

To the attention of:

Ms Géraldine Fages, European Commission, DG Grow, Unit F3 *Food, Health, Retail*

Ms Joanna Zawistowska, European Commission, DG Grow, Unit F3 *Food, Health, Retail*

Sent by e-mail

30 September 2021

Dear Ms Fages,

Dear Ms Zawistowska,

I refer to our prior conversation regarding the Staff Working Document on drivers of/barriers to the green and digital transition of the retail ecosystem that the European Commission is currently preparing.

ECSP members are pleased to provide input on what they view as barriers to a successful green and digital transition for the retail sector as well as to make recommendations how these barriers could be addressed.

Please find our detailed feedback attached as an annex to this letter. In short, in addition to the digital and green transition, we did take the view that it was important to also address a number of other important themes that we deem to be crucially important to ensure a successful transition for the retail sector going forward.

Moreover, it is important to acknowledge that the Covid-19 pandemic has had significant negative financial impact on shopping places and the entire retail sector in Europe. Although a number of important support measures have been taken on both EU and national level, we are deeply concerned that these measures might not be sufficient to prevent a severe downturn in the retail property sector. This would inevitably impact the industry's ability to invest in tomorrow's decarbonized and digitalized retail, although it has ambitious plans to do so.

ECSP kindly offers its continued support to the European Commission's effort to design a new strategy setting out the pathways for the green and digital transition of the retail ecosystem. We are also happy to discuss our feedback with you in more detail as well as to provide additional input or data if think that this could be helpful.

We are looking forward to working together with you on this important project going forward.

Kind regards,



Joost Koomen

Secretary General, ECSP

Issues	Actions and possible divisions of roles	Possible outcome scenarios for 2030
<p><u>Digital transition: Enabling omni-channel retail by ensuring a level playing field between online and offline retail</u></p> <p>The covid crisis has strongly facilitated digitalisation of the retail industry, bringing benefits to both the industry and customers. However, the existing regulatory landscape does not guarantee or enable fair competition between online marketplaces and physical ‘brick & mortar’ shopping places. It also hampers the further development of the omni-channel retail model. To ensure all retail avenues can thrive and provide continued value to European consumers, create jobs and positively impact communities, ECSP invites the European Commission to promote and develop fair regulation applicable across all geographies and throughout the retail value chain.</p> <p>In particular, the new strategy should address the following:</p> <ul style="list-style-type: none"> - Inequality in terms of applicable fiscal and other tax regulation (for example, online retailers are currently not subject to the same levels with regards to corporate taxation, property, building, local environmental taxes). - Inequality in terms of environmental regulation ((for example, online retailers are currently not subject to the same regulation on waste management and recycling of materials; distribution of goods and returned goods (inverse logistics); last-mile impact in terms of deliveries and emissions; building requirements including authorisation for warehousing where online retail generally benefits from less stringent requirements than brick and mortar approvals, 	<p><u>ECSP invites the European Commission to:</u></p> <ul style="list-style-type: none"> - Identify areas of divergent treatment and harmonise regulation applicable to both online and physical retail e.g. by means of launching a comparative market study(ies). We recommend prioritising taxation, going beyond corporate taxation and also look at property, environmental, local/municipality and other taxes. - Closely monitor the application and enforcement of the revised VAT Directive regarding imports from third countries. Goods imported without payment of VAT cause an enormous retail market distortion, putting European retailers at a comparative disadvantage. - Explore to what extent existing regulations such as the Services Directive can address discrepancies in sales (discount periods and opening hours) and advertising. In numerous EU countries, opening hours, Sunday openings and sales periods are restricted and/or regulated. These are not applicable to online shopping. An overarching aim should be to 	<p><u>A more levelled playing field would help to:</u></p> <ul style="list-style-type: none"> - Ensure European consumers can keep counting on the value delivered to them by both physical and online retailers. - European cities remain vibrant and a valuable resource to the communities they serve, versus the increased chance of urban blight should they fail.



<p>even though they are less efficient in the use of space than standard logistic buildings).</p> <ul style="list-style-type: none">- Inequality in terms of applicable sales and advertisement regulation (for example, online retailers are currently not required to follow the same rules as shopping places with regards to opening hours, Sunday openings, delivery / click & collect or shipping rules, as well as special sales). Regulation should also enable evolution of uses: e.g. shopping places could function as sales intermediaries (such as their online counterparts) to also increase circularity (re-use/re-sale) of products, however regulation does not allow this.- Inequality in terms of applicable labour law and conditions, also in terms of number and quality of jobs that are created and supported. In terms of their community value, shopping places generally create more local jobs than pure e-tailers (at comparable levels of transactions / sales).- Regulation for urban (local/regional) planning to optimise land allocation and use and prevent arbitrary moratoria on retail and retail property (as opposed to, for example, logistic warehousing). <p>Also, the strategy should recognise that shopping places are more than just convenient locations to shop. They are also important social and economic hubs that are fundamental for vibrant and attractive urban centres, delivering an experience that everyone can enjoy.</p>	<p>ensure that the Services Directive enables the development of omnichannel retail business models to the benefit of all.</p> <ul style="list-style-type: none">- Monitor and enforce the correct application of the Services Directive and the <i>Visser</i> ruling on retail establishment conditions.- Make financial support such as subsidies and/or long-term & low-interest loans available for the digitalisation of services and the development of omnichannel services.	
<p><u>Green transition and sustainability: decarbonisation / GHG emission reduction</u></p>	<p><u>ECSP invites the European Commission to:</u></p> <ul style="list-style-type: none">- Ensure that relevant Green Deal regulation takes into account the specific needs and	<p><u>A greener retail property value chain will help to deliver:</u></p>



The retail property sector is a leader in delivering green real estate with reduced GHG emissions. Shopping places renovate at a rate that is unparalleled in the property sector (4%, source CommONEnergy/BPIE).

However, shopping places and shopping centres in particular are complex properties. Whilst every effort is being made to reduce energy consumption, they can still consume a high amount of electricity due to lighting and ventilation. Heating is proportionally a smaller part of the total energy consumption, as visitors and lighting already generate heat.

ECSP believes that as shopping places continue to decrease their emissions and continue to evolve into multi-use spaces, it is more efficient and effective to renovate, than rebuild. Demolition of buildings would not be positive for the environment.

However, in order to achieve the EU's 2030 target, a number of challenges will have to be addressed:

- The Covid-19 pandemic has had a significant negative impact on shopping places in Europe. Shopping places have often been discriminated by national and local authorities compared to high street retail. For example, in France shopping centres were closed longer than other shops and sanitary passes have been required to access them, despite epidemiological studies proving Covid-19 has not been transmitted within shopping centres. This disproportionate impact means that our industry now has less financial capacity to invest in tomorrow's decarbonized and digitalized retail regardless of its ambitious plans.
- Lack of consistency and clarity in the diverging definitions and targets about what constitutes zero energy / near zero energy/ zero carbon

requirements of the retail ecosystem in terms of reducing energy use and improving energy efficiency, and specifically addresses the split incentives issue.

- Ensure clear and aligned definitions for near zero energy/zero energy/zero carbon/buildings across EU regulation and policy framework as well as harmonised application in Member States to enable and accelerate the green transition.
- Adopt a clear, energy-safe refurbishment roadmap to be integrated in an energy renovation growth path including support funding programmes for both analyses as well as implementation of the roadmap.
- Incentivise investments in decarbonisation/sustainability capex via existing or new EU funding programmes accessible for the retail eco-system (e.g. InvestEU, Horizon etc).
- Enhance coordination with national authorities to ensure that national climate or planning laws do not prevent retail property owners from upgrading and updating existing centres.

- Continued reduction of CO₂ emissions across the retail property sector.
- Increased rate of renovations in the retail property sector.
- An overall greening of the broader retail value chain.
- More efficient operation and monitoring.



<p>(buildings) across EU regulation as well and how they can/should be achieved. This is creating confusion for companies as well as for the national authorities that have to implement them. This is hindering the green transition.</p> <ul style="list-style-type: none">- National regulation limiting property owners' ability to renovate and upgrade existing shopping places.- Lack of standardisation of technical building equipment that improves energy use/efficiency.- Lack of (access to) sufficient funding to decarbonise/invest in sustainability capex (e.g. energy efficiency, reduction of emission, rethinking the way space is used, increasing tree coverage/green planting, charging ports for electric cars, efficient lightning, PV panels, vehicle recharge points, renovation of derelict areas/buildings). <p>Need to move consumers to cleaner means of transport which is addressed very differently in different EU Member States and which requires significant additional funding.</p> <p>Beyond the challenges, there is also an opportunity: with the right regulation and funding, shopping centres can act as a hub for green energy production on site. This can directly serve tenants as well as local neighbourhoods and districts, with the additional advantage of reducing inefficiencies due to energy transportation.</p>	<ul style="list-style-type: none">- Adopt standard communications protocols for technical building equipment to allow ease of integration and hence increase efficiency.- Ensure access to funding, in the form of a refinancing initiative for physical retailers to support decarbonization.	
<p><u>Post-pandemic retail relief funding</u></p> <p>A number of important support measures have been taken at both EU and national level, the majority of which are about to conclude. Nevertheless, in</p>	<p><u>ECSP invites the European Commission to:</u></p> <ul style="list-style-type: none">- Call on Member States to dedicate part of NextGenEU funds to the retail ecosystem.	<p><u>Access to more funds will allow retail property to:</u></p>

<p>light of the magnitude of the current crisis and the associated uncertainty, we are deeply concerned that these measures might not be sufficient to prevent a very severe downturn in the retail property sector.</p> <p>A number of significant funding challenges should be addressed:</p> <ul style="list-style-type: none"> - It is increasingly difficult to obtain financing/refinancing of bank loans without more stringent conditions. This impact the sector’s ability to implement the green and digital transitions. - The retail eco-system seems to have been almost entirely left out of any national plans submitted to access NextGenEU funds. 	<ul style="list-style-type: none"> - Explore the possibility to set-up a dedicated EU Retail Relief Fund as part of an existing EU funding programme. For example, in the Netherlands, the government has established a fund of €100M to redevelop and transform inner cities that suffer most from urban blight. The EU could consider a similar initiative to support the post-pandemic transformation of retail spaces. - Address the European financial sector in its new retail strategy. In particular, banks play a crucial role in providing the financing of the majority of the retail eco-system. The funding required for the coming greening and digitalisation will have to be provided to a large extent by banks/the financial sector. 	<ul style="list-style-type: none"> - Accelerate its digital and green transitions. - Ensure European communities do not suffer the impact of urban blight with the closure of important shopping places.
<p><u>Health and safety measures</u></p> <p>The shopping places designed, created, funded, developed, built and managed by ECSP’s members receive billions of visitors every year. Their health and safety has always been at the very top of our priorities. Our industry has always monitored access and density to our facilities, not only to protect consumers, retailers and employees from health risks, but also to prevent terrorism and other criminal behaviour.</p> <p>During the pandemic, shopping centres have adapted to the very stringent health protection measures imposed by government authorities. Often, they also went beyond required regulations, for example ensuring air quality in their centres.</p>	<p><u>ECSP invites the European Commission to:</u></p> <ul style="list-style-type: none"> - Recognise that existing restrictions must not be arbitrary and have a scientific basis that is applied evenly and fairly. This should avoid providing unfair competitive advantage of one type of retail vis-à-vis others (e.g. small v large surface) - Recognise that the restrictions are also a source of increased potential risk, e.g. by creating long lines at access points, creating more of a public health and safety risk. 	



<p>However, ECSP's members still face a number of challenges:</p> <ul style="list-style-type: none">- Lack of understanding/acceptance by the authorities that shopping places, in particular shopping centres are in fact very safe public places. The industry has managed to implement sophisticated health control measures. These include air quality control, face mask requirements as well as air control, access control and cleaning protocols.- The unfair/uneven imposition of 'sanitary passes' to enter large shopping places in several countries (as opposed to smaller shops or even public transport) is not based on any scientific evidence, creating an unfair competitive advantage for all other types of retail. Moreover, the enforcement is often either not possible (e.g. shopping places part of/ integrated into large transport hubs), or prohibitively expensive. Furthermore, retail property companies do not have any legal mandate to hold or refuse anybody that wants to enter its premises without a pass – this can only be done by public authorities	<ul style="list-style-type: none">- Involve the retail industry in the development of health and safety standards for retail (public) spaces in a post-pandemic world. ECSP members have been at the forefront of developing and applying health/safety measures to ensure a safe shopping experience during the pandemic. They have a lot of experience in how to best organise and safely manage a public space and are happy to contribute to robust but also realistic health & safety European protocols.- Consider what types of financial support could be envisaged for the safe management of shopping places if owners, managers and tenants of these are expected to both put in place and enforce these measures	
<p><u>GDPR/Data protection</u></p> <p>ECSP's members share the EC's conviction that consumer data protection is fundamental. At the same time, if done in compliance with regulation, the processing of data can provide an important source of evidence and benefit for businesses to help drive and deliver a more sustainable European industry.</p> <p>Therefore, ECSP asks the EC for guidance and clarification about which data can be processed, in particular regarding:</p>	<p><u>ECSP invites the European Commission to:</u></p> <ul style="list-style-type: none">- Provide guidance and clarify GDPR applicability, particularly with regard to (i) license plate processing and (ii) image/video consumer profiling. It is currently unclear whether personalization of services based on this data is business-justifiable or requires prior consent.	<p><u>Access to the right kind of data will help the retail property sector to:</u></p> <p>Drive energy efficiency by working with tenants and utility companies and thereby helping to deliver the green transition.</p>



<ul style="list-style-type: none">- possibility to collect and process tenant-specific data about electricity consumption to improve the energy use & efficiency of a building (and to better address the split incentives issue) in several Member States.- use of images for consumer profiling and processing of license plates entering parking facilities to ensure a better overall shopping experience. <p>Regarding the split incentives issue, is important to emphasise that an average shopping centre usually hosts around 200 different tenants, and that tenants' electricity consumption amounts to 2/3 of a centre's total electricity consumption. Unfortunately, data related to tenants' consumption is too/can be often not shared with the centre's owner, making it impossible to properly assess or improve the overall energy consumption of the shopping centre.</p>	<ul style="list-style-type: none">- Ensure that GDPR provides for the sharing of a tenant's energy consumption data to retail property owners/managers, either directly from the tenant or via the involvement of utility companies (energy providers).	
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