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THE FOOD AND RETAIL
BUSINESSES

Omblin Ancelin

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How to tackle against the buying power of distributors in France ?

By reforming the legislation

- 4 laws in the last 10 years
 - Loi Dutreil 2 août 2005 and its *Circulaires*
 - Loi Chatel 3 January 2008
 - Loi LME 4 august 2008
 - Loi Hamon 17 March 2014

How to tackle against the buying power of distributors in France ?

Re-balancing by obliging to formalize the negotiations

- Mandatory to conclude an annual single agreement between a supplier and a distributor
- Setting the results of the negotiations, i.e. the agreed price and the services to be performed by the distributor during the whole year
- Very strict on the content of such agreement
- Precise timeline to be complied to :
 - 1st December for the communication of the General T&C to the distributor
 - 28 February : signature of the agreement

How to tackle against the buying power of distributors in France ?

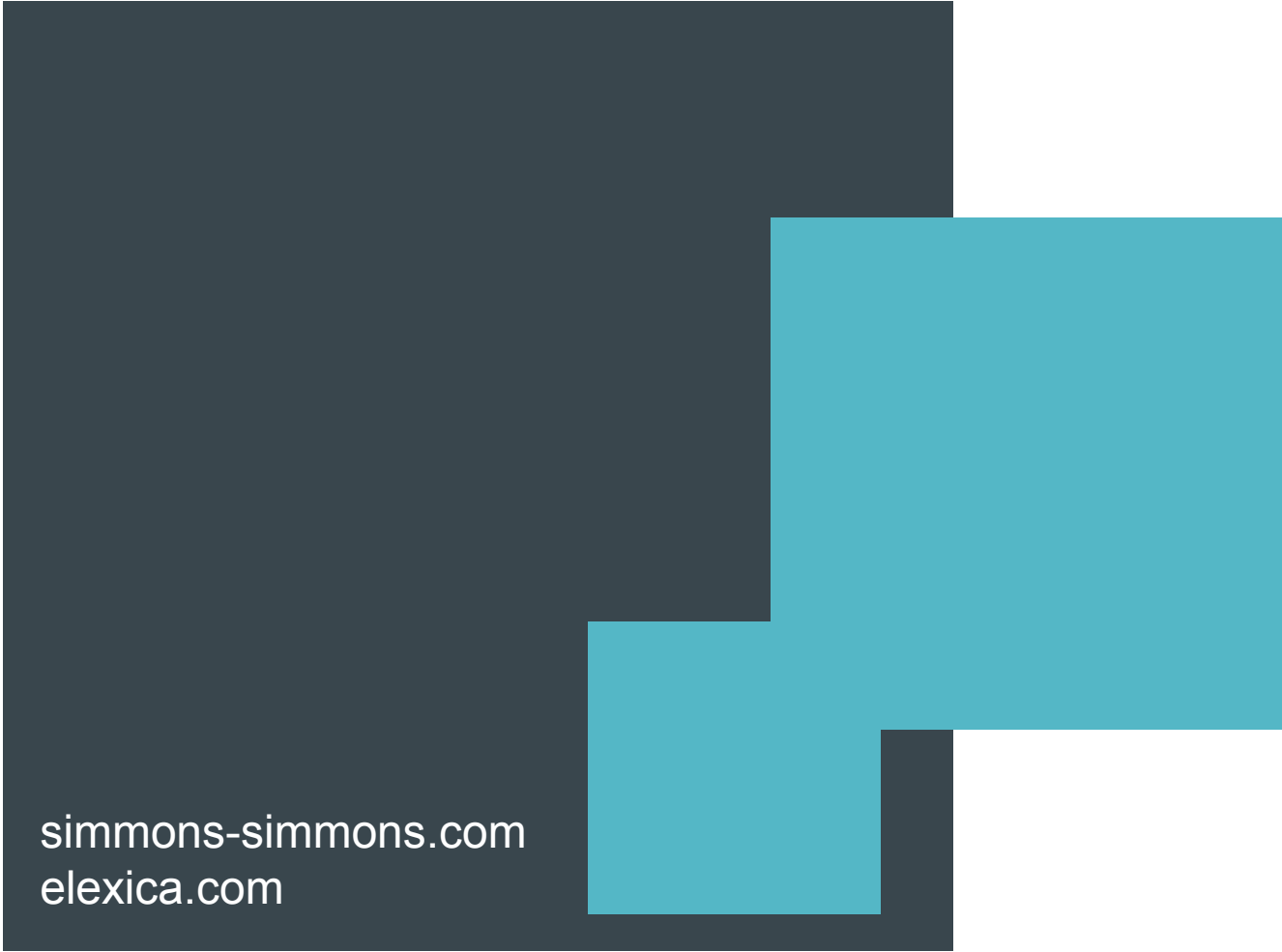
Re-balancing by fighting against abusive practices even without a dominant position

- Payment terms
- French concept of abrupt termination of commercial relationships
- Renegotiation in cases of high price volatility of raw materials in agricultural sector
- Formalization of subcontracts

Powerlessness to prohibit the “super” central purchasing bodies

The Auchan/Système U project

- Auchan and Système U are planning to regroup their purchases in a single central purchasing entity negotiating for both groups
- *A priori* favourable approach from the French Competition Authority
 - Aims at reducing the prices
 - No prior control as it is not a merger
 - Ex-post control from an anticompetitive perspective ?
 - the sole common negotiation of lower prices is not an illicit agreement :
cf Opera case and Lucie case
- Limits ?



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