

**PROPOSAL FOR A DIRECTIVE
AS REGARDS CORPORATE SUSTAINABILITY REPORTING
- COMMENTS OF INDEPENDENT RETAIL EUROPE -**

13 JULY 2021



EXECUTIVE SUMMARY

Independent Retail Europe is the voice of groups of independent retailers in the food as well as non-food sectors at EU level.

We generally support the EU's ambition for companies to include sustainability into their strategies. However, it is important that the new obligations under the Corporate Sustainability Reporting Directive (CSRD) do not translate into burdensome obligations that only benefit the audit and assurances sector nor should they unnecessarily burden the audit sector.

We are particularly concerned about:

- the Commission's intention to lower the thresholds in terms of the size of the companies that have to report on non-financial aspects of their business;
- the fact that the business model of groups of independent retailers is not taken into consideration, which in practice would lead to a discrimination of and an excessive burden on independent retailers without any additional value;
- the degree of detail in which companies have to report and the burden that this will entail for the whole of the supply chain, SMEs included. Detailed reporting would particularly constitute a heavy burden for our members in the food supply chain, which tends to be complex and where retailers typically deal with tens of thousands of products and thousands of – frequently changing – suppliers, which are often SMEs;
- the increase of burdens for auditors and, consequently, costs for companies of the audit and assurance processes, as often only large auditors already have, or are able to develop the capacities to conduct audits on non-financial reporting obligations. This will likely drive up the costs of reporting.

SIZE OF COMPANIES /BUSINESS MODEL

Size of targeted companies

The reporting obligations under the Non-Financial Reporting Directive (NFRD) until now only affected large listed companies with more than 500 employees. Already for these companies, the Commission had identified in its impact assessment that non-financial reporting creates unnecessary and avoidable costs for companies¹. Despite this assessment, the CSRD will not only drastically increase the reporting ambition but also affect many more, much smaller actors.

The extension of the reporting obligations and the inclusion of companies with more than 250 employees into the scope of the CSRD will create a significant administrative burden for companies, particularly for retailers. Retail is typically a high workforce, high turnover sector: Many independent retailers –particularly in the food sector- would therefore surpass the threshold of 250 employees, without structurally being a large company. A large part of the retail sector is currently trying to recover from the global pandemic whilst being obliged to invest in digitalisation and sustainability; new reporting requirements in this context would certainly hamper this recovery.

Moreover, it is important to note that the CSRD is likely to not only create a burden for those operators who have to report, but also - due to its cascading effect - for other actors in the supply chain, including

¹ Ref. Ares(2020)580716 - 30/01/2020, Page 2

those who would be under no obligation to report! An extension of the reporting obligations will, due to the increased amount of information that upstream SME suppliers would be required to provide to downstream large operators to enable the latter to report adequately on sustainability, constitute a heavy burden for *all* operators in the supply chain.

For these reasons we consider that:

- **the threshold for companies falling into the scope of the CSRD is too low and suggest it remain at 500 employees;**
- **listed SMEs should continue to be exempt from reporting obligations;**
- **reporting obligations should be limited to issues that do not require input from other operators in the chain.**

Differentiation with respect to different business models

The Directive exempts subsidiaries that fall into the scope of the Directive from reporting on aspects of sustainability if their parent company is already undertaking reporting efforts for the group. This exemption does however not apply to members of groups of independent retailers as these are independent legal entities. Due to the nature of the business, particularly in the food sector – people intensive, high turnover and low margins, compared to other sectors – some groups have independent retailers that fall above the threshold of 250 employees. While operators with subsidiaries can produce a single sustainability report for the entirety of their operations, the central organisations of groups of independent retailers and their members would have to produce scores of reports despite the fact that they form one group and the central organisation would already provide non-financial reporting.

Requiring the members of the group to provide non-financial reporting would be contrary to the objective of these groups, which is to increase the sustainability and competitiveness of their members by creating efficiencies and reducing the latter's burdens, and have no added benefit as it would lead to unnecessary repetition of non-financial reporting that is already being carried out by the central organisation of the group. In short, from an efficiency and cost perspective it would not make sense for these groups to present scores of reports where only one report would suffice.

We therefore believe that groups of independent retailers which have members that fall into the scope of the Directive should be able to choose to report only at group level. This should remain an option, not an obligation, as retailers as independent entrepreneurs should also remain free to decide to do their own non-financial reporting, should they wish.

- ➔ **Only large companies with more than 500 employers should fall under the new reporting obligations;**
 - ➔ **Listed SMEs should also remain excluded;**
 - ➔ **The CSRD should be adapted to the business model of groups of independent retailers in order to avoid discrimination in comparison to operators with subsidiaries and unnecessary burdens on member retailers and auditors;**
 - ➔ **Groups of independent retailers should have a choice to also report on behalf of the members that fall into the scope of the Directive in their sustainability reports.**
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REPORTING CONTENT

Reporting standards

Reporting should not become a box ticking exercise that seeks completeness over usefulness and effectiveness. To make non-financial reporting effective, it is important to consider the added value of any potential information requirement for a given sector and a given company. Information should only be required, if it is really relevant for understanding a company's sustainability performance.

Furthermore, a given company in a given sector should be in a position to report on what is required. It is for instance not feasible for retailers to report on factors such as climate change mitigation, biodiversity and ecosystems, given the wide variety of products, ingredients, materials, processes and equipment that are involved in the execution of their business. If the same, detailed information requirements is to apply to all companies equally, then reporting requirements of the CSRD will likely not fulfil their objective and just become an unnecessary, burdensome administrative exercise for companies, without any benefit. **Reporting requirements should be limited to what a given company in a given sector can reasonably report on, as a direct effect of its own business. It should provide useful information on a company's sustainability performance.**

The respect of human rights, fundamental freedoms and democratic principles or other social issues are a given in the EU, as they are the law in all EU Member States. Reporting obligations on these aspects for companies, which have no operations outside of the EU, are therefore redundant.

All of our members at both group as well as store level support a healthy work environment for their employees and comply with all legal requirements in this sense, including legal working hours. It is not possible for independent supermarket or store owners to report on issues such as work-life balance.

Finally, it is important to note that we do not support the inclusion of governance factors into the reporting obligations for companies. EU-based companies have to comply with all relevant legislation with respect to anti-corruption, anti-bribery or payment practices. These issues are regulated and punishable by law. Reporting obligations thereon would not just be redundant and an unnecessary additional administrative burden, but would moreover imply that there is a massive problem with the respect of the rule of law and such reporting would be equal to companies incriminating themselves, which by law cannot be required.

Timeframe for implementation

The timeframe between the adoption of the legislation, expected for the end of 2021, and the first financial year of reporting in 2023 is too short, considering that the Directive foresees that the first set of standards could only be ready by October 2022. Developing the capacities to fulfil non-financial reporting obligations is a new process for some companies, and therefore they should be given more time to implement them.

- ➔ **There should be no obligatory reporting requirements on issues that are regulated by law, as companies are deemed to respect the law and can already be held accountable if they do not;**
- ➔ **Non-financial reporting should not be a box ticking exercise, but rather seek to obtain information that is *really necessary* to understand a company's sustainability performance;**

- ➔ Reporting requirements should be limited to what a given company in a given sector can reasonably report on, *as a direct effect of its business on sustainability*, and to *what it can control*. Given the wide range of products, materials and processes and equipment that are involved with modern retail, reporting on issues such as climate change mitigation, biodiversity, ecosystems and work-life balance is disproportionate for retailers;
- ➔ Considering the timeline for adoption, the development of reporting standards and the entry into force of the rules, companies should be given more time for implementation.

AUDIT

Audit and assurance

One of the major new introductions of the CSRD is the creation of audit or assurance obligations, to verify and approve the sustainability reporting provided by companies. We believe that such a requirement could make audits extremely costly if the requirements on auditors become so high that only large auditing firms would be able to provide these services. Moreover, the inclusion of non-financial information will make audits more complex, which could also lead to a shortage of auditors at the time that audits take place – which is usually during fixed periods in the year – as many companies work with the same financial year.

It is important to note that sustainability reporting is very different in nature from financial reporting, as the information is often qualitative and more subjective than the quantitative nature of financial reporting. In analogy to the financial reporting, where auditors only verify that calculations made in the accounts are accurate, the process of controlling non-financial reports should be a systematic, formal verification that the criteria for such reporting have been met. Auditors should however not pass judgement on the quality, number or effectiveness of the activities and measures reported on by the company, as this would clearly exceed their mandate as auditors.

It is also clear that established financial auditors are not automatically competent to carry out non-financial verification, as the requirements to conduct these are very different. This may further complicate matters for operators to find qualified auditors for both aspects. Audit requirements in the framework of the CSRD should therefore be such that a large number of competent auditors can provide these services and that audits do not become overly complex.

Reference year for reporting

Usually, when conducting a corporate reporting exercise, the company's performance in the current year is compared to that of the previous year. As the new reporting obligations will apply to a wider range of companies, for companies that are new to non-financial reporting, the reference point cannot be set in the previous year, as there was no reporting at that point. A reference to the previous year would be no problem for the subsequent years, as it will be possible to refer to the previous year.

- ➔ To ascertain the affordability of audit and assurance services, a wide set of auditors should be able to meet the standard for conducting both financial and non-financial audits and assurance;
- ➔ Auditing and assurance standards should be user friendly, particularly for listed SMEs;
- ➔ For the first year of reporting under the CSRD, there should be no requirement to refer to the previous year, as no such reference is available.

ALIGNMENT WITH OTHER LEGISLATION AND GLOBAL ALIGNEMENT

Legal consistency

Reporting obligations in the area of sustainability form only part of the EU's very high ambitions on corporate governance. Rules on sustainable corporate governance and supply chain due diligence are still to follow. This legislative package will create a significant burden for all companies, also for SMEs, despite the fact that they may be exempted from certain obligations.

Sustainable governance, due diligence and sustainability reporting are complementary requirements. It is therefore difficult to see how the different proposals can be considered and adopted independently from one another without jeopardizing legal consistency.

Align with international standards

Despite the fact that the CSRD also applies to EU based subsidiaries of non-EU companies, it still fails to create a level playing field between EU and foreign companies. Subsidiaries of foreign companies often have low numbers of employees, meaning that they will be exempted, despite the size of the parent company. This creates a clear competitive disadvantage for EU companies. It is important to ensure that corporate governance requirements do not come at the expense of the competitiveness of EU companies. Therefore, we deem it important that the EU seeks to further align with international standards, rather than conducting isolated measures.

- ➔ **To ensure consistency, the sustainability and governance related proposals should pass simultaneously through the legislative process;**
- ➔ **The new reporting requirements should not disadvantage EU companies in comparison to subsidiaries of foreign companies. Therefore, the EU should give preference to international alignment rather than introduce measures that are likely to undermine the level playing field.**

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*Established in 1963, **Independent Retail Europe** (formerly UGAL – the Union of groups of independent retailers of Europe) is the European association that acts as an umbrella organisation for the main groups of independent retailers in the food and non-food sectors.*

Independent Retail Europe represents retail groups characterised by the provision of a support network to independent SME retail entrepreneurs; joint purchasing of goods and services to attain efficiencies and economies of scale, as well as respect for the independent character of the individual retailer.

Our members are groups of independent retailers, associations representing them as well as wider service organizations built to support independent retailers.

Independent Retail Europe represents 24 groups and their 386.602 independent retailers, who manage more than 753.000 sales outlets, with a combined retail turnover of more than 944 billion euros and generating a combined wholesale turnover of 297 billion euros. This represents a total employment of more than 6.603.270 persons.

Find more information on [our website](#), on [Twitter](#), and on [LinkedIn](#).