

Retail Planning and Retail Food Sector

Empirical Analysis and Assessment of the Raffarin Law

Jean-Louis Monino

Stéphane Turolla

University Montpellier I

University Rennes I

Producers and distributors : can regulation of retail help for better
regulation of the Internet

Paris February 2, 2009

Introduction

Purpose : The Royer and Raffarin laws have introduced licensing arrangements for the creation and extension of retail stores over a threshold of sales area

Consequence :

- Significant barriers to entry Figure ...
- ... but the Raffarin Law fails to restrain the development of large retail stores
- EU law infringement :
 - i. Incompatibilities with Art. 43 & 49 of the EU Treaty :
Freedom of establishment and freedom to provide cross border services (formal notice 05/07/2005)
 - ii. Incompatibilities with the Directive services (Phase two 12/12/2006) :
 - Prohibit the granting of authorisation subject to proof of the existence of an economic need or market demand
 - Zoning boards' members are both judge and jury

The Royer Law

LOI D'ORIENTATION DU COMMERCE ET DE L'ARTISANAT

Law n°73-1193, December 12, 1973

- **Motivations :**

- To answer to the small businesses fear inspired by the “unruly growth of new forms of distribution”
- To restrain rural desertification

- **Principle :** Introduce a two-stage process to control the opening of new large retail stores

- i. 1st stage : Authorisation issued by departmental zoning boards (Commission Départementale d'Urbanisme Commercial)
- ii. 2nd stage : Building permit

Authorisation threshold

- **1,000 m²** for cities with less than 40,000 people
- **1,500 m²** for larger cities

The Royer Law : Assessment and amendments

The Royer Law

- A law that did not come up to expectations (see Bertrand and Kramarz, QJE, 2002) :
 - Had a negative impact on employment
 - Reinforced the level of concentration by supporting incumbents
- Existence of corruption in the granting process

The Sapin Law (January 29, 1993)

- To correct the dysfunctions revealed in the granting process
 - To guard against corruption between politicians and retailers (make up and approval rule were modified)
 - Introduced additional approval criteria

Preamble to the Raffarin Law

Events preceding the Raffarin Law

- Right-wings deputies won an overwhelming majority in the National Assembly (March 1993)
- Declared a moratorium on the opening of new stores (Circular Madelin, April 21, 1993)
- Legalized the new restrictions with the passing of the Raffarin Law
- During the passing of the Raffarin Law, the government decided to stop all creations and extensions during a six month period (April to October)

Arguments put forward by politicians

- An **overcrowded** retail network

“On est allé trop loin. L'équipement commercial est maintenant proche de la saturation. Il doit être maîtrisé [...]”
(J.-P. Raffarin, 1996)

- Large retailers have a **harmful effect on employment**
- To control the development of **German hard discounters**

The main amendments – The “call-in” threshold

LOI RELATIVE AU DÉVELOPPEMENT ET À LA PROMOTION DU COMMERCE ET DE L'ARTISANAT

Law n°96-603, July 6, 1996

Reinforce planning restrictions and cover hard discounter stores

New restrictions

- The “call-in” threshold down to **300 m²** whatever the number of people per city
- Authorisation needed for the first additional m² (200 m² under the Royer Law)
- Authorisation needed for any change of retail activity

The main amendments – Approval criteria

Approval criteria required under the Royer Law :

- Avoid the “squashing” of mom and pop stores
- Suitable with town and country planning

Additional approval criteria required under the Raffarin Law :

- Evaluate the application with respect to jobs creation or destruction
- The application must meet the requirements of :
 - Environmental protection ;
 - Town planning quality...
- ... and also contribute to :
 - The modernisation of the retail network ;
 - The adaptation and evolution of consumer trends and distribution technologies ;
 - Consumers' buying facility ;
 - The employee's working environment

The main amendments – The application

The application

- **Sales area $> 1,000 \text{ m}^2$** : The application must contain an impact study which appraises the economic effects with respect to criteria listed in Art. 1
- **Sales area $> 6,000 \text{ m}^2$** : The application requires a public utility inquiry which evaluates economic and social effects of the project (define the catchment area, evaluate the potential market, list retail outlets concerned, estimate the annual turnover, proceed to a fully detailed appraisal of the impact on town equilibrium and existing activities)

The main amendments – CDEC & CNEC

CDEC composition and approval rule

- For CDECs : 6 members
 - 3 locally elected politicians (mayor of the city concerned)
 - A representative from Chambers of Commerce
 - A representative from Chambers of Trade
 - A consumer representative
- 4 votes are necessary for approval and CDECs have 4 months to rule

Board's members have the opportunity to appeal the decision to a national board (Commission Nationale d'Equipement Commercial)

- 8 members
- 4 months to rule

Lastly, the CNEC's decision can be contested by appealing to the highest administrative court (Council of State)

The model

Purpose : To control if political decisions (moratorium, Raffarin Law) have had an impact on retailers' decisions

Methodology : To dissociate the temporary effect (ST) to the structural effect (LT) in order to test the significance (or not) of political decisions on the LT

$$y_t = \beta_0 + \beta_1 y_{t-1} + \beta_2 D_1 + \beta_3 D_2 + u_t$$

- Hypermarket (T) : $u_t = \rho_1 e_{t-1} + \rho_2 e_{t-2} + \eta_t$
- Hypermarket (O) : $u_t = \rho_1 e_{t-2} + \eta_t$
- Supermarket (O) : $u_t = \rho_1 e_{t-3} + \eta_t$
- Hard Discount (O) : $u_t = \rho_1 e_{t-1} + \eta_t$

The model

Purpose : To control if political decisions (moratorium, Raffarin Law) have had an impact on retailers' decisions

Methodology : To dissociate the temporary effect (ST) to the structural effect (LT) in order to test the significance (or not) of political decisions on the LT

↙ Constant

$$y_t = \beta_0 + \beta_1 y_{t-1} + \beta_2 D_1 + \beta_3 D_2 + u_t$$

- Hypermarket (T) : $u_t = \rho_1 e_{t-1} + \rho_2 e_{t-2} + \eta_t$
- Hypermarket (O) : $u_t = \rho_1 e_{t-2} + \eta_t$
- Supermarket (O) : $u_t = \rho_1 e_{t-3} + \eta_t$
- Hard Discount (O) : $u_t = \rho_1 e_{t-1} + \eta_t$

The model

Purpose : To control if political decisions (moratorium, Raffarin Law) have had an impact on retailers' decisions

Methodology : To dissociate the temporary effect (ST) to the structural effect (LT) in order to test the significance (or not) of political decisions on the LT

↙ Moratorium

$$y_t = \beta_0 + \beta_1 y_{t-1} + \beta_2 D_1 + \beta_3 D_2 + u_t$$

- Hypermarket (T) : $u_t = \rho_1 e_{t-1} + \rho_2 e_{t-2} + \eta_t$
- Hypermarket (O) : $u_t = \rho_1 e_{t-2} + \eta_t$
- Supermarket (O) : $u_t = \rho_1 e_{t-3} + \eta_t$
- Hard Discount (O) : $u_t = \rho_1 e_{t-1} + \eta_t$

The model

Purpose : To control if political decisions (moratorium, Raffarin Law) have had an impact on retailers' decisions

Methodology : To dissociate the temporary effect (ST) to the structural effect (LT) in order to test the significance (or not) of political decisions on the LT

✓ Raffarin Law

$$y_t = \beta_0 + \beta_1 y_{t-1} + \beta_2 D_1 + \beta_3 D_2 + u_t$$

- Hypermarket (T) : $u_t = \rho_1 e_{t-1} + \rho_2 e_{t-2} + \eta_t$
- Hypermarket (O) : $u_t = \rho_1 e_{t-2} + \eta_t$
- Supermarket (O) : $u_t = \rho_1 e_{t-3} + \eta_t$
- Hard Discount (O) : $u_t = \rho_1 e_{t-1} + \eta_t$

Hypermarkets' openings and transformations

- **Transformations** : Neither the moratorium nor the Raffarin Law are statistically significant
- **Openings** : Both political decisions are statistically significant

Estimates

Results

- Both political decisions have reduced significantly the opening of hypermarkets...
- ...but hypermarkets' sales areas have continued to increase by way of extensions and transformations (annual average growth rate of 2.4% for 1997-2007)

Figure

Supermarkets' openings

- The number of openings is sharply decreasing for 1986-1996
Figure
- The moratorium contributes to the decrease, whereas the Raffarin Law seems to be at the origin of a stabilization period

Estimation

Results

- The trend of supermarkets' openings denotes a **mature market**
- Political decisions impact at the margin this decrease
- Reasons of decrease are (i) a concentrated retail network in the beginning of the 1990's and (ii) a fiercer competition with hypermarkets compared to other European countries

Density

Hard Discount stores' openings

- As expected, moratorium is not statistically significant (call-in threshold 1,000 m²). But more intriguing, same conclusion occurs for the Raffarin Law Estimation
- Non parametric test confirms the change in the openings' distribution

Results

- The Raffarin Law has lower Hard Discount stores' openings in the short term, but not in the long term
- After a slow down period, Hard Discount stores' openings going up (108 annual average openings for 2002-2004)

Concluding results

Conclusion

- ① Political decisions have restrained significantly hypermarkets' openings and temporarily Hard Discount stores ones
- ② Few impact on supermarkets' openings
- ③ Overall, sales areas have increased because of
 - i. Sales areas transformations and extensions
 - ii. A rise of the approval rates

The Raffarin Law did not regulate strictly the development of new sales areas (323 465 m² in 1989 and 748 035 m² in 2007)

The reasons for failure

- Generally

- ① Difference between deputies and local politicians wills
- ② Advantages to insiders : Extensions and transformations = 67% of new sales areas for 1994-2003 (cf. Bertrand and Kramarz, 2002)

- Legal uncertainty

- ① Before 2002, no hierarchy of criteria
- ② After 2002, the Council of State has decided that the first criterion will be the respect of the powers at play in the catchment area
 - i. In practical terms, an approval is accepted if the rate of large retail stores after project $<$ departmental or national rate
 - ii. A direct consequence is an upward adjustment of densities of large retail stores per department
 - iii. Approximate and biased data (census 1999, do not account for small retail stores under 300 m²)
- ③ A criterion that does not insure the equilibrium of the different forms of distribution

The economic consequences

- Introduced important barriers to entry
 - (i) Favored national retailers and incumbents in local markets and (ii) hindered potential new entrants
 - Effects on the downstream market :
 - i. A concentrated market structure ($C_5 = 60\%$ in 1993 and $C_5 = 78\%$ in 2006)
 - ii. Increase of retail prices
 - iii. Phase of mergers and acquisitions
 - Effect on the upstream market : Increase of retailers' bargaining power (Allain and Flochel, 2001)
- Failed to protect small retail stores
 - Entry of large retailers in the convenience store industry
 - Hard discounters open stores of sales areas $< 300 \text{ m}^2$ in cities center
 - The market share of small retail stores has decreased
- Mixed feelings on employment

Concluding remarks

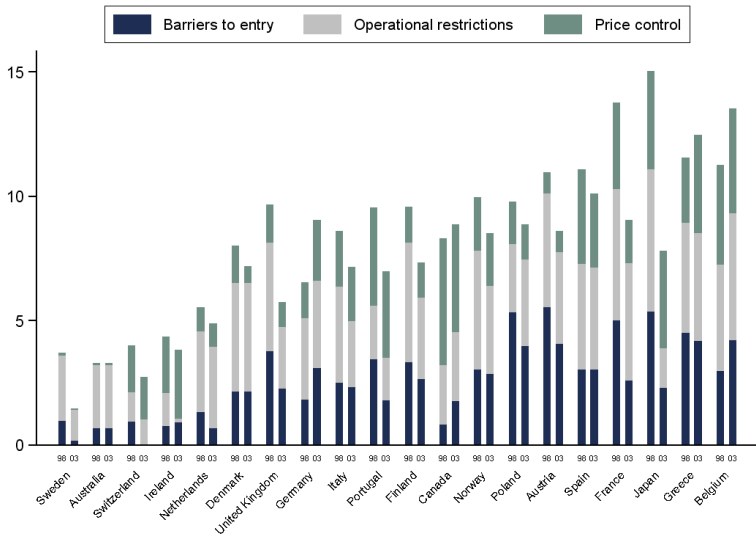
The Raffarin Law

- Failed to restrain strictly the development of new sales areas and to protect small businesses
- Introduced important market distortions

Following this assessment, we can be glad with the amendment of the Raffarin Law this summer by the “Loi de Modernisation de l’Economie”.

Nevertheless, it seems that the legislator did not retain all the reasons of the Raffarin Law’s failure, by adding a greater power to city mayors.

Indicators of regulatory conditions in the retail sector (1998/2003)



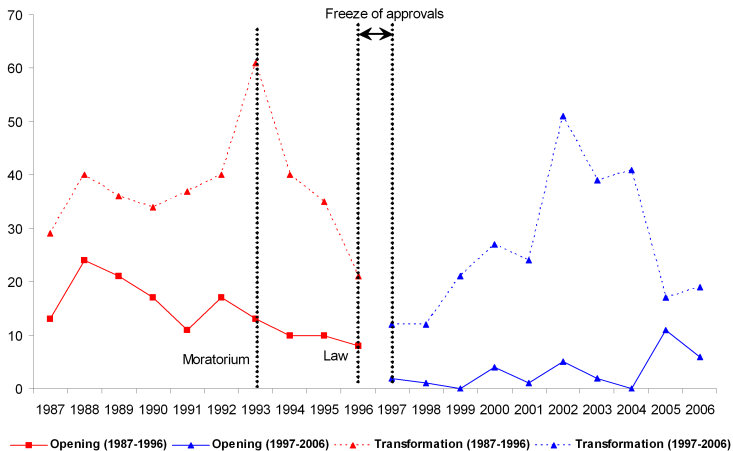
The scale of indicators is 0-18 from least to most restrictive

Source : OECD

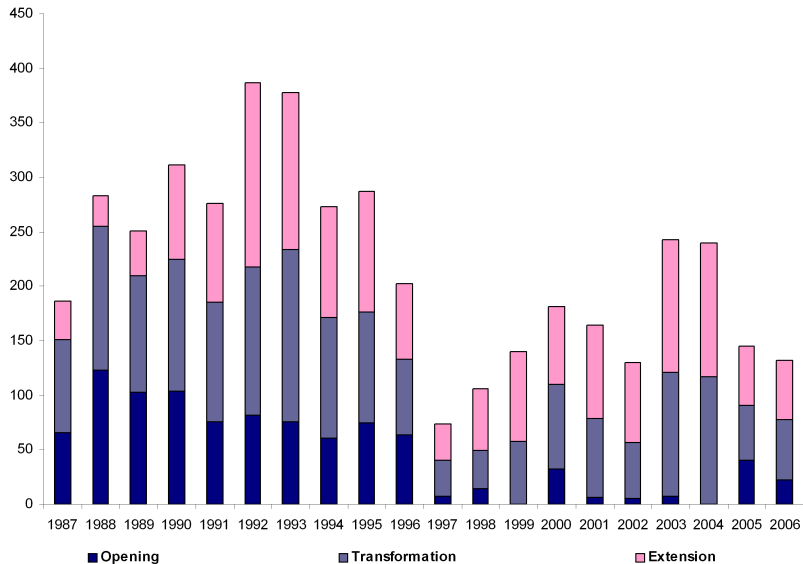
Impact of political decisions by format

Model	Hypermarket (T)	Hypermarket (O)	Supermarket (O)	Hard Discount (O)
	(i)	(ii)	(iii)	(iv)
Constant	49,8590*** (-16,6645)	19,7137*** (-3,808)	73,4609*** (-24,0532)	92,3834*** (-17,5006)
y_{t-1}	-0,7110*** (-0,1427)	-0,1032 (-0,2318)	0,6410*** (-0,0847)	0,7349*** (-0,1977)
Moratorium (1993)	14,2792 (-14,2042)	-8,9729*** (-1,7265)	-80,5854*** (-17,2432)	25,7034 (-39,9173)
1995	-	-	-	-136,3823*** (-14,4103)
Raffarin (1997)	-13,3798 (-9,2968)	-7,5865*** (-2,2973)	24,2949*** (-6,7577)	35,6888 (-41,3161)
ρ_1	1,2931*** (-0,2505)	-0,5421* (-0,3062)	-0,8612*** (-0,1555)	-0,6201*** (-0,1896)
ρ_2	-0,6728*** (-0,1432)	-	-	-
Wald test (prob.)	0,0001	0,0001	0,0001	0,0001

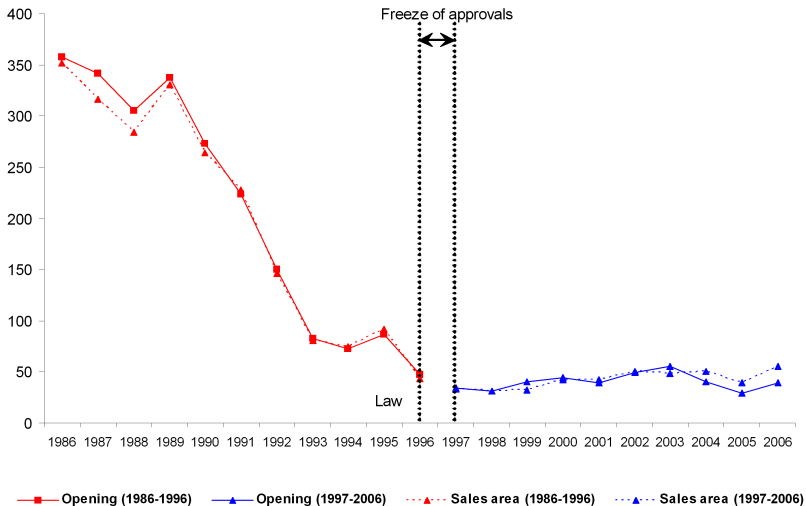
Openings and transformations of hypermarkets



Hypermarkets' new sales areas per type of investment (in thousand m²)



Supermarkets' openings and new sales areas (in thousand m²)



Large retail stores densities in Europe (100 000 hab.)

	Density of supermarkets			Density of hypermarkets		
	1990	1995	2002	1990	1995	2002
France	11.26	13.04	14.13	1.47	1.83	2.00
Germany	9.95	12.10	27.46	1.25	1.10	3.11
United Kingdom	1.95	3.40	12.18	1.08	1.30	1.26
Italy	5.94	7.48	16.75	0.18	0.32	0.78
Spain	13.75	19.10	18.21	0.30	0.60	0.94
Netherlands	n.d.	13.80	21.11	0.27	0.30	0.07
Finland	n.d.	20.60	18.40	n.d.	1.50	1.85

Hard discount stores' openings and new sales areas (in thousand m²)

