**Considerations for product exclusivity**

 January 2020

Attention: please seek advice from a lawyer competent in competition law. No liability is assumed for the statements below!

Regional specialties as a unique selling proposition

It is helpful and desirable for regional cooperatives to sell certain products exclusively in their own stores or partner stores.

If products are marketed under the logo of the cooperative, the distribution channels can be defined. However, it is only possible to a limited extent to prevent the distribution of products from partner companies to competitors.

Attention: Antitrust law

Antitrust law makes exclusivity of products and agreements on prices and quantities more difficult, especially along the value chain, because it addresses the concern that consumers will be disadvantaged because prices are too high.

This can lead to difficulties, especially if a company has a market share of more than 15% or even 40% (and thus a dominant market share) in the respective market segment.

According to the law, there must be no price-fixing, quantity-fixing or exclusion of competitors.

Establishment phase: old trade relations already exist

During the establishment of regional value chain partnerships, existing distribution channels of the new partner companies may already be in place. For the most part, these will already be active in the market before establishing the cooperative and already supply food retail and organic specialist trade. It is difficult both for the partner companies and legally to demand exclusive supply.

Is it possible to be successful without exclusivity for products?

 If the argument of exclusive products is removed, other issues become all the more important: fair producer prices, in the case of cooperatives, joint ownership of the cooperative instead of corporate structures, and/or the common good orientation. Especially if it becomes clear that the latter is not driven by the marketing department, but that regional nutrition education, for example, is made possible out of conviction, this could be recognized by consumers.