

Background Report For the UNI Europa Commerce Conference

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Introduction

The commerce sector employs more people than any other sector in Europe with almost 19 million people working in retail and almost 11 million in wholesale in 2011. Together these account for 13% of the labor force. From 2000 to 2010, there was a 5% increase in wholesale employment and 5.7% increase in retail employment.¹ The commerce share of the labor force varies across Europe, ranging from a low of 10% in Finland to over 18% in Greece.²

The sector is a significant contributor to the European economy. Retail firms accounted for 2.6 trillion euros in turnover in 2011, and wholesale firms for 5.7 trillion euros, for a combined 8.3 trillion euros. In addition, they accounted for approximately 1 trillion euros in gross value added across the EU.³

The retail sector is constantly innovating, but there are certain periods in which change is more rapid and intense. Many industry analysts believe we are currently in such a moment, as the changes brought about by technology and the Internet will fundamentally reshape retail. According to one analyst, "We'll see a very radical shift in terms of what our shopping future is. Stores will change more over the next twelve years than they have over the past fifty years."⁴ This may be particularly true as several studies suggest a productivity gap between European and US retailers. Most of those cite adoption of communications and information technology as a key factor, suggesting that European retailers will be looking to intensify their adoption of new technologies.⁵

Despite the rise of e-commerce, and despite the leveling off, and in some cases a decline in purchasing power across Europe, the retail sector is expected to expand over the next decade. Eurostat estimates that retailers will create 4.3 million new jobs from 2010-2025, and have 17.7 million openings due to replacement needs. Workers and unions must find a way to both keep new jobs from being further deskilled, and provide training and opportunities to meet the demand for new types of jobs, such as e-merchandiser.

No single firm dominates the European commerce sector, and it appears that market concentration is relatively low in Europe. However, while market concentration in the sector is relatively low in Western Europe overall compared to other parts of the world, the rate of consolidation and concentration has been more rapid in certain countries, such as Romania, Poland and Croatia.

Most commerce workers are employed in small and medium sized firms (SMEs). Many countries are still dominated by small firms. For example, only 21% of retailers in Spain belong to any chain, franchise or purchasing group.⁶ However, large firms (250 or more employees) are a growing part of the sector, and play a larger role in some countries. For example, in the UK almost 70% of retail workers are employed by large firms (250 or more employees). There are currently around 4,000 large retail firms and 3,000 large wholesale firms across Europe.⁷

While small firms still dominate the market in number, large firms play an important role in setting trends in the sector. Larger firms also generate about 70% of value added. Therefore, it is likely that larger firms have and will continue to set trends that impact the industry overall.⁸

As firms adapt to the global economy, the line between wholesale and retail has begun to blur. Some retailers have their own design, manufacturing and distribution process; some design their products and outsource the manufacturing; and some carry their own labels alongside other products. New technologies and logistics systems have in some ways impacted commerce workers as well, such as front-line retail workers who interact with customers but must also understand inventory control systems.

This report will review some of the trends impacting commerce sector workers and unions, and conclude with some discussion of efforts to counter negative trends in the sector.

Trends impacting commerce workers

1. Precarious work

The commerce sector, like the rest of the economy, is undergoing a shift in the types of jobs.⁹ However, this is more common in retail than wholesale. Retail work has always had a greater share of part-time jobs than the average for all sectors in Europe. A recent Eurofund survey found that almost 26% of retail workers are part-time. However, only 12% of wholesale workers are part-time.

Again, there is variation by country. The Netherlands has the greatest share of part-time commerce workers, at more than 50%. In an additional five countries, more than 30% of the workforce are part-time. On the other end, Bulgaria, Romania, Croatia and Slovakia have a large majority of full-time workers.

There are various explanations for the differences in these numbers, including factors such as legislative and regulatory factors, cultural expectations, lifestyle choices, skill levels and other labour market conditions. For example, one report suggests that firms in some countries have had difficulty finding and keeping skilled workers, and therefore they have had to offer more full-time jobs to retain their workers.¹⁰

Another example is France, which has regulations favouring full-time employment or “extended part-time” hours, resulting in a much higher proportion of full-time jobs in French retail as compared to the UK.

There is much debate about the ideal way to provide “flexibility” for employers and employees who might prefer part-time work due to other commitments or illness, with security for workers.

One survey found that 84% of part-time retail workers in the UK have other commitments, including school and carework. This might suggest that part-time work is ideal for them.¹¹ Similarly, 82% of retail workers in France stated that they were satisfied with their working hours, and that two-thirds of part-time workers did not want an increase in hours. On the other hand, this means that one-third of French part-time workers do want more hours. There is little data available but other research would suggest that those part-time workers might be among the marginalized in the workforce, such as immigrants and women.

According to USDAW in the UK, employers are increasingly converting full-time jobs into part-time jobs with hours that vary week to week. This often leads to underemployment or short-hours contracts. In addition, another trend that has been developing in retail is the notion of zero-hours contracts, or employment contracts that offer no secure promise of weekly hours of work and instead are based on the premise of on-call shifts. There has been the greatest attention on this phenomenon in the UK, where estimates suggest that approximately 1.4 million workers are on zero hour contracts.¹² To date, it appears that these are rare in other parts of Europe (though they are common in New Zealand). They are also not common among unionized employers in the UK. In fact, more than half of USDAW members report working more hours than their contract specifies, raising issues of adequate enforcement of overtime pay.

In Ireland, Mandate Trade Union has launched the “Decency for Dunnes Workers” campaign, in an effort to win better wages, longer hours, and more security for the 10,000 commerce workers in Dunnes Stores. In April 2015, over 6,000 workers at Dunnes Stores in Ireland went on strike in protest of low-hours and insecure work. John Douglas, the General Secretary of Mandate Trade Union commented, “80% of Dunnes Stores workers haven’t a clue, beyond 15 hours, how many hours they are going to work week-to-week.”¹³ The union surveyed members and found that 98% want more stable hours and 85% felt the company uses scheduling to discipline workers. The case is emblematic of the current trends of increasing precarious work alongside growing economic inequality: the Dunnes company is highly profitable (and the Dunnes family very wealthy), but they claim that they have a Constitutional right not to bargain with the union, and not to accept a decision from the Labour Court.¹⁴

In addition to part-time work, there has been an increase in temporary work in labour markets. As of 2012, 10.8% of commerce workers were temporary, which is slightly less than the European average. However, for retail alone, temporary work is greater than the average. The same is true for retail fixed term contracts. There is little data to know what proportion of workers would choose to work on a fixed-term or temporary contract.

2. E-commerce

E-commerce is an important development for the sector, although analysts have different forecasts in terms of its growth and impact on employment. On the one hand, internet retail is growing rapidly in Europe. One source estimates that European internet retail was worth €150 billion in 2013, comprising 27% of the global retail market (following Asia/Pacific and North America). On the other hand, some analysts suggest that the growth has limits, as people still like to do a lot of their business in person, such as visiting retail stores to try on clothes or look at products first hand. It is important to distinguish e-commerce (selling products on-line), from e-business, which is adopting new technologies to streamline everything from scheduling to organizing the supply chain. Some analysts note that eCommerce is no longer a separate activity but instead is fully integrated into a full shopping “multichannel” experience. This means that consumers may look at products on their computer then visit the store then make a purchase on their phone.

There is wide variation in e-commerce across Europe, with the UK, Germany and France being the largest contributors to the trend.¹⁵ Eastern Europe has a much smaller share of e-commerce, although some of the regions with the fastest growth rates are Turkey and Poland. Estonia and Slovakia have some of the highest rates of IT infrastructure measures, such as Internet penetration.¹⁶ Overall, however, Ireland showed the fastest growing market for e-commerce in 2013.¹⁷

Within e-commerce, it appears that more growth is coming from domestic online retail sales, rather than cross-border sales. However, again, there is variation. Far more shoppers purchase from international retailers in smaller markets than in larger ones, as would be expected. Almost half of online shoppers in Slovenia and the Czech purchased from foreign-owned e-commerce in 2013, for example. While the internet makes cross-border sales more likely, retailers must still confront other obstacles such as differences in regulations, laws, taxes and contracts. In addition, the amount of sales conducted by phone is still relatively small.¹⁸ Again, this varies. For example, over 40% of shoppers in Turkey and Ukraine made mobile phone purchases.

The trends impact retailers as well as wholesalers, and those along the retail supply chain. For wholesalers, some of the changes occur in relation to the shift to selling directly to consumers (“business to consumer,” or B2C, rather than “business to business,” or B2B). In general the trend is that the lines between retail and wholesale, and commerce logistics, are becoming more blurred.

The impact of e-commerce on employment is difficult to predict, as it is likely to result in the loss of some traditional jobs but increase new kinds of jobs. Furthermore, internet retail may result in fewer face-to-face retail workers but could increase employment in wholesale work. However, in many cases the traditional commerce worker will be asked to adopt new internet and social media skills, making it difficult to distinguish “traditional” versus e-commerce employment. National statistics are not yet compiled for these kinds of occupations. The European Skills Council – Commerce (ESCC) has noted a few occupations that will be emerging or growing in coming years: “international trade specialised technician/international trade assistant, e-merchandise, e-commerce employee front office/eshop assistant, entrepreneurial e-commerce employee, technical specialist in e-commerce, e-commerce operator, and expert in digital CRM - customer relationship management.”¹⁹

Predictions vary wildly in terms of impact on number of jobs and type of jobs. Some say the eCommerce trend will eventually replace millions of traditional retail jobs globally in the next two decades. But some predicted this even 15 years ago, and so far it has not come to fruition. For example, a 2000 OECD report predicted tremendous turmoil and employment shocks due to the digital transition. Instead, the employment shocks have come much more from general economic downturns.

The other debate is about how many new jobs will be created, or transitioned, in moving from traditional retail to eCommerce. Two studies find that there are approximately 2 million to 2.3 million jobs that are directly or indirectly in the e-commerce sector in Europe. One study predicts another 1.5 million jobs will be created by 2018.²⁰ However, the studies do not say whether this is a gross or net employment change. Another study found that while eCommerce is forcing some small retail businesses to close in the US because they cannot compete with online retail, the

process has also created new jobs as other retailers expand their operations internationally and hire more workers to manage complex supply chains.

While some see the shift from traditional retail jobs to eCommerce ones as positive, others disagree, stating that there is no reason to believe that the technology jobs will be plentiful or high-paying. According to John van Reenan, professor of economics and director of the Centre for Economic Performance at the London School of Economics and Political Science, observes this about the transition to eCommerce: "The worry isn't the quantity of jobs; it is the quality of jobs."²¹ The other concern is that while the trends may create new jobs, and spread work to new groups of workers, those jobs may be piecemeal and poor quality. One example is the concept of "microwork," where a company breaks up tasks and hires multiple independent contractors to complete tasks. Amazon Mechanical Turk is one of the largest, with over 500,000 people working in 190 countries. They are hired for tasks ranging from translation to market research and data verification.²²

3. Skills

In addition to the impact on the number of jobs, e-commerce will also impact the skills needed in the commerce sector, alongside other innovations and trends such as the adoption of new in-store technologies. A Eurofund study shows that the introduction of new technologies in retail firms was correlated with size of establishment, with more technological change at larger firms. However, retail workers in all size firms were less likely than average EU workers to report technological changes. Forty percent of all EU workers reported new technologies and processes introduced in the last three years, compared to 28% of retail workers.²³

These trends will likely have different effects on workers. A report by the ESCC agrees that while commerce workers in general need to know their products and services, there is tremendous variation by specific occupation within the sector, in terms of specific skills necessary. This is related to new technologies but also trends in the sector in general, such as new work practices.²⁴

Some new technologies and practices will result in deskilling, such as self-scanning checkout and mobile payment. The Eurofund surveyed retail workers and found that 36% thought they were over-skilled for their current job.²⁵

On the other hand, some analysts state that commerce sector workers will need more skills and training to keep up with new technologies and business models.²⁶ An ESCC report states that there will be a labour shortage in coming years as the commerce sector continues to grow and labor supply will not be adequate to fill new skilled positions.

One report finds that the retail sector spends about £1,275 per employee on training, which is slightly higher than the manufacturing sector, and that due to a relatively flat company hierarchy many commerce workers have a better chance to move into management roles.

For example, some analysts suggest that retail employers would benefit by training shopfloor employees to be a better conduit of information about customer tastes and preferences, passing valuable feedback from the customer to assist with better product design, trends and stocking. For example, the retailer Zara reportedly has shop employees communicate with store managers



at the end of every day. They report on inventory levels from over 900 stores via a wireless communication system, which then goes to the distribution system. Zara can analyze customer preferences and purchasing patterns and respond quickly.²⁷

One observer notes that the following three skills are crucial for retail workers who want to make a career in the industry: “evidence of leadership, responsibility and people skills.” By cultivating these skills, retail employees increase their chances of moving into positions in human resources, buying, marketing and management.²⁸

The example of Amazon Mechanical Turk shows that many of the new eCommerce jobs, including microwork, will require skills. In fact, a World Bank report notes that the majority of those who work for AMT have college educations. This highlights the fact that even jobs that require more education and skills will not necessarily be good jobs.

4. Franchising

Some estimates suggest that franchising in the U.S. account for at least 40% of all retail revenues.²⁹ The European commerce sector has not adopted franchising to nearly the extent that it exists in the U.S. but it is on the rise, with the U.K. having the most advanced franchising in Europe. Studies show that the adoption of franchises depends heavily on both firm-specific factors and macro-environmental factors, which suggests that different markets, regulations, economic conditions and cultural factors will lead to varying levels of franchise expansion across Europe.

Data from 2010 found that there were over 10,000 franchise brands operating across Europe, with heavier concentration in Britain, Ireland, Germany, Spain and France.³⁰ While US corporations led the way in franchising, many of these countries have their own domestic franchises. For example, data from 2000 showed that approximately 75% of franchise brands or retailers operating in Spain, and 79% of all franchise shops, were of Spanish nationality.³¹

Franchise expansion of course includes domestic as well as international firms. A 2011 survey of US franchise firms found that 79% of respondents planned to enter or expand in Europe in the next three years, which represents a 70% increase from 1989.³² Similarly, a 2011 survey of IFA members found that 60% already have operations in global markets, and 75% intend to expand those operations in the near future.³³ It is important to note that some companies have not had success with franchising, such as Marks and Spencer (which failed in its first real attempt at global franchising in the early 2000s), Aldi and Lidl in the UK, and Walmart in Germany.³⁴

On the other hand, the franchise model can be a way for corporations to avoid legal liability, engage in tax avoidance, and tighten working conditions. Some examples are from companies outside of the commerce sector, but may be instructive. For example, a 2012 Reuter's investigation found that fast food restaurants including McDonalds and Burger King were requiring franchisees to send franchise royalty fees to low-tax countries. Other global corporations including Amazon, Google, Apple, Facebook and Starbucks were engaging in the same practice –with some paying little or no taxes to European countries.³⁵ In April 2015 a coalition of US and European unions, together with the charity War on Want, called for another investigation into McDonald's tax avoidance practices in Europe, claiming that the company avoided paying around



1 billion euros in taxes from 2009 to 2013. There are examples from the commerce sector as well. For example, grocers such as Sainsbury, to clothing companies like Prada, have been investigated for the same issues. Tax avoidance is not necessarily related to the question of franchising, but franchising appears to make this easier.

A study from Norway concluded that the spread of franchises was a threat to the Nordic model, as it could result in a two-tier labor market as some workers have their conditions of work set at the franchise level rather than through national agreements. Only a few countries have legislation on franchising. Sweden passed legislation in 2006 but it is just a franchisor-disclosure requirement and includes no provisions for employee rights.³⁶

The franchise model is also used to fight unions. For example, according to a study from Norway, franchising makes it more difficult for unions to function as the franchisee has little power over the terms of employment, which are often set by the head corporation.

The International Franchise Association has material available for franchise owners to fight unions. The organization urges employers to provide supervisors with union avoidance training, and they warn employers to act quickly and “immediately put employees on notice ...that it is prepared to use whatever lawful means that it has available to stay ‘union free.’”³⁷ There is evidence to suggest that the American model of business has strong influence in labor markets in Europe, setting the tone and standards for labor relations in industries where they have entered, such as fast food. This suggests that as American MNCs expand their franchises overseas, they will have a negative impact on unionization, wages and working conditions.³⁸ One scholar writes of franchise workers: “Conditions leading to workforce vulnerability arise because employment policies for the millions of workers in these sectors reflect the interdependent decisions of relatively small, local employers facing significant product market competition yet having a lower stake in reputation than the multinational brands of which they are a part.”³⁹ For example, in the US, there are higher levels of health code violations in franchised stores compared to direct company-owned stores in the same brand. They also violate labor standards at a higher rate, and owe, on average, \$800 more in back wages per worker found in violation.⁴⁰

5. Sunday work and opening hours

Another trend impacting commerce workers is the move to ease regulations that restrict shopping hours, particularly on Sundays or in the late evenings. The EU allows member states to set their own laws regarding Sunday shopping. Currently 17 countries allow shopping on all Sundays. This includes some that have made recent changes to their laws, such as Denmark, which abolished Sunday restrictions in 2012, and the Netherlands, which liberalized in 2013.

Other countries maintain some regulations on shopping hours, such as restricting Sunday shopping to certain tourist cities and/or certain days. For example, in Germany the authority to set shopping hours is now set at the state and local level. Some cities allow more shopping days than others.

For the most part, the trend has been to liberalize shopping hours. This has been urged as a measure to bolster tourism and shopping as part of economic recovery. In some cases it has been a step governments are taking to prove to the EU that they are serious about solving their deficits.⁴¹

A few countries have moved in the other direction, however, in an effort to regulate what had not been regulated. Hungary enacted shopping hour regulations in March 2015 that only allows small shops or shops that meet specific criteria to stay open on Sunday.

Some countries still prohibit stores from opening on public holidays. For example, Norway and Poland only allow storeowners to work in shops on public holidays.

Table 1. Shopping Hours Restrictions

No Restrictions on Sunday	Some Restrictions on Sundays
Bulgaria	Belgium (limited number of days per year)
Croatia	England (some restrictions on hours for large shops)
Czech Republic	Finland (12 pm to 6 pm only; plus Christmas)
Denmark	France (not allowed but exceptions exist)
Estonia	Germany (limited number of days, varies by city)
Ireland	Hungary (only small shops may be open)
Italy	Spain (laws differ by city)
Latvia	Wales (some restrictions on hours for large shops)
Lithuania	
Netherlands	
Poland	
Portugal	
Romania	
Scotland	
Slovakia	
Slovenia	
Sweden	

Trends impacting labor unions

In addition to major changes taking place in the commerce sector, European unions are also facing some challenges in relation to the freedom of association and right to collective bargaining. This varies greatly by country, however.

There are at least two sources that issue annual reports on the state of freedom of association and labor rights by country: the ITUC Annual Survey of Violations of Trade Union Rights, and the United States State Department Human Rights Reports.

The ITUC reports on problems with the rights to unionize, collective bargaining and striking. In recent years, it began to assign a Global Rights index score to countries based on violations of these rights. As of 2015, the ITUC has rated 37 countries in Europe, with a 5 representing no workers' rights, and 1 representing countries where violations of labor rights are rare. Of the 37 countries, the average score is 2.1. Fourteen countries are rated as 1 (the best rating), 13 rated

as 2, and six are rated as 3. Three countries: Belarus, Greece, and Turkey receive a 5, and Ukraine receives a 5+, representing the absence of worker rights.

Table 2 gives a specific example of a country in each category, to show more specifics about the kinds of violations in question, and Table 3 shows where European Countries are ranked on the ITUC scale.

Table 2. Examples of Violations of Labor Rights

ITUC Rating	Country	Examples of Violations of labor rights
1	Denmark	No violations reported
2	Spain	Some public sector workers are not allowed to join unions or join unions of their choice. Not all workers are allowed to strike; currently over 300 union members face criminal charges and possible prison terms for striking. Police have used force against workers engaging in general strikes against austerity.
3	Poland	The law prohibits discrimination but has no mechanism to enforce this. Some public employees cannot join unions of their choice; others can join unions but have no right to collective bargaining. There are high level requirements to strike, including getting at least 50% of all employees to vote in favor. Strikes can only be called after 14 days of compulsory conciliation and mediation. There are bans or limits on certain kinds of strikes. Employers violate labor laws, often with little impunity. Workers are often harassed during strikes.
4	(no countries)	
5	Turkey	The Ministry of Labor has authority to determine the branch of activity covering a worksite, infringing on workers' choice. A new law puts strict regulations on the composition and function of trade union organs and administration. Unions must get official permission to organize meetings and rallies. Authorities have powers to intervene in union functioning. Some public employees are restricted from joining unions. Unions must note the dispute 60 days ahead of a strike, and give notice of 6 days to strike. 25% of workers at the plant must vote to strike. Only 4 or 5 workers may form a picket line. Sympathy strikes are not allowed. The employer may prevent a certain number of workers from striking to keep work continuing. Employers may hire replacement workers in some sectors. Strikes are not allowed in a number of sectors. Any procedural violations in strikes may result in a fine.

Table 3: Violations of Trade Union Rights in European Countries

Few Violations (1)	Some Violations (2)	Regular Violations (3)	No worker rights (5) or (5+)	Not yet rated
Austria*	Albania	Bulgaria	Belarus	Azerbaijan
Belgium	Bosnia and Herzegovina	Georgia	Greece	Kazakhstan
Denmark	Croatia	Poland	Turkey	Kosovo
Estonia	Czech Republic	Portugal	Ukraine	Krygistan
Finland	Hungary	Romania		Macedonia
France	Iceland	UK		Republic of Cyprus
Germany	Latvia			Slovenia
Ireland	Luxembourg**			
Italy	Macedonia			
Lithuania	Moldova			
Montenegro	Russian Federation			
Netherlands	Serbia			
Norway	Spain			
Slovakia	Switzerland			
Sweden				

Source: ITUC Annual Survey of Trade Union Violations; US State Department annual Human Rights Reports.

* The ITUC has not yet rated Austria. However, neither the ITUC nor State Department notes problems with labor rights.

** Luxembourg has not yet been rated by the ITUC. However, the State Department report notes that there are restrictions on strikes. "Legal strikes may occur only after a lengthy conciliation procedure between the parties. For a strike to be legal, the government's national conciliation office must certify that conciliation efforts have ended."

The State Department reports also suggest that a number of European countries have few labor rights violations, and few have the most severe violations, but a substantial amount have some problems. The kinds of violations vary, and include legal barriers to union activity as well as failure to enforce existing laws. A number of countries place the most restrictions on certain sectors of workers, especially in the public sector or foreign workers.

A few countries have experienced degrading labor conditions due to the economic crisis and the conditions imposed on the country and its workforce as a condition of reform packages. This includes countries such as Greece and Portugal that were forced to take cuts to their pay and conditions, layoffs, and restrictions on activities as a condition of economic bailouts. In these countries, workers report increased pressure on trade unions to accept concessions or to curtail union activity. For example, the ITUC notes that state education employees faced disciplinary action for union activities. The State Department reports that in Portugal, the economic crisis decreased the number of collective bargaining agreements.

For commerce workers in particular, there appear to be several key problems. First, commerce workers, particularly in retail, are often among the first impacted by economic crisis, even when unionized. This includes lay-offs, wage freezes, and degradation of working conditions. In addition, when governments cut budgets they may cut labor inspectors, further increasing the likelihood of problems in low-wage industries like retail.

Second, in some countries, the laws allow commerce workers to join unions, but the nature of their jobs or contracts makes it difficult to unionize in practice. For example, reports on Croatia state that workers in retail are often on fixed-term contracts, or short-term probationary contracts, which makes it difficult to unionize due to high turnover.

The third challenge is that many commerce workers work in small firms. Small firms are usually harder to organize in general, but the laws in some countries also impose further challenges. For example, the Czech-Moravian Federation of Trade Unions reported that recent legal amendments in the Czech Republic make it harder to unionize small employers. In Belgium, small and medium sized stores are prevalent, and this has increased with the expansion of franchising has meant more small and medium sized stores in commerce. The law only mandates a Works Council for companies with at least 100 workers, leaving most of the SMEs with no worker representatives.⁴² Reports on France and Poland also suggest that anti-union discrimination, while illegal, is much more prevalent in small firms. In the UK, employees of large Woolworth's and Ethel Austin stores were provided compensation in a mass redundancy case, while those that worked in small stores (less than 20 employees) were denied the same compensation. (USDAW has filed a legal claim to get them covered but on April 30 the Court of Justice of the European Union rejected the claim).⁴³

The fourth issue is that large commerce sector employers can also pose unique challenges for organizing commerce workers. Some of these large companies have enough market power to set lower standards for wages and working conditions. For example, the grocery store Maxima is the largest private employer in Latvia. While there had been many complaints about the conditions in Maxima, including the suppression of unionization efforts, the government failed to investigate or enforce laws. In 2013, the roof of a shopping center housing a Maxima store roof collapsed, killing 54 people (including 5 Maxima employees). Reports from other countries suggest that some large transnational employers are more likely to violate labor laws, or to impose short fixed-term contracts that make unionization more difficult.

Strategies and Responses

Commerce unions are taking steps in the legislative and organizing arena in an effort to counter the negative trends. Collective bargaining remains the best avenue for stabilizing wages, hours and working conditions, but unions need to address broader trends such as efforts to limit the worst abuses in the industry including zero-and short-hours contracts.

Unions are also addressing the deregulation of shopping hours, the digitalization of work in order to protect jobs, and the spread of the franchise model.

1. Zero Hours and Short-Term Hours Contracts

As mentioned, the problem of zero-hours contracts is most prevalent in the UK. There is now a campaign underway to address this problem, which includes several angles.

One of the groups most vulnerable to zero-hours contracts are agency workers. Some employers use the “Swedish Derogation” to exempt agency workers from equal treatment when they work between assignments, and to pay them half of their normal pay. The Trades Union Congress has filed a complaint to the European Commission about this phenomenon.⁴⁴

USDAW has called for reforms to UK law in order to protect zero and short-hours workers. Specifically, they call for the following:

- All workers should have the right to receive a written statement setting out the hours that they will be expected to work.
- Employers should be required to provide workers with notice of when work will be made available or will be cancelled and compensation when shifts are cancelled at short notice.
- Where an individual works regular hours, their employer should be legally required to issue them with a written contract which guarantees them their existing working pattern on an on-going basis. The individual would remain entitled to refuse such a contractual offer.
- An individual’s regular working hours should be reviewed on a frequent basis to ensure that their normal working hours reflect those stated in their contract. To assess what the individual worker’s normal working hours are, USDAW believes that the starting point should be to look at the hours worked and the working pattern in the previous 12 weeks. The only exceptions should be for the small number of circumstances where the use of zero hours contracts might be legitimate, but many of these cases could be dealt with by the use of annualised hours and other flexible contracts.
- Zero-hours contract and other casual workers should be compensated for the added flexibility that they offer employers and their increased financial risk. They should be paid for all the time spent on-call for the employer or where they are expected to be available for work at short notice. Workers should have the right to be reimbursed by employers for travel costs where a shift is cancelled at short notice.

While not part of Europe, New Zealand unions have also engaged in a campaign against zero-hours contracts, and had some success. In April 2015 the government agreed to outlaw the most abusive forms of the contracts, where employers unilaterally set schedules and require employees to be available for work with no commitment of any hours. UNITE has also pushed specific employers to ban the practice. Restaurant Brands (owner of KFC) and McDonalds agreed, though UNITE critiqued McDonald’s proposal as inadequate.⁴⁵

In addition to zero hours contracts, unions are trying to improve conditions for short-hour contracts. In some countries, laws and/or collective bargaining require employers to give preference to part-time workers when filling full-time openings.⁴⁶ This benefits those with short-term hours who want more hours. There is also an EU directive on part time work that establishes

that conditions for part-time workers be no less than those for full-time. This also states that employers should work to provide full-time work for part-timers who want it, when the option exists.⁴⁷

The UK Employment Appeal Tribunal also just ruled on a case and determined that holiday pay should include workers' overtime (not just contractual pay). This is particularly helpful for those on short-hours contracts.⁴⁸

2. Shopping Hours

European unions have taken different positions in relation to expanded shopping hours. For example, the Hungarian union association LIGA announced that they would not offer their support for a Sunday shopping ban but would push for higher wages and stricter regulations for Sunday work.⁴⁹

The issue has created space for some unusual alliances. In some countries, unions are working with small shop owners and religious organizations to keep stores closed on Sundays. Some small shop owners believe that the Sunday shopping would privilege the large multinational retailers. In Greece, the Federation of Greek Private Employees worked with small store owners and the Greek Orthodox Church to call for a 24-hour strike on the first Sunday of liberalized shopping in 2014.⁵⁰ French unions also called for protests against expansion of Sunday shopping in 2014. There is also a European-wide network called the European Sunday Alliance, which unites the various coalitions and organizations working to keep Sunday shopping hours limited or banned. The Alliance states that it is also working for decent working hours in general, with a goal of a healthy work/life balance beyond the Sunday shopping hours issue.

3. Technology

UNI Europa has also prioritized a call for the European Commission to develop a strategy related to the digitalization of work and employment.⁵¹ UNI Europa calls for the need to “maximize the economic *and* social potential of technological change.” Rather than letting technology be used to deskill and eliminate good jobs, technology can be used to create safe, living wage, productive jobs. A UNI Europa Issues Paper states, “So far, the EU is failing to give these issues adequate weight in its relevant initiatives, especially the Digital Agenda for Europe (Europe 2020 flagship initiative). Although some consideration is given to the need to modernise vocational education and training, the Digital Agenda is practically silent on the employment effects of digitalisation.”⁵²

Reports show that digitalization can lead to job creation in emerging countries, but less likely to do so in developed economies. However, governments can enact policies to help particular businesses keep up. The Australian government created the Digital Enterprise Initiative to help small and medium sized businesses and non-profits improve their ability to engage in the digital world. They have allotted \$12.4 million over three years to provide training and advice. This could be done in Europe to assist small retailers stay in business. Germany is also working to support small- and medium-sized businesses. Their ICT 2020 Plan provides funding and support for research and development in ICT. It could be possible to link this type of support to assist small



domestic retailers and commerce sector workers.⁵³

4. Franchising

In Europe, there are a few places where unions have begun to address the issue of franchising, such as in Sweden. But in general, franchising is newer to most of Europe, and therefore some of the lessons about organizing may have to come from outside Europe. Because franchising is so developed in the US, it may provide some possible strategies for combatting franchise power. There exists possible space for alliances between franchise owners and unions, as is the case with an unlikely coalition in California. There, SEIU is working with franchise owners to pass “fair franchising” legislation that would give franchise owners more power in dealing with their corporate headquarters. Several US states, such as Washington and Hawaii, have already passed similar laws that make it harder for corporations to terminate franchise agreements.⁵⁴ Typically franchise agreements give storeowners very little latitude to improve wages, work hours, or scheduling practices, so this kind of legislation could potentially alter the balance of that relationship and make it easier for franchise storeowners to agree to worker demands.

Activists have taken a few other tactics to improving conditions in franchises. In parts of California, franchise outlets were required to post their health inspection records and this made the gap between franchisee and company-owned stores to disappear. This might suggest that legislating a similar disclosure provision for labor standards violations could have an impact.⁵⁵

Japanese unions have also had some small success in dealing with franchises. Labor law allows a union to represent workers in franchises, even if they are in management positions or a minority of the franchise store. This allowed the Japanese labor federation RENGO to form a union representing McDonald’s workers, comprised of low-level managers in different franchises around the country.⁵⁶

Conclusion

The commerce sector continues to be a major contributor to the EU economy, and to most countries, in terms of GDP and employment. While there is some variation by country, in most places, analysts predict the number of commerce jobs to grow in the future. However, certain trends such as increased e-commerce, deregulation of labor markets, and the spread of the franchise model, make it somewhat difficult to predict how the sector will change. It is likely that digitalization will eliminate some jobs and deskill others, yet will also create new kinds of jobs and the need for new skills. The EU should work with UNI Europa and its affiliates to ensure that there is adequate research on the changing nature of work, and also that there are sufficient training programs to help workers acquire new skills.

EU countries are undergoing a contradictory process of labor market deregulation and increased labor flexibility, on the one hand, and promises of job security (or “flexicurity”) on the other. For the most part, studies show that these trends have resulted in fewer rights and benefits for workers, and more benefits for employers.

In addition to labor market deregulation, several EU countries are working to deregulate work hours by lengthening shopping hours and authorizing Sunday shopping. Unions and their allies have formed coalitions and networks to resist the expansion of shopping hours in order to protest a decent work/life balance. They are also searching for avenues to fight precarious work scheduling practices, such as the introduction of zero-hours contracts or the spread of on-call scheduling.

Finally, unions should continue to study the franchise model and look for points of leverage to limit the rights of franchisors to control labor issues, such as wage rates and work hours. This could be an issue incorporated into collective bargaining and industry agreements, but it also could be addressed through legislation that protects individual franchise owners, employees and unions.

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