Independent Retail Europe

Proposal for a Directive on Sustainable Corporate Governance

Comments of Independent Retail Europe

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INTRODUCTION

Addressing the substantial sustainability challenges in the areas of climate change, pollution, loss of biodiversity but also social sustainability and human rights, whilst facing energy and supply insecurities, will be a challenging task for all the organisations present in global supply chains in the next years and decades to come. Independent Retail Europe actively supports the EU's efforts on sustainability by engaging in the legislative process, and with additional sustainability measures put forward by our members. We have set up our "Retail for sustainability" hub, where our members illustrate the many voluntary initiatives they are undertaking in the areas of social and environmental sustainability. In this context, Independent Retail Europe has also been at the forefront of developing the EU Code of Conduct on Responsible Food Business and Marketing Practices, which takes a supply chain approach to sustainability, from farm gate to the final consumer.

The COVID 19 pandemic is still putting global supply chains under stress, and the war in Ukraine is exacerbating these challenges. Costs at each step of the supply chain are increasing, and accumulating at the end of the supply chain in higher consumer prices. It is therefore of utmost importance that legislation on supply chain due diligence, which is necessary particularly from a harmonisation standpoint, can be executed in a precise and targeted way, so as to limit the work and related costs to what is absolutely necessary. The Directive needs to be as efficient as possible, whilst being effective.

This position paper offers the view of groups of independent retailers on the proposal from the Commission for a new supply chain due diligence legislation as well as new rules for director's duties in this respect, and offers solutions as to how the proposal could be improved for it to be efficient whilst better achieving its objectives.

SUPPLY CHAIN DUE DILIGENCE

1. Limiting the scope to what is necessary, effective and efficient

The European Commission is presenting a multitude of legislative proposals during this legislative period that will fundamentally change the way our members' businesses have to operate. To mention just a few:

- Corporate Sustainability Reporting Directive
- Regulation on deforestation-free products
- Ecodesign for Sustainable Products Regulation
- Proposal on empowering consumers for the green transition through better protection against unfair practices and better information
- Proposal on adequate minimum wages in the European Union
- Artificial Intelligence Act
- Digital Markets & Digital Services Acts
- Network and Information Security 2.0 Directive
- Critical Infrastructures Directive
- Etc.

A transition to more environmental and social sustainability, as well as progress on human rights in supply chains is needed, but at the same time, it is important to acknowledge the already challenging situation. In light of the numerous challenges that need to be addressed, it is therefore essential that the scope of what each legislative project is aiming to address is clearly defined. In this sense, the Commission's own Regulatory Scrutiny Board (RSB) had expressed serious concerns on the Commission's Impact Assessment that forms the basis for the proposed legislation. It states:

"The [impact assessment] report should present a sufficiently developed and more balanced dynamic baseline scenario that integrates:

- *(i) the increasing trend of take-up of corporate sustainability practices;*
- *(ii) the large number of related measures already adopted and parallel regulatory measures being developed (including sectoral and sustainable product due diligence);*
- *(iii) the comprehensive package of measures to promote sustainability under the Green Deal and;*
- *(iv) the developments expected in third countries with sustainability sub-standards resulting from own commitments as well as substantial EU and international trade and development support measures.*

To ensure greater regulatory coherence, the report should ***consider aligning the personal scope better with the scope of parallel initiatives, such as the Corporate Sustainability Reporting Directive****. It should also discuss more thoroughly how* ***coherence will be ensured with the parallel sectoral and product due diligence initiatives and whether these could become (partially) superfluous.*** *While the report provides greater clarity on the substantial costs of the initiative, it still does not sufficiently reflect the* ***high uncertainty that the estimated benefits will actually materialise on a scale to outweigh the costs."***

The RSB Opinion highlights a number of important issues that should be clarified before moving ahead with such a substantial legislation. In particular, a better alignment and standardisation of information and verification requirements of different legislations should be achieved, so as to provide companies with a clear, straight-forward overview of what is required from them.

2. Scope

The proposal includes all operations along the entire "value chain" instead of using the "supply chain" as a reference. This significantly expands the scope of relationships that have to be scrutinised to that effect. Using the term "value chain" does not only include direct contractual relations in the supply chain related to the products, but also any service providers associated with companies' internal business operations, such as marketing, insurance or financial service providers. In our view, the choice of "value chains" will create a considerably heavier workload for companies than under a "supply chain" consideration, without adding any value in terms of preventing environmental harm or harm with respect to human or social rights, as these take place in the supply chain.
Moreover, it is doubtful in how far a company could possibly check compliance by its value chain partners beyond any information that is contained in non-financial reports of the latter, or in other communications such as required by Article 4(f) of the Directive, and this only in as far as their value

chain partners fall into the scope of both Directives. A company –for instance a wholesaler or retailer- cannot possibly check or be aware of all its thousands of value chain partners' activities to see if they are compliant with the Directive.

3. Legal uncertainties

Certain terminology used in the proposal risks leading to legal uncertainty for companies. Furthermore, too open formulations will lead to a low harmonisation level in the application of the Directive, which could in turn undermine the EU level playing field, as explained at a later stage in this position paper.

For a start, it is not clear what is meant by "*established business relationships*" in Article 3 as the Commission does not clearly define what qualifies as such, but merely makes vague remarks as to the "intensity" or "duration", which will not allow companies to get legal certainty on exactly which suppliers qualify as such. Likewise, terms such as "*appropriate measure*", "*direct and indirect business relationship", "not negligible"* need to be clarified, not only for legal certainty, but also in order to prevent Member States from undermining the level playing field.

- ➔ **The Directive should be effective, but also efficient for companies to implement, to avoid any unnecessary burdens and costs at a time when companies' costs and, consequently, consumer prices are already skyrocketing.**
- ➔ **The Scope of the Directive should cover the "supply chain" instead of the "value chain", as using the latter would be unnecessary and burdensome.**
- ➔ **The terminology of the proposal should be fine-tuned to ensure legal certainty as well as to avoid too large discrepancies in the interpretation/implementation of the Directive at national level.**

4. Risk-based and proportionate due diligence

1. Vague problem description

One of the main shortcomings of the Commission proposal is the lack of precision in terms of tackling the critical issues it attempts to address in Articles 3-8. The proposal does not identify particular sectors, commodities or products for which it would be necessary to conduct due diligence, but simply requires all sectors to undertake such efforts, with no particular reference to a problem, as the RSB's Opinion also found: *"The problem description remains vague and does not demonstrate the scale and likely evolution of the problems the initiative aims to tackle. It does not provide convincing evidence that EU businesses, in particular SMEs, do not already sufficiently reflect sustainability aspects or do not have sufficient incentives to do so."* While it could offer policy makers with a sense of completeness, it would be a substantial waste of energy and resources for many companies, and therewith create again unnecessary costs that should be avoided, particularly in view of the already

high costs entailed with new legislation and the current global trade and economic situation, that would better be used to tackle sectors in which problems are prevalent.

2. Lack of clarity with respect to international conventions in the Annex

The Annex of the proposal includes a long list of human rights, social and environmental conventions that companies must implement. They include important issues such as forced labour, child labour and the protection of biodiversity, which are important and relatively straightforward for companies to address. However, the annex also contains aspects from conventions for which, although important, it is difficult to imagine how companies could implement or influence these (e.g. right to collective bargaining, respect of the Basel Convention on waste...). The RSB's Opinion also addresses this problem, stating: *"The report should be more precise which selected international environmental conventions should be included in the material scope of the due diligence obligations and why."* This is why the development of precise guidelines will also be vital, which will provide support to companies as to how to fulfil their due diligence obligations, and what qualifies as an infringement to the rules.

3. Lack of clarity with respect to Article 15 on combating climate change

Article 15 of the proposal on combatting climate change requires that companies establish: *"a business model and strategy compatible with the transition to a sustainable economy and with the limiting of global warming to 1.5 °C in line with the Paris Agreement".* However, the proposal does not explain how these targets would be implemented, nor other crucial aspects such as which scope of emissions it aims to address (1, 2, 3). The RSB confirms this lack of clarity in its opinion, also addressing the lacking coherence as to according to what criteria responsibilities are allocated to companies: *"It should explain how these targets would be established and function and how independent validation would be ensured. It should justify why the requirement for science-based targets is linked to the size of a company and not to the scale of emissions it is responsible for."* For something as complex as the Paris Climate Agreement, it should be laid out, what the specific contributions are that companies would have to provide.

- ➔ **The problem that the EU aims to tackle should be more clearly defined, the legislation should focus on sectors, commodities or regions where the problems it is trying to address are acute. This will be more effective and allow companies to prioritize and save resources.**
- ➔ **It should be clarified which particular parts of the Conventions in the annex of the Directive are relevant to companies, and what is exactly expected of them in this sense.**
- ➔ **Article 15 on companies' contribution to preventing climate change should be clarified, such as among others, the scope of emissions that is being targeted.**

3. Maintaining a competitive level-playing field

1. EU level playing field

It is generally positive that the Commission aims to create common rules across the EU on supply chain due diligence, as it ensures that there is a level playing field for companies to compete. In this context we also welcome the Guidelines foreseen in Article 13 as well as the European Network of Supervisory

Authorities in Article 21, aiming for closer cooperation and regulatory alignment between Member States. As opposed to Article 21, Member States should remain free to adapt their existing legislation to create a level playing field for their businesses with operators elsewhere in the EU.

However, as the legislative instrument foreseen is a Directive, and the proposal would not prevent Member States from going beyond this legislation, there is a risk that rules on supply chain due diligence will differ, even after the implementation of the Directive. As mentioned in point 2. of this position paper on legal uncertainties, certain formulations in the proposal are vague and leave much room for Member States to design the rules as they please.

It is important that the proposal is readjusted and that a provision is included that requires Member States not to go beyond what is foreseen in the Directive. Furthermore, formulations need to be clarified, and the guidelines foreseen by the Commission to Member States and companies need to be clear so that what is implemented is uniform across the EU. Not doing so would likely undermine the level playing field as companies in some Member States could face stricter rules than in others. If the differences are major this could even lead to companies relocating to countries where due diligence obligation are less stringent. Furthermore, it could lead to uncertainties as to which particular national law companies would have to comply with (e.g. do companies have to comply with the legislation in the country in which they operate, import, are headquartered in), as supply chains go across the EU.

2. Level playing field with respect to third countries

We overall support the role that the EU wants to play as a frontrunner on sustainability as demonstrated by the European Green Deal. It should however do so in a way that does not impair EU businesses irreversibly, for example as a result of the disengaging of certain companies from foreign markets. With supply chains being global, it would be most appropriate for the Commission to lead an international effort to improve sustainability in supply chains, as this is the only way to truly guarantee a level playing field, and ensure that EU companies remain competitive in the global context, and that sustainability efforts are not undermined.

The proposal as it is written today, would lead to a significant disadvantage for EU companies with respect to third country competitors that do not have to fulfil the EU's expectations in this respect. This would happen for example when local producers, facing high demands from EU buyers, would resort to shift their supply to third country buyers at the expense European ones. This would end up creating no added value in terms of sustainability but only reduce the competitiveness of European companies. It could also lead to certain suppliers that are in line with EU standards to exert more pressure on EU companies, such as confirmed in the RSB's Opinion:

"The report should be more balanced and complete in terms of presenting potential impacts concerning competition, innovation, agility and litigation risks. While stricter sustainability requirements may spur innovation, there is also a risk that due diligence will make companies less dynamic and agile – and more dependent on a set of fixed providers, in particular in highly concentrated sectors, with only a very limited number of suppliers. The report should assess to what extent the measures envisaged will make it more difficult for certain industry sectors to diversify their suppliers and to improve the resilience of their supply chain.

The report should better account for potential negative impacts in third countries, notably in developing countries, by being more realistic on risks and costs and the contribution of potential soft mitigation measures. It should better assess the risk of 'sustainability leakage'. If EU companies will ultimately have to withdraw from certain suppliers due to sustainability issues, third-country companies (if out of the personal scope) could take over these suppliers and thereby gain a competitive advantage and supply chain control, while leaving no improvement in overall human rights and environmental performance."

A major problem, which the RSB recognises, is that a realistic assessment of what such a legislation could create in terms of the market dynamics, has not been sufficiently undertaken. Retail supply chains are very fragile. It is therefore important for the impacts to be better assessed.

3. Level playing field with respect to online operators

Many operators and platforms that operate exclusively online and are established in third countries are often able to evade the compliance requirements with different EU laws. They sell products from third country manufacturers directly to the consumer. The latter would not have to comply with due diligence requirements as they are not established on the EU market. It should therefore be required for any third country operators wishing to place a product on the EU's Internal Market to designate an authorised representative in the Union, to ensure that the supply relationships related to their products or services have undergone the same due diligence requirements as their EU counterparts. It should also be required from online platforms based in the EU to fulfil the same obligations as traders when they make products available on the market. Exemption of online retail from due diligence requirements would further undermine the level playing field with respect to stationary retail.

- ➔ **The Directive will create a common basis for supply chain due diligence across the EU, which will help to guarantee an intra EU level-playing field. The legislation should ensure that "gold-plating" of the legislation is prevented.**
- ➔ **A competitive disadvantage with respect to third countries should be prevented. While the EU wants to be a front runner on sustainability issues, it should not lead to the disengagement of companies from global markets.**
- ➔ **It is important that the same rules apply to all. That includes online platforms but also manufacturers wishing to be active on the EU's internal market. All should have a representative on the EU Market and apply according rules.**

4. Making the chain of custody the norm

1. Requiring stakeholders to pass on the information along the supply chain

Article 7 of the proposal introduces the opportunity for companies to reduce their workload through contractual cascading and using an appropriate assurance system. This is an important feature of due diligence, because it reduces administrative burdens for companies and relies on a chain of custody in the supply chain with regard to the respective sustainability requirements, rather than individual

companies having to collect this information themselves for the entire supply chain to constitute the due diligence statement.

However, the provision on contractual cascading with direct suppliers remains weak, as it is only optional and not enshrined as the guiding principle of the proposal. For instance, there is no guarantee that third country suppliers will accept the rules prescribed through contractual cascading. If not, then the responsibility for providing the due diligence statement would lie with stakeholders at the very end of the supply chain, allocating a disproportionate level of responsibility solely on them, whilst they may actually be furthest removed from the culprit.

With many tens of thousands of products on the shelves and exponentially more ingredients/parts, it will be impossible for retailers to guarantee full supply chain traceability. It would be much more effective to enforce a mechanism of a chain of custody, i.e. requiring companies to provide a certificate to their first tier buyers. Furthermore, the Commission should clearly determine what information needs to be passed on from stakeholder to stakeholder down the chain, so as to ensure that the right information flows, and that the different actors won't have to duplicate tasks and thus incur unnecessary costs.

2. Including SMEs into the chain of custody

While SMEs are not included in the framework of supply chain due diligence, it has become clear from the proposal that these will have to provide a substantial amount of information requested by larger companies ranging across a number of aspects of human rights, social and environmental sustainability. For many SMEs, providing that type of information will be extremely difficult. For example, many smallholders simply do not have the capacity in terms of human resources, technical knowledge, to fulfil the requirements requested by their buyers.

This could lead to situations where either the seller or the buyer would have to sever their business relationship. The problem could give way to a race by larger buyers for the complying companies, encouraging buyers to resort to "lock in effects", “no shop clauses” and other market-hampering measures that could affect the business performance of both, the buyer and the seller. SMEs should therefore be part of the due diligence process and in line with the chain of custody, to ensure their viability is not imperilled indirectly. There should be light touch requirements for SMEs that are easy to apply, so as to have a controlled inclusion into the supply chain, and to ensure that the information is passed on. Buyers should be allowed to rely on this ‘light touch’ information from SME suppliers.

- ➔ **The contract cascading foreseen should be anchored better in the legislation, requiring companies to pass on information in the form of a chain of custody.**
- ➔ **SMEs should be included in this chain of custody, with lighter touch requirements to prevent information gaps and ensure that they do not disengage from certain markets or are excluded from supply chains.**

5. Recognising the value of sectoral certifications

While it is positive that the Commission proposal recognises the importance of certifications in article 14, and intends on issuing guidelines as to how certifications could contribute to fulfilling due diligence requirements, it falls short of giving certification schemes a formal recognition, creating uncertainty for companies using them. Retailers, driven by consumer demand, have made significant efforts over the past decades to develop cooperations with third country producers. These efforts include making intense use of certification schemes such as Fair Trade, FSC, Rainforest Alliance, and many more. Certifications have the advantage that they are built on significant industry experience as they have been developed over decades and are product specific. From the perspective of retailers, it would therefore be more efficient to create an annex to the Directive, through which the Commission would not only set quality thresholds for different certification schemes, but also a separate annex that would officially recognise certification schemes, which would be updated regularly by the Commission.

6. Authorities should not shift administrative burden to the private sector

It has been good practice over many decades for authorities to verify the compliance of goods coming onto the internal market, to ensure that these are in conformity with the principles regulating the market. With the due diligence proposal, the legislator is shifting significant administrative and financial burdens to the private sector. EU and national authorities have an enforcement role, through customs, trade policy tools, the creation and verification of certification tools, that could help sharing this burden with companies and lead to an overall better result. Companies are not always protected against deceit and often have trouble accessing reliable information without state level cooperation. EU delegations in third countries for example could help closing important information gaps. Therefore, guidelines developed by the Commission could help to support companies in preventing risk by focusing on specific regions/risks, where the Commission should develop partnerships with concerned high risk countries, instead of imposing on companies a blanket, "seek-all" due diligence obligation.

7. Complaints

Article 9 requires companies to manage complaints from NGOs and other civil society actors, and establishes a procedure for companies to deal with these complaints. While it does make sense for companies to be the first in line to respond to complaints, so that they can explain their actions, address potential misunderstandings or remedy the situation on their own accord, it would be better that, if the issue cannot thus be solved, the actual complaint be handled by a neutral, dedicated authority. Given that the list of potential plaintiffs is very wide, having to deal with complaints could lead to a heavy burden for companies.

The determination of how complaints should be managed within a company includes both too prescriptive formulations and too vague formulations. The requirement to *"meet with the company representatives at an appropriate level"* is too prescriptive, and interferes with the choice of persons who are best equipped to deal with a given complaint, which is internal company policy. It is not their

level that determines which representatives are the most suitable. We therefore suggest the following wording: *"meet with the appropriate company representatives"*.
The formulation to *"request for an appropriate follow up"* to a complaint is on the other hand, despite the fact that it is similarly phrased, too vague as this requires a ***harmonised*** approach at EU level, with simple, clear rules as to what is appropriate.

8. Enforcement and sanctions

The Commission proposal foresees that companies, which do not comply with the provisions of this Directive, should face civil liability. In its proposal, the Commission also makes reference several times to the *UN Guiding Principles on Business and Human Rights (UNGP)* and the *OECD Due Diligence Guidance for Responsible Business Conduct.* It is important to note that neither of those guiding principles suggest including civil liability and therefore stand in direct contradiction with the proposed Directive. We believe that the EU should stick to the recommendations of these international frameworks, that it makes reference to as a basis for this legislation, in order to achieve a better international legislative alignment.

In our opinion, introducing civil liability for damages based on this directive will not advance supply chain sustainability as this could give way to complex litigations for repair of damages, and risks leading to a massive disengagement of companies from supply chain relationships. The provisions on liability are too vague and too broad and do not include the required causal link between a company's actions and the adverse impact, necessary to establish liability. It would effectively make companies liable for damages not caused by their own actions, but rather by the actions of others. Therefore, we believe that any claims for damages should be made on the basis of environmental and human rights law.

Overall, the Directive should rely on the steering mechanism foreseen in Article 18 on the power of supervisory authorities to implement due diligence, by asking companies to identify the shortcomings in their supply chains, to remediate them, and if necessary, apply some form of penalty, imposed by designated national authority. Independent Retail Europe believes that the underlying philosophy of the proposal should not be to sanction companies, but rather to incite them to take up sustainability in their operations and to remedy a wrongdoing. If sanctions are deemed necessary, then these should not be applied as a general rule, but only as a last resort. Sanctions should only be used in cases where the company has consciously, willingly infringed upon an obligation or has not remediated a shortcoming after being informed about it. Companies should also be provided with a safe haven: They should not be sanctioned for the wrongdoings of other actors or if they could not have been expected to know about the problem.

With regard to the level of fines, we oppose a fine based on turnover, as suggested in Article 20, as that is purely arbitrary and bears no link to the harm caused. A fine based on turnover also unjustly prejudices sectors that typically, due to their nature, have higher turnover than others, like the retail sector. This may even put the viability of such companies at risk. We favour any potential sanction to be based on that part of the net profit that is related to the company's wrongdoing. This way, it is the company's performance in relation to the wrongdoing that is sanctioned, without its viability being put at risk.

The RSB's opinion also found that the foreseen enforcement and sanction regime was insufficiently assessed, stating: *"The report should better assess and compare all feasible enforcement options, including a stand-alone administrative supervision option. The report should also include more detail on the functioning, efficiency and effectiveness of the envisaged sanction regimes (e.g. withdrawal of products from the market, exclusion from public procurement), in particular with respect to non-complying third country undertakings. It should be clearer on the feasibility and impacts of possible overriding mandatory provisions as regards applicable law and assess any unintended consequences."*

9. Timeframe

Article 30 foresees that Member States shall adopt and publish regulations and administrative provisions necessary to comply with this Directive, "*2 years from the entry into force*". The Commission however requires Member States to start applying the new rules to companies at this exact same date. This could create a scenario, in which companies would have to start applying new, complex rules on the very same day that they discover them. We believe that this is an unrealistic expectation. It is only natural to give companies sufficient time, generally two years after the publishing of the new rules by the relevant Member State. Furthermore, the Commission will, as stated in several articles of the legislation, publish guidance documents, to provide more clarity on what is expected in terms of due diligence obligations. It is essential that these guidance documents are published before the legal requirements enter into force.

- ➔ **Certification should be recognised and updated regularly in the annex of the directive to give companies the legal certainty that the certification they use fulfils the requirements of the Commission.**
- ➔ **Authorities should support companies in improving sustainability in supply chains at state level and in relations with third countries. They should also not deflect responsibilities for processing claims as this will create significant administrative burden for companies.**
- ➔ **Sanctions should be used to deter and not punish the performance of companies. They should be based on profit linked with the particular infringement and not based on the size of the company or turnover.**
- ➔ **The timeframe for implementation for companies should be extended to two years after the implementation deadline for Member States.**

DIRECTORS' DUTIES

1. Interference with fiduciary duties

While it is useful that the EU sets general sustainability targets for companies in terms of what they can and should contribute to the green transition, it is much more controversial to require that this becomes part of directors' duties as foreseen in Article 25 of the proposal. Companies will always respect environmental, social, human rights requirements, as not doing so would make them go out of business. Giving the current societal context, high sustainability ambitions are an aim rather than a

barrier considering consumers' high demand for more sustainable products and appreciation of sustainable conduct.

Giving the EU or national legislators the power to intervene in companies' strategies on the other hand would go against the market economy model and the foundation of company law. It would certainly set a precedent that could see companies being obliged to change course with every change in political agenda in the future. If environmental action is mandated by law to companies, then these will necessarily have to adapt their strategies to comply with the law. How they do this should be entirely up to them. There are different approaches and strategies, since companies have different priorities, ownership models, structures and company cultures. In the case of groups of independent retailers, imposing duties for which directors are accountable to stakeholders rather than to the members of such groups would be unprecedented and could have a disruptive effect on the business model as such. Directors owe a legal duty of care (fiduciary duty) to the company. Any duty of care to the stakeholders needs to be held by the company itself rather than by its directors. The introduction of enforcement mechanisms where external stakeholders are given a role in the enforcement of director's fiduciary duties could lead to a disruptive effect between the boards of groups of independent retailers and its leadership, potentially leading to endless frivolous litigation.

2. Interference with variable remuneration policy

The provisions foreseen in article 15 (3) are also problematic. They require companies to take into consideration the achievement of directors foreseen in article 15 (1) on combating climate change, when setting variable remunerations for company directors. The proposal however does not explain exactly how these obligations should be set out and implemented, for instance, what minimum share of the remuneration would be considered appropriate, or under which conditions such an objective would be considered to have been achieved.

The Shareholders Rights Directive II clearly states that a company's remuneration policy must contribute to its long-term interests and sustainability. This gives the shareholders in a company sufficient leeway to adapt the remuneration to European Sustainability Goals according to the strategy it sets itself. An external interference with KPIs set for directors (percentages of remunerations for reaching objectives), thereby overruling members of groups of independent retailers is far-reaching and intrusive on the fundamental rights of these groups.

3. Alignment with other EU policies

Finally, the Corporate Sustainability Reporting Directive already requires companies to put forward a report that lays out a company's performance on Human Rights and social and environmental sustainability. Once adopted, it will provide legislators with a very good overview of each company's efforts on sustainability. The approach to ask a company to include sustainability aspects into its strategy rather than requiring this from an individual makes more sense, also because directors change on a regular basis. This is also reflected in the RSB's Opinion: *"The report is not clear about why it is necessary to regulate directors' duties on top of due diligence requirements. It should better explain and assess the value-added of regulating directors' duties, considering that the due diligence option*

already requires risk management and engagement with stakeholders' interests. It should justify why stand-alone options covering directors' duties or due diligence requirements only were not identified and subsequently compared with the combination options."

- **Requirements towards managers should be left up to the stakeholders of the company, as not doing so could affect its proper functioning.**
- **The requirement to adapt remuneration according to the objectives set by the Paris Climate Agreement is not appropriate, as companies should determine the priorities for managers. It is also difficult to imagine how such a remuneration would work in practice.**
- **The proposal should be better aligned with the responsibilities of the CSRD, where the responsibilities are allocated to the company instead of its leadership, which makes more sense as leadership can have high fluctuation.**

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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 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 23 groups and their over 403.900 independent retailers, who manage more than 759.000 sales outlets, with a combined retail turnover of more than 1,314 billion euros and generating a combined wholesale turnover of 484 billion euros. This represents a total employment of more than 6.620.000 persons.

Find more information on our website, on Twitter, and on LinkedIn.