EuroCommerce 30 years Retail & Wholesale

Position Paper
May 2023

Revision of the Late Payments Directive: EuroCommerce views

EU retailers and wholesalers are responsible for millions of regular payments, mostly between SME buyers and suppliers. They establish mutually beneficial relationships with multiple suppliers, often over many years, offering reciprocal predictability of supply and demand and helping improve cash flow throughout the supply chain.

EuroCommerce represents the retail and wholesale sector throughout the EU. SMEs make up 99% of European retailers and wholesalers, employing 6 out of 10 retail employees and accounting for half of retail turnover and added value. These SMEs are the buyers and distributors in the supply chain, creating dynamism, interaction, prosperity and community in cities, large towns, villages and rural areas.

1. Payment terms enable retailers and wholesalers to offer choice, access and convenience to customers

Differentiating between late payments and agreed long payment terms is not always easy when claims of late payment of invoices are made.

A **late payment** is a payment occurring beyond the payment term agreed by the parties.

A **long payment term** is a period agreed by the parties when a payment will be made that can be in the future. It is not a late payment.

A **long payment term** enables a retailer or wholesaler to have **cash flow**, **share risks in the supply chain** and **offer choice, access, and convenience** to meet the demands of customers of all incomes. The 2011 Late Payments Directive has provided a framework for clear payment terms while **preserving the freedom of parties to negotiate** a longer payment term, if appropriate. This **helps many retailers and wholesalers remain competitive**, maintaining price competition across sales channels.

Slow moving consumer goods: long payment terms can help SME retailers offer a wider range of products and give them time to maximise sales before they pay their suppliers. As most retailers operate on low profit margins (1-3% in food, 4-6% in non-food), this is incredibly important for cash flow. It enables them to maintain a greater choice in stores to the benefit of their suppliers and their consumers and allows them to remain competitive with larger retail stores.

Seasonal products: long payment terms help buyers who have to order products well in advance of when they will sell them (e.g. Christmas time, BBQ season, summer clothing collection) and financially tide them over in non-peak periods. This enables them to share costs efficiently among all stages of the chain and gives them the certainty that they will have the stock that customers want when they need it.

Supplier credits: negotiating payment terms enables wholesalers to build and secure supply and customer relationships and pre-financing of companies in the supply chain. Offering supplier credits (e.g. in the building materials sector) can give an entrepreneurial customer (e.g. crafts, trade, industry, gastronomy and the hotel business) up to 90 days to pay for the materials needed to make changes to their buildings (e.g. to make them more energy efficient) or enable the trader and builders to serve their customers.

With long payment terms a DIY store can stock purple, pink and orange paint colours alongside the more popular white. This means more sales for suppliers and more choice for consumers.

With a long payment term, a fashion retailer can order its summer collection in advance of the season, with payment to follow later.

2. Changes to the Late Payment Directive needs to address the real problems

Governments should lead by example and pay their invoices promptly. This is required by the 2011 Late Payments Directive and the cost of any financial reward for prompt payments should not be passed on and borne by businesses.

Business-to-business payment terms have decreased. According to the 2022 European Payment Report, payment terms decreased from 46 days in 2020 to 39 days in 2022, despite the toll that skyrocketing energy bills and decade-high inflation have taken on business. In Spain, retail has one of the smallest delays in payment terms (13.54 days), a figure which has decreased by 5 days since 2011.

Asymmetries between smaller and larger actors will not be solved by legislation on payment terms. National and EU laws already provide the necessary tools, and the focus should instead be placed on increasing their use. **Courts need to have the flexibility to assess the specific circumstances** that apply to grossly unfair situations.

3. Focussing on dispute resolution and capacity building will help bring SMEs the financial lifeline they seek

Existing rules have improved payment culture in Europe. Better enforcement of existing EU and national rules will be more beneficial than amending a framework that has had a positive impact.

The EU and national governments should promote the voluntary uptake of alternative dispute resolution tools, such as **mediation** and **arbitration** to solve payment disputes between companies.

The use of tools that help SMEs with liquidity, such as **factoring, supply chain financing** and **electronic invoicing**, should also be encouraged. A 2020 study by the European Commission recognised that supply chain financing is seen by many governments as a solution to late payment issues.

Further education of SME suppliers and buyers (through awareness raising campaigns and training) can help speed up payment times, foster better understanding and enhanced access to alternative dispute resolution tools and supply chain financing. **Retail and wholesale associations can play a key role in empowering SMEs and in supporting the take up of digital skills.**

Better enforcement of existing EU and national rules that are working will be more beneficial to businesses – big and small – than imposing further regulatory burdens on SMEs and curtailing freedom of contract.

Introducing horizontal rules to address problems in one sector could shift problems in one part of the supply chain to another; jeopardising how retailers and wholesalers do business, serve their customers and threaten the competitiveness and viability of SME buyers.

Contact: **Niccolo Ciulli** +32 2 737 05 83 ciulli@eurocommerce.eu
Leena Whittaker +32 2 738 06 49 whittaker@eurocommerce.eu

Transparency Register ID: 84973761187-60