

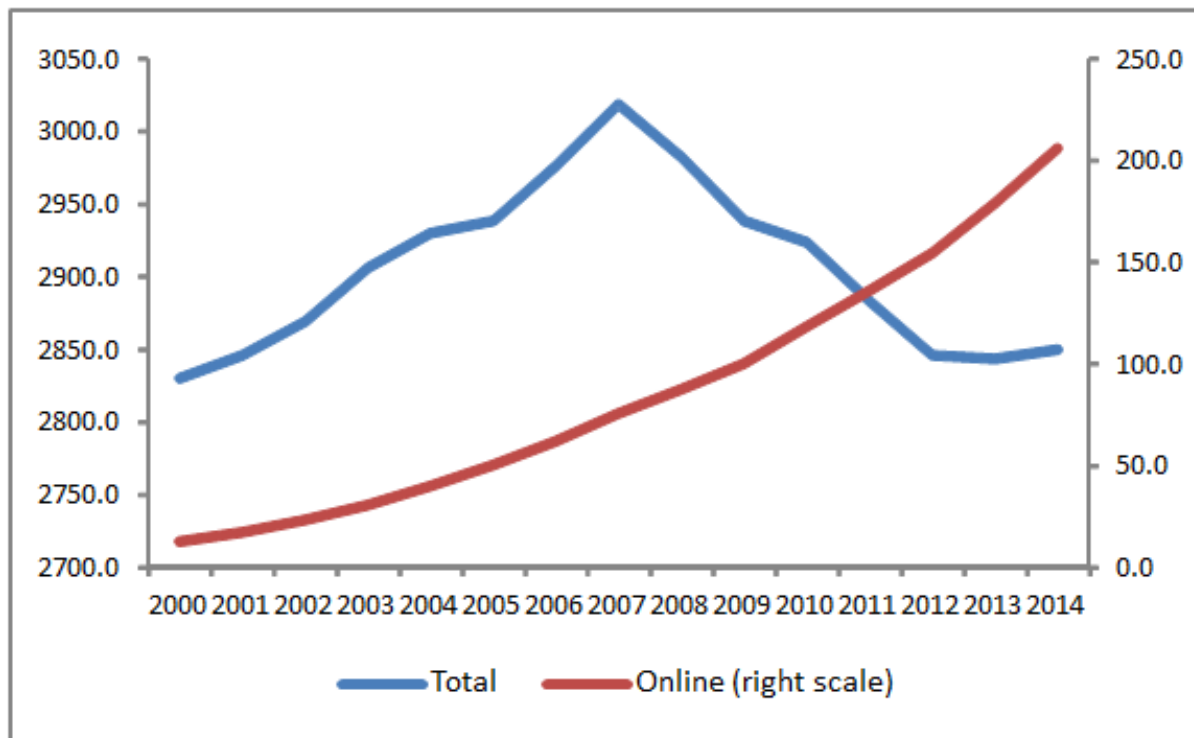


The E-Commerce Sector Inquiry

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The views expressed are purely personal and do not necessarily represent an official position of the European Commission.

Total and Online Sales



Estimated evolution of the total and online retail sales in goods, 2000-2014 (in billion EUR, from Duch-Brown and Martens, JRC, 2015)

Context: Digital Single Market Strategy

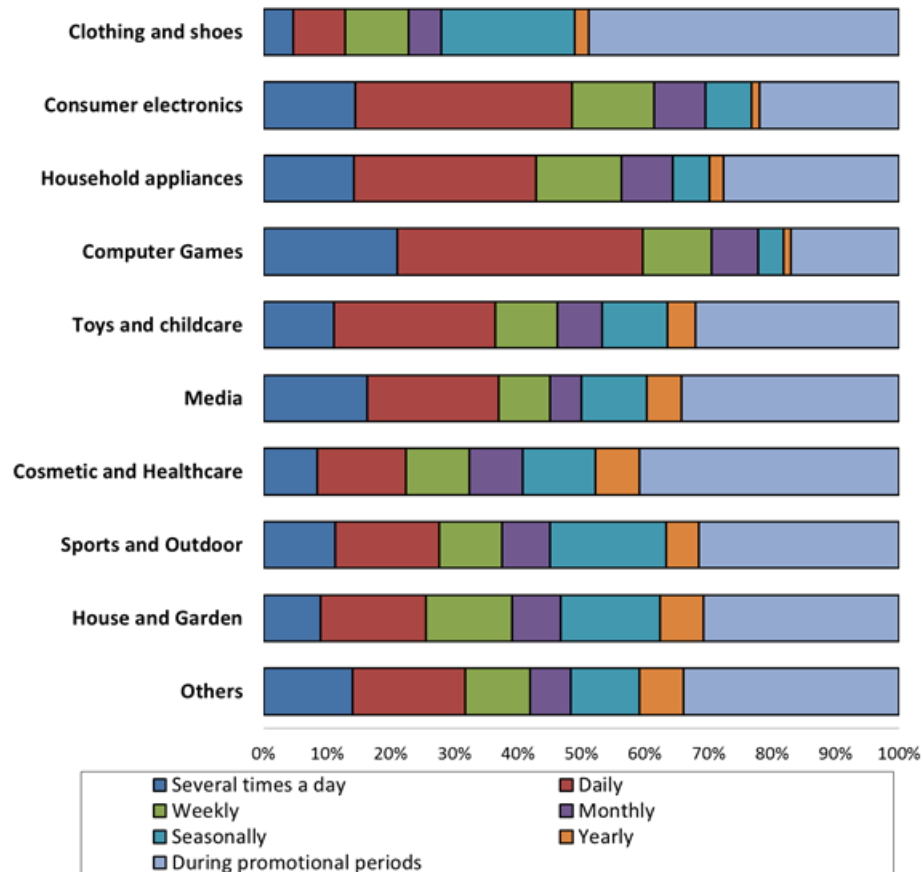
- ❖ Political priority of the Commission, adopted on 6 May 2015
- ❖ Aim: Better access for consumers and businesses to online goods and services across Europe - Remove unjustified barriers
- ❖ Actions:
 - Legislative actions → public or regulatory barriers
 - **Complemented by Sector Inquiry → private or company erected barriers**

Key Findings – Consumer Goods

- ❖ More **price transparency** and **price competition**
 - ❖ More price monitoring
- ❖ **Impact on distribution strategies**
 - ❖ Increased presence of manufacturers at the retail level (own webshops)
 - ❖ Increased recourse to selective distribution
- ❖ **Vertical Restraints**
 - ❖ Pricing restrictions
 - ❖ Territorial restrictions
 - ❖ Online sales restrictions

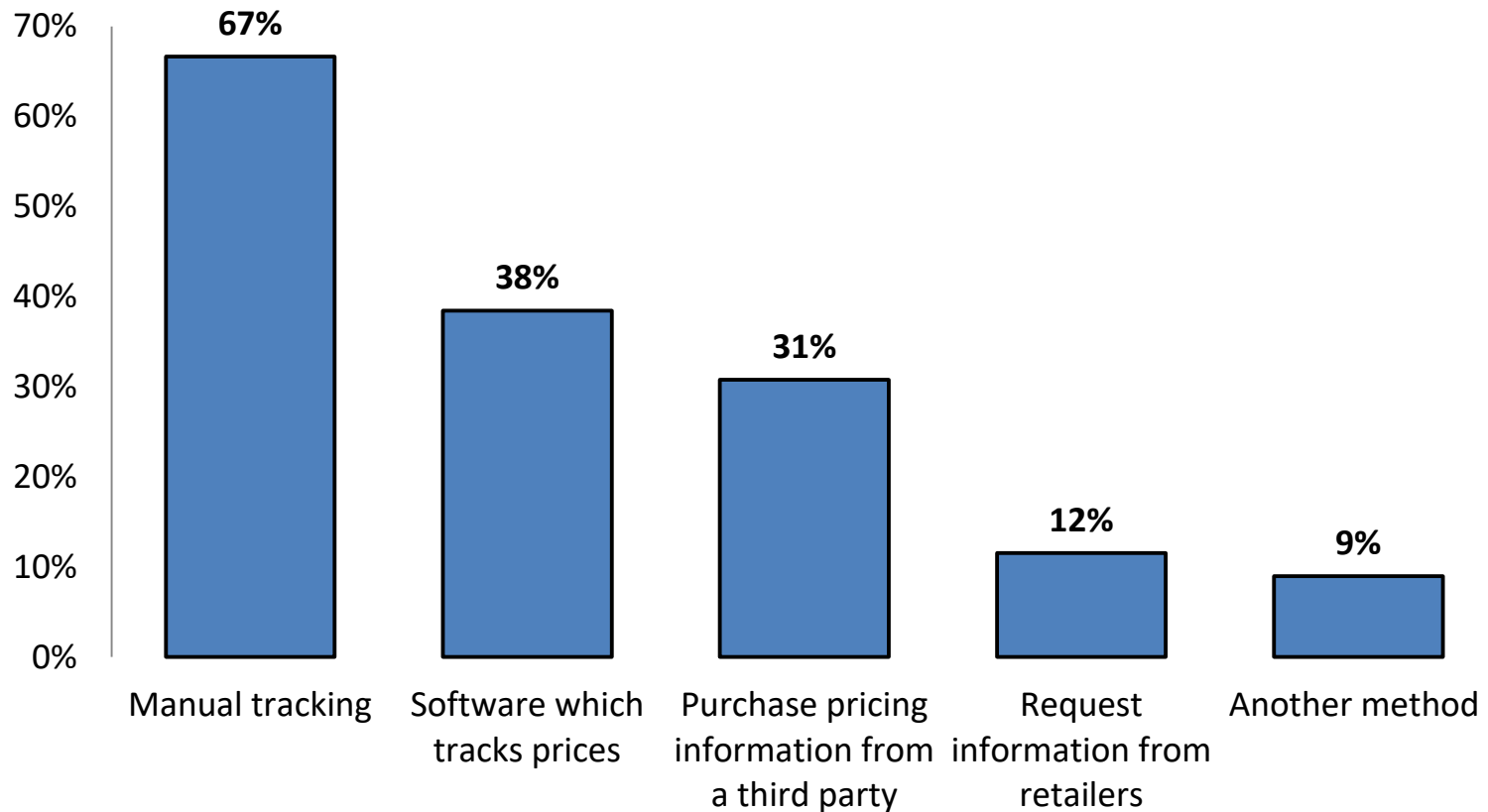
Price transparency and price competition in online markets

Price Transparency



Frequency of modifying online prices based on the responses of retailers

Price Monitoring



Most commonly reported methods to monitor retail prices by manufacturers

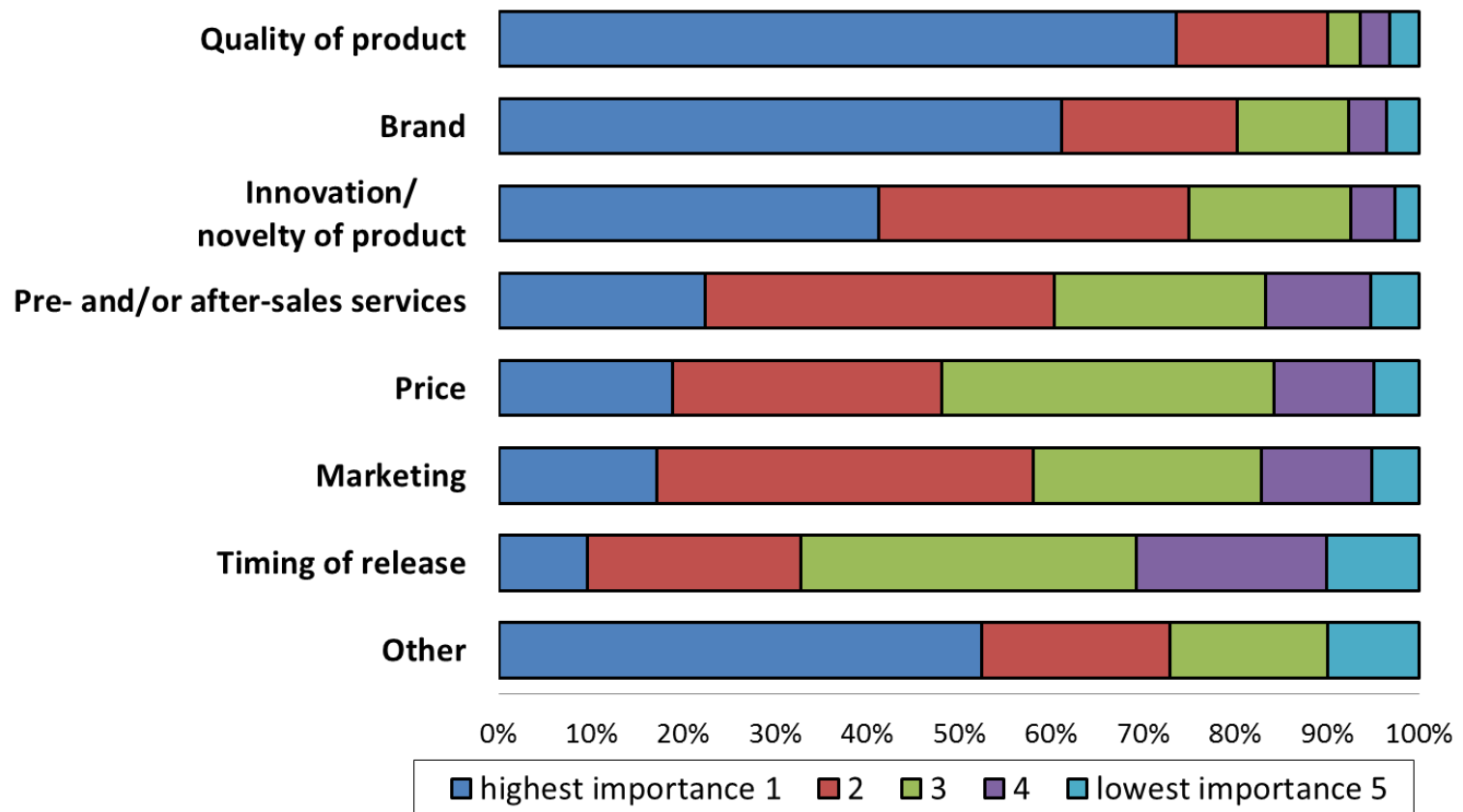
Pricing Algorithms

May increase price competition, but potentially ...

- ❖ facilitate horizontal collusion
- ❖ Hub and spoke (usage of same algorithm)
- ❖ incentivize RPM practices
- ❖ Artificial Intelligence and collusion?

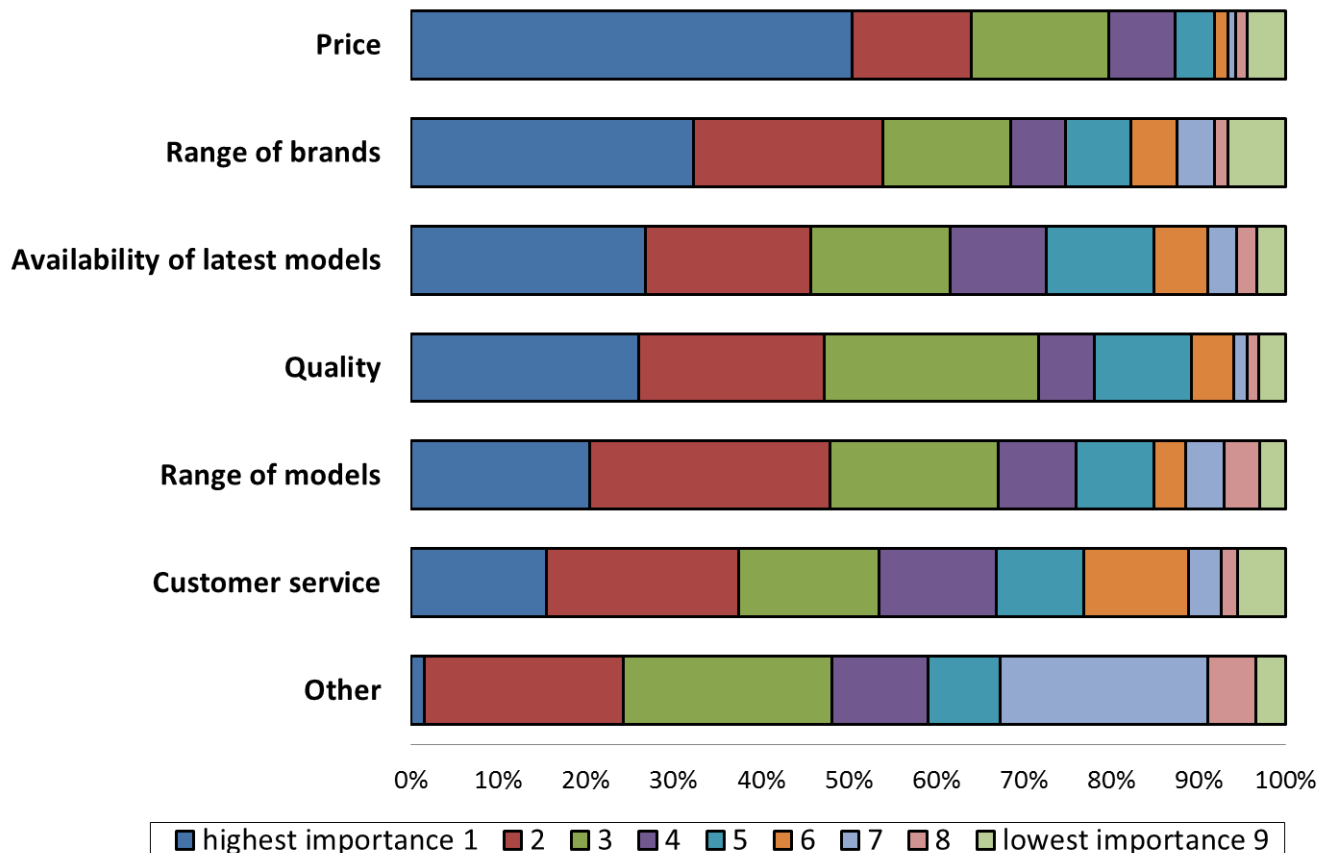
Online business strategies

Manufacturers – Drivers



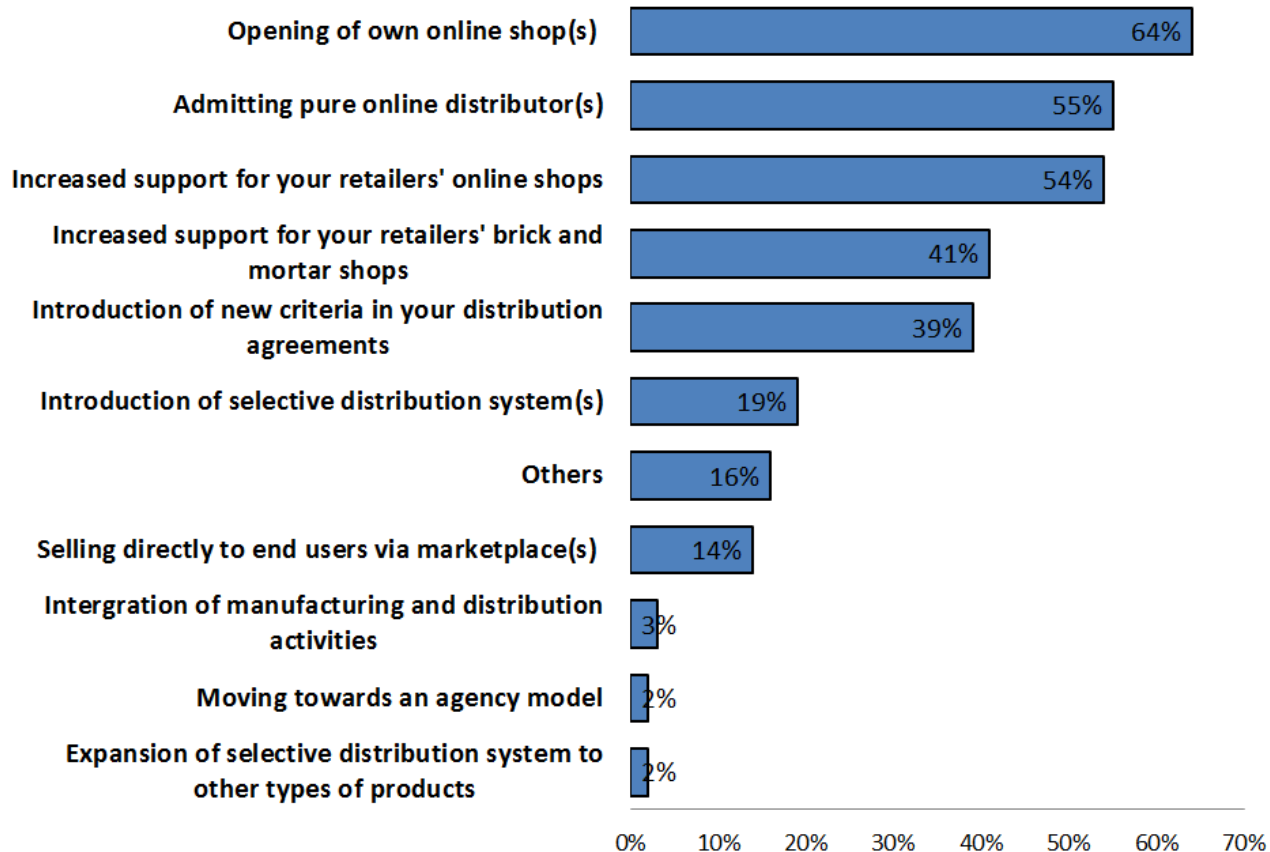
Rating the parameters of competition by manufacturers

Pure Online Players – Drivers



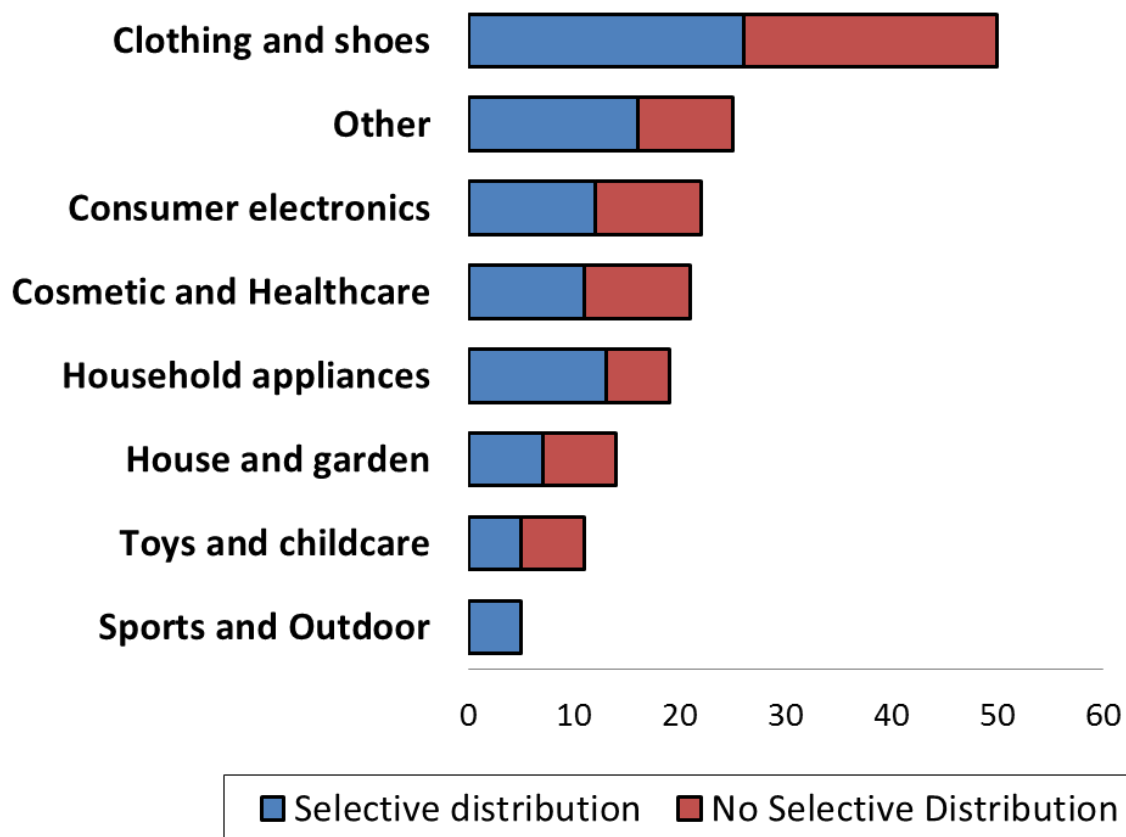
Rating the parameters of competition by pure online players

Manufacturers' Strategies



Measures taken by manufacturers in the last 10 years to react to the growth of e-commerce

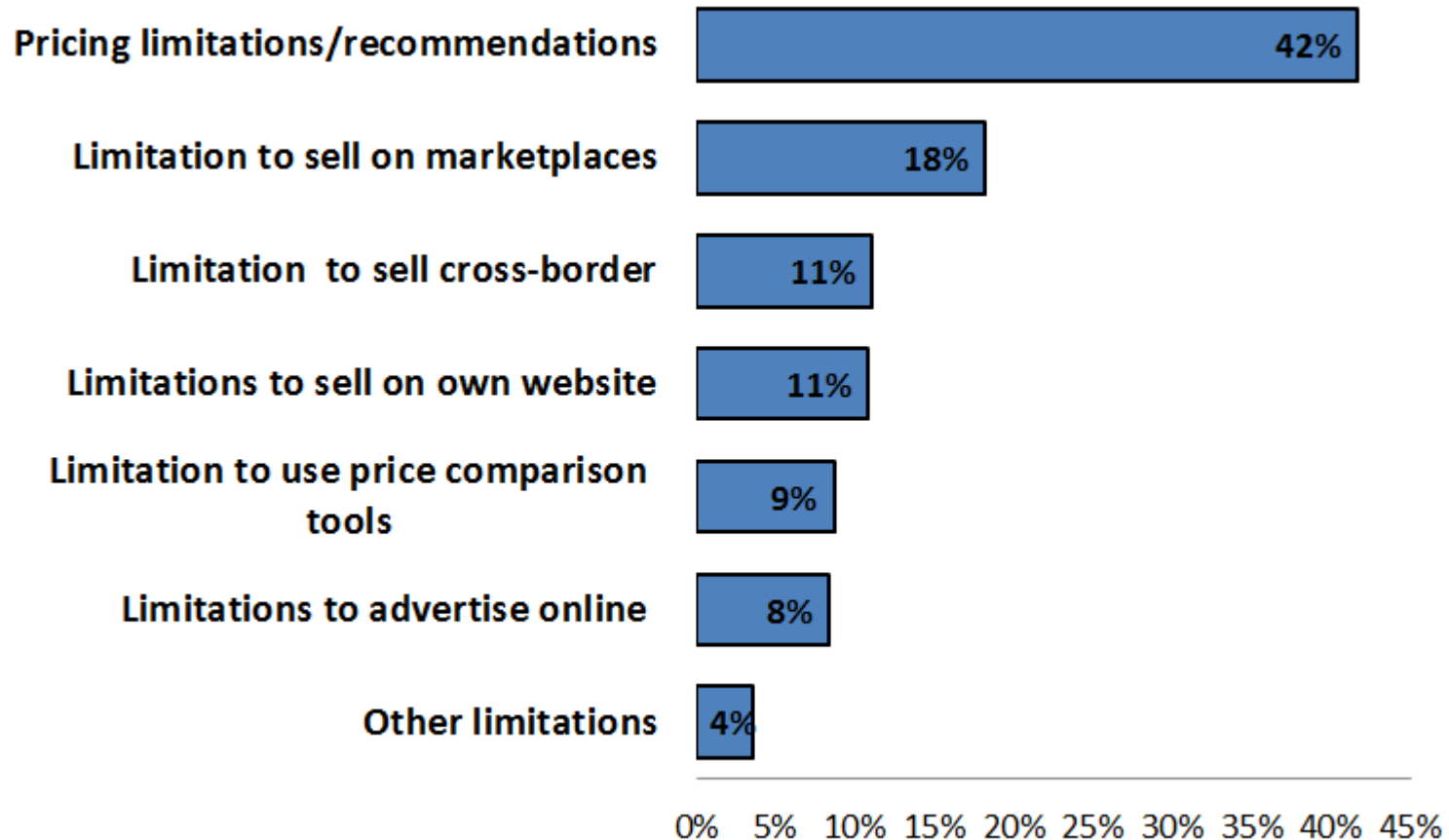
Selective Distribution



Number of respondent manufacturers active in one product category only and sell via selective distribution

Contractual restrictions on online sales

Contractual Restrictions



Proportion of retailers having contractual restrictions, per type of restriction

Internet sales restrictions

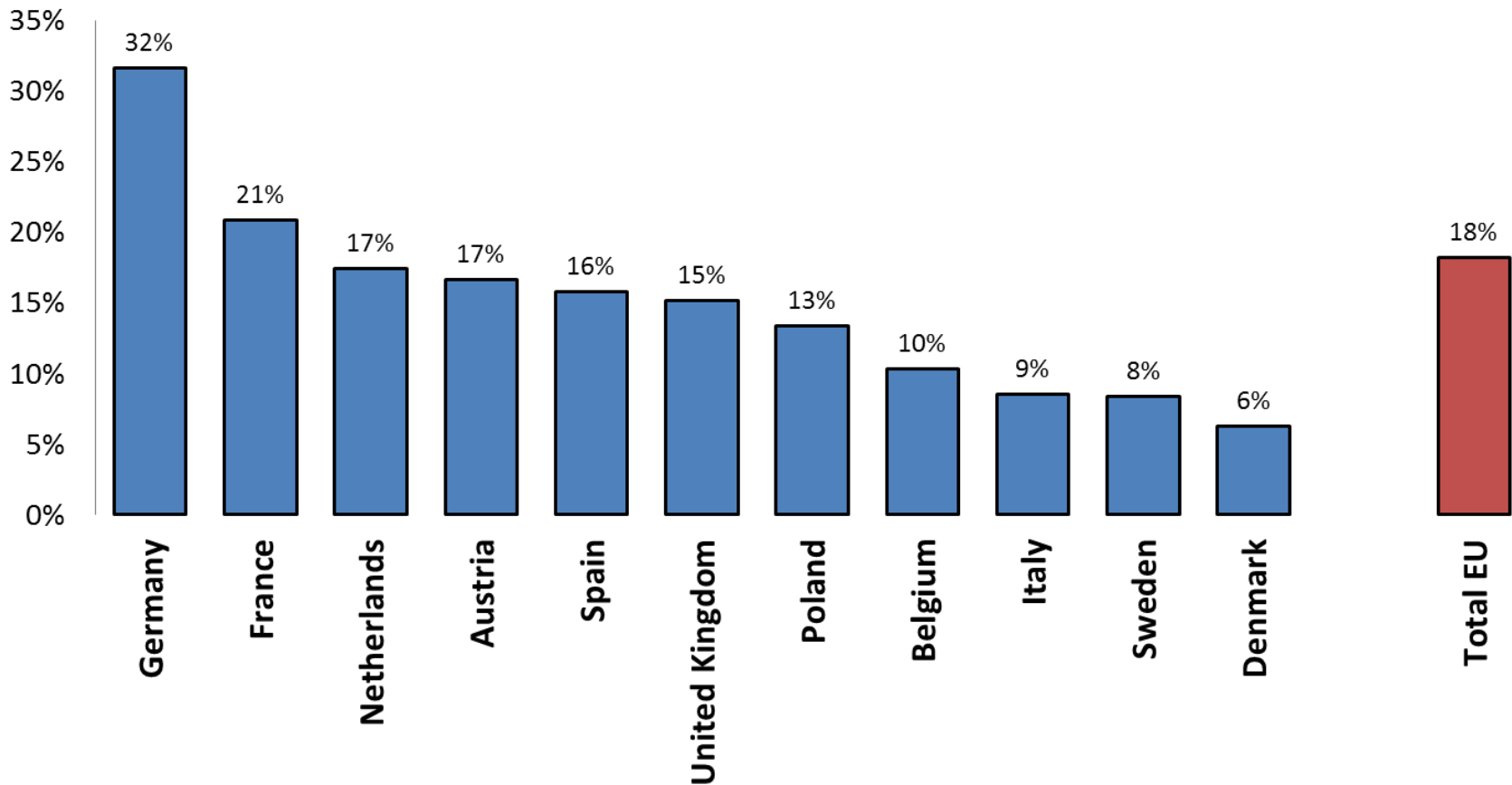
- ❖ **Absolute internet sales bans** (Pierre Fabre)
 - Hardcore restriction under Article 4 b) and 4 c) VBER

- ❖ **Not all contractual provisions** that (negatively) affect internet sales hardcore (Art. 4 VBER: "object of market partitioning")

- ❖ **Marketplace bans**

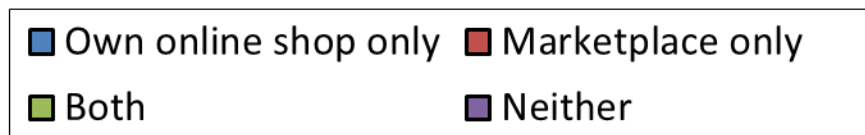
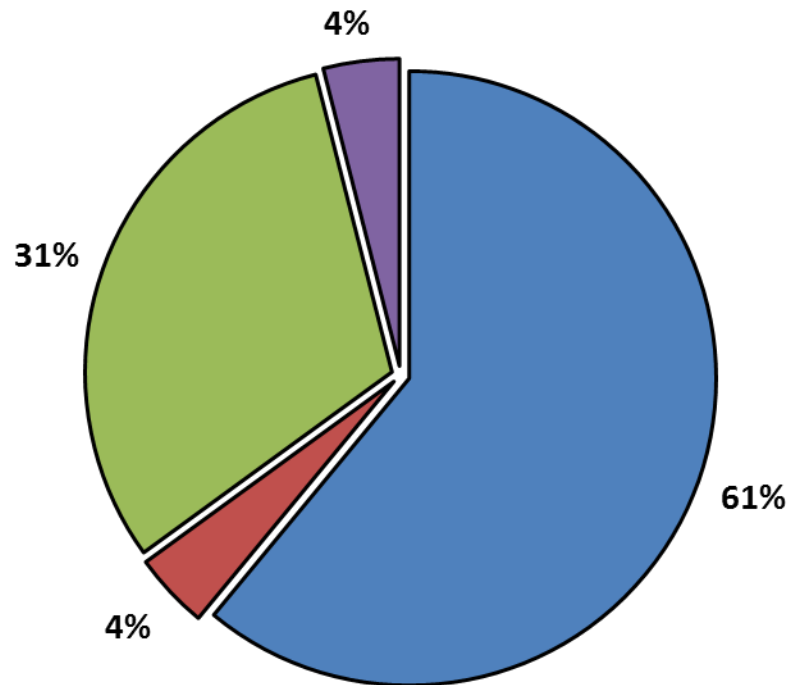
- ❖ **Price comparison tool bans**

Marketplace Sales Restrictions - 1



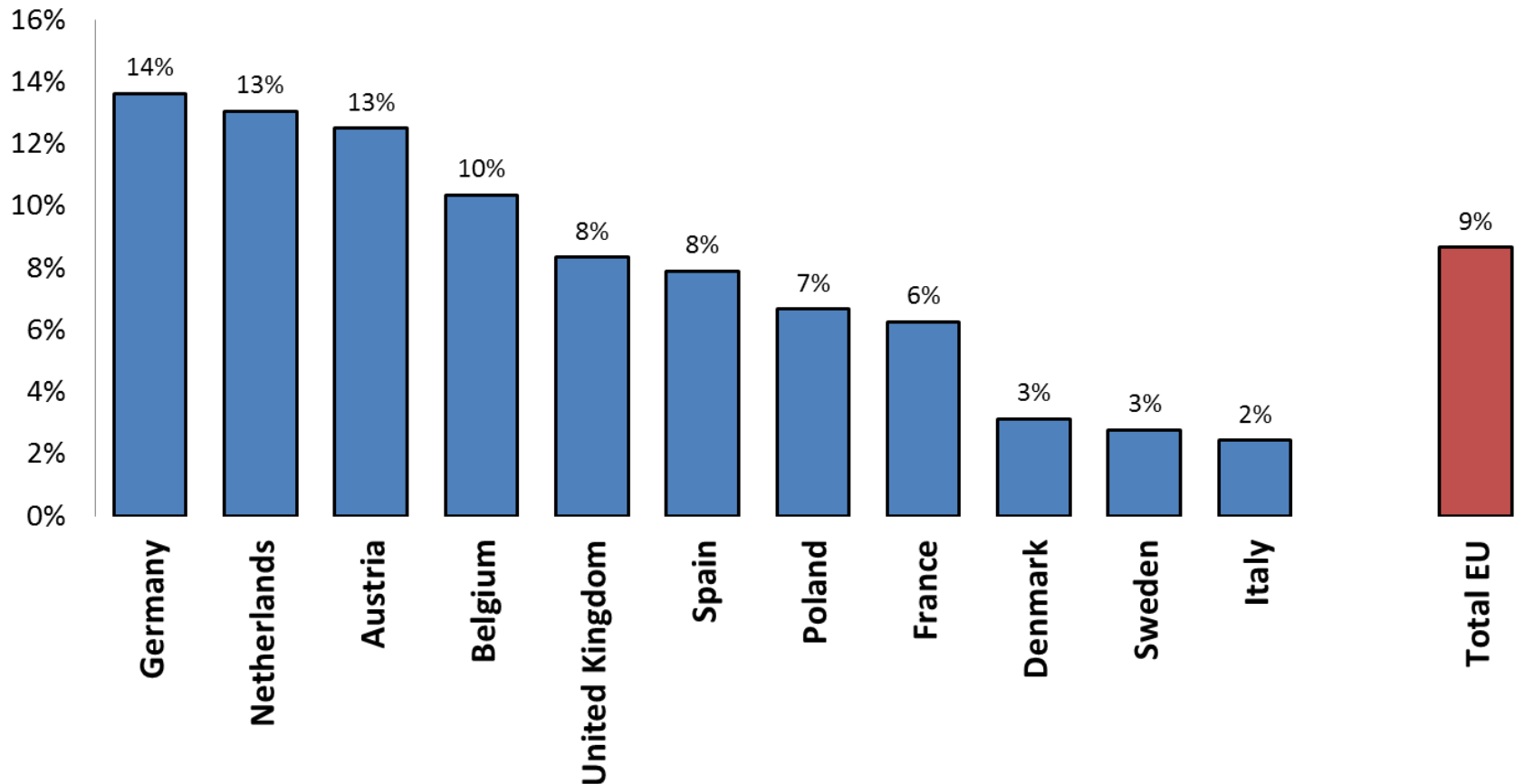
Proportion of retailers in each Member State that have agreements containing marketplace restrictions

Relevance of Marketplaces



Proportion of retailers using different sales channels for selling online

Price Comparison Restrictions - 1



Proportion of retailers in each EU Member State that have agreements containing a restriction to use price comparison tools

Main conclusions

- ❖ No need to review VBER and Vertical Guidelines prior to 2022
- ❖ The Commission is stepping up enforcement on e-commerce (Digital Single Market objective)
- ❖ Results will be used to broaden dialogue with national competition authorities (consistent approach)

Enforcement

- ❖ Increased **focus on vertical restrictions in the Single Market**
- ❖ **Resale price maintenance cases (RPM)**
 - Separate cases opened in February 2017 against 4 manufacturers of consumer electronics (Philips, Pioneer, Asus, Denon & Marantz)
- ❖ **Territorial/online sales restrictions cases**
 - Holiday pricing: agreements between hotels and tour operators to differentiate based on nationality or country of residence (February 2012)
 - Guess investigation: passive sales, cross supply restrictions in a selective distribution system concerning clothing, shoes and accessories
 - Pay-TV cases
 - PC video games cases