choice and innovation in food sector”
- “...the Commission will examine, in particular, whether increased concentration and the use of own brand (private label) products have hampered choice and innovation in the European food sector”
- “The final report...is expected by the end of 2013” (Source: DG Competition, December 11, 2012)

Thank you!

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