Proposal for a Late Payment Regulation: EuroCommerce views

Retail and wholesale significantly contribute to Europe's economy and society, representing one in five EU businesses and one in four EU SMEs. Over 90% of the sector is micro-businesses, and over 99% SMEs. Food and specialised (apparel, footwear, accessories, furniture, DIY, consumer electronics, sports, books, crafts, beauty, etc.) retail meet the demands of many types of consumers in different formats across the EU. Wholesale serves business customers, many of whom are SMEs, behind the scenes, for example, supplying drugs to pharmacies, parts for machinery, and building/electrical materials to trade for construction projects. **Retailers and wholesalers negotiate payment terms with multiple suppliers, with whom they have worked over many years, offering reciprocal predictability of supply and demand.**

Late payments ≠ long payment terms

A **late payment** is a breach of contract. It arises when a payment occurs after the payment term agreed by the parties. **A late payment is not the same as a long payment term. Long payment terms are a mutual agreement**. Late payments are an issue that needs to be tackled with proportional regulation and enforcement, not by imposing rigid limits on the freedom of contract, de facto eliminating a legitimate and economically beneficial instrument such as supply chain financing.

EuroCommerce stands by a culture of prompt payments in government-to-business and business-to-business transactions. Payment terms are an essential part of contracts. **Restricting them to 30 days or less goes far beyond the objective of addressing late payments**. It means negotiating a longer period - even if both sides want to – is prohibited. This applies to every operator in every supply chain, across all sectors in the EU. Such a strict rule does not exist in any Member State. The impact will be felt by consumers and communities beyond retail and wholesale. It is disproportionate, costly, highly disruptive, and impracticable given the constraints of the banking sector.

Flexibility benefits consumers & suppliers, supports resilience & competitiveness

Negotiating payment terms enables retailers and wholesalers to hold an inventory that offers choice and affordable prices, including niche, innovative products and products that respond to seasonality or unexpected shocks like natural disasters, war and pandemics.

At the end of the value chain, retailers have no contracts with consumers. They do not know when a consumer will visit their shops. Some goods that are expensive, have a long shelf life, niche applications or are seasonal, can take weeks, months, and in some cases even years to sell, especially in smaller towns that have fewer customers coming through the door. Retailers and wholesalers manage the risk by negotiating payment terms that somewhat reflect how quickly goods sell, deciding when to stock goods, when and how to expand or shrink their assortment and when to start or close a line of business/business avenue.

Flexibility enables mutually agreeable conditions that help manage the ordering, delivery, and selling of products with predictability for both sides (e.g. ensuring a supply of skis for the winter, and availability of DIY or sports equipment that may take a while to sell). It is also essential to Europe's resilience when there are shocks.

Flexibility also enables wholesalers to **support their business customers through supplier credit.** A tradesperson can place an early order to match delivery with the planned installation date, knowing storage and payment flexibility is available in case of delays. Retailers and wholesalers can also offer a manufacturer storage for the garden furniture it produces all year round so that when a sunny period starts, the spike in demand can be immediately and fully covered, and the products paid for.

The proposal hits retailers and wholesalers particularly hard.

Retailers and wholesalers operate with high inventories and low margins (1-3% in foods, 4-6% in non-food). Even when estimating conservatively, we find that **bringing payment terms to 30 days will create a massive liquidity gap in the range of EUR 100-150 billion**. That is between the GDP of Hungary and Slovakia. Removing the possibility to negotiate payment terms requires a radical overhaul of how business has been done for decades and the cost of filling that financial gap cannot just be absorbed by the companies.

With business loan availability plummeting, if finance is found, it will be expensive as interest rates are high, the return on investment is low and banks are increasingly risk averse. It will also cause longer-term negative effects by downgrading businesses' credit ratings.

It will create **major difficulties for large retailers and wholesalers**, but the **impact on SMEs will be dramatic**. They are already struggling to access finance for their investments and banks are unlikely to finance inventory. This will **accelerate bankruptcies** especially when Covid loans are due to be repaid and high inflation and energy prices are becoming the new normal.

Having to pay back all suppliers within 30 days, increases upfront costs. This further increases the difficulty for entrepreneurs to start their first business or invest in new business avenues. This **creates new barriers to entry into the market**. It further undermines the crucial role of that retailers and wholesalers play in their communities and in promoting social mobility.

This will strengthen non-EU players & harm EU competitiveness

For retailers of all sizes, **most transactions are with large global suppliers**, with familiar names in Fast Moving Consumer Goods, consumer electronics, apparel and toys. No negotiation over payment terms means less can be negotiated. Earlier payment strengthens their market power, with no guarantee it will flow back to the EU economy. These global giants will furthermore be **key beneficiaries of huge liquidity transfers arising from the drastic reduction in payment terms.**

It also **favours non-EU online players** who hold no inventory themselves but only intermediate transactions, often for non-EU suppliers selling directly to EU consumers.

It **saps away vast amounts of investment capital from a large sector that already lags behind its US competitors in the digital and green transformation**. A recent study estimates that our sector needs to invest up to € 600 billion by 2030 in talent, sustainability and digitalisation.

The impact will be felt by consumers and communities beyond retail & wholesale

With razor-thin margins and high-interest rates, retailers and wholesalers will have to pass on the additional costs to consumers at a time of a severe cost-of-living crisis. It will reduce choice, by forcing retailers and wholesalers to focus on what sells best, to limit cashflow gaps. It will force a shift to more expensive production and delivery models, such as just-in-time.

The stark reality is that a large number of businesses will no longer be economically viable. Their closure will be felt in local job markets, in town centres and rural areas. This will also have ripple effects for other value chain actors from farmers to logistics that work with our sector on a daily basis.

You can find out more by reading our position papers from May and August.

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