BACKGROUND
THE RESEARCH ISSUE IN CONTEXT

- Changes in food retail: technology, business models, consumer behavior
- Change in economic power dynamics between suppliers and buyers
- Concerns with:
  - Outcomes for consumers
  - Outcomes for competitors
  - Outcomes for suppliers, especially farmers (prices, contract terms)
CONCERNS

- Concerns for policy-makers:
  - Unfair Trading Practices (UTPs) in the food supply chain
- Concern of this paper: the rise of national legislation that deviates from standard competition law in response to a European issue.

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PROBLEM AND GOALS
LACKING PROBLEM DEFINITION?

- What is the problem with UTPs?
  - Fairness?
  - Efficiency? (if so, in what sense?)
    - Consumer outcomes
    - Efficient production, sustainable consumption
- What is the goal of the legislation?
  - Protect national producers from bad buyer power?
  - Protect national producers from too much competition?

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NATIONAL LEGISLATION HITS A WALL?
PART I: (FORUM) SHOPPING

- Forum shopping
- Research question/concern: what opportunities for unilateral solutions targeting economic power in an integrated market?

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THE NATIONAL REGULATORY TOOLBOX
PART II: WHAT TOOLS ARE AVAILABLE GIVEN EU LAW?

- Trade measures (quotas, tariffs) ?
- Subsidies and preferential taxation ?
- Public procurement ?
- Sector-specific regulation ?
- Contract and commercial law ?
- Urban planning law ?
- Self/co-regulation ?

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IMPLICATIONS FOR THE INTERNAL MARKET

- Fragmentation
- Competitiveness
- Chipping away at the economic constitution

What is the cost of non-Europe?

IMPLICATIONS FOR COMPETITION LAW

- The internal market goal
- The modernization agenda
- The spirit of ECJ case law
  - Tele2Polska; Schenker
- The ECN project
- Competition advocacy
A MISSED OPPORTUNITY FOR COMPETITION LAW?

- Failure to recognize that UTPs involve competition issues that keep cropping up in competition law
- Challenges to the classic model of market power
  - Economic dependency and superior bargaining power
  - Monopsony, oligopolies and oligopsonies
- Fairness v efficiency
- Fairness in B2B and B2b

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