Monopolkommission

Competition in the Food Supply Chain

Special Report 84

Report of the Monopolies Commission pursuant to § 44 Abs. 1 S. 4 GWB

Executive Summary

K1. Agriculture is under pressure from several sides: the supply of food must be guaranteed at all times. At the same time, production should be more sustainable and more climate- and environmentally-friendly than before while the ideal image of rural agriculture is expected to be cultivated as far as possible. Despite high subsidies, economic pressure is strong: developments depend on world markets. Bureaucratic costs are rising. Strong companies are active at other stages of the food supply chain, increasing pressure on suppliers. The food retail sector in particular is dominated by four large companies, which are increasingly extending their influence to the stage of food manufacturing. A concerning concentration process is also taking place at the manufacturer level in many markets.

K2. The Monopolies Commission used empirical methods to examine the competitive relationships in the major value chains for dairy products, meat and cereal products. The special report provides the following key findings and recommendations.

The Gap between Producer Prices and Retail Prices Continues to Widen

K3. Consumer prices have risen enormously in recent years, particularly during the inflationary phase following the pandemic. In contrast, the prices that farmers receive for their agricultural products are rising at a much slower rate. This gap is continuing to widen. Agriculture marks the starting point of complex value chains. Profit margins are increasingly shifting to the downstream stages of these chains – in particular food manufacturers and food retailers. Agriculture is benefiting less and less from rising food prices.

K4. Agriculture usually has little clout in price negotiations. The prices of many, but not all, agricultural products are largely determined on world markets. Accordingly, the profits of agricultural businesses are subject to strong fluctuations. The profitability of businesses therefore varies. In some financial years, certain businesses may well record significant profits. However, they also always bear the risks associated with possible disruptions on the world markets.

Market Concentration in Downstream Value-Added Stages Is Increasing

K5. There are clear indications of competition problems in the stages downstream of agriculture. In the food retail sector, the Edeka Group, Rewe Group, Schwarz Group, Aldi Nord and Aldi Süd account for a large share of the market. Market concentration has increased significantly over the last two decades, not least due to numerous mergers. At the same time, average profit margins have increased. Consumer prices have also risen noticeably in recent years, especially in comparison with other EU countries.

K6. There are also concentration processes at the manufacturing level across all food supply chains. The degree of concentration varies depending on the supply chain. It is striking that the increase in price mark-ups at the respective stages coincides with the increase in market concentration.

K7. Another development with relevance to competition policy is the increasing verticalisation of food retailing. Through the growing presence of retailers via private labels and their own production facilities, trading companies are expanding their control along the value chain. Food retail is thus moving closer to agriculture. While this integration can bring efficiency gains, it also carries the risk of a shift in power at the expense of upstream stages.

Agriculture Is under Pressure, but the Balance of Power Varies Significantly across Different Supply Chains

K8. The analysis focuses in particular on three supply chains that account for a large part of the value added of agricultural products: milk, meat and cereals. The producer prices for milk are strongly based on international price quotations for raw milk. Costs for feed and energy, on the other hand, are determined at the national level. Accordingly, there is a growing decoupling between costs and producer prices. It is also striking that retail prices for dairy products have risen significantly faster than producer prices in recent years. Even when producer prices fell again, the prices of dairy products in supermarkets did not follow suit. The reasons for this increasing price divergence cannot be fully determined with the available data. However, there are indications that increasing concentration at the manufacturer level and in food retail may play a role.

K9. Producer prices for pork and beef are strongly based on the price recommendations of the producer organisations for livestock and meat (VEZG). As a result, agricultural producers have been able to maintain their negotiating position vis-à-vis the downstream market stages to a certain extent. This is particularly relevant as market concentration at these stages has recently increased significantly. It has now reached a level that raises competition concerns, particularly in slaughtering and processing. In addition, retail companies operate their own production facilities for meat products, which strengthens their bargaining power in price negotiations. Accordingly, the analyses indicate that there is an increasing shift in profit margins from the producer level to the downstream levels.

K10. Producer prices for cereals are largely determined by developments on the world markets. Overall, competition appears to be more intense at the downstream stages than in the other supply chains considered, although it is not entirely unproblematic. The animal feed industry still appears to be quite competitive. Similar to the other supply chains, however, increasing market concentration can be observed in the starch and milling industry as well as the bakery industry.

K11. Comparisons between the agricultural sectors for dairy products, meat and cereal products reveal differences. Dairy farms have seen the greatest increase in productivity. As with cereals, pricing is largely determined by global markets rather than operational efficiency. Cooperative structures for milk processing play an important role here, as they enable greater integration of agriculture into the value chain. The rising costs of animal feed, farm equipment and veterinary services are not fully reflected in producer prices. In the meat sector, on the other hand, efficiency gains have been lower. Here, the downstream industry is highly concentrated and has considerable bargaining power. In the cereal market, agriculture is in a comparatively good economic position. The downstream stages are more competitive than in the meat sector, but less vertically integrated than in the dairy sector. These differences in structure and concentration show that a differentiated analysis of the individual supply chains is necessary in order to assess the economic situation of agriculture appropriately.

Structural Change in Agriculture Should Be Supported and the Use of Innovative Technologies Promoted

K12. The levers for improving the competitive position of agriculture lie primarily on the cost side. From an economic perspective, structural change towards more cost-efficient production and a strengthening of the competitive position of agriculture in the value chain should be supported. The structural shift towards larger farms has been in full swing for decades. The number of farms is declining, while the average farm size is increasing significantly. Larger farms benefit from cost advantages in the form of economies of scale and better access to capital. At the same time, however, other consequences of the structural change towards large farms must be taken into account. As farms become larger and more efficient, the landscape, animal husbandry and social conditions also change.

K13. Smaller farms can also increase efficiency by using innovative technologies, thereby strengthening their competitive position. This can include the use of data-driven technologies in the field of precision farming. The political framework should create incentives for the use of modern technologies so that smaller farms can also benefit from efficiency gains. This could include subsidies that emphasize performance rather than land size, prioritizing productivity, innovation and sustainability goals. Such targeted support instruments do not artificially preserve economically inefficient structures, but rather support necessary adjustment processes. The overall high bureaucratic burden on agriculture should be systematically reduced.

Interventions in Free Price Formation Are too Prone to Error

K14. Minimum prices for agricultural products are sometimes discussed as a possible instrument for mitigating the economic risks for agriculture. The proposed ban on purchasing agricultural products below production costs supports this approach. Economic literature does indicate that minimum prices for agricultural products can theoretically make sense under very narrow conditions, such as in cases of high price volatility and very unevenly distributed bargaining power.

K15. In practice, however, implementation is highly susceptible to influence from lobbyists and interest groups and requires a complex bureaucratic regime for price setting, control and compensation payments. These administrative costs and the risk of misallocation clearly outweigh the potential benefits. Minimum prices in the agricultural sector should therefore be rejected. Instead, framework conditions should be created that strengthen market mechanisms and remedy market failures. This includes stricter merger control in particular.

Merger Control Should Take the Entire Supply Chain into Account

K16. The increasing market concentration at the food retail and manufacturer levels, e.g. in the meat processing industry, is the result of both organic growth and corporate mergers. It is critical when corporate mergers reduce the intensity of competition in the markets as it can have negative consequences for upstream and downstream stages. Upstream stages have fewer sales opportunities, which can weaken their negotiating position in the supply chains. Downstream stages may face higher price mark-ups. Ultimately, this is at the expense of consumers in supermarkets.

K17. The high level of concentration in many areas is concerning from a competition perspective. The remaining competition in supply chains must therefore be protected as a matter of urgency – particularly in food retail, where further market concentration should be avoided, as well as in some areas of food manufacturing and, last but not least, in the increasingly integrated, vertical relationships between these two stages. Merger control should take the entire supply chain into account. In the opinion of the Monopolies Commission, the approach taken to date focuses too narrowly on effects at individual stages. Mergers that have damaged competition across the entire supply chain have not been sufficiently prevented to date.

K18. In addition to local procurement and sales markets, cross-market considerations should play a much greater role in future in order to adequately assess the overall potential damage of the takeover of individual or multiple locations. In addition, the approach to investigating vertical relationships in merger control should be adjusted. In the food retail procurement markets, closer attention should be paid to whether the four major food retailers hold a joint dominant position.

K19. In the case of mergers at the manufacturer level, the bargaining power of food retailers should not be hastily regarded as a sufficient counterweight to preserve competition. The bargaining position of a market counterparty tends to be overestimated in antitrust assessments. The process of concentration in the food retail sector should not continue at the manufacturer level. Otherwise, there is a risk that margins at these two levels will increase at the expense of agriculture and consumers.

K20. The increasing verticalisation of the food retail sector also poses a particular challenge for merger control. The risk of a shift in power to the detriment of upstream stages and consumers as a result of such mergers is not adequately addressed by the current approach of the competition authorities. In future, greater attention should be paid to the impact of such mergers on bargaining power in the supply chain.

Effective Abuse Control Is Necessary

K21. The existing market concentration at the food retail level and, to some extent, at the manufacturer level requires more effective abuse control. Otherwise, there is a risk of abusive pricing and non-pricing behaviour at the expense of food suppliers, especially agriculture. Detailed legal foundations already exist in the form of the general prohibition of abuse of a dominant position and the rules against unfair trade practices (UTP). However, enforcement is severely limited by the so-called fear factor. Companies are reluctant to take legal action against their powerful contractual partners or to report them to the authorities.

K22. In future, the enforcement authorities (Federal Cartel Office and Federal Office of Food and Nutrition) should concentrate on cases that (1) are of high economic relevance, (2) are difficult to enforce under private law and/or (3) can further specify the legal requirements. In addition, civil law enforcement should also be strengthened.

K23. The UTP rules represent a central set of rules for fair contract negotiations. Their specific prohibitions should be retained. However, their scope of application should be simplified by limiting it to supply relationships involving farmers or their cooperatives. Their enforcement should be taken over by the Federal Cartel Office. A legislative extension of the prohibition of abuse under antitrust law is not expedient. However, the possibility of enacting and enforcing national regulations that are stricter than the EU prohibition of abuse should be retained.

More Insights into the Interrelationships in Supply Chains Are Needed

K24. This special report contributes to a better understanding of competitive developments in important food supply chains, but due to limited data access, it cannot address all competition-related issues within supply chains, particularly at the food retail level. Further analysis remains necessary. The effects of increasing concentration within supply chains – both on agriculture and consumers – must be better understood in order to make better political and antitrust decisions.

K25. To this end, an ex-post evaluation of merger and abuse proceedings should first be carried out. For example, there are strong indications that the takeover of Kaiser's Tengelmann by Edeka, which was approved by the then Federal Minister of Economics and Energy in 2016, has significantly damaged competition in the food retail sector. In addition, scientists have developed new analytical methods in recent years. These should be consistently incorporated into both antitrust proceedings and ex-post analysis of competition policy measures in the area of food supply chains. This requires providing the competent institution with sufficient resources – both for the acquisition of relevant data and for its comprehensive evaluation. This is the only way to ensure that modern economic methods can be consistently applied in antitrust proceedings and that evidence-based economic policy advice is possible.