Buying Alliances in the German Food Retail Sector

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Market players & market conditions (1)

A view on the retailers´ side

- Concentration level:

  1999 – EDEKA, Schwarz-Group (Lidl, Kaufland), ALDI, REWE, Metro, Tengelmann, WalMart, Spar

  Market share: about 70 %.

  2011 – EDEKA, REWE, Schwarz-Gruppe (Lidl, Kaufland), ALDI

  Market share: about 80 -90 %.

- Small changes can have significant effects**.**

Market players & market conditions (2)

A view on the relationship between retailers and the food industry

- Commercial partnership
- Distribution system and gate keeping
- Development of private labels - opportunities and risks
- Interconnection between bargaining position and market position in retail markets

Market players & market conditions (3)

A view on the consumer

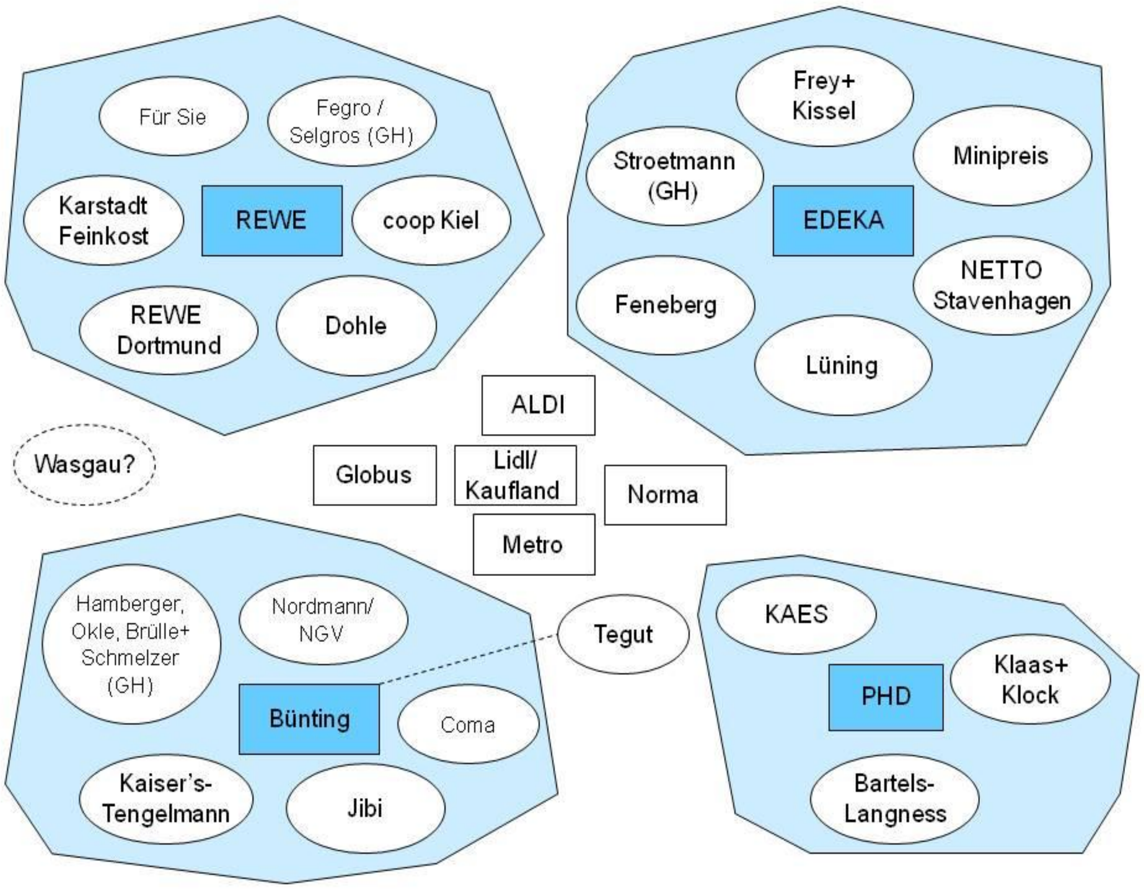
- Price competition
  - private labels („discounter price war“)
  - brands („high-low-price strategy“)
  - comparison of prices cross border
- Product choice
- Market concentration and consumer welfare

Buying alliances in the food retail sector (1)

Overview and priorities in case processing

- Application of German and European Competition Law (Horizontal Guidelines)
- Awareness of the ambivalence of buying alliances
- Careful look on buying alliances under participation of market leaders (15% threshold),
- Close examination of market power as intervention threshold (not *market dominance*!)
- Focus on buying alliances with „additional“ agreements
- Priority in the assessment of new or modified buying alliances

Buying alliances in the food retail sector (2) Networks



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Buying alliances in the food retail sector (3)

Theory of harm concerning purchasing markets

Structure

- Increase of market shares on procurement markets (→ aggregating purchases)
- Gate keeping concerning commercialisation and advertising (→ increase of knock-on-effect?)
- Number and intensity of links in the market (→ other buying alliances)
- Countervailing market power of (strong) suppliers (→ possible impacts on “mutual dependency”)?

Outside options

- Decreasing importance of alternative distribution channels (→ increase of knock-on effect?)
- Increasing replacement of no. 2 and no. 3 brands with private label (→ impacts on outside options for producers if private labels are included?)

Buying alliances in the food retail sector (4)

Theory of harm concerning retail markets:

Structure

- Market shares in retail markets (→ increase of market shares / alliance between regional „top dogs“?)
- Structural character of buying alliances (→ shareholdings, put- or call-options…)
- Foreclosure effects (→ increase of costs for competing retailers/buying alliances?)
- Exit, entry and expansion (→vulnerability of market structures?)
- Networks of buying alliances (→ cumulative effects?)

Buying alliances in the food retail sector (5)

Theory of harm concerning retail markets:

Collusion

- Closeness of competition (retail distribution systems)
- Approximation concerning variable costs (→ food retail: 70-80 %)
- Restraints on price and product range competition by object/by effect
- Joint external presentation (→ such as unification of private labels and product ranges
- Disclosure of commercially strategic information (→ promotion rebates, sales volume…)

Buying alliances in the food retail sector (6)

Theory of harm concerning retail markets:

Foreclosure / predatory strategies

- Increase of input costs for competitors / competing buying alliances
- If non-members being pushed out of the market – reduction of competition and increase of prices in the long run (→ vulnerability of the food retail market)
- Squeezing-out of smaller competitors by agressive location policies in times of over-supply
- Domino effect

Buying alliances in the food retail sector (7)

Art.101 (3) as a balance tool:

- **Efficiency gains**
  - Cost-savings and economies of scale vs. elimination of outside options for suppliers on concentrated markets.
  - Efficiencies unclear if unilateral negotiating mandate.
  - Efficiencies and obligation to purchase.

Buying alliances in the food retail sector (8)

- **Indispensability**
  - Obligation to purchase exclusively through the cooperation
  - Additional agreements as such
    - coordination of price and product range
    - exclusive costumer allocation (for example wholesale trade)
    - territorial protection
    - …

Buying alliances in the food retail sector (9)

- **passing-on efficiency gains to consumers**

  - Short-term effects (for example price level) – long-term effects (for example development of market power)
  - Intensity of competition and dependencies between members of buying alliance
  - Market power in regional markets
  - Increase of costs for competing retailers or competing buying alliances?

Buying alliances in the food retail sector (10)

- **No elimination of competition**
  - Assessment covers purchasing and selling markets
  - Short-term effects – long-term effects
  - Elimination of competition between the cooperation partners /elimination of competition on the markets (price, product range, private labels, territories…)

Buying alliances in the food retail sector (11)

Bundeskartellamt - Commission – a lot of consensus, some different views:

- Object or effect based approach to input price fixing (→ do obligations to purchase make a difference) ?
- Two-sided theory of harm (→purchasing and selling markets) or main focus on selling markets (→ detrimental effects on consumers)?
- Focus on short-term and/or long-term effects?

Thank you for your attention!

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