

The Galland Law and its Reforms

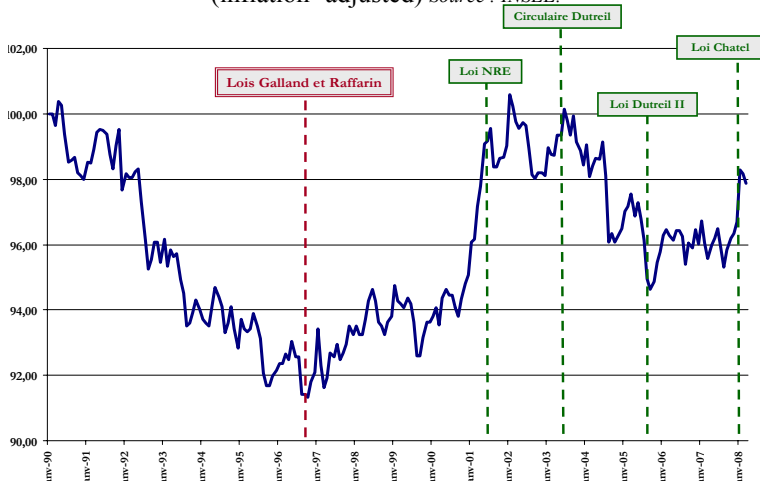
La loi Galland sur le commerce : jusqu'où la réformer ?, Opuscule
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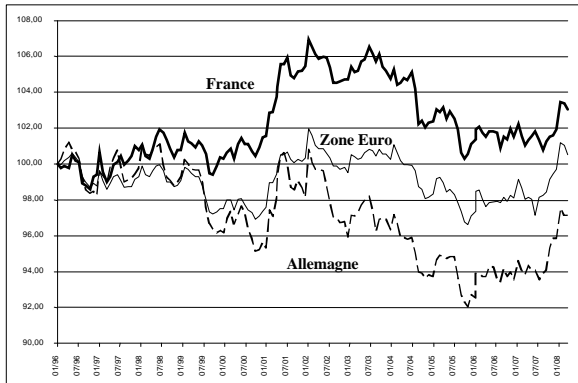
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Introduction

Evolution of retail food real prices (inflation -adjusted) *Source : INSEE.*



Price evolution in the Euro area



Outline of the presentation

- 1 The Galland law and its effects on retail prices
 - 1. The Galland law
 - 2. The Resale Below Cost law (RBC law)
 - 3. The effect of the RBC law on retail prices
 - Theoretical
 - Empirical
- 2 The sequence of reforms
 - 1. The RBC law thresholds
 - 2. The bargaining of general terms of sales
 - 3. The RBC law principle
 - 4. The regulation of retail structure
- 3 Conclusions

The Galland law

- The purpose of the Galland law was to maintain the loyalty and the balance in the commercial relationships between large retail chains and both their suppliers and small retailers.
- The key points of the Galland law
 - A new definition of a RBC law threshold (art.10)
 - Strengthens the RBC law principle (art.11)
 - Forbids excessively low prices (art. 5)
 - New framework of regulation for sales and promotions (art.9)
 - Authorizes the refusal to sell (art. 14)
 - More stringent framework for listing and delisting of products by retailers (art.14)

The Resale Below Cost law (RBC law)

- Why a RBC law ?
 - To avoid predatory pricing at the retail level (big chains vs. small shops). Anti-predatory legislation should be sufficient, but per-se laws are easier to enforce.
 - Producers complained that loss leaders harms the reputation of their products. Ok for luxury good but not for goods sold in supermarkets.
 - Producers also complained that these practices intensify the pressure by rival retailers to lower their price, but this is competition.
- Why a RBC law should lead to a price raising ?
 - In theory, it is not clear ...
 - ... but the definition of the RBC law threshold enabled producers to set price-floor to their retailers which caused an increase in prices.

In theory

- (+ ?) If loss leaders were likely to drive some firms out of the market, a RBC law may prevent a price raising in the long run
- (+ ?-) If loss leaders are optimal short term pricing for the retailer (= Ramsey pricing), a RBC law may prevent the retailer from extracting part of the consumer's surplus.
- (-) Advertising on loss leaders enables a retailer to attract consumers, who once in the shop, and due to shopping costs, buy other products at higher prices, or enable consumers to try a new product.
- (?) The total effect is not clear
- Our view : the price-effect in France relies on the price-floor mechanism settled by the definition of the threshold in the French RBC law

The price-floor effect

	General Terms of Sales (GTS)	Supplier's invoice
	- Price list - Quantitative rebates on prices - Rebates related to the sale - Discount	<i>Net invoiced price</i>
RBC threshold	- Conditional rebates (deferred) - Specific services appearing in the GTS	<i>Net net invoiced price</i>
Backroom margins	Commercial services	Retailer's invoice (separated)
	Non specific services (Slotting allowances, marketing services,...)	<i>Net net net invoiced price</i>

- The RBC threshold defines a price-floor
- This price-floor is uniform (non discrimination of GTS)

The price-floor effect

- A uniform price-floor suppresses retail competition.
- A uniform price-floor may act as a RPM and thus also relaxes producers' competition. (\simeq RPM- Jullien and Rey (2000), Rey et Vergé (2004))
- A uniform price-floor is even worse than a RPM restraint (Allain et Chambolle (2005, 2007))

Empirical analysis

- A few US econometrics studies (Anderson Johnson, 1999 ; Skidmore et al., 2005 ; Calvani, 1999) offer contrasted conclusions. In Europe, Collins et al. (2001) clearly show that the Irish Groceries Order (very close to the Galland law) had inflationary effects on retail prices.
- Biscourp, Boutin et Vergé, (2008) develop an empirical analysis on french data (IPC, INSEE) and conclude to a negative effect of Galland law on retail competition.
 - ① Correlation between retail prices and the HHI retail concentration index is divided by 3 over the period (1994-1999) : retail prices are no more related to the local retail market structure ;
 - ② Lower prices have caught up the highest.

Empirical analysis

- Bonnet,Dubois (2007) : Secodip data on mineral water market. The contract between producers and retailers is two-part tariff contracts + RPM which confirms the price-floor effect of the Galland law.
- Several cases by National Competition Authority (Videotapes case BVHE (2005), Calculator case, (2003) Toys case(2007).

1. The RBC law threshold reforms

- Wrong definition of the RBC law threshold + uniform threshold \implies price raising.
- Dutreil law II (2005) backroom margins are expressed in % of the net invoiced price. Part of the backroom margin ($> 15\%$) is reintegrated in the threshold.
- Chatel law (2008) : New RBC threshold = net net net invoiced price = sufficient to destroy the price-floor mechanism.
- However, on the period 09/2005 – 09/2007 the lowering in retail prices : $-2,6\%$ (UFC-Que Choisir) \implies how to go further in the reform ?

2. Bargaining of GTS

- Discrimination by a producer among retailers was not forbidden but in a stringent framework + (L-420-2) Abuse of dominant position.
- Loi de modernisation économique 2008 made it more licit for a producer to discriminate among its retailers
- Advantage = it may lower retail prices. In a secret contract environment, anti-discrimination rule just reduces competitive pressure
- Drawbacks
 - The price-floor mechanism was already destroyed by the RBC threshold reform
 - Exclusion of small independent suppliers
 - A measure rather in favor of powerful retailers.

3. To suppress the RBC law principle

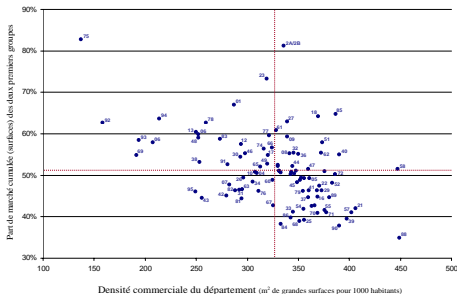
- Boils down to return to the predatory pricing legislation (L-420-2)(Irish case)
- RBC law in itself had unclear economic effects
- It is a simple rule in a sector where loss leader practices are frequent..../ Rule of reason particularly complex to implement
- The Netherlands and Germany (came back to a RBC law *per se* joined with market power criteria)

4. Reform of the retailing structure

- Royer + Raffarin laws have limited the entry of new outlets ($> 1000 m^2$ and $> 300 m^2$) limited the entry of HD and favored merger waves among large retail chains.
- Existence of quasi-monopoly at the local level

Densité commerciale et concentration au niveau départemental

(Sources : Calculées par les auteurs à partir de données TradeDimensions et INSEE)



4. Reform of the retailing structure

- LME
 - Raise the threshold of entry control to outlets $> 1000m^2$
 - Reorganization of the control commission (CDEC) : decision based on urbanism and no more on economic criteria
- Risk = this reform is insufficient
- It is necessary to maintain a "competitive market structure" at the local level by regulation both ex ante and ex post
 - Ex-Post : Occasional local de-concentration (Role of the National Competition Authority?)
 - Ex-Ante : The entry of a new outlet may reduce competition at the local level (Competition test suggested by GB but rejected by EU).

III. Conclusions

- The reforms have successfully suppressed the price-floor adverse effects on competition
- The next main step is to promote local retail competition
- Other reforms may have a beneficial effect on prices only conditionally to a reform of the retail structure itself.
- Warning : A change of goals naturally leads to a change of law.