



# Slotting Allowances in the Retail Grocery Industry: Selected Case Studies in Five Product Categories



An FTC Staff Study  
November 2003



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### Acknowledgements

We appreciate the cooperation, time, and effort from various grocery retailers and suppliers that made this Report possible.

### Cover

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## INTRODUCTION AND EXECUTIVE SUMMARY<sup>1</sup>

Every year, suppliers propose thousands of new grocery products, each competing for retail grocery store shelf space.<sup>2</sup> To decide whether to stock a new product, retailers engage in complex and multi-faceted discussions and negotiations with suppliers. Generally, the supplier presents the new product to the retailer's buyer or category manager, attempting to convince the retailer that the product is likely to be successful. The supplier's presentation may provide a sample of the product; information on the cost of the product and the projected financials (*e.g.*,

sales and expected retailer profits); the marketing plans to promote the product to consumers; and research on purchasing trends and the success of various products in the category. The retailer and supplier also typically discuss funds – slotting, promotional, co-op advertising, or other introductory allowances or discounts – some of which would lower the retailer's per unit purchase cost for an initial period of time. The retailer then decides whether to carry the new product in its stores.

Slotting allowances are one component of this decision process. Slotting allowances are one-time payments a supplier makes to a retailer as a condition for the initial placement of the supplier's product on the retailer's store shelves or for initial access to the retailer's warehouse space. Over the years, many have examined the use of slotting allowances in the retail grocery industry – Congress, economists, marketing experts and other grocery industry researchers, the Federal Trade Commission, and others. The retail grocery industry, of course, is vast. In 2002, there were approximately 166,135 retail grocery stores, 32,981 of which are defined as supermarkets with sales of \$2 million or more.<sup>3</sup> According to the Food Marketing Institute, in 2002, the typical supermarket was 44,000 square feet in size and carried an average of

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<sup>1</sup> This Report represents the views of the staff of the Federal Trade Commission; it does not necessarily reflect the Commission's views or the views of any individual Commissioner.

<sup>2</sup> Definitions of "new product" vary. Some retailers define a new product as any product that enters their store with a new Universal Product Code (UPC), even if it is simply a change in the size of the package. Others define a new product as only a truly different product from something already on the market. Estimates of new grocery product introductions range from 1,200 to almost 16,000 per year. In testimony presented to the U.S. Senate Committee on Small Business in September 1999, the Grocery Manufacturers of America, Inc. cited its 1997 study in reporting that "the number of true new products introduced annually is approximately 1,100 to 1,200, rather than the frequently cited number of 20,000." The U.S. Department of Agriculture's Economic Research Service reported a peak of over 16,000 new product introductions in 1995, decreasing to 9,145 new products introduced in 2000, with more recent data suggesting a slight increase in 2001 and the first two months of 2002. J. Michael Harris, Economic Research Service/USDA, *U.S. Food Marketing System, 2002/AER-811* at 8. Recent, but not yet published, research conducted at West Virginia University suggests 16,000 new product introductions in 2000. Ravi Achrol, *et al.*, West Virginia University.

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<sup>3</sup> <http://www.fmi.org/facts-figs/superfact.htm>, (last visited on August 5, 2003). According to the Food Marketing Institute ("FMI"), a grocery store is "[a]ny retail store selling a line of dry grocery, canned goods or nonfood items plus some perishable items." The FMI defines a supermarket as "[a]ny full-line self-service grocery store generating a sales volume of \$2 million or more annually." *Id.*

35,000 items (SKUs).<sup>4</sup> Retail grocery store sales in 2002 were \$535.4 billion, of which \$411.8 billion was attributable to supermarket sales.<sup>5</sup>

At a September 2000 hearing, the U.S. Senate Committee on Small Business & Entrepreneurship, under the leadership of Chairman Christopher Bond and Ranking Member John Kerry, requested that the FTC conduct a study of slotting allowances in the grocery industry.<sup>6</sup> Congress formalized this request in the Conference Report accompanying H.R. 4577, Commerce, Justice and State Appropriations for Fiscal Year 2001. The report stated that “[o]f the funds recommended for the Bureau of Competition, the Committee expects the FTC to expend up to \$900,000 for the completion of its investigation into slotting allowances in order to ensure fair competition in the retail grocery business.”<sup>7</sup>

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<sup>4</sup> *Id.* “SKU” is a common abbreviation for “stock-keeping unit,” which, according to the FMI, is a number that identifies each separate brand, size, flavor, color, or pack of a product. [www.fmi.org/facts\\_figs/glossary\\_search.cfm?search=Yes&letter=S](http://www.fmi.org/facts_figs/glossary_search.cfm?search=Yes&letter=S), (last visited on September 2, 2003).

<sup>5</sup> *Id.*

<sup>6</sup> After a hearing in September 1999, the United States Senate Committee on Small Business & Entrepreneurship had requested that the General Accounting Office (GAO) conduct a study of the use of slotting allowances and other related fees in the retail grocery industry. The GAO, however, was unable to obtain the necessary proprietary information from retailers and manufacturers to conduct such a study and reported this fact in testimony delivered on September 14, 2000, before the U. S. Senate Committee on Small Business & Entrepreneurship.

<sup>7</sup> <http://thomas.loc.gov/cgi-bin/cpquery/T?&report=sr404&dbname=cp106&>

To respond to this request, the FTC staff designed a limited, focused, study. The FTC staff sent to nine retailers a voluntary access letter<sup>8</sup> designed to obtain data, documents, and interrogatory responses on slotting allowances and other retailer practices<sup>9</sup> for five product categories (fresh bread, hot dogs, ice cream and frozen novelties, shelf-stable pasta, and shelf-stable salad dressing).<sup>10</sup>

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(last visited on June 10, 2003). See also <http://thomas.loc.gov/cgi-bin/cpquery/T?&report=hr1005&dbname=cp106&>, (last visited on June 10, 2003). (“The conference agreement adopts by reference the Senate report language on slotting allowances...”).

<sup>8</sup> A copy of the basic access letter is included with this report as Appendix A. Various modifications were made to particular retailers’ access letters to reflect differences in available data and records. Although the access letter was sent to nine retailers, only seven retailers provided data and other information. See discussion in Chapter I, *infra* at 6 and n.21.

<sup>9</sup> Throughout this report, the terms “slotting” and “slotting fee” are used interchangeably with “slotting allowance.” Payments made to retailers to maintain shelf presence for *continuing* products are called “pay-to-stay” fees. See discussion and definition in Chapter I.B, *infra* at 5, n. 14 and in Chapter II.E, *infra* at 19-20 and n. 92 (definition). Although the FTC study maintains a clear distinction between slotting fees (for new products) and pay-to-stay fees (for continuing products), some researchers and others use the term “slotting fees” to describe both types of fees. In addition, the term “slotting fees” does not include advertising and promotional allowances, introductory allowances, or other discounts calculated on a per unit basis.

<sup>10</sup> See discussion *infra*, in Chapter I.C at 6-8 and in Chapter III.A at 21-28 for a detailed discussion of the study design and methodology.

## *Key Findings*<sup>11</sup>

Seven retailers responded to the FTC staff's access letter in varying degrees. Six manufacturers and two food brokers representing manufacturers of products in the study's categories (collectively referred to as "suppliers") responded to interview questions. The study is based on a small sample of detailed case studies and may not be representative of all retailers in the United States. Care must be taken to avoid overextrapolation of its results. At most, the study's results are suggestive, not probative.<sup>12</sup>

Most of the surveyed retailers and suppliers reported that, in connection with a new product introduction, they negotiate over the amounts of slotting allowances, plus advertising allowances, introductory allowances per unit, marketing funds, and other special funds, such as those used for in-store displays and demonstrations, couponing, and customer savings cards.<sup>13</sup>

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<sup>11</sup> Due to confidentiality issues, neither retailers nor suppliers will be referred to by name or specific geographic regions in this report. Statements made in telephone interviews, interrogatory responses, or documents will not be attributed to particular retailers or suppliers. For example, citations might read as follows: "Telephone Interviews with four suppliers; Telephone Interview with one retailer; Interrogatory Response from a second retailer."

<sup>12</sup> A description of the limited nature of the study should accompany any citation to its results.

<sup>13</sup> Telephone Interviews with seven of the eight interviewed suppliers (one supplier stated it did not use slotting allowances, but did use these other practices in connection with introducing new products).

Most retailers and suppliers in the FTC study also reported that if a retailer accepts a new product, the retailer will stock the new product in its stores, and the product will remain on the shelf for a "reasonable" amount of time (*i.e.*, at least four to six months), to give the product a chance to get established.<sup>14</sup> Several retailers and suppliers reported that if a slotting allowance is paid, it does not guarantee any particular shelf placement.<sup>15</sup> Other key findings include the following:

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<sup>14</sup> See, *e.g.*, Telephone Interviews with two retailers. One retailer noted that slotting is not time dependent, but this retailer usually keeps new items on the shelf for approximately 6 months to evaluate their performance; another retailer noted that it will not commit contractually to a specific amount of time, but the product usually stays on the shelf until a better product comes along. See also Telephone Interviews with three suppliers, all noting that slotting does not guarantee a specific amount of time on the shelf, but that product usually remains on the shelf for at least 6 months. See also Telephone Interviews with three other suppliers, all stating that slotting gets their product on the shelf for some minimum period of time, ranging from 4 to 12 months. See also, *Report on the Federal Trade Commission Workshop on Slotting Allowances and Other Marketing Practices in the Grocery Industry*, February 2001 Report by FTC Staff at 11 ("The allowances do not commit the store operator to any particular level of purchases, but commonly assure the manufacturer a place on the shelf for some reasonable trial period" citing to Sussman Tr. 83-84).

<sup>15</sup> Telephone Interviews with four suppliers, one of which noted that slotting gets an item on the shelf, but provides no other benefit; Telephone Interview with one retailer (it does not charge for preferential space – schematics are driven by products with highest profits and fastest turnover); Interrogatory Response from a second retailer ("the determination and volume of shelf space dedicated to any particular product depends upon consumer demand for that product").

## Reasons for Slotting Allowances

1. The surveyed retailers reported that, among other things, slotting allowances help defray the costs (including risk) associated with new product introductions. Some of the information provided by this study and other sources tend to support this rationale as a reason for slotting allowances; other information provided in this study raises questions whether cost recoupment is the sole reason for slotting allowances.

- A retailer incurs costs when it replaces one product with another. The surveyed retailers reported costs such as rearranging product placement in the retailer's warehouse system to accommodate a new product; modifying the retailer's plan-o-gram (a plan for what products to put on which shelves in the grocery store) to change product placement in the retailer's stores; setting up the new product in the retailer's computer and accounting systems; putting new product on and removing old product from warehouse and store shelves; and marking down old product to sell it off. Retailers also incur costs to evaluate new product proposals; one of the surveyed retailers estimated that it spends \$3.5 to \$4 million annually to evaluate new items for possible introduction.
- New product introductions appear to be risky. Some sources report a failure rate for new products of approximately 70%. When a new product fails, the net revenue from the sales of the new product may not be sufficient to recover the costs

borne in introducing the product. Other things equal, slotting allowances reduce potential retailer losses on new products. A recent survey of suppliers and retailers noted that both groups think that new product failure is one of the top three factors contributing to the use of slotting allowances.<sup>16</sup>

- For the five product categories during the time periods of this study, five of the seven surveyed retailers reported that slotting fees were less likely if products were distributed through direct store delivery ("DSD"), rather than through the retailer's warehousing system, and, to the extent there were slotting fees, the surveyed retailers reported that slotting fees for such products were more likely to be lower. Surveyed suppliers with some products that are typically supplied through DSD also reported that slotting allowances were less likely, and the amount of slotting allowance was likely lower, for such products. DSD lowers the cost of new product introductions for

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<sup>16</sup> Wilkie, W., Desrochers, D., and G. Gundlach (2002) "Marketing Research and Public Policy: The Case of Slotting Fees," *Journal of Public Policy & Marketing*, 21 at 279 (Retailers report new product failures as the number two factor and suppliers report it as the number three factor). See also, *Report on the Federal Trade Commission Workshop on Slotting Allowances and Other Marketing Practices in the Grocery Industry*, February 2001 Report by FTC Staff at 14-15 (with the rapid proliferation of new products, approximately 80 to 90 percent of which fail, slotting may "help to reduce the retailer's risks by compensating for a number of real, out-of-pocket costs involved in new-product introductions").



retailers, because the product does not use a retailer's warehouse system, and suppliers provide many of the services (*e.g.*, stocking) that retailers otherwise would provide.

- Nonetheless, retailers' data indicated that, in some instances, in the same product category for the same retailer, some new items pay slotting fees and others do not; retailers' data also indicate that, for any specific surveyed retailer, the amounts of slotting fees can vary significantly across products within the same category. This variation raises some questions whether cost recoupment is the sole reason for slotting allowances. This result, however, could be explained by factors outside of the available data, such as other types of allowances paid by suppliers to retailers (*e.g.*, a retailer would accept a smaller slotting allowance in exchange for higher advertising allowances). Therefore, without complete information on these other types of allowances, the data in this study are insufficient to resolve the issue.
- Most of the surveyed suppliers were skeptical that slotting allowances serve primarily to defray retailer costs of new product introductions. Suppliers' views on the purposes of slotting allowances varied.<sup>17</sup>

2. Some economists and marketing researchers have posited that

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<sup>17</sup> See discussion in Chapter IV, *infra* at 49-63.

slotting allowances can assist retailers in deciding how to allocate scarce shelf space.<sup>18</sup> Some of the information from this study is consistent with this hypothesis.

- The frozen and refrigerated product categories in the study – ice cream and hot dogs – had the highest average slotting allowance per item. Some of the surveyed suppliers also reported that they are likely to pay higher slotting amounts for frozen and refrigerated products than for non-refrigerated products. Shelf space is more costly to expand for frozen and refrigerated products, and introductions of new frozen products tend to be more common, increasing competition for this fixed amount of shelf space at any point in time.

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<sup>18</sup> Two theories view slotting fees as a mechanism to allocate scarce shelf space. The first posits that a manufacturer's willingness to pay significant slotting allowances can credibly signal to a retailer the manufacturer's belief that the product is likely to succeed. The second focuses on ways in which a retailer can structure its price discussions to function as a screening device to differentiate between high and low quality products. Under both theories, retailers prefer to stock items that pay slotting fees rather than those that do not, and also prefer to stock items for which slotting fees are higher than for other products. The assumption is that suppliers would agree to pay slotting fees, and to pay higher slotting fees, only for products with a high likelihood of success. See generally Chapter I.A, *infra* at 1-4.

3. Two economic theories suggest that slotting fees can be used as a mechanism to lessen competition among retailers and among suppliers.<sup>19</sup>

- While these theories are discussed in the report, the study does not provide sufficient information to evaluate either theory.

4. Finally, the various theoretical models on slotting allowances are not mutually exclusive. For instance, a slotting allowance might both defray some of the costs of introducing a new product and signal a manufacturer's belief about the quality of the product to the retailer. Relatedly, the testable implications from the various models also are not mutually exclusive; thus, observations from the data could support or refute more than one theory.

#### **Accounting for Slotting Allowances**

- Each of the surveyed retailers reported that it records slotting allowances as a reduction in the cost of goods sold.<sup>20</sup>

#### **The Likelihood of Slotting Allowances**

- For the five product categories during the time periods of this study, the surveyed retailers' data on the

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<sup>19</sup> Under the first theory, slotting allowances operate as facilitating practices that can soften competition at both the supplier and the retailer level. Under the second theory, slotting fees can raise suppliers' entry costs and exclude fringe competitors. See generally Chapter I.A, *infra* at 1-4.

<sup>20</sup> The study did not inquire how suppliers accounted for slotting allowances on their books.

frequency of slotting fees varied widely between and within product categories, across retailers, and across a particular retailer's regions. The surveyed retailers who responded gave widely varying estimates of the frequency of slotting, ranging from 50% to 90% of *all* new grocery product introductions (not limited to the product categories of this study). Some of the data from the surveyed retailers showed a lower frequency of slotting for the product categories of this study, however.

- The retailer data in this study are likely to understate the frequency of slotting allowances. The surveyed retailers typically did not keep complete, historical electronic records of slotting allowances, because they report they do not need such records for regular business purposes. Rather, retailers provided the information they had. Thus, even with significant retailer cooperation,<sup>21</sup> some instances of slotting allowances were likely lost.

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<sup>21</sup> Many of the participating retailers expended a great deal of time and effort to verify the validity of the data they submitted. The retailers reviewed and commented upon data sets that were compiled by FTC staff using both the specific retailer's data and the ACNielsen data for that retailer. Their review resulted in corrections when appropriate, as well as explanations for some of what initially appeared to FTC staff to be anomalies in the data. The Report includes these explanations when applicable. In addition to responding to the initial access letter and the request for data verification, most retailers participated in multiple telephone interviews, and responded to follow-up letters seeking clarification of previously submitted information and information conveyed during

- For the five product categories of this study, six out of eight surveyed suppliers stated that they pay slotting allowances for 80% to 90% of their new product introductions, at least for products that are not delivered through DSD. These six surveyed suppliers also indicated that they pay slotting allowances for 80% to 90% of new grocery product introductions outside the product categories of this study.
- Most surveyed retailers reported that the likelihood of slotting allowances varies depending on the product category (including whether the product is supplied by DSD or requires frozen or refrigerated shelf space); the supplier's promotional and marketing plans; the perceived sales potential of the product; and the geographic area of the retailer. Some of the surveyed retailers noted that they sometimes waive slotting for smaller suppliers, suppliers that do not pay slotting fees to any retailer, and minority or ethnic suppliers, especially if they supply products that satisfy specific consumers' demands.
- Most surveyed suppliers reported that, for most frozen, refrigerated, and dry goods grocery products, the likelihood of slotting allowances does *not* vary across product categories, with the exception of DSD products.

- For the seven retailers during the time periods of this study, slotting allowances were more prevalent for ice cream and salad dressing products than for bread and hot dog products.

### **The Amounts of Slotting Allowances**

- For those products with slotting allowances, the average amount of slotting allowances (per item, per retailer, per metropolitan area) for all five categories combined ranged from \$2,313 to \$21,768, depending on the particular retailer and metropolitan area.
- Most surveyed retailers reported that the amounts of slotting allowances vary depending on the product category (including whether the product is supplied by DSD or requires frozen or refrigerated shelf space); the supplier's promotional and marketing plans; the perceived sales potential of the product; and the geographic area of the retailer.
- Most surveyed suppliers also reported that amounts of slotting allowances vary depending on the product category (including whether the product is DSD or requires frozen or refrigerated shelf space) and retail chain.
- Most of the surveyed suppliers reported that a nationwide introduction of a new grocery product would require \$1.5 to \$2 million in slotting allowances.

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telephone interviews.

- Data from two of the surveyed retailers permit a rough estimate of the slotting allowance required for a nationwide introduction of a new grocery product. Assuming that nationwide introduction would require distribution to 85% of the supermarkets in the U.S., *and* that 85% of these supermarkets would receive a slotting fee, the available, limited data suggest that the cost of slotting allowances for introducing a new product nationwide could range from a little under \$1 million to over \$2 million, depending on the product category.

### **Slotting Allowances and Product Revenues**

- Products with higher slotting amounts appear, on average, to earn higher first-year revenues, *i.e.*, first-year revenues are generally positively correlated with slotting amounts.
- Nonetheless, there is substantial variation, even controlling for the amount of slotting allowance paid, in first-year revenues within particular product categories.
- In some cases, the total dollar amount of slotting allowances reported for a particular product category in a particular metropolitan area was more than the category's new product revenue in the first year. In other cases, the total dollar amount of slotting allowances reported for a particular product in a particular metropolitan area represented less than 5% of the category's new product revenue in the first year.

### **Pay-to-Stay Fees**

- Both surveyed retailers and surveyed suppliers reported that, in the five product categories of this study, pay-to-stay fees are rare.

### **Exclusive or Partially Exclusive Agreements**

- Six of the seven surveyed retailers reported that, in the product categories of this study, exclusive dealing arrangements are rare. The seventh retailer provided one agreement that provided a supplier with approximately 50% of the shelf space for one product.

## I. BACKGROUND AND OVERVIEW OF THE STUDY'S METHODOLOGY

Many in the grocery industry, academia, and government have examined the use of slotting allowances in the retail grocery industry. In this Chapter, we provide a brief overview of the prior research examining slotting allowances, and set forth the purposes and methodology of the FTC staff's current study. This Chapter also discusses the current study's design and provides a brief overview of the report.

### A. Prior Research<sup>1</sup>

The academic literature provides several theoretical analyses of slotting allowances. Some authors have explored theoretical assumptions under which slotting allowances may be pro-competitive. Others have explored different theoretical assumptions under which slotting allowances may be anti-competitive. Unfortunately, there has been little systematic empirical work to test the relevance of these different theoretical exercises to the real world. As a result, the existing literature does not enable us to determine whether, or the extent to which, slotting allowances are used in ways that increase or reduce competition and benefit or harm consumers. We briefly describe the main theories here.

The literature suggests three potential ways in which slotting allowances may be pro-competitive: by *signaling* the quality of a new product; by *screening* from among several products to determine which to stock; and by *increasing incentives* for

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<sup>1</sup> The staff would like to thank George Deltas, Associate Professor of Economics at the University of Illinois at Urbana-Champaign, for his assistance in this area of research.

manufacturers to make demand-enhancing investments.

*Signaling:* The signaling explanation assumes that manufacturers have better information than retailers about the likely success of a new product. When a manufacturer believes its product is highly likely to succeed, it will be willing to pay a significant slotting fee, knowing that it is likely to recover this expense through profits earned from future sales. By contrast, if a manufacturer has significant doubts about the likelihood of a product's success, it will not be willing to pay as high a slotting fee. Recognizing this, retailers rationally infer that a new product is more likely to succeed if the manufacturer is willing to pay a higher slotting fee. Based on this rational inference, retailers are more likely to stock products for which higher slotting fees are paid, not only because they receive a higher slotting fee, but also because they expect such products to be more highly valued by consumers and to generate greater profits.<sup>2</sup> Under signaling theories, slotting allowances can enhance efficiency by helping to ensure that the greater the likelihood that a new product will succeed, the greater the likelihood that it will be stocked by retailers.<sup>3</sup>

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<sup>2</sup> Signaling is a common phenomenon in economic environments in which one party has better information about an important economic variable (*e.g.*, quality) than another. For example, Michael Spence was recently awarded the Nobel Prize in Economics in part for his analysis of how education may provide an important signal of an employee's likely productivity that goes beyond the benefits of the education itself.

<sup>3</sup> See, for example, Chu, W. (1992) "Demand Signaling and Screening in Channels of Distribution," *Marketing Science*, 11 at 327-347.

*Screening*: Screening explanations for slotting have some similarities to the signaling theory, *e.g.*, they also generally assume that manufacturers have better information than retailers about the likely success of their new products. The focus of screening theories, however, is more on selecting (“screening”) which new products to stock from among several potential products that could be stocked.<sup>4</sup> Screening from among potential new products can occur in two main ways. First, the retailer may offer a menu of contracts that include slotting fees and other terms from which manufacturers of new products may select.<sup>5</sup> By structuring the

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<sup>4</sup> Signaling theories and screening theories focus on a similar problem: how can two parties agree to a contract when the parties have different information. The important difference between the signaling and screening models is which party takes the action. Signaling theories require the firm with better information (*e.g.*, the manufacturer who knows more about its new product’s quality) to take some action to signal to the retailer the quality of its product. Screening models focus on how the party with poor information (the retailer) offers the party with better information (the manufacturer) a contract that allows the retailer to infer the manufacturer’s private information about the quality of the product. For example, the contract offered to the manufacturer by the retailer might only be acceptable to the manufacturer if the manufacturer has a high quality product.

Both the screening and signaling models assume that there is some private information the manufacturer has about its new product that cannot credibly and efficiently be conveyed to the retailer by other means, *e.g.*, sharing market research such as the results from a test marketing campaign with the retailer. The signaling and screening models examine how slotting allowances can be used to let the retailer learn more about the manufacturer’s private information about the likely success of the product.

<sup>5</sup> This description is probably better viewed as a “metaphor” for how contracts are determined when retailers have significant bargaining advantages, rather than as a literal description of how contracting occurs.

terms in the appropriate way, the retailer can help ensure that a manufacturer will opt in (*i.e.*, agree to one of the contracts in the retailer’s menu) only if the manufacturer believes that its product is likely to be successful. Second, the retailer can effectively hold an auction for a limited number of slots by seeking bids from several manufacturers that specify the slotting fees and other terms that they are willing to pay. By explicitly allowing the manufacturers to compete for shelf space, the retailer receives an indication of which products are most likely to yield high value for consumers and thus are most likely to succeed.<sup>6</sup> Under either selling arrangement — a menu of contracts offered by the retailer, or an auction for limited space — the use of slotting fees can contribute to an efficient allocation of shelf space.<sup>7</sup>

*Increasing Incentives*: For some branded products, the value of the product to consumers depends heavily on investments by the manufacturer in quality or brand image. If these investments are difficult for the retailer to observe or verify, it may be difficult for the manufacturer and retailer to contract over them directly. Economists refer to such investments as “non-contractible.” A manufacturer’s incentive to make non-contractible investments depends in part on the variable margin earned by the manufacturer on each additional sale. Slotting allowances can facilitate these incentives by allowing manufacturers to charge higher

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<sup>6</sup> One can think of this idea as simply the pricing and allocation of shelf space using “supply and demand.”

<sup>7</sup> See, for example, Chu (1992) and Sullivan, M. (1997) “Slotting Allowances and the Market for New Products,” *Journal of Law and Economics*, 40 at 461-493.

wholesale prices (thus higher variable margins for the manufacturer) while compensating the retailer through the slotting fee. The higher wholesale price increases incentives for the manufacturer to make non-contractible investments that enhance demand. Nevertheless, the higher wholesale price is likely to be passed on to some degree in the form of higher prices to final consumers. According to this theory, if all consumers place a similar value on the manufacturer's demand enhancing activity, slotting fees would be likely to increase consumer welfare.<sup>8</sup>

The academic literature has identified two general classes of potential anti-competitive effects of slotting allowances. The first theory suggests that slotting may serve as a *facilitating practice* that may soften competition and lead to higher prices. The second theory suggests that slotting may facilitate the *exclusion* of competitors.

*Facilitating Practice:* Unlike the pro-competitive theories, the facilitating practice theory assumes that manufacturers and retailers have complete information about the value of the product and that manufacturers do not make non-contractible investments. Thus, there is no role for slotting allowances to signal quality, screen good products from bad, or enhance investment incentives. Instead, the anti-competitive theories focus purely on slotting allowances' effects on the price and output/variety in an environment in which the potential pro-competitive motivations are absent.

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<sup>8</sup> See Farrell, J. (2001) "Some Thoughts on Slotting Allowances and Exclusive Dealing," manuscript.

The facilitating practice theory assumes that the retail market is imperfectly competitive, *e.g.*, because retailers are differentiated through store location, quality, etc., but not a monopoly. Because retailers have limited shelf space, competition among manufacturers determines which products the retailers stock. Absent slotting allowances, this competition takes the form of wholesale price offers. In this theory the manufacturing market is assumed to be highly competitive with competitive wholesale prices. Because wholesale prices are part of the retailer's marginal cost of re-selling the product, competitive wholesale prices translate into low retail prices; that is, other things equal, lower wholesale prices lead to lower retail prices. In particular, because the retail market is assumed to be imperfectly competitive, the retail price will be less than the monopoly price. Now, assume that manufacturers can use slotting allowances. This gives manufacturers incentives to raise their wholesale prices to soften competition, while they compensate retailers with slotting fees. By paying a higher wholesale price, a retailer effectively commits to charging a higher retail price, which causes *rival* retailers to behave less aggressively by raising their prices as well. Retailers agree to higher wholesale prices because they are more than compensated by the slotting fees. In this theory, slotting allowances lead to higher retailer profits and lower consumer welfare.<sup>9</sup>

*Exclusion:* The second main anti-competitive theory of slotting allowances examines how large slotting fees can raise entry costs and exclude fringe competitors.

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<sup>9</sup> See Shaffer, G. (1991) "Slotting Allowances and Resale Price Maintenance: A Comparison of Facilitating Practices," *RAND Journal of Economics*, 22 at 120-135.

This theory does not address the information issues of the signaling or screening theories or the problems associated with providing manufacturers incentives to provide non-contractible investments. The exclusionary theory focuses on how slotting allowances affect prices and product variety. To see how exclusion can occur, assume a market with two differentiated retailers, a dominant manufacturer, and a potential fringe manufacturer. Further assume that retailers want to carry only one of the manufacturers' products because of shelf space constraints.<sup>10</sup> Finally, assume that the dominant manufacturer wins the right to supply the first retailer. With these assumptions, we can examine the likely bidding between the dominant and fringe manufacturer for the right to supply the second retailer. The dominant manufacturer has a large incentive to win the bidding for the second retailer to avoid having to compete in wholesale prices with the fringe manufacturer. The fringe manufacturer, on the other hand, is willing to pay only the amount that it can recover through profits it earns through competition with the dominant manufacturer, which has already won the right to supply the first retailer. According to this theory, the dominant manufacturer often is willing to pay far more to monopolize retail shelf space than the fringe manufacturer is willing to pay to compete with the dominant manufacturer. Consequently, the dominant manufacturer wins the bidding to supply the second retailer by paying a significant slotting fee, and the fringe manufacturer is excluded from the

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<sup>10</sup> By assuming shelf space is fixed, this theory is implicitly analyzing market behavior in the short or medium run; that is, not all factors of production can be changed by the retailer. A model analyzing long-run behavior would examine how the theory's predictions could change if the retailer had the option of increasing shelf space at some price.

market. The dominant manufacturer's ability to drive up entry costs with slotting fees may cause higher prices and less product variety.<sup>11</sup>

In summary, the slotting allowance literature has identified theoretical environments in which slotting allowances may be pro-competitive, and others in which they may be anti-competitive. There has been little systematic empirical work to assess these different theories, however. As a result, the available literature does not permit conclusions about which, if any, of these theories explain observed uses of slotting allowances. There is clearly a need for more empirical work in this area.

## **B. Purposes of the Current FTC Staff Study**

In light of the Congressional mandate, and the limited empirical work in the existing literature, the FTC staff from the General Counsel's Office and the Bureaus of Competition and Economics designed a small, focused, study to gather quantitative and qualitative information about practices with respect to slotting allowances and pay-to-stay fees in the grocery industry.<sup>12</sup> In this study:

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<sup>11</sup> Exclusion theories are discussed at length in the *Report on the Federal Trade Commission Workshop on Slotting Allowances and Other Marketing Practices in the Grocery Industry*, February 2001 Report by FTC Staff at 34-41. For a formal theoretical analysis of the exclusion theories see Shaffer, G., "Slotting Allowances and Optimal Product Variety," forthcoming in *Berkeley Economic Journals in Economic Analysis and Policy*, [www.BEPress.com](http://www.BEPress.com), 2003.

<sup>12</sup> On May 31 and June 1, 2000, prior to undertaking this study, the FTC conducted a public workshop to gather information concerning slotting allowances and related shelf allocation practices. The Commission publicized the information obtained during this workshop in a February 2001 report by the FTC Staff entitled: *Report on the Federal Trade*



the term “slotting allowance” means a fee or other consideration of value charged by or received by the [retailer], either as a lump sum or as payments due at intervals or upon fulfillment of volume commitments (not directly related to each increment of unit sales), and payable in cash, in free goods, or in any other thing of value, as a condition for the initial placement of a supplier’s product on the [retailer’s] store shelves or for initial access to the [retailer’s] warehouse space.<sup>13</sup>

The study used a voluntary access letter designed to address specific questions concerning slotting allowances and pay-to-stay fees,<sup>14</sup> including the following:

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*Commission Workshop on Slotting Allowances and Other Marketing Practices in the Grocery Industry.* As noted in the report at 3:

Although the workshop assisted in accumulating information and developing insights, it could not, and did not, resolve all the questions. Its record was necessarily incomplete. For one thing, the panelists did not represent a complete cross-section of the industry . . . Moreover, the details of slotting arrangements and other marketing practices are often viewed as competitively sensitive, and an open discussion in a public forum necessarily had to be general . . . Thus, the record generated questions and suggested paths for further analysis, but did not provide a basis for definitive answers.

<sup>13</sup> Appendix A, Federal Trade Commission Staff’s Access Letter to Retailers, Definition (b).

<sup>14</sup> Although pay-to-stay fees were discussed during the FTC’s Slotting Allowance Workshop and in the resulting Report, and this study was initially designed to address issues concerning pay-to-stay fees, none of the study participants reported any use of, or provided any data relevant to, pay-to-stay fees in the product categories included in this study. Thus, the questions that follow in the text refer only to slotting allowances. For more detail on what we did learn

- What are retailers’ business reasons for slotting allowances?
  - To what extent do retailers’ business reasons for slotting allowances correlate with the circumstances under which they report such payments?
- What, if any, business practices, other than slotting, do retailers use in connection with stocking a new product?
- How frequently do suppliers pay slotting allowances and in what dollar amounts?
  - What factors affect the frequency and amounts of slotting allowances?
  - To what extent do the frequency and amounts of slotting allowances vary by product category, by geographic region, among retailers, and within a retail chain?
- How do retailers account for and record payments of slotting allowances?
- To what extent, if any, are exclusive deals used in the product categories under study?<sup>15</sup>
- For what portion of a retailer’s sales and profit do slotting allowances account?

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about pay-to-stay fees, see the discussion in Chapter II.E, *infra* at 19-20.

<sup>15</sup> For a definition of exclusive deals as used in this study, see Appendix A, Access Letter, Specification 6.

### C. Overview of the Study's Methodology and Limitations<sup>16</sup>

The FTC staff sent to nine retailers a voluntary access letter designed to obtain data, documents, and interrogatory responses on slotting allowances and other retailer practices for five product categories.<sup>17</sup> The five product categories are fresh bread,<sup>18</sup> hot dogs, ice cream and frozen novelties (*e.g.*, ice cream bars and sandwiches), shelf-stable pasta,<sup>19</sup> and shelf-stable salad dressing.<sup>20</sup> The retailers varied in size and geographic location. The five product categories varied in terms of the type and amount of available shelf space and whether slotting allowances were likely to be more, or less, prevalent.

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<sup>16</sup> For a more detailed description of the methodology and specific information on why and how the particular retailers and product categories were chosen, see Chapter III.A, *infra* at 21-28.

<sup>17</sup> Although the access letter was not issued using the Commission's 6(b) subpoena authority, all but one of the responding survey participants certified under oath that their responses were true and complete. The one non-certifying retailer did provide data, documents, and some interrogatory responses to the FTC, but failed to answer some of the access letter specifications.

<sup>18</sup> Fresh bread products exclude in-store bakery products and refrigerated or frozen bread products.

<sup>19</sup> Shelf-stable pasta excludes fresh pasta products found in the refrigerated section of the grocery store or frozen pasta dishes found in the freezer section.

<sup>20</sup> Shelf-stable salad dressing excludes perishable salad dressings found in the refrigerated section of the grocery store.

Seven of the nine retailers responded, providing data and other information.<sup>21</sup> Five of the seven retailers that complied with the access request provided relatively complete responses to our initial and follow-up requests for data and other information. Two retailers provided some data and other information, but did not respond to many of our requests for additional and clarifying information. The FTC staff conducted follow-up telephone interviews with all seven retailers and, after preparing preliminary analyses of the retailers' data, sent a letter to each retailer requesting a written response to verify the data and, where necessary, to clarify previously provided information.<sup>22</sup> The FTC also purchased ACNielsen ("Nielsen") data specific to each of the seven retailers to complete the data sets necessary to answer the questions posed. The retailers' product-level data were matched with price and sales data that Nielsen compiles from supermarket scanners.<sup>23</sup> Finally, FTC staff interviewed by telephone eight suppliers of products in the categories being studied.<sup>24</sup>

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<sup>21</sup> One non-participating retailer refused to respond to the access letter. Another retailer does not systematically collect information separately for promotional and slotting allowances, making it impossible to separate data on slotting allowances from all other allowances.

<sup>22</sup> See discussion in Chapter III.A, *infra* at 21-28.

<sup>23</sup> In addition to the product-level data, the staff also received corporate and division level data on slotting allowances from four retailers.

<sup>24</sup> Between March 22, 2002, and May 9, 2002, FTC staff interviewed six manufacturers and two food brokers, collectively referred to as "suppliers." Food brokers are companies that, for a fee, represent manufacturers of all sizes in connection with marketing a range of products (including those in this study) to retail grocery stores.

## 1. *Retailers' Record Keeping Methods*

Only one surveyed retailer reported that it kept historical *electronic* records of slotting allowances. Two other surveyed retailers reported that they require their employees to document slotting allowances separate from promotional allowances and their data bases were created for this study by manually inputting data from the information written on the actual new product deal sheets.<sup>25</sup> Although these two retailers require their employees to record slotting separately, for other retailers, the accuracy with which slotting allowances are recorded on these deal sheets depends on whether buyers and category managers maintain slotting allowance information separate from other allowances being offered by suppliers. Sometimes, slotting and other allowances are bundled together and recorded as a single entry on the deal sheets.<sup>26</sup> Some retailers explained that, for their accounting and record keeping purposes, recording slotting allowances as a separate line item is not important – they are only interested in the total amount being used to reduce the cost of the products they are buying and selling.<sup>27</sup> A

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<sup>25</sup> Deal sheets are forms used by the retailer's buyer or category manager and the supplier to record the parameters of the purchase contract for items to be sold in the retailer's stores. They are used for both new and existing items and may include information related to different types of allowances, regular and introductory prices being offered to the retailer by the supplier, volume for the initial purchase, and commitments by the supplier to advertise in the retailer's advertising circular.

<sup>26</sup> See discussion of retailers' accounting and recording practices in Chapter II.D, *infra* at 17-18 and the discussion of some suppliers' incentives to lump all allowances together in Chapter IV.B.2, *infra* at 61.

<sup>27</sup> See discussion in Chapter II.D, *infra* at 17-18.

fourth retailer reported that it thoroughly searched its records and created an electronic data base from the records it found.

Some of the other surveyed retailers described various reasons why historical records of slotting allowances might be difficult or impossible to find. For example, in the most extreme case, a retailer told staff that it only reported slotting fees when it could find a copy of a physical check that was written by the supplier to the retailer for the slotting fee or when a debit memo indicated a payment was for slotting. If, however, a slotting fee was combined with other promotional fees, or was taken as a reduction in the cost of goods sold on an invoice from the supplier (possibly including some products for which the slotting fee was not applicable), then it would not be possible to find documentation of these slotting fees.<sup>28</sup> Another retailer could only provide slotting data for one division for which an auditing contractor had created an electronic data base, and FTC staff was unable to verify the completeness of that data base to its satisfaction.<sup>29</sup> Many retailers simply do not maintain the information in a manner easily usable for a retrospective study; that is, they do not maintain historical, product-specific electronic data on slotting allowances.

To address these data issues to the extent possible, the FTC staff sent the data sets it compiled from the retailer and Nielsen data to each retailer for review and

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<sup>28</sup> Retailer Telephone Interview.

<sup>29</sup> Retailer Telephone Interview and telephone calls between FTC staff and the retailer's attorney. This retailer never responded to FTC staff requests for additional telephone interviews with personnel knowledgeable about the particular division's slotting practices.

verification. We also interviewed most retailers' buyers, category managers, and accountants to discuss and verify the retailers' accounting, record keeping, and slotting practices. These follow-up procedures helped the FTC staff to fill-in some missing data and to correct many misunderstandings and perceived anomalies about the data.

Nonetheless, despite retailer cooperation, it is very difficult to obtain complete, historical data on the frequency and aggregate dollar amounts of slotting. As a result, the FTC staff believe that the frequency and overall amounts of slotting dollars reported by the retailers in this study may be lower than the actual incidence of slotting.<sup>30</sup>

## **2. Study Design**

This study is a collection of seven retailer case studies with data, facts, and insights that may be indicative of industry practices. In light of resource constraints, the FTC staff decided to examine in detail through case studies a small number of medium and large retailers, rather than to attempt to create a representative, random sample of grocery retailers or products, which by necessity would have been very small. The upside of this approach is a significant amount of detailed information about the slotting practices of a few large and medium-sized firms in the food retailing industry. The

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<sup>30</sup> We believe that the surveyed retailers provided accurate information on the frequency and dollar levels of slotting for the products for which they had documentation in their files. Based on the information provided by these surveyed retailers, however, we also believe that, for some of them, their internal documentation practices may not capture every occurrence of slotting for purposes of creating a complete, historical data base.

obvious downside is the difficulty in generalizing the results to the entire industry. It also would have been virtually impossible to extrapolate statistically precise findings from a representative, random sample, however, because of the small sample size necessitated by resource constraints.

Because there is great variation in the way retailers document slotting allowances in their accounting systems, and because we have observed the practices of only a small, non-random sample of retailers and product categories, it is not possible to extrapolate our findings to the entire grocery industry. Nonetheless, based on a review of the published literature, this study appears to represent the first time anyone has obtained, and systematically analyzed, product-level data on slotting allowances directly from retailers. As such, it is an important step in our understanding of the use and magnitude of slotting allowances in the retail grocery industry.

## **D. Overview of Report**

The remainder of the report is organized as follows. Chapter II discusses the qualitative information obtained, including detail from the surveyed retailers' documents, interviews, and written responses to interrogatories. Chapter III provides the quantitative information acquired, including detail about the study design, data collection, findings, and presentation of the slotting allowance data in tables and figures. Chapter IV sets forth the FTC staff's analysis of areas where the information suggests consistencies and inconsistencies within or among retailers and between retailers and suppliers. Finally, Chapter V contains the FTC staff's conclusions.

## II. QUALITATIVE INFORMATION

This chapter sets forth information from surveyed retailers' documents, interrogatory responses, and interviews, but does not attempt to reconcile this information with the retailers' data (discussed in Chapter III) or responses from interviewed suppliers. Chapter IV sets forth our synthesis of the information.

Each of the surveyed retailers stated that negotiations between its buyer (or category manager) and the supplier's representative determine whether and how much slotting is paid. The surveyed retailers usually negotiate slotting along with other promotional allowances and discounts, and they consider many factors in deciding whether to accept a new item, including promotional and marketing plans and the perceived sales potential of the product. For example, one retailer noted that the vendor and the category manager may jointly negotiate slotting and promotional allowances, and that factors, such as the supplier's marketing and promotional activity and the sales potential of the item, "could impact the decision to accept the product even if slotting dollars are not available."<sup>31</sup> This retailer explained that because no new product's success is assured, the supplier must do something to create demand, and this typically means advertising and promotion.<sup>32</sup> Other surveyed retailers also stated that, besides slotting allowances, they consider promotional allowances, marketing plans, and the perceived sales potential of an item when

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<sup>31</sup> Retailer's Interrogatory Responses and Telephone Interview with retailer.

<sup>32</sup> *Id.*

deciding whether to accept a new product for introduction into their stores.<sup>33</sup>

### A. Business Reasons for Requesting or Receiving Slotting

Six of the seven retailers provided similar business reasons for requesting or receiving slotting. Most of those reasons relate to the costs – both time and money – associated with introducing a new item into the retailers' systems. The seventh retailer stated that one reason it requests slotting allowances is to remain on a competitively

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<sup>33</sup> Interrogatory Responses from all seven retailers. One retailer noted that it evaluates both existing and new suppliers' proposals and considers various factors in deciding whether to accept a product, with or without slotting, including the perceived likelihood of success of the product, the advertising support and promotional allowances the supplier is offering, the supplier's historical ability to introduce new products successfully, and the sales growth of similar products. A second retailer noted that various factors influence the amount of slotting, including the number of suppliers seeking to introduce similar products and the amount of slotting each is offering, the costs and risks of introducing the product, the overall terms offered by the supplier, and the estimates of consumer demand and product volume turnover. A third retailer noted that the amount of the new item introduction fee can vary depending on various factors, including whether the supplier has conducted consumer testing and whether the supplier has a proven track record and a well-developed advertising and promotional program for the new item. A fourth retailer noted that each of its merchandising departments negotiate slotting as part of the vendor's product presentation and introduction (also reiterated in Retailer Telephone Interview). A fifth retailer noted that it expects to be treated fairly in the marketplace, and if slotting allowances are offered by suppliers, it expects equitable treatment for all of the products it purchases (statements similar to the interrogatory response also were found in this retailer's internal documents).

level playing field with other retailers that require slotting.<sup>34</sup>

Only one retailer attempted to quantify its costs for introducing a new item. The retailer reported that it costs \$3.5 to \$4 million annually to evaluate new items for possible introduction, and that accepting a new item triggers a series of costly moves. For example, this retailer reported that it must assess and provide the most appropriate shelf position for a new product and that this often requires a reset of the product section, as well as a reset of other major categories in all stores.<sup>35</sup> This retailer also explained that there are costs associated with establishing a slot in its warehouse for picking and storage.<sup>36</sup> The retailer enumerated and quantified some of the costs it incurs when introducing a new item into its system as follows:

1. between 10 and 20 people are assigned to manage shelf space for all of this region-chain's stores;<sup>37</sup>
2. \$1,000 in labor to put a new item on the shelf in all of this region-chain's stores;
3. \$1,200 per item to put an item into

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<sup>34</sup> Retailer's Interrogatory Response and Documents.

<sup>35</sup> Retailer's Interrogatory Response, Retailer Telephone Interview, and telephone calls between FTC staff and the retailer's attorney.

<sup>36</sup> *Id.*

<sup>37</sup> A "region" for a few retailers might include more than one MSA, but these additional MSAs are generally smaller. Additionally, for some smaller retailers which operate in a limited geographic area, a "region" might cover the entire corporation. A particular retailer's business unit is referred to as a "region-chain."

this region-chain's distribution facility – stocking a new item may cause 30 to 40 other warehouse stocking moves;

4. \$600 to set up a new item in the region-chain's computer system;
5. costs associated with discontinuing the item that is to be replaced on the shelf, including labor costs for removing the product and mark-down costs to sell off stock; and
6. because new items have about a 70% failure rate, there are costs associated with the risk that the new item will fail.<sup>38</sup>

This retailer's description of the actions necessary to introduce a new product are illustrative of the descriptions the other retailers provided.<sup>39</sup> In addition, another

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<sup>38</sup> *Id.*

<sup>39</sup> One retailer, in its Interrogatory Responses and Telephone Interviews, noted that slotting allowances help it recover the costs incurred when it places a new item in its plan-o-grams and merchandising, distribution, and store support areas, as well as on its retail shelves, and if slotting dollars were eliminated without acquisition costs declining proportionately, it would have to raise retail prices to account for the lost slotting dollars. A second retailer, in its Interrogatory Response, reported that costs it incurred include payroll, materials (paper, vinyl tag stock, etc.), computer time (processing changes, updating files, etc.), and opportunity costs, as well as the risk of product failure, which varies depending upon the product and supplier. A third retailer, in its Interrogatory Response, reported that expenses it incurred include: time spent reviewing and authorizing new product offerings and determining products to be discontinued; redoing plan-o-grams; setting up the new item in all internal systems; reducing the retail price to sell discontinued items; generating new item tags for all stores; creating new sections and slots at the warehouse; physically working the product into stores; and disposing of discontinued product and removing it

retailer noted that slotting allowances help it manage its limited shelf space better, while reducing its financial exposure when introducing a new product. This retailer echoed the first retailer’s concern about product failure, noting that approximately 70% of new products fail, and that it bears the risk if a product fails, because it takes title to the product when it purchases it from the supplier. Slotting allowances help to mitigate these risks and, according to this retailer, “[a] manufacturer’s willingness to pay slotting allowances further indicates the manufacturer’s confidence that the product will be successful, thereby shifting the risk of product failure back to the manufacturer.”<sup>40</sup>

**B. Retailers’ Use of Other Business Practices in Connection with Stocking New Products**

The surveyed retailers use a variety of business practices in connection with stocking new products, including test introduction of the product in a few locations, introductory

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from its systems. A fourth retailer, in its Interrogatory Response, reported that costs associated with introducing a new item include negotiating the terms of the sale, collecting product samples and measuring the product for inclusion in the plan-o-gram, and entering and verifying the product information in its pricing, plan-o-gram, and warehouse systems. A fifth retailer, in its Interrogatory Response and in a Telephone Interview, reported costs incurred to introduce a new item include the cost of removing the item(s) being replaced on the shelf, and, if a new item fails, the lost profits that resulted from replacing a proven product with the failed new item.

<sup>40</sup> Retailer’s Interrogatory Response. See also Wilkie, W., Desrochers, D., and G. Gundlach (2002) “Marketing Research and Public Policy: The Case of Slotting Fees,” *Journal of Public Policy & Marketing*, 21 at 279 (Retailers report new product failures as the number two factor and suppliers report it as the number three factor affecting slotting).

allowances applied on a per-unit basis, advertising allowances, marketing funds provided by the supplier, other special funds or allowances, buy-back guarantees, failure fees, the assistance of a category captain in selecting new products, and exclusive dealing agreements. Two retailers explicitly stated that they do not view any of these practices as slotting or as a substitute for slotting – use of these business practices is in addition to slotting.<sup>41</sup>

**1. Test Introductions**

Four retailers stated that they use test introductions for new products.<sup>42</sup> As one retailer explained:

we will occasionally work with a supplier in a test market of a new product in a small-defined area/market defined by our supplier. We also direct some products to a direct store distribution company and authorize the sale of a product in a limited number of stores to measure sales/consumer demand. If the results are positive, the authorization can be increased to a larger number of stores.<sup>43</sup>

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<sup>41</sup> Retailers’ Interrogatory Responses. One retailer reported that introductory allowances, pay for scan or per unit basis funding, advertising allowances, marketing funds, and special funds for allowances are all tied to the marketing of the product and that it does not consider them slotting and any category expertise or experience shared with it by a vendor is not considered a substitute for slotting. The second retailer reported that it “does not employ any of the practices delineated in the specification *in lieu* of seeking a slotting allowance.” (Emphasis in original).

<sup>42</sup> Interrogatory Responses of four retailers. Two other retailers did not directly address this issue, and a third retailer indicated that it does not use test introductions.

<sup>43</sup> Retailer’s Interrogatory Response.

A second retailer explained that, although it occasionally tests products in a specific market, “as a general business practice, [it] would introduce an item on as broad a distribution as is practical for expected business results.”<sup>44</sup> In contrast, another retailer indicated that it does not use test introductions.<sup>45</sup>

## 2. *Other Allowances and Fees*

Each of the surveyed retailers may receive introductory allowances and other special funds or allowances.<sup>46</sup> Introductory allowances usually are available on a per-unit basis; for example, the supplier may offer one dollar off per case for all purchases within the first 60 days after the product is introduced. Other funds may include advertising allowances, coupons, in-store displays, and advertisements in the retailer’s circular.

Two retailers report they sometimes use failure fees, which are sums of money a supplier pays to a retailer if the supplier’s new product fails within a certain predetermined period of time; five retailers indicated that they do not use failure fees, at least in the covered product categories.<sup>47</sup> Several

retailers discussed failure fees and buy-back guarantees together; buy-back guarantees are a commitment by the supplier to pick-up unsold, discontinued items and credit the retailer for the purchase price. Five retailers use buy-back guarantees, including three of the five retailers that do not use failure fees.<sup>48</sup>

## 3. *Category Captains*

Five of the seven retailers noted they sometimes use vendors’ category captains.<sup>49</sup> A category captain typically is a leading supplier’s employee, who is responsible for recommending to the retailer an optimal product mix and promotional plans for a particular product category. A key component of category captaincy is

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more of which is usually used with the introduction of most new products. A third retailer reported that it does not engage in failure fee negotiations and collection as a regular procurement practice. A fourth retailer reported that it does not charge failure fees. A fifth retailer reported that it does not seek either buy-back guarantees or failure fees for the categories covered by the FTC’s access letter, and it does not consider them a viable substitute for slotting. A sixth retailer reported that it does not use failure fees in the product categories in the FTC study. The seventh retailer reported that it does not charge failure fees and suppliers do not offer them.

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<sup>44</sup> Retailer’s Interrogatory Response.

<sup>45</sup> Retailer’s Interrogatory Response (regarding test introductions, “the company has historically stocked new products in all stores to which the product would be stocked as the initial stocking of the product”).

<sup>46</sup> Interrogatory Responses of seven retailers; Telephone Interview with one retailer.

<sup>47</sup> Retailers’ Interrogatory Responses. One retailer reported that it occasionally has used all practices but category captains when stocking a new product. A second retailer reported that it has engaged in the practices identified in Specification 5, one or

<sup>48</sup> Retailers’ Interrogatory Responses. One retailer reported that it asks suppliers to pick up discontinued product at the warehouse and some suppliers will offer buy-back guarantees or consignment arrangements to minimize the risk and entice retailers to introduce new products. A second retailer reported that it uses or has used buy-back guarantees. A third retailer reported that very few suppliers offer to buy back the product, although the retailer occasionally returns full cases from its warehouses, and if a supplier picks up discontinued DSD items, it receives a credit for the unsold product.

<sup>49</sup> *Id.* (five retailers reported that they use category captains to some degree; two retailers reported that they do not use category captains).



collaboration between the retailer and supplier and the sharing of category specific information, data, expertise, and analysis. Three retailers did not elaborate on their relationships with suppliers' category captains. Two of them stated that they retained ultimate control over product selection and category arrangements, and that the vendors' representatives merely provide advice and recommendations.<sup>50</sup>

#### 4. *Exclusive or Partially Exclusive Arrangements*

Information from other inquiries suggests that some supplier-retailer agreements guarantee the supplier more than 50 percent of the shelf space allocated to a particular product category.<sup>51</sup> Of the seven

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<sup>50</sup> Retailer's Interrogatory Response and Documents. One retailer reported that a vendor's "category captain" (as opposed to its Category Managers) may recommend an efficient assortment of products for inclusion in a category plan, but vendor recommendations would not affect its slotting practices; this retailer reported that it "reserves the right to determine the acceptance or discontinuance of items in a category based on the information presented." The second retailer, in its Interrogatory Responses, reported that "[v]endor representatives and team leaders plan jointly with our category managers and buyers on promotional activity, and provide recommendations for promotion, mix, shelf placement and data to support the recommendations." The information obtained suggests that the role of a category captain varies depending on the retailer. According to information presented at the FTC's Slotting Allowance Workshop, some retailers apparently allow the supplier's category captain to make all decisions with respect to a particular product category; other retailers review the category captain's recommendations and information and make their own independent decisions. *Report on the Federal Trade Commission Workshop on Slotting Allowances and Other Marketing Practices in the Grocery Industry*, February 2001 Report by FTC Staff at 47-49.

<sup>51</sup> To obtain information concerning exclusive or partially exclusive arrangements, Specification 6 of

retailers in this study, only one stated that it used a partial exclusivity agreement in the product categories being studied.<sup>52</sup> This retailer provided its agreement with Supplier X for one of the study's products; the agreement required the retailer, for a one-year period, to perform a supplier-designated category reset and to agree to carry all of the supplier's currently available and new SKUs

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the access letter to retailers asked them to identify agreements "that guaranteed a supplier more than 50 percent of the shelf space allocated to a designated product category (or any subset thereof), or that expressly limited the amount or share of shelf space to be made available to any competing supplier." The access letter further explained that "an agreement is considered as guaranteeing a particular percentage of shelf space if it does so either in a retail establishment as a whole or in some particular part of it, and if it does so through either an explicit reference to 'exclusivity,' or in explicit percentage terms or in terms calculated from market shares, or using qualitative terms such as, but not limited to, 'primary supplier' or 'predominant space.'" The access letter only asked about exclusive arrangements in connection with the designated product categories included in the study. See Appendix A, Access Letter to Retailers, Specification 6.

<sup>52</sup> Retailer's Interrogatory Responses, Documents, and Telephone Interviews. Besides the agreement referenced in the text, this retailer sometimes uses exclusive arrangements in other product categories, such as snacks, magazines, and greeting cards. In Interrogatory Responses, five retailers reported that they had no exclusive or partially exclusive agreements for the categories covered in the Access Letter. One of the five retailers reported that it had no agreements to guaranteed space in any of the five categories and that space is allocated using a space management tool that uses average sales and days of supply to create a plan-o-gram and that space in the bread category is allocated by percentage based on total sales of each vendor and each vendor is allowed to stock the authorized items and decide space per item in their allocated space. A sixth retailer provided no direct response, but reiterated in several follow-up letters that it had answered all questions and provided all documents that it had.

of this product across all of the retailer's stores.<sup>53</sup> The supplier agreed to pay a specified sum of money to the retailer upon its acceptance of the proposal and its commencement of the category reset pursuant to the schematics that the supplier provided.<sup>54</sup> The reset provided the supplier with approximately 50% of the shelf facings for this product category. The retailer explained that it entered this agreement because "the performance requirements were consistent with [its] projections for this category, and [it] believed that adhering to the performance requirements would increase sales in the category."<sup>55</sup>

### C. Circumstances that Affect the Frequency and Amounts of Slotting

Each of the surveyed retailers reported that the frequency and amounts of slotting may vary depending upon a number of factors, including whether the product is delivered directly to the store, the product category, and the geographic region. As previously discussed, each retailer also noted the importance of the negotiations with the supplier, which may include the promotional and marketing plans for, and the perceived sales potential of, the product. Five of the seven retailers stated that they do not require slotting, and two stated that they cannot be said to waive or reduce slotting because they do not require it.<sup>56</sup> Nonetheless, most

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<sup>53</sup> Retailer's Interrogatory Responses and Documents.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> One of these two retailers reported this in its Interrogatory Response and the second retailer reported this in its Interrogatory Response and the retailer's Documents supported this statement. Two other retailers, in their Interrogatory Responses and

surveyed retailers explained that they will waive or reduce slotting under varying circumstances,<sup>57</sup> citing to examples where they may make an exception, such as for vendors who do not pay slotting to anyone in the market<sup>58</sup> or for minority, ethnic, or smaller vendors.<sup>59</sup>

### 1. Direct Store Delivery Products

The supplier-retailer supply chain relationship can play a significant role in connection with slotting allowances. Larger

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Telephone Interviews, reported that it is their standard business practice to request slotting.

<sup>57</sup> Interrogatory Responses of five retailers. One of these five retailers reported that not all divisions charge slotting and that new products without slotting are considered based upon anticipated consumer demand. A second of these five retailers noted that if customer demand exists, the product will be accepted without slotting.

<sup>58</sup> Three retailers reported this in their Interrogatory Responses, and one also reiterated this point during Telephone Interviews. One reported that it may accept an item with either reduced or no slotting if a supplier refuses to pay slotting or offers a reduced rate, but is introducing a new and innovative product that will be supported with extensive media. A second retailer provided examples where it had waived slotting for a particular supplier and agreed to stock product because the vendor did not offer slotting to any retail customer. A third retailer reported that it does not require slotting if a vendor does not offer slotting or promotional allowances to other retailers.

<sup>59</sup> Retailers' Interrogatory Responses. One retailer reported that it has reduced or eliminated slotting for minority vendors, regional suppliers, and entrepreneurial companies in an effort to help these suppliers succeed. A second retailer reported that it waives slotting for many small vendors or entrepreneurs. A third retailer reported that it encourages minority-owned suppliers to introduce products, especially if customers have requested these products.

retailers typically have their own distribution centers where they warehouse their products. There also is direct store delivery (“DSD”), however, by which the product bypasses the retailer’s distribution center and, as the name implies, the supplier directly delivers the product to the stores and, typically, shelves it. With DSD, suppliers provide more services, allowing the retailer to avoid the costs of warehousing, distributing, and stocking the product. Thus, according to some retailers, there is less need to receive a slotting allowance for DSD items and, generally, they either do not receive slotting allowances or receive lower slotting amounts with less frequency for DSD products than for products that go through their warehouse systems. Four retailers stated that they do not receive slotting at the same level or with the same frequency for DSD items as they do for products processed through their warehouses.<sup>60</sup> In contrast, although a fifth retailer noted that slotting may vary depending on whether the product is shipped DSD or through the company’s warehouses,<sup>61</sup>

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<sup>60</sup> One retailer, in its Interrogatory Responses, reported that it receives relatively small amounts of slotting for products that are shipped DSD by suppliers and do not require a slot in its warehouse; these products include hot dogs, bread, and many ice cream products. A second retailer, in its Interrogatory Response, reported that slotting allowances generally apply to products distributed through its warehouse system, but not to products delivered by vendors directly to stores. Retailer Documents from several of this retailer’s divisions, however, included memoranda enumerating slotting allowance amounts for DSD items, *albeit* lower than the fees for warehouse items. A third retailer, in its Interrogatory Response, reported that it does not receive slotting on DSD items as often as it does for products processed through its distribution centers. A fourth retailer provided similar responses in both its Interrogatory Responses and Telephone Interviews.

<sup>61</sup> Retailer’s Interrogatory Responses.

this retailer asks for and receives slotting on many branded bread products shipped DSD.<sup>62</sup> A sixth retailer did not directly address this issue. The seventh retailer was the only one to state explicitly that it asks for slotting on all products, including DSD.<sup>63</sup>

## 2. *Product Categories*

The amount of slotting varies depending upon the product categories. One retailer explained that its standard fee is \$X,000 per SKU for its region-chain, but that the amount can rise or fall depending on various factors, including product category.<sup>64</sup> A second retailer stated that one factor that it evaluates is the product category, which dictates available shelf and warehouse space.<sup>65</sup> Two other retailers’ documents suggest the dollar amounts of slotting allowances vary depending on the product category.<sup>66</sup> A fifth retailer stated that it does

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<sup>62</sup> Telephone call between FTC staff and retailer’s attorney.

<sup>63</sup> Retailer Telephone Interview (noted, however, that not all suppliers will pay); Retailer’s Interrogatory Response (retailer asks both new and existing vendors for slotting allowances for most new non-perishable food items presented for placement in its stores, with two general exceptions, one of which is when the item is a DSD item that is not carried in all stores).

<sup>64</sup> Retailer’s Interrogatory Response and Telephone Interview. The specific dollar amount is designated by “X” to protect the retailer’s confidentiality.

<sup>65</sup> Retailer’s Interrogatory Response.

<sup>66</sup> Only two retailers provided documents setting forth slotting policies and suggested slotting allowance amounts. One Retailer’s Documents set forth various prices ranging from a low of \$500 for DSD items to a high of \$10,000 for other categories, with slotting fees of approximately \$6,500 for frozen and refrigerated items. The second Retailer’s

not establish uniform slotting allowance levels by product category. Nevertheless, this retailer enumerated multiple factors related to product category that influence the amount of slotting – the nature of the product, the number of suppliers seeking to introduce similar products and the amount of slotting each is offering, the costs of warehousing and stocking the item, and the actual amount of shelf space that the product needs.<sup>67</sup> A sixth retailer stated that the frequency of slotting varies by merchandising department, noting that it receives slotting on over 50% of new ice cream and grocery items, but on only 10% of produce.<sup>68</sup> In addition, this retailer requests higher slotting allowances for certain product categories that require above average shelf space, such as paper towels, water, cat litter, and olive oil.<sup>69</sup>

Four retailers explained that they generally do not receive slotting on fresh bread, because it is delivered directly to the store and does not go through the warehouse.<sup>70</sup> For example, one retailer

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Documents set forth various fees, depending on product category and company division. This retailer's slotting fees ranged from a low of \$50 for some fresh bakery products to \$10,000 per item for a particular division's grocery department. A third retailer explained in interrogatory responses and telephone interviews the amounts it requests for slotting. The other four retailers claimed that they had no documents or written policies with respect to slotting allowance amounts.

<sup>67</sup> Retailer's Interrogatory Response.

<sup>68</sup> Telephone Interview with retailer (retailer reported that it asks for slotting allowances for every new ice cream product, but does not always receive them).

<sup>69</sup> Retailer's Interrogatory Response.

<sup>70</sup> Retailers' Interrogatory Responses and Telephone Interviews.

explained that it rarely, if ever, asks for or receives slotting allowances for fresh bread products, because they are DSD items and the associated costs and risk of product failure are relatively low.<sup>71</sup> A fifth retailer's documents show that a little more than half of its business units charge no "new item fee" for bakery products, and a little less than half of its business units charge a fee ranging from a low of \$50 per SKU to a high of \$5,000 per SKU.<sup>72</sup> The sixth retailer stated that it always asks for slotting, even on DSD products like bread, but that suppliers will not always pay the slotting allowance.<sup>73</sup> The seventh retailer asks for slotting on bread products regardless of whether they are DSD.<sup>74</sup>

### 3. *Regional Variability*

Three retailers noted that slotting policies may vary depending upon the division and geographic location of the stores.<sup>75</sup> A fourth retailer stated that there may be differences in slotting amounts in the different regions of the country, noting that if one retailer charges a higher slotting rate, other retailers in the region may learn about,

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<sup>71</sup> Retailer's Interrogatory Responses and Telephone Interviews.

<sup>72</sup> Retailer's Documents regarding its Bakery Departments.

<sup>73</sup> Telephone Interview with retailer.

<sup>74</sup> FTC staff telephone call with retailer's attorney.

<sup>75</sup> In Interrogatory Responses and Telephone Interviews, one retailer reported that competition in different geographic markets factors into its policy. A second retailer, in its Interrogatory Response, reported that its evaluation of a supplier's proposal takes into account the geographic region. A third retailer provided a similar response during a Telephone Interview.

and request, the higher rate.<sup>76</sup> Two retailers' documents also suggest that slotting varies depending on the particular division and region.<sup>77</sup>

#### **D. Accounting, Billing, and Recording Practices**

Consistent with generally accepted accounting principles, each surveyed retailer records slotting allowances as a reduction in the cost of goods sold.<sup>78</sup> Slotting payments received reduce the cost the retailer incurs to place the new product on its shelves. Under historical cost principles, this would be

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<sup>76</sup> Retailer's Interrogatory Response and Telephone Interview.

<sup>77</sup> One retailer's Documents included memoranda from different business entities in different geographic regions enumerating slotting allowances of varying amounts. The second retailer's Documents suggest different fees and negotiating approaches for several of the retailer's business units.

<sup>78</sup> Retailer's Interrogatory Response and Telephone Interview (retailer does not have documented accounting policies or procedures for slotting allowances, but its longstanding practice is to apply slotting allowances to reduce the cost of goods sold for a particular item); Retailer Telephone Interview (slotting allowances recorded as deferred income in a balance account and the money is used to reduce the cost of goods purchased); Retailer's Documents (Internal memorandum stating that cash received from vendors will be applied to the cost of goods sold); Retailer's Interrogatory Response ("On rare occasions, if the slotting allowance is negotiated to be per unit and appears on the invoice, then the slotting allowance will be tracked as a reduction in the cost of goods sold at the unit level"); Two Retailers' Interrogatory Responses and Telephone Interviews; Retailer's Interrogatory Response, Telephone Interview, and Documents.

reflected in the income statement as a reduction in the cost of goods sold.<sup>79</sup>

Although all of the surveyed retailers report slotting allowances as a reduction in their cost of goods, retailers varied in the allowable internal methods used to bill for, and record their receipt of, slotting allowances. Some immediately record the fee in whole as a reduction to the cost of all of its goods sold; some amortize the fee over a period of time to the cost of all of its goods sold;<sup>80</sup> some apply the fee directly to reduce the cost of specific items (SKU/UPC), product categories, or departments. The method used to account internally for slotting can affect the retailer's ability to produce records that would be useful for a retrospective analysis of slotting allowances. Retailers that apply slotting to reduce the cost of individual SKU/UPC's sold would be more likely to have useful UPC-level information than retailers that apply the allowance to reduce the cost of a group or department of goods sold.

One retailer invoices the vendor for the fee and if it is not paid within 15 days, the retailer receives the slotting allowance as a deduction off the first invoice; this retailer, however, allows some suppliers – especially smaller vendors – to pay the fee over a period

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<sup>79</sup> *Intermediate Accounting*, Eighth Edition, Kieso, Donald E., Ph.D., CPA, and Weygant, Jerry J. Ph.D., CPA, (1995) at 385.

<sup>80</sup> Retailer's Interrogatory Response and Telephone Interview (retailer amortizes the slotting allowance over several months); Retailer Telephone Interview (retailer records slotting allowances as deferred income in a balance account and the money is used to reduce the cost of goods purchased); Retailer's Interrogatory Response (retailer generally recognizes slotting allowances when a purchase order is issued to the vendor).

of time.<sup>81</sup> This retailer reported that it records slotting, as well as other money received from specific vendors, in a sub-account for “vendor rebates” for each selling department and not by SKU or product category. These departments include broad categories such as grocery, frozen, dairy, non-foods, and meat.<sup>82</sup> A second retailer generally collects the slotting allowance by reducing the cost per case for that product.<sup>83</sup>

A third retailer collects slotting allowances by reducing the amount paid to its suppliers by crediting the invoices in a process known as a “bill-back.” The slotting allowances received by the retailer are for the placement of new products; its accounting for slotting allowances, however, is not applied directly to the new products, but to an invoice that likely includes items other than the new items. The result of this procedure is that the slotting allowance is received, reducing total cost of goods sold, but without any reliable accounting records regarding the net cost of a particular new item. For example, if a promotional contract covers 3 new products and 4 existing products, the slotting fee is calculated for the 3 new products at \$5,000 per new product for a total of \$15,000 in slotting fees. This \$15,000 slotting fee will be collected by assessing a bill-back amount against all 7 products covered under the promotional contract, even though 4 of the products did not contribute to the calculation of the slotting allowance.<sup>84</sup>

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<sup>81</sup> Retailer’s Interrogatory Response, Telephone Interview, and Documents.

<sup>82</sup> Retailer’s Interrogatory Response and Telephone Interview.

<sup>83</sup> Retailer Telephone Interview.

<sup>84</sup> Retailer’s Documents and Telephone Interview.

A fourth retailer receives the fee as a deduction off invoice.<sup>85</sup> This retailer does not allocate slotting allowances to specific products; “because slotting allowances are often ‘paid’ vis-a-vis a credit on an invoice [the retailer] receives, slotting allowances are generally not broken down by SKU,”<sup>86</sup> but are accounted for across “an entire department, which includes multiple manufacturers (or perhaps a sub-set/family group of such) and all SKUs mapped to that department.”<sup>87</sup>

One surveyed retailer appears to use all allowances, including slotting allowances, for specific purposes.<sup>88</sup> Although slotting allowances and promotional allowances are recorded on separate deal sheets by the buyer, all funds are placed in a single account established for each vendor for use by the responsible buyer. This retailer reported that it earns the slotting allowance when the new item is added. Although the allowance can be used for any of that vendor’s products to lower the everyday retail price, to support an advertised price, or to promote a product, “the usual practice is to apply it to the specific item.”<sup>89</sup> This retailer reported that the vendor can make recommendations as to how the merchandising fund should be spent, but the retailer’s buyer and category manager make the final determination as to how best to use the money.<sup>90</sup>

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<sup>85</sup> Retailer’s Interrogatory Response and Telephone Interview.

<sup>86</sup> Retailer’s Interrogatory Responses and Telephone Interview.

<sup>87</sup> Retailer’s Interrogatory Response.

<sup>88</sup> Retailer’s Interrogatory Responses.

<sup>89</sup> Retailer’s Interrogatory Response and Telephone Interview.

<sup>90</sup> *Id.*

## E. Pay-to-Stay Fees

Pay-to-stay fees are a form of access payments made to ensure the continued presence of an existing product on the shelf for some further period, usually one year.<sup>91</sup> Although the FTC's access letter requested the same information for pay-to-stay fees as it did for slotting allowances, each of the seven retailers stated that they have no policy or practice with respect to pay-to-stay fees, and that they virtually never use pay-to-stay fees in the product categories for which information was requested. Most noted that they generally prefer to discontinue a product if its sales do not justify the space allocated to it.<sup>92</sup> One retailer explained that it does "not

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<sup>91</sup> See *Report on the Federal Trade Commission Workshop on Slotting Allowances and Other Marketing Practices in the Grocery Industry*, February 2001 Report by FTC Staff at 28-30. The FTC Access Letter specifically defined the term "pay-to-stay" as follows:

"the term 'pay-to-stay fee' means a fee or other consideration of value charged by or received by the company, either as a lump sum or as payments due at intervals or upon fulfillment of volume commitments (not directly related to each increment of unit sales), and payable in cash, in free goods, or in any other thing of value, as a condition for continued stocking of a supplier's product that the company already carries on its shelves or for continued access to the company's warehouse space."

FTC Access Letter, definition (c).

<sup>92</sup> One retailer, in its Interrogatory Responses, stated that "it has not asked for nor has it received any 'pay-to-stay,' reinstatement, or reintroduction fees for any of the listed items" – once a product is on its shelves, it will remain as long as the product sales justify the space being allocated; it "rarely, if ever, engages in so-called 'pay-to-stay' fees as defined in [the FTC's] specifications." A second retailer, in its Interrogatory Responses and Telephone Interview, reported that it disfavors pay-to-stay fees and does not have a policy requiring such fees for existing products; generally, this retailer will discontinue a product rather

accept funds to keep slow items on the shelf. Space is too valuable."<sup>93</sup> This retailer noted, however, that occasionally suppliers will provide additional funds to lower prices or gain promotion for new items that are not moving to their expectation, and it takes advantage of these types of "funds tied to performance to improve movement."<sup>94</sup>

Nonetheless, one retailer does appear to engage in practices that meet the FTC's definition of pay-to-stay fees. This retailer stated that it does not have a pay-to-stay practice, but when it discontinues an item, the supplier sometimes will offer an allowance to reinstate the item and this retailer often

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than charge a pay-to-stay fee if the product fails to attract customers after a reasonable trial period. This retailer did note that on rare occasions it has extended the trial period for a particular product when it believed the product warranted an additional opportunity or when the supplier offered incentives for a longer test period. A third retailer, in a Telephone Interview, reported that it does not charge pay-to-stay because, if a product is weak, the retailer does not want it. Although this retailer has contracts for a few products, such as greeting cards and magazines, where the vendor pays it a fee, this retailer does not consider the fees paid under these contracts to be pay-to-stay. FTC staff asked this retailer to explain how it differentiates those contractual arrangements from pay-to-stay fees, but it declined to provide any additional information or explanation. A fourth retailer, in its Interrogatory Response, stated that it "does not assess 'pay-to-stay' fees, although in some cases existing vendors will offer up-front payments in order to retain business;" this retailer never responded to FTC staff requests for clarification. A fifth retailer, in its Interrogatory Response, provided a similar response to these.

<sup>93</sup> Retailer's Interrogatory Responses and Telephone Interview.

<sup>94</sup> Retailer's Interrogatory Responses. Payments tied to specific performance requirements are not the equivalent of pay-to-stay fees as defined by the FTC staff in its access letter to retailers.

accepts such offers.<sup>95</sup> The retailer further explained that “[it] does not solicit this payment, and does not always accept it when offered. There are no hard-and-fast rules or policies that determine when [it] will accept such an allowance but, as a general matter, [it] is favorably disposed towards the allowance if it will make an unprofitable item a profitable item.”<sup>96</sup> This retailer also stated that it does not maintain records on the frequency of this practice.<sup>97</sup>

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<sup>95</sup> Retailer’s Interrogatory Response.

<sup>96</sup> Retailer’s Interrogatory Response.

<sup>97</sup> *Id.* Although pay-to-stay is defined in the FTC’s access letter, this retailer suggests that there is no “accepted” definition of the term “pay-to-stay” and to the extent it refers to an allowance solicited by the retailer, it is not the same as a reinstatement allowance. The retailer further stated that “such an allowance is, however, a ‘payment’ that allows a product to ‘stay’ on the shelf, when [it] might have otherwise removed it.” *Id.*



### III. QUANTITATIVE INFORMATION

This chapter details the quantitative results derived from the slotting allowance data submitted by supermarket retailers and the scanner data from Nielsen. In it we discuss how the empirical study was designed, how the data were collected and organized, and the strengths and weaknesses of the final data set. In addition, we present the data and use them to address many of the questions set forth in Chapter I of this report:

- How often are slotting allowances paid?
- How important are slotting allowances relative to a retailer's new product revenue?
- How much is the typical slotting allowance per item?
- Is there variation in slotting allowances across and within categories and retailers?
- Overall, how important are slotting allowances relative to a retailer's net sales and gross profit?

The results of the study suggest that slotting allowances can be an important part of a retailer's business. There are a number of empirical regularities in the data. Slotting allowances were more prevalent in some product categories (in particular, ice cream and salad dressing) than others (*e.g.*, bread and hot dogs).<sup>98</sup> The two refrigerated

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<sup>98</sup> See the following section for a discussion of the selection process for the five categories included in the study.

categories in the study, ice cream and hot dogs, had the highest average slotting allowance per item. There is some evidence that products that are directly delivered to the store by the supplier (*e.g.*, some bread products) are much less likely to have a slotting allowance.

Yet, the receipt of slotting allowances is not uniform across retailers or across categories. In some instances, slotting allowances were paid for virtually every new product in a particular category. In other instances, no slotting allowances were paid. If a slotting allowance was paid, the actual payment, for a particular item in a chain for a given metropolitan area, could range from a few hundred dollars to over \$20,000. This same variability held when comparing slotting allowances to new product revenue. In some cases, the total amount of slotting allowances for a particular category was *more* than the category's new product revenue in the first year, and, in other cases, it represented less than 5% of first-year revenue. Finally, for some retailers in some categories, slotting allowances could represent a significant dollar amount relative to gross profit and, to a lesser extent, net sales.

#### A. Study Design and Data Collection

This section describes in full the retailers' slotting allowance data, the Nielsen scanner data, the process of matching the two data sources, the need to create a "new product" variable to perform the data analysis, and, finally, the strengths and weaknesses of the data.

## 1. *Retailers' Slotting Allowance Data*

FTC staff received proprietary slotting fee data from seven of the nine retailers that were contacted as part of this study. The retailers represent a mix of large and medium sized firms located in different parts of the country, which allows an analysis of multiple divisions of the larger companies and a broader geographic coverage. Thus, some retailers are represented in more than one metropolitan statistical area (MSA) or "region." A particular retailer's MSA is referred to as a "region-chain."<sup>99</sup> For example, if a particular retailer's slotting allowance data is for its Chicago, IL, stores, the data from that area would be labeled as a "region-chain."

The five product categories included in the study (bread, hot dogs, ice cream, pasta, and salad dressing) are standard industry classifications used by Nielsen.<sup>100</sup> FTC staff interviewed retailers, trade groups, and marketing experts to help identify product categories in different parts of the supermarket (*e.g.*, dry grocery and frozen products) for which available information suggested slotting allowances were more and less important.<sup>101</sup>

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<sup>99</sup> A "region" for a few retailers might include more than one MSA, but these additional MSAs are generally smaller. Additionally, for some smaller retailers which operate in a limited geographic area, a "region" might cover the entire corporation.

<sup>100</sup> Only one retailer defined categories substantially different from Nielsen, and that particular retailer's data were adjusted to conform to its category definitions.

<sup>101</sup> The staff considered including more product categories in the study, but ultimately chose five to lessen the burden on the retailers responding to the data request. Even with this limitation, the retailers

Although we requested slotting allowance data for the same time period from each retailer, not all of the retailers had accessible data for the same time frames. Thus, the time coverage of the slotting allowance data varies from retailer to retailer. This presented some challenges, but six of the seven retailers provided data for the year 2000 and the seventh provided data for some of 2000.<sup>102</sup> Thus, the primary data analysis focuses on the year 2000. More discussion follows on the benefits (and costs) of looking at the same year for all the region-chains.

Each retailer submitted product-level slotting allowance data for its respective region(s), where each product is identified by a unique identifier, or a Universal Product Code (UPC).<sup>103</sup> As an example, the following would be considered a slotting allowance "observation:"

- *Retailer 1 in Region Y in June 2000 reported a slotting allowance of \$9,000 for Product x with a UPC number of 123456789012.*

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incurred substantial costs in responding to the FTC's data request. In many cases retailers searched historical records, often manually, for all of the new products introduced in the relevant categories during the time period covered by the study and then organized these disparate sources of data before submitting them. Additionally, many of the retailers worked closely with FTC staff to confirm the study's findings based on the retailers' data. The retailers' costs would have increased proportionately to an increase in the number of product categories studied.

<sup>102</sup> The specific time coverage for each region-chain is covered in Table 1 below.

<sup>103</sup> For example, a two-liter bottle of Coca-Cola and a twelve-pack of Coca-Cola would each have unique UPCs.

Four retailers also submitted various aggregated, non-UPC level slotting allowance data – typically at the division or corporate level. The aggregate data are presented later in this chapter and are used to determine the magnitude of slotting allowances in relation to net sales and gross profit. Most of this chapter, however, is devoted to the analysis of the product-level data.

Three of the seven retailers submitted product-level data for more than one MSA, resulting in a total of twelve region-chains. These twelve region-chains represent eight unique MSAs with an overlap of retailers in four of the MSAs. To maintain the retailers’ confidentiality, the regions in which multiple retailers overlapped are not denoted. The various retailers are categorized as Retailer 1 through Retailer 7. If a retailer provided data for multiple regions (Retailers 4, 5, and 7), each separate area is denoted as a Division.

For example, Retailer 4: Division 1 and Retailer 4: Division 2 refer to Retailer 4’s two divisions. The Division numbers do not convey any information about the geographic location for which the retailer provided data. The Division numbers simply denote the fact that the retailer provided data for different regions. For example, Division 1 for Retailer 4 and Division 1 for Retailer 5 do not correspond to the same geographic region. Table 1 lists all the region-chains.

Additionally, for each region-chain, the table lists the time coverage, or sample period, of the slotting allowance data by date and number of months. The shortest time frame is ten months, and the longest is thirty-two months. Roughly, the time coverage of the data, taken as a whole, is from mid-1999 to mid-2001. The earliest month of data is October 1998 and the latest is September 2001.

**Table 1**  
**List of Region-Chains and the Sample Periods for the Slotting Allowance Data**

|     | <b>Region-Chain</b>    | <b>First Observation</b> | <b>Last Observation</b> | <b>Number of Months</b> |
|-----|------------------------|--------------------------|-------------------------|-------------------------|
| 1.  | Retailer 1             | 1999.04                  | 2001.08                 | 29                      |
| 2.  | Retailer 2             | 1998.10                  | 2001.05                 | 32                      |
| 3.  | Retailer 3             | 1999.01                  | 2001.07                 | 31                      |
| 4.  | Retailer 4: Division 1 | 2000.01                  | 2001.06                 | 18                      |
| 5.  | Retailer 4: Division 2 | 2000.01                  | 2001.06                 | 18                      |
| 6.  | Retailer 5: Division 1 | 1999.07                  | 2001.04                 | 22                      |
| 7.  | Retailer 5: Division 2 | 1999.06                  | 2001.09                 | 28                      |
| 8.  | Retailer 5: Division 3 | 1999.04                  | 2001.09                 | 30                      |
| 9.  | Retailer 6             | 1998.11                  | 2000.12                 | 26                      |
| 10. | Retailer 7: Division 1 | 2000.08                  | 2001.05                 | 10                      |
| 11. | Retailer 7: Division 2 | 2000.07                  | 2001.04                 | 10                      |
| 12. | Retailer 7: Division 3 | 2000.07                  | 2001.04                 | 10                      |

*The date format is year.month (e.g., 2001.05 is May 2001).*

## 2. *Combining the Product-level Data with the Nielsen Scanner Data*

The data analysis also uses UPC-level scanner data purchased from Nielsen to complement the retailers' slotting allowance data. Scanner data at the UPC-level has revolutionized the ability of researchers to determine exactly what consumers are buying, how much they are paying, and when they are buying the product. In combination with the slotting allowance data from retailers, the Nielsen data provide information on the total inflow of new products and the sales performance of those products with and without slotting allowances, thus permitting staff to draw a more complete picture of the importance of slotting allowances.

The Nielsen data cover the same product categories and, for the most part, the same region-chains as the slotting allowance data at the UPC-level. The Nielsen data are weekly, starting the week of December 26, 1998, and running through the week of June 30, 2001. Therefore, the Nielsen scanner data overlap with the time frames of almost all of the region-chains' slotting allowance data.

The staff combined the retailers' slotting allowance data and the Nielsen data by UPC, which is the "link" between the two data sources. For example, suppose that Retailer 1 submitted a slotting allowance observation for a particular UPC. Once that UPC is found in the Nielsen data, the Nielsen data for that UPC and the slotting allowance data for that UPC are combined into a new data set. This data set allows staff to determine when the UPC was first scanned at Retailer 1 and how well it performed, *e.g.*, the product's revenue. Additionally, the staff can determine whether or not other new UPCs in the same category were scanned around the

same time and whether Retailer 1 reported slotting allowances for these other products.

For a few of the products with slotting allowances, the staff did not receive information on UPCs;<sup>104</sup> thus, they could not be matched with the Nielsen data. Additionally, a few of the UPCs reported by the retailers were not found in the Nielsen data set.<sup>105</sup> These non-matching products with slotting fees were treated as additional products in the merged data set. In other words, while these observations were never matched with the Nielsen data, they were still used in measuring the slotting allowances reported by retailers. Fortunately, this type of discrepancy did not occur often and, as described in the previous footnotes, many of the discrepancies were clarified by the retailers in follow-up interviews and responses.

Finally, the Nielsen data also include private label products, which are items produced by manufacturers for a retailer to sell under the retailer's own name. Retailers, obviously, do not receive slotting allowances from themselves for their own products. For

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<sup>104</sup> For these products, the staff tried to associate the slotting fee to a product in the Nielsen data set, which was not possible in all instances. After working with the retailers to verify the data, staff did not receive UPCs for only 1.1% of the products with slotting allowances.

<sup>105</sup> This result is somewhat unavoidable given the two disparate sources of data and the different reasons why they collect and organize UPC data. Thus, after working with the retailers, all but 12.2% of the products with slotting allowances were found in the Nielsen data (which includes the 1.1% of the slotting allowance observations with missing UPCs).

this reason, all private label products were excluded from the data analysis.<sup>106</sup>

### 3. *Creating a “New Product” Variable*

To answer some of the key questions of this study, we needed to develop a variable to measure the inflow of new products. What constitutes a “new product,” however, is not a straight-forward concept. When most people think of something new, they think of something innovative that they have never consumed before, such as potato chips with Olestra. Nonetheless, each year, thousands of new items appear on supermarket shelves with varying degrees of differentiation from existing products. A new product could be an extension of an existing flavor line (*e.g.*, the addition of Balsamic Vinaigrette to a salad dressing line) or something as subtle as a change in package size (*e.g.*, moving from a 16 ounce to 20 ounce jar of pasta sauce). Other new products could be products previously stocked, discontinued, and then reintroduced – such as seasonal and religious products, which retailers stock every year, but only for a short period of time. In short, the degree of differentiation is not the same for all product introductions, and it is not immediately obvious where to draw the line in considering a product truly “new.”

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<sup>106</sup> See, *e.g.*, Retailer Documents (memo re: Retailer’s Brand products: “Private label items are originally negotiated to a dead net cost. Then promotional accruals are added to encourage promotions. There are no other moneys set aside for anything else. . . . Therefore, you are basically spending your own promotional money when you ask for anything other than to buy down the cost of product. . . . If a private label manufacturer pays for slotting, this comes out of the promotional accruals that could be used to sell product.”)

The issue is when is a product “new” enough to be a candidate for a slotting allowance. Our evidence indicates that some retailers report slotting allowances for virtually every change in a product’s characteristics.<sup>107</sup> Although retailers incur less risk with a size change than they do when introducing a previously unknown product, retailers still incur costs, such as those associated with rearranging stock, warehousing, and changing the computer system.

Thus, in this study, we began by identifying all “new” products using the broadest possible definition; we counted as new any UPC that is scanned at the region-chain’s stores that was not previously scanned.<sup>108</sup> We then gave our results to the specific retailers to review the data for accuracy and completeness with the knowledge that we would be using the variable in our data analysis to contrast it to the number of slotting allowances.

Our construction of the new product variable varies depending on the particular sample period of interest. For instance, later in Table 3, we analyze the slotting fee data for the year 2000. In this case, we require a variable that measures the number of new products in 2000. For each region-chain, this

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<sup>107</sup> Some suppliers stated they paid fees to retailers virtually every time they changed the exact type of item sold to a retailer, *e.g.*, changing the package size. The fees charged for these “new” products, however, are sometimes lower than slotting fees and have different names, *e.g.*, an administrative fee. The exact circumstances in which slotting fees (or other fees) are charged for small changes to a product varies by retailer. Supplier Telephone Interviews.

<sup>108</sup> In some instances the product characteristics changed, but the UPC did not change. The FTC staff made adjustments to account for this fact.

variable was constructed by only counting the number of products that were *first scanned in the year 2000*. If the product was previously scanned in 1999 or subsequently scanned, for the first time, in 2001, then the product is labeled as “not new” in 2000. Alternatively, if we are interested in measuring the number of new products for the entire Nielsen sample period (*i.e.*, from the week of December 26, 1998, to the week of June 30, 2001), we define a product as “new” if it is introduced *after* the week of December 26, 1998. While there might be some new products introduced *during* the week of December 26, 1998, we are unable to differentiate these products from existing products. Thus, all the UPCs scanned during the week of December 26, 1998, are labeled as “not new.”

It is inevitable that some discrepancies may exist between our measure of new products and the definition of new products used by particular retailers. For example, when a supplier introduces a promotional, super-sized pack of an existing product, it often has a new UPC, and therefore, will be considered a new product in our data set (assuming it is introduced during the sample period of interest). A retailer, however, might not consider this product as “new.”

Additionally, there could be instances of falsely labeling a UPC as “new” even though it has previously been introduced. For example, suppose we are interested in constructing a new product variable for the entire sample period of the Nielsen data. A product introduced and placed on the shelves *before* December 26, 1998 (our first Nielsen observation), but not scanned until some week *after* December 26, 1998, is counted as a new product even though it had already been

introduced.<sup>109</sup> Relatedly, there are products that disappear for various reasons for long periods of time and then reappear. The staff cannot distinguish these reintroduced products from “truly” new products. Note that the further one gets from the week of December 26, 1998, as the starting point for counting new products, the less the above concern is an issue.<sup>110</sup> For instance, suppose we are interested in measuring the number of new products for the year 2000. The likelihood that a product was placed on the retailer’s shelf before our first Nielsen observation (the week of December 26, 1998) but was not scanned for the first time until sometime in 2000 is virtually zero. Additionally, the likelihood of a product disappearing (before our data set begins) and then first reappearing in 2000 is small.

As mentioned, to reconcile the possible discrepancies, after constructing the new product variable, we requested that the retailers verify the measure for accuracy and completeness. Six of the seven retailers responded, and we incorporated each retailer’s modification requests.<sup>111</sup> Thus, the final new

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<sup>109</sup> This result could occur for a number of reasons. First, there might be a lag between the time a product first appears on the shelf and the time when Nielsen codes the product (and, hence, when the product first appears in the Nielsen data). Second, a product might not have sales for a number of weeks, so it will not appear in the Nielsen data for those weeks. When it does reappear, it will be counted as a new product because the first observation will come after the week of December 26, 1998.

<sup>110</sup> The only instances when new products are counted from the start of our Nielsen data set (*i.e.*, December 26, 1998) are in Table 4 for Retailer 2 and Retailer 6.

<sup>111</sup> For example, Retailer 4 identified special order items that were “new” under this study’s definition but were not considered new products by Retailer 4, which is ultimately the most

product variable combines the above methodology with subsequent modifications requested by retailers.<sup>112</sup> Consequently, the new product definition is a reliable measure for the new product introductions of the retailers.<sup>113</sup>

#### 4. *Data Interpretation Issues*

The final data set incorporates information from multiple sources (*i.e.*, seven retailers and Nielsen) that use the data for different reasons. Even between retailers, as Chapter II highlights, the collection and organization of slotting allowance data vary considerably. Thus, some data issues and discrepancies are unavoidable. We have described some of these issues and detailed our efforts to minimize the discrepancies; however, a few more points are worth discussing.

First, when we observe a slotting fee for a region-chain, we typically do not have information on the number of stores that received a portion of the payment.<sup>114</sup> For instance, if we observe Retailer 1 receiving

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important consideration. If a retailer does not consider a product as “new,” then the retailer would not seek a slotting allowance for the item.

<sup>112</sup> For the retailer that did not respond to our requests for verification, we proceeded with the implicit assumption that the constructed measure is accurate.

<sup>113</sup> To the extent that this measure overstates the number of actual new product introductions subject to possible slotting allowances, and in conjunction with the accounting and record-keeping issues discussed in Chapter II.D, our results will tend to understate the actual frequency of slotting allowances.

<sup>114</sup> Two retailers did provide information on the number of stores covered by the payment, which is detailed in Chapter III.B.3.a, *infra* at 38-41 and Chapter IV.A.4, *infra* at 56-57.

\$10,000 in May 2000, then this payment could potentially be for carrying a product in one store or twenty-five stores. Although the number of stores in question would not impact the analysis of the frequency of slotting fees, it would potentially affect the interpretation of the “average slotting fee” and other statistics related to the dollar amount.

Second, there could be instances when a slotting fee is received at the “corporate” level for a new product even though the product is only being introduced at a subset of the corporation’s regions. Subsequently, the corporate slotting fee payment could be allocated across all the regions equally (or in some proportion) regardless of whether, for a particular region, the product is new, old, or not stocked.<sup>115</sup> This possibility could impact the analysis of the frequency of slotting fees. We did not receive sufficiently detailed information on this issue, however, to quantify any potential effects on the analysis of the data.

Third, although there are close to two years’ worth of data for most region-chains, a much larger study (in terms of sample period) would be required to reach more precise conclusions in the data analysis.<sup>116</sup> Additionally, given that the sample of retailers and categories is small and was not chosen randomly, no attempt is made statistically to extrapolate the results of this chapter beyond the retailers and categories studied here.

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<sup>115</sup> One retailer, in its Interrogatory Response, provided this explanation.

<sup>116</sup> As the results in the subsequent sections show, however, year to year variation does not seem to be a concern for most of the region-chains and categories in our study.

Finally, in our analysis of the data, we avoid putting too much weight on inter-retailer comparisons, because we could not control for all the differences across retailers. As Chapter II details in full, there are substantial variations in each retailer's business practices – such as how retailers document their slotting allowances (*e.g.*, are slotting allowances separated from or bundled with other allowances?)<sup>117</sup> and how retailers organize their products in their stores (*e.g.*, reliance on direct store versus warehouse deliveries).<sup>118</sup>

In sum, our review of the available literature suggests this study is the first of its kind to obtain proprietary, product-level data on slotting fees directly from retailers.<sup>119</sup>

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<sup>117</sup> See Chapter II.D, *supra* at 17-18 for a more detailed discussion of the differences in retailers' accounting and recording practices.

<sup>118</sup> See Chapter II.C.1, *supra* at 14-15, Chapter III.B.4, *infra* at 44-45, and Chapter IV.A.3.a, *infra* at 51-55.

<sup>119</sup> A number of studies on slotting allowances have used surveys of industry participants (*e.g.*, purchasing managers) and publically available aggregate data. Although not an exhaustive list, some work in this area includes Gerlich, R. N., R. G. Walters, and O. P. Heil (1994) "Factors Affecting Retailer Acceptance of New Packaged Goods: Some Comparisons Across New Product Lines," *Journal of Food Products Marketing*, 2 at 65-92; Sullivan, M. (1997) "Slotting Allowances and the Market for New Products," *Journal of Law and Economics*, 40 at 461-493; Rao, V. R. and E. W. McLaughlin (1989) "Modeling the Decision to Add New Products by Channel Intermediaries," *Journal of Marketing*, 53 at 80-88; Bloom, P. N., G. T. Gundlach, and J. P. Cannon (2000) "Slotting Allowances and Fees: Schools of Thought and the Views of Practicing Managers," *Journal of Marketing*, 64 at 92-108; Patterson, P. M. and T. J. Richards (2000) "Produce Marketing and Retail Buying Practices," *Review of Agricultural Economics*, 22 at 160-171; Rao, A. R. and H. Mahi (2000) "Slotting Allowances: Empirical Evidence on

Although there are a number of data issues to keep in mind, the results provide valuable case studies for these region-chains and product categories.

## **B. Observations and Analysis Based Upon the Data**

### **1. Broad Overview**

The following table provides an overview, by product category, of whether a particular region-chain reported slotting allowances during its sample period.

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Their Role in New Product Launches," Working Paper 00-05, The Retail Food Industry Center, University of Minnesota; and White, J. C., L. C. Troy, and R. N. Gerlich (2000) "The Role of Slotting Fees and Introductory Allowances in Retail Buyers' New-Product Acceptance Decisions," *Journal of the Academy of Marketing Science*, 28 at 291-298.



**Table 2**  
**Slotting Allowances by Category**

| <b>Region-Chain</b>    | <b>Sample Period</b> | <b>Bread</b> | <b>Hot Dog</b> | <b>Ice Cream</b> | <b>Pasta</b> | <b>Salad Dressing</b> |
|------------------------|----------------------|--------------|----------------|------------------|--------------|-----------------------|
| Retailer 1             | 1999.04 to 2001.08   | ✓            | ✓              | ✓                | ✓            | ✓                     |
| Retailer 2             | 1998.10 to 2001.05   |              |                |                  | ✓            | ✓                     |
| Retailer 3             | 1999.01 to 2001.07   | ✓            | ✓              | ✓                | ✓            | ✓                     |
| Retailer 4: Division 1 | 2000.01 to 2001.06   | ✓            | ✓              | ✓                | ✓            | ✓                     |
| Retailer 4: Division 2 | 2000.01 to 2001.06   | ✓            | ✓              | ✓                | ✓            | ✓                     |
| Retailer 5: Division 1 | 1999.07 to 2001.04   |              | ✓              | ✓                |              | ✓                     |
| Retailer 5: Division 2 | 1999.06 to 2001.09   | ✓            | ✓              | ✓                |              | ✓                     |
| Retailer 5: Division 3 | 1999.04 to 2001.09   |              |                | ✓                |              | ✓                     |
| Retailer 6             | 1998.11 to 2000.12   |              |                | ✓                | ✓            | ✓                     |
| Retailer 7: Division 1 | 2000.08 to 2001.05   |              |                | ✓                |              | ✓                     |
| Retailer 7: Division 2 | 2000.07 to 2001.04   |              |                | ✓                |              | ✓                     |
| Retailer 7: Division 3 | 2000.07 to 2001.04   |              |                | ✓                |              | ✓                     |

✓ = slotting fees were reported

Four of the twelve region-chains reported slotting allowances in all five product categories, and six reported slotting allowances in two categories. All the region-chains reported slotting allowances for salad dressing, and all but one reported slotting allowances for ice cream. Of the three retailers with more than one division listed, two had the same category pattern across divisions.

## 2. *Frequency and Relative Importance of Slotting Allowances*

In addition to *whether* slotting allowances were paid, we analyzed the frequency and relative importance of slotting allowances to each retailer. We addressed these issues for two separate time periods: (1) the year 2000, and (2) a region-chain's entire sample period.

The year 2000 was chosen because most of the retailers provided usable data for

this year.<sup>120</sup> Using the same one-year period makes comparing the results across region-chains less problematic, because it eliminates seasonality issues that could distort the results and it permits one to see how each region-chain responds to the same external circumstances that could affect the relevant variables.<sup>121</sup> Finally, using an annual time frame provides a convenient reference point for the results because it is a common time frame for business decisions. Use of only one year's data, however, potentially makes the results sensitive to small variations that may occur from year to year. Thus, to check how robust a particular region-chain's results are to different time dimensions, we also calculate the frequency of slotting allowances using the region-chain's entire sample period.

<sup>120</sup> The exception is Retailer 7, which only provided 10 months of data, starting in mid-2000, for its three regions. For ease of exposition, Retailer 7's 10-month period is still referred to as the "year 2000."

<sup>121</sup> For instance, new product roll-outs by suppliers might differ substantially from one year to the next.

**Table 3**  
**Ratio of Slotting Fee Payments to New Product Revenue (Ratio 1)**  
**Ratio of Number of Products with Slotting Fees to New Products (Ratio 2)**  
**2000**

***Retailer 1***

| Category        | Ratio 1      | Ratio 2      |
|-----------------|--------------|--------------|
| Bread           | 6.4%         | 51.9%        |
| Hot Dogs        | 15.1%        | 62.5%        |
| Ice Cream       | 19.5%        | 64.0%        |
| Pasta           | 46.2%        | 41.2%        |
| Salad Dressing  | 34.8%        | 46.8%        |
| <b>Combined</b> | <b>19.1%</b> | <b>55.2%</b> |

***Retailer 4: Division 2***

| Category        | Ratio 1     | Ratio 2      |
|-----------------|-------------|--------------|
| Bread           | 0.1%        | 2.9%         |
| Hot Dogs        | 4.5%        | 80.0%        |
| Ice Cream       | 31.3%       | 24.7%        |
| Pasta           | 12.7%       | 212.5%       |
| Salad Dressing  | 4.8%        | 47.5%        |
| <b>Combined</b> | <b>4.2%</b> | <b>35.8%</b> |

***Retailer 6***

| Category        | Ratio 1      | Ratio 2      |
|-----------------|--------------|--------------|
| Bread           | 0%           | 0%           |
| Hot Dogs        | 0%           | 0%           |
| Ice Cream       | 3.5%         | 20.3%        |
| Pasta           | 63.7%        | 86.8%        |
| Salad Dressing  | 35.9%        | 88.0%        |
| <b>Combined</b> | <b>13.7%</b> | <b>53.8%</b> |

***Retailer 2***

| Category        | Ratio 1     | Ratio 2     |
|-----------------|-------------|-------------|
| Bread           | 0%          | 0%          |
| Hot Dogs        | 0%          | 0%          |
| Ice Cream       | 0%          | 0%          |
| Pasta           | 0%          | 0%          |
| Salad Dressing  | 7.0%        | 35.8%       |
| <b>Combined</b> | <b>1.8%</b> | <b>8.7%</b> |

***Retailer 5: Division 1***

| Category        | Ratio 1     | Ratio 2      |
|-----------------|-------------|--------------|
| Bread           | 0%          | 0%           |
| Hot Dogs        | 0%          | 0%           |
| Ice Cream       | 8.0%        | 53.9%        |
| Pasta           | 0%          | 0%           |
| Salad Dressing  | 12.8%       | 17.0%        |
| <b>Combined</b> | <b>4.9%</b> | <b>23.3%</b> |

***Retailer 7: Division 1<sup>1</sup>***

| Category        | Ratio 1      | Ratio 2      |
|-----------------|--------------|--------------|
| Bread           | 0%           | 0%           |
| Hot Dogs        | 0%           | 0%           |
| Ice Cream       | 73.5%        | 159.0%       |
| Pasta           | 0%           | 0%           |
| Salad Dressing  | 33.8%        | 38.9%        |
| <b>Combined</b> | <b>39.5%</b> | <b>65.0%</b> |

***Retailer 3***

| Category        | Ratio 1      | Ratio 2      |
|-----------------|--------------|--------------|
| Bread           | 2.0%         | 5.8%         |
| Hot Dogs        | 14.8%        | 125.0%       |
| Ice Cream       | 17.4%        | 49.5%        |
| Pasta           | 15.0%        | 25.0%        |
| Salad Dressing  | 14.5%        | 43.8%        |
| <b>Combined</b> | <b>13.1%</b> | <b>37.3%</b> |

***Retailer 5: Division 2***

| Category        | Ratio 1     | Ratio 2     |
|-----------------|-------------|-------------|
| Bread           | 0%          | 0%          |
| Hot Dogs        | 0%          | 0%          |
| Ice Cream       | 0.2%        | 2.5%        |
| Pasta           | 0%          | 0%          |
| Salad Dressing  | 7.6%        | 28.3%       |
| <b>Combined</b> | <b>0.8%</b> | <b>7.6%</b> |

***Retailer 7: Division 2<sup>2</sup>***

| Category        | Ratio 1       | Ratio 2      |
|-----------------|---------------|--------------|
| Bread           | 0%            | 0%           |
| Hot Dogs        | 0%            | 0%           |
| Ice Cream       | 443.3%        | 73.1%        |
| Pasta           | 0%            | 0%           |
| Salad Dressing  | 50.8%         | 36.4%        |
| <b>Combined</b> | <b>103.0%</b> | <b>39.7%</b> |

***Retailer 4: Division 1***

| Category        | Ratio 1     | Ratio 2      |
|-----------------|-------------|--------------|
| Bread           | 0.5%        | 3.6%         |
| Hot Dogs        | 14.7%       | 100.0%       |
| Ice Cream       | 5.2%        | 27.3%        |
| Pasta           | 57.2%       | 122.2%       |
| Salad Dressing  | 11.6%       | 31.3%        |
| <b>Combined</b> | <b>6.9%</b> | <b>29.3%</b> |

***Retailer 5: Division 3***

| Category        | Ratio 1     | Ratio 2      |
|-----------------|-------------|--------------|
| Bread           | 0%          | 0%           |
| Hot Dogs        | 0%          | 0%           |
| Ice Cream       | 11.2%       | 95.6%        |
| Pasta           | 0%          | 0%           |
| Salad Dressing  | 8.7%        | 37.0%        |
| <b>Combined</b> | <b>7.0%</b> | <b>37.2%</b> |

***Retailer 7: Division 3<sup>2</sup>***

| Category        | Ratio 1     | Ratio 2      |
|-----------------|-------------|--------------|
| Bread           | 0%          | 0%           |
| Hot Dogs        | 0%          | 0%           |
| Ice Cream       | 6.0%        | 62.3%        |
| Pasta           | 0%          | 0%           |
| Salad Dressing  | 17.5%       | 46.6%        |
| <b>Combined</b> | <b>4.7%</b> | <b>35.3%</b> |

Private label products were excluded from all calculations.

<sup>1</sup> Covers less than one year from 2000.08 to 2001.05 due to data limitations.

<sup>2</sup> Covers less than one year from 2000.07 to 2001.04 due to data limitations.

**a. Frequency and Relative Importance of Slotting Allowances in 2000**

Table 3 presents the results for the year 2000. The table compares, at both the unit and dollar levels, the slotting allowances reported in 2000 to new products introduced in 2000.<sup>122</sup> We first describe the variables included in the table that are the basis for the computations. We then discuss the results.

The table is organized by region-chain and by category and contains two ratios:

- (1) “Ratio of Slotting Fee Payments to New Product Revenue” and
- (2) “Ratio of the Number of Products with Slotting Fees to New Products.”

The “Ratio of Slotting Fee Payments to New Product Revenue” (*i.e.*, the “fee/sales ratio”) scales the total slotting fees received by a retailer in a year by the total revenues earned by new products in a year. The ratio’s interpretation is as a measure of the relative importance of slotting fees. More precisely, the ratio is defined as “Slotting Fee Payments” divided by “New Product Revenue.” “Slotting Fee Payments” are defined as the total dollar amount of slotting allowances the retailer reported receiving for all of its stores in the region in 2000. The “New Product Revenue” measure is defined as the sum of revenues during 2000 for products that were a year old or less. More specifically, for each week in 2000, we identified all products that were a year old or less and summed up their

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<sup>122</sup> Again, all private label products have been excluded from the computations. See discussion in Chapter III.A.2, *supra* at 24-25, n.107 and accompanying text.

sales for that week.<sup>123</sup> This process was repeated for all 52 weeks in 2000 and summed over the entire year. Thus, for example, the first week of 2000 includes revenue on products introduced in late 1999 because those products were less than a year old and, under this measure, still considered “new.”

Ultimately, there is no unambiguously proper measure of new product revenue for 2000, given that products enter during various months of the year. The definition used in this table allows insights about the relative magnitude of slotting allowances, and appears superior to alternative definitions. For example, an alternate definition would be simply to total the revenues for all products introduced in 2000. This approach could distort revenues because products that enter late in the year will have almost no revenue relative to those that entered earlier in the year. Additionally, although products introduced in late December 1999 would still be “new” in January 2000 by any reasonable definition, they would not be included in calculating new product revenue for January 2000. Thus, the definition used here avoids potential distortions and provides a standard framework across retailers.<sup>124</sup>

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<sup>123</sup> Note that this measure is only capturing retail sales of new products and not other revenue derived from new products such as promotional allowances and slotting allowances.

<sup>124</sup> The biggest potential downside from this type of measure is if the rate of new product introductions is substantially different from year to year. For instance, suppose that the rate of new product introductions drops dramatically in Year 2 if Year 1 had an abnormally large number of new product introductions. If we are measuring Year 2’s new product revenue using our measure, then we are capturing some of the revenues from new products introduced in Year 1. Thus, the Year 2 measure would not be completely reflective of the year’s slowdown in new products. In sum, as long as the rate of introductions is reasonably

The second ratio is the “Ratio of the Number of Products with Slotting Fees to New Products” (*i.e.*, the “unit ratio”), which relates the number of products that had slotting allowances in 2000 to the number of new products introduced in 2000. This ratio is a measure of the relative frequency of slotting fees. This ratio is defined as the “Number of Products with Slotting Fees” divided by “Number of New Products.” The “Number of Products with Slotting Fees” is the count of all products for which the retailer reported slotting allowances in 2000. The “Number of New Products” variable is constructed in a manner similar to the general “new product” variable, described *supra* in Chapter III.A.3, *but only includes products that were first scanned in the year 2000 (i.e., after the last week of 1999 and before the first week of 2001).*

The “Number of New Products” in 2000 variable avoids many of the data issues discussed in Section A.3 concerning the “new product” variable. The reason is that the likelihood that a product was placed on the retailer’s shelf before our first observation (the week of December 26, 1998) but was not scanned for the first time until sometime in 2000 is virtually zero. Additionally, the likelihood of a product disappearing (before our data set begins) and then first reappearing in 2000 is small.

**(1) Table 3’s Data Interpretation Issues and Values Greater than 100%**

Note that not all slotting allowances reported in year 2000 correspond to products

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consistent, then the current definition provides a useful and clear measure for analyzing the relative magnitude of slotting allowances for the study’s participants.

introduced in 2000. This data issue is unavoidable, unless there is a long enough time frame, because *when* a retailer reports *receiving* a slotting allowance payment does not necessarily correspond to *when* the product is first *scanned* at the stores. In fact, the fees could be for products introduced in 1999 or 2001. More direct ratios would determine whether a particular product was new in 2000 and whether that particular product had a slotting allowance (regardless of when the payment was actually received by the retailer). The slotting allowance data we received limited our ability to calculate these ratios accurately because the sample periods for which the retailers were able to produce data were not long enough. For example, if a new ice cream product was put on the shelf at Retailer 6 in 2000, but the slotting allowance was not reported until 2001, then this slotting allowance payment would fall outside of Retailer 6’s sample period, causing the percentages to be biased downward. If the rate at which a retailer receives slotting allowances for new products is fairly consistent from year to year, however, these ratios are useful measures that produce less bias than matching only some of the slotting allowance observations.

Additionally, Table 3 contains a few ratios with values greater than 100%. For example, Retailer 4: Division 1’s ratio of pasta products for which a slotting allowance was reported to all new pasta products introduced in 2000 is 122.2%. There are a number of reasons why these measured ratios can take on values greater than 100%, but technically this occurs because the products in the numerator are not necessarily in the denominator.<sup>125</sup>

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<sup>125</sup> First, as mentioned, there is often a time difference between when a product is coded by Nielsen and appears in the scanner data and when the slotting payment is reported by the

Nonetheless, the ratios are generally below 100%, and in the few instances where they are over 100%, it is typically when there are a low number of slotting allowance observations and new product introductions, where small variations have a large impact on the ratios.

## (2) Results

Overall, Table 3 indicates that the frequency of slotting allowances is highly variable among categories, across a retailer's divisions, and across retailers. For instance, at Retailer 1, the unit ratios for ice cream and pasta were 64% and 41.2%, respectively, while at Retailer 6 the ratios were 20.3% and 86.8%, respectively. Nevertheless, there is some consistency; the data show that most region-chains reported significant slotting allowances for the ice cream and salad dressing categories, while seldom reporting them for the bread category, at least for the year 2000. Also, in some circumstances, slotting allowances were frequently reported and represented a significant dollar value relative to new product revenues.

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retailer. For example, a slotting allowance reported in December 2000 would be included in the "Number of Products with Slotting Allowances" and "Slotting Allowance Payments" measures for 2000. That product may not actually be placed on the shelf and coded until 2001, however, and would not be counted as new in 2000 and would not be included in the "New Product Revenue" or "Number of New Products" measures. Second, the staff could not always match the retailers' slotting allowance data to the Nielsen data due to incorrect or missing UPCs and, therefore, could not always determine whether these non-matching products were new. As a result, these products are only counted in the numerators of the two ratios.

The following paragraphs highlight the main findings for each retailer in 2000.<sup>126</sup>

### Retailer 1

- Reported slotting allowances for all five categories and was the only retailer to report a significant amount of slotting allowances for bread.
- The highest fee/sales ratio (*i.e.*, "Ratio of Slotting Fee Payments to New Product Revenue") was 46.2% for the pasta category and the lowest was 6.4% for the bread category.
- The highest unit ratio (*i.e.*, Ratio of the Number of Products with Slotting Fees to New Products) was 64% for the ice cream category and the lowest was 41.2% for the pasta category.

### Retailer 2

- Reported slotting allowances only for the salad dressing category.
- The fee/sales ratio was 7% for the salad dressing category.
- The unit ratio was 35.8% for the salad dressing category.

### Retailer 3

- Reported slotting allowances for all five categories.
- The highest fee/sales ratio was 17.4% for the ice cream category

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<sup>126</sup> Statements identifying categories generating the lowest fee/sales and unit ratios omit categories in which no slotting allowances were reported.

and the lowest was 2% for the bread category.

- The highest unit ratio was 125% for the hot dog category and the lowest was 5.8% for the bread category.

#### **Retailer 4**

- Both Division 1 and Division 2 reported slotting allowances for all five categories.
- For Division 1, the highest fee/sales ratio was 57.2% for the pasta category and the lowest was 0.5% for the bread category. For Division 2, the highest fee/sales ratio was 31.3% for the ice cream category and the lowest was 0.1% for the bread category.
- For both Division 1 and Division 2, the highest unit ratio was for the pasta category (122.2% for Division 1 and 212.5% for Division 2) and the lowest was for the bread category (3.6% for Division 1 and 2.9% for Division 2).

#### **Retailer 5**

- All three of Retailer 5's divisions reported slotting allowances for the ice cream and salad dressing categories.
- For both Division 1 and Division 2, the highest fee/sales ratio was for the salad dressing category (12.8% for Division 1 and 7.6% for Division 2) and the lowest was for the ice cream category (8% for Division 1 and 0.2% for Division 2). For Division 3, the highest fee/sales ratio was 11.2% for the ice

cream category and the lowest was 8.7% for the salad dressing category.

- For both Division 1 and Division 3, the highest unit ratio was for the ice cream category (53.9% for Division 1 and 95.6% for Division 3) and the lowest was for the salad dressing category (17% for Division 1 and 37% for Division 3). For Division 2, the highest unit ratio was 28.3% for the salad dressing category and the lowest was 2.5% for the ice cream category.

#### **Retailer 6**

- Reported slotting allowances for the ice cream, pasta, and salad dressing categories.<sup>127</sup>
- The highest fee/sales ratio was 63.7% for the pasta category and the lowest was 3.5% for the ice cream category.
- The highest unit ratio was 88% for the salad dressing category and the lowest was 20.3% for the ice cream category.

#### **Retailer 7**

- All three of Retailer 7's divisions reported slotting allowances for the ice cream and salad dressing categories.
- For both Division 1 and Division 2, the highest fee/sales ratio was for the ice cream category (73.5% for

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<sup>127</sup> Retailer 6 explained that ice cream, bread, and hot dogs generally are DSD items, for which it rarely reports slotting allowances.

Division 1 and 443.3% for Division 2)<sup>128</sup> and the lowest was for the salad dressing category (33.8% for Division 1 and 50.8% for Division 2). For Division 3, the highest fee/sales ratio was 17.5% for the salad dressing category and the lowest was 6% for the ice cream category.

- For all three divisions, the highest unit ratio was for the ice cream category (159% for Division 1, 73.1% for Division 2, and 62.3% for Division 3) and the lowest was for the salad dressing category (38.9% for Division 1, 36.4% for Division 2, and 46.6% for Division 3).

#### **b. Frequency of Slotting Allowances for the Full Sample Period**

While Table 3 spotlights the year 2000, Table 4 describes the unit ratios (*i.e.*, “Ratio of the Number of Products with Slotting Fees to New Products”) for each region-chain’s entire sample period.<sup>129</sup> The primary purpose of looking at the full sample is to examine the robustness of the results from Table 3 using additional available data. The primary downside is that the benefits of looking at a standardized, one-year period are lost, making it more difficult to compare across retailers.

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<sup>128</sup> Some explanations for ratios greater than 100% already have been discussed, see *supra* at n.126 and accompanying text; however, one retailer provided an additional explanation. This retailer, in its Interrogatory Response, explains this is a result of accounting at the corporate versus regional level. Even if a product is being sold in a particular region, it might be introduced corporate-wide at a later date, which could trigger a slotting allowance to the corporation. Once the corporation reports the slotting allowance, it will distribute it to all its regions – even if a particular region is already selling the product. Thus, at a particular point in time, the flow of slotting allowances can be greater than the flow of new products for a particular region, depending upon when the corporation distributes slotting fees to its regions.

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<sup>129</sup> Again, all private label products have been excluded from the count of new products.

**Table 4**  
**Ratio of Number of Products with Slotting Fees to New Products by Region-Chain**  
**All Submitted Data**

***Retailer 1***

*Sample Period: 1999.04 to 2001.08*  
*(29 months)*

| <b>Category</b> | <b>Ratio</b> |
|-----------------|--------------|
| Bread           | 47.9%        |
| Hot Dog         | 52.6%        |
| Ice Cream       | 41.9%        |
| Pasta           | 53.1%        |
| Salad Dressing  | 57.8%        |
| <b>Combined</b> | <b>47.3%</b> |

***Retailer 4: Division 2***

*Sample Period: 2000.01 to 2001.06*  
*(18 months)*

| <b>Category</b> | <b>Ratio</b> |
|-----------------|--------------|
| Bread           | 3.3%         |
| Hot Dog         | 66.7%        |
| Ice Cream       | 24.8%        |
| Pasta           | 121.4%       |
| Salad Dressing  | 36.4%        |
| <b>Combined</b> | <b>29.2%</b> |

***Retailer 6***

*Sample Period: 1998.11 to 2000.12*  
*(26 months)*

| <b>Category</b> | <b>Ratio</b> |
|-----------------|--------------|
| Bread           | 0%           |
| Hot Dog         | 0%           |
| Ice Cream       | 17.5%        |
| Pasta           | 39.7%        |
| Salad Dressing  | 63.0%        |
| <b>Combined</b> | <b>32.8%</b> |

***Retailer 2***

*Sample Period: 1998.10 to 2001.05*  
*(32 months)*

| <b>Category</b> | <b>Ratio</b> |
|-----------------|--------------|
| Bread           | 0%           |
| Hot Dog         | 0%           |
| Ice Cream       | 0%           |
| Pasta           | 3.8%         |
| Salad Dressing  | 19.7%        |
| <b>Combined</b> | <b>6.1%</b>  |

***Retailer 5: Division 1***

*Sample Period: 1999.07 to 2001.04*  
*(22 months)*

| <b>Category</b> | <b>Ratio</b> |
|-----------------|--------------|
| Bread           | 0%           |
| Hot Dog         | 15.4%        |
| Ice Cream       | 62.2%        |
| Pasta           | 0%           |
| Salad Dressing  | 23.1%        |
| <b>Combined</b> | <b>30.5%</b> |

***Retailer 7: Division 1***

*Sample Period: 2000.08 to 2001.05*  
*(10 months)*

| <b>Category</b> | <b>Ratio</b> |
|-----------------|--------------|
| Bread           | 0%           |
| Hot Dog         | 0%           |
| Ice Cream       | 161.0%       |
| Pasta           | 0%           |
| Salad Dressing  | 38.9%        |
| <b>Combined</b> | <b>65.2%</b> |

***Retailer 3***

*Sample Period: 1999.01 to 2001.07*  
*(31 months)*

| <b>Category</b> | <b>Ratio</b> |
|-----------------|--------------|
| Bread           | 4.2%         |
| Hot Dog         | 53.8%        |
| Ice Cream       | 39.9%        |
| Pasta           | 33.1%        |
| Salad Dressing  | 35.8%        |
| <b>Combined</b> | <b>31.6%</b> |

***Retailer 5: Division 2***

*Sample Period: 1999.06 to 2001.09*  
*(28 months)*

| <b>Category</b> | <b>Ratio</b> |
|-----------------|--------------|
| Bread           | 0.7%         |
| Hot Dog         | 18.2%        |
| Ice Cream       | 1.3%         |
| Pasta           | 0%           |
| Salad Dressing  | 31.3%        |
| <b>Combined</b> | <b>9.8%</b>  |

***Retailer 7: Division 2***

*Sample Period: 2000.07 to 2001.04*  
*(10 months)*

| <b>Category</b> | <b>Ratio</b> |
|-----------------|--------------|
| Bread           | 0%           |
| Hot Dog         | 0%           |
| Ice Cream       | 73.8%        |
| Pasta           | 0%           |
| Salad Dressing  | 36.4%        |
| <b>Combined</b> | <b>39.8%</b> |

***Retailer 4: Division 1***

*Sample Period: 2000.01 to 2001.06*  
*(18 months)*

| <b>Category</b> | <b>Ratio</b> |
|-----------------|--------------|
| Bread           | 3.4%         |
| Hot Dog         | 81.8%        |
| Ice Cream       | 24.2%        |
| Pasta           | 80.0%        |
| Salad Dressing  | 34.8%        |
| <b>Combined</b> | <b>25.8%</b> |

***Retailer 5: Division 3***

*Sample Period: 1999.04 to 2001.09*  
*(30 months)*

| <b>Category</b> | <b>Ratio</b> |
|-----------------|--------------|
| Bread           | 0%           |
| Hot Dog         | 0%           |
| Ice Cream       | 65.5%        |
| Pasta           | 0%           |
| Salad Dressing  | 33.8%        |
| <b>Combined</b> | <b>34.2%</b> |

***Retailer 7: Division 3***

*Sample Period: 2000.07 to 2001.04*  
*(10 months)*

| <b>Category</b> | <b>Ratio</b> |
|-----------------|--------------|
| Bread           | 0%           |
| Hot Dog         | 0%           |
| Ice Cream       | 62.3%        |
| Pasta           | 0%           |
| Salad Dressing  | 49.1%        |
| <b>Combined</b> | <b>35.9%</b> |

*Private label products were excluded from all calculations.*

*For Retailer 6, the hot dog and ice cream categories are DSD and non-warehouse, respectively.*



As Table 4 indicates, the full sample unit ratios generally correspond to the year 2000 unit ratios in Table 3 for all of the region-chains except Retailer 6 (where the full sample and year 2000 unit ratios are 32.8% and 53.8%, respectively, for all the categories combined). What this result indicates is that year-to-year variations in slotting allowances and/or new products, during the time period analyzed, are generally not important for these region-chains and categories. This gives more confidence that the year 2000 results are indicative of the slotting allowance practices of these region-chains.

The following bullet points highlight, by retailer, the full sample results compared to the 2000 results.

#### **Retailer 1**

- Again, reported slotting allowances for all five categories.
- Combining the categories, the unit ratio was 47.3% in the full sample, while the year 2000 ratio was 55.2% (a difference of -7.8%).

#### **Retailer 2**

- In the full sample, reported slotting allowances for the pasta category, in addition to the salad dressing category.
- Combining the categories, the unit ratio was 6.1% in the full sample, while the year 2000 ratio was 8.7% (a difference of -2.7%).

#### **Retailer 3**

- Again, reported slotting allowances for all five categories.

- Combining the categories, the unit ratio was 31.6% in the full sample, while the year 2000 ratio was 37.3% (a difference of -5.7%).

#### **Retailer 4**

- Again, both divisions reported slotting allowances for all five categories.
- For Division 1, combining the categories, the unit ratio was 25.8% in the full sample, while the year 2000 ratio was 29.3% (a difference of -3.5%). For Division 2, combining the categories, the unit ratio was 29.2% in the full sample, while the year 2000 ratio was 35.8% (a difference of -6.7%).

#### **Retailer 5**

- In the full sample, Division 1 reported slotting allowances for the hot dog category, in addition to the ice cream and salad dressing categories. In the full sample, Division 2 reported slotting allowances for the bread and hot dog categories, in addition to the ice cream and salad dressing categories. Finally, again, Division 3 reported slotting allowances only in the ice cream and salad dressing categories.
- For Division 1, combining the categories, the unit ratio was 30.5% in the full sample, while the year 2000 ratio was 23.3% (a difference of 7.2%). For Division 2, combining the categories, the unit ratio was 9.8% in the full sample, while the year 2000 ratio was 7.6% (a difference of 2.2%). Finally, for Division 3, combining the

categories, the unit ratio was 34.2% in the full sample, while the year 2000 ratio was 37.2% (a difference of -3%).

### **Retailer 6**

- Again, reported slotting allowances for the ice cream, pasta, and salad dressing categories.
- Combining the categories, the unit ratio was 32.8% in the full sample, while the year 2000 ratio was 53.8% (a difference of -21%).

### **Retailer 7**

- The full sample and year 2000 numbers are identical because the sample periods are the same.

In sum, a careful comparison of Tables 3 and 4 illustrates that, although the ratios might vary somewhat for a particular category, the overall unit ratios appear fairly consistent between the year 2000 and the full sample.

### **3. *Summary Statistics, Frequency Distributions of Slotting Allowances, and Related Data Analysis***

Thus far, we have highlighted the frequency and relative importance of slotting allowances. To develop a better sense of the magnitude, variation, and distribution of slotting allowances, this section details various statistics (*i.e.*, measures of central tendency and dispersion) of each retailer's slotting allowances and presents the frequency distributions of the magnitude of slotting allowances by region-chain and category. Additionally, we graph the ratio of slotting allowance payments to first-year revenues by

region-chain and category. This set of graphs can be used to get a sense of the relative importance of slotting allowances – as well as to get an indication of the cost of launching a new product. Finally, we plot, by product category, the relationship between a new product's first year revenue and the slotting allowance paid for the item to determine if there are any empirical regularities between these two variables.

#### **a. Summary Statistics**

Table 5 presents the average slotting allowance (if we observe a slotting allowance being paid) by category and region-chain over the relevant sample period.

**Table 5**  
**Average Slotting Fees by Region-Chain**  
**All Submitted Data**

| Region-Chain           | Sample Period      | Average Slotting Fee per UPC |                 |                 |                |                |                |
|------------------------|--------------------|------------------------------|-----------------|-----------------|----------------|----------------|----------------|
|                        |                    | Bread                        | Hot Dogs        | Ice Cream       | Pasta          | Salad          | Combined       |
| Retailer 1             | 1999.04 to 2001.08 | \$9,478                      | \$20,233        | \$28,921        | \$18,663       | \$16,999       | \$21,768       |
| Retailer 2             | 1998.10 to 2001.05 |                              |                 |                 | \$2,250        | \$2,322        | \$2,313        |
| Retailer 3             | 1999.01 to 2001.07 | \$8,800                      | \$7,727         | \$14,721        | \$16,310       | \$13,129       | \$14,135       |
| Retailer 4: Division 1 | 2000.01 to 2001.06 | \$3,174                      | \$5,753         | \$5,563         | \$3,955        | \$4,925        | \$5,092        |
| Retailer 4: Division 2 | 2000.01 to 2001.06 | \$3,551                      | \$8,804         | \$5,385         | \$2,688        | \$4,456        | \$4,678        |
| Retailer 5: Division 1 | 1999.07 to 2001.04 |                              | \$5,076         | \$4,125         |                | \$4,018        | \$4,113        |
| Retailer 5: Division 2 | 1999.06 to 2001.09 | \$500                        | \$15,820        | \$10,000        |                | \$7,793        | \$8,029        |
| Retailer 5: Division 3 | 1999.04 to 2001.09 |                              |                 | \$8,983         |                | \$4,021        | \$7,688        |
| Retailer 6             | 1998.11 to 2000.12 |                              |                 | \$4,986         | \$5,816        | \$4,504        | \$4,938        |
| Retailer 7: Division 1 | 2000.08 to 2001.05 |                              |                 | \$2,680         |                | \$3,434        | \$2,819        |
| Retailer 7: Division 2 | 2000.07 to 2001.04 |                              |                 | \$12,682        |                | \$3,814        | \$10,554       |
| Retailer 7: Division 3 | 2000.07 to 2001.04 |                              |                 | \$3,106         |                | \$3,625        | \$3,322        |
| <b>All</b>             |                    | <b>\$8,551</b>               | <b>\$10,950</b> | <b>\$10,625</b> | <b>\$9,667</b> | <b>\$6,819</b> | <b>\$9,182</b> |

Interestingly, although relatively few hot dog products have slotting allowances, this category has the highest slotting allowance average of \$10,950 per UPC per region-chain. The ice cream category has the next highest average of \$10,625 per UPC per region-chain. Thus, the refrigerated/frozen categories in the study have the highest per UPC average. Finally, the pasta, salad dressing, and bread categories have average fees of \$9,667, \$6,819, and \$8,551, respectively. Broadly, depending on the category, the average slotting allowance per UPC typically ranges from \$6,000 to \$11,000 per region. Retailer 1 had the highest average of \$21,768 per UPC among all the region-chains, and Retailer 2 had the lowest average of \$2,313 per UPC. For all the region-chains, the average fee was \$9,182 per UPC and the median was \$6,500 per UPC.

Given the heterogeneous nature of the region-chains, categories, and product introduction rates, these averages should be interpreted with care. However, Retailer 4

and Retailer 5 did provide complete data on the number of stores that the slotting allowance items covered. For these two retailers combined, the average slotting allowance across all categories was \$69.20 per UPC per store. Looking at each category separately, the per store average slotting allowance was \$65.37 for bread, \$92.62 for hot dogs, \$83.32 for ice cream, \$33.99 for pasta, and \$49.45 for salad dressing.

Table 6 contains the mean, standard deviation, median, mode, the 1<sup>st</sup> and 3<sup>rd</sup> quartiles, and the interquartile range (*i.e.*, the difference between the 3<sup>rd</sup> and 1<sup>st</sup> quartile) for each region-chain's slotting allowances by category.<sup>130</sup> For example, for Retailer 1's ice cream products with slotting allowances, the mean fee was \$28,921 with a standard deviation of \$8,934. The median and mode were both \$28,000.

<sup>130</sup> If a particular region-chain's category had less than 10 slotting allowance observations, then the category was dropped from the table.

**Table 6**  
**Descriptive Statistics**  
**Slotting Fees by Region-Chain**

***Retailer 1***

*Sample Period: 1999.04 to 2001.08 (29 months)*

| Category       | Mean     | Standard  | 3rd Quartile | Median   | Interquartile |              | Mode     |
|----------------|----------|-----------|--------------|----------|---------------|--------------|----------|
|                |          | Deviation |              |          | Range         | 1st Quartile |          |
| Bread          | \$9,478  | \$1,916   | \$10,000     | \$10,000 | \$0           | \$10,000     | \$10,000 |
| Hot Dogs       | \$20,233 | \$7,741   | \$26,667     | \$20,500 | \$11,667      | \$15,000     | \$10,000 |
| Ice Cream      | \$28,921 | \$8,934   | \$28,000     | \$28,000 | \$0           | \$28,000     | \$28,000 |
| Pasta          | \$18,663 | \$11,162  | \$25,000     | \$25,000 | \$22,529      | \$2,471      | \$25,000 |
| Salad Dressing | \$16,999 | \$11,006  | \$25,000     | \$25,000 | \$22,500      | \$2,500      | \$25,000 |

***Retailer 2***

*Sample Period: 1998.10 to 2001.05 (32 months)*

| Category       | Mean    | Standard  | 3rd Quartile | Median  | Interquartile |              | Mode    |
|----------------|---------|-----------|--------------|---------|---------------|--------------|---------|
|                |         | Deviation |              |         | Range         | 1st Quartile |         |
| Salad Dressing | \$2,322 | \$481     | \$2,790      | \$2,500 | \$957         | \$1,833      | \$2,500 |

***Retailer 3***

*Sample Period: 1999.01 to 2001.07 (31 months)*

| Category       | Mean     | Standard  | 3rd Quartile | Median   | Interquartile |              | Mode     |
|----------------|----------|-----------|--------------|----------|---------------|--------------|----------|
|                |          | Deviation |              |          | Range         | 1st Quartile |          |
| Hot Dogs       | \$7,727  | \$3,053   | \$10,000     | \$10,000 | \$5,000       | \$5,000      | \$10,000 |
| Ice Cream      | \$14,721 | \$4,199   | \$18,000     | \$15,000 | \$4,667       | \$13,333     | \$15,000 |
| Pasta          | \$16,310 | \$5,245   | \$20,000     | \$20,000 | \$10,000      | \$10,000     | \$20,000 |
| Salad Dressing | \$13,129 | \$2,536   | \$15,000     | \$15,000 | \$4,500       | \$10,500     | \$15,000 |

3 slotting observations did not have the actual fee amount, thus, they were excluded from this table.

***Retailer 4: Divison 1***

*Sample Period: 2000.01 to 2001.06 (18 months)*

| Category       | Mean    | Standard  | 3rd Quartile | Median  | Interquartile |              | Mode    |
|----------------|---------|-----------|--------------|---------|---------------|--------------|---------|
|                |         | Deviation |              |         | Range         | 1st Quartile |         |
| Ice Cream      | \$5,563 | \$1,811   | \$5,000      | \$5,000 | \$0           | \$5,000      | \$5,000 |
| Pasta          | \$3,955 | \$3,223   | \$7,500      | \$2,325 | \$5,750       | \$1,750      | \$7,500 |
| Salad Dressing | \$4,925 | \$2,620   | \$6,875      | \$5,208 | \$1,875       | \$5,000      | \$32    |

***Retailer 4: Divison 2***

*Sample Period: 2000.01 to 2001.06 (18 months)*

| Category       | Mean    | Standard  | 3rd Quartile | Median  | Interquartile |              | Mode    |
|----------------|---------|-----------|--------------|---------|---------------|--------------|---------|
|                |         | Deviation |              |         | Range         | 1st Quartile |         |
| Ice Cream      | \$5,385 | \$1,438   | \$5,000      | \$5,000 | \$0           | \$5,000      | \$5,000 |
| Pasta          | \$2,688 | \$3,271   | \$7,500      | \$1,750 | \$7,426       | \$75         | \$1,750 |
| Salad Dressing | \$4,456 | \$2,807   | \$6,562      | \$5,000 | \$5,784       | \$779        | \$6,875 |

***Retailer 5: Divison 1***

*Sample Period: 1999.07 to 2001.04 (22 months)*

| Category       | Mean    | Standard  | 3rd Quartile | Median  | Interquartile |              | Mode    |
|----------------|---------|-----------|--------------|---------|---------------|--------------|---------|
|                |         | Deviation |              |         | Range         | 1st Quartile |         |
| Ice Cream      | \$4,125 | \$1,862   | \$5,000      | \$3,412 | \$2,500       | \$2,500      | \$2,000 |
| Salad Dressing | \$4,018 | \$2,972   | \$8,000      | \$2,000 | \$6,000       | \$2,000      | \$2,000 |

**Table 6, Continued**  
**Descriptive Statistics**  
**Slotting Fees by Region-Chain**

**Retailer 5: Division 2**

*Sample Period: 1999.06 to 2001.09 (28 months)*

| Category       | Mean    | Standard  |              | Median  | Interquartile |              | Mode    |
|----------------|---------|-----------|--------------|---------|---------------|--------------|---------|
|                |         | Deviation | 3rd Quartile |         | Range         | 1st Quartile |         |
| Salad Dressing | \$7,793 | \$2,626   | \$9,999      | \$7,001 | \$3,500       | \$6,499      | \$6,499 |

**Retailer 5: Division 3**

*Sample Period: 1999.04 to 2001.09 (30 months)*

| Category       | Mean    | Standard  |              | Median  | Interquartile |              | Mode    |
|----------------|---------|-----------|--------------|---------|---------------|--------------|---------|
|                |         | Deviation | 3rd Quartile |         | Range         | 1st Quartile |         |
| Ice Cream      | \$8,983 | \$8,347   | \$7,000      | \$7,000 | \$501         | \$6,499      | \$7,000 |
| Salad Dressing | \$4,021 | \$2,410   | \$5,000      | \$3,500 | \$2,500       | \$2,500      | \$3,500 |

**Retailer 6**

*Sample Period: 1998.11 to 2000.12 (26 months)*

| Category       | Mean    | Standard  |              | Median  | Interquartile |              | Mode    |
|----------------|---------|-----------|--------------|---------|---------------|--------------|---------|
|                |         | Deviation | 3rd Quartile |         | Range         | 1st Quartile |         |
| Ice Cream      | \$4,986 | \$2,317   | \$5,000      | \$5,000 | \$2,000       | \$3,000      | \$5,000 |
| Pasta          | \$5,816 | \$2,789   | \$7,500      | \$7,500 | \$3,750       | \$3,750      | \$7,500 |
| Salad Dressing | \$4,504 | \$3,020   | \$7,500      | \$6,500 | \$6,660       | \$840        | \$7,500 |

**Retailer 7: Division 1**

*Sample Period: 2000.08 to 2001.05 (10 months)*

| Category       | Mean    | Standard  |              | Median  | Interquartile |              | Mode    |
|----------------|---------|-----------|--------------|---------|---------------|--------------|---------|
|                |         | Deviation | 3rd Quartile |         | Range         | 1st Quartile |         |
| Ice Cream      | \$2,680 | \$2,724   | \$2,880      | \$1,341 | \$1,539       | \$1,341      | \$1,341 |
| Salad Dressing | \$3,434 | \$2,471   | \$5,000      | \$2,350 | \$2,689       | \$2,311      | \$2,350 |

**Retailer 7: Division 2**

*Sample Period: 2000.07 to 2001.04 (10 months)*

| Category       | Mean     | Standard  |              | Median   | Interquartile |              | Mode     |
|----------------|----------|-----------|--------------|----------|---------------|--------------|----------|
|                |          | Deviation | 3rd Quartile |          | Range         | 1st Quartile |          |
| Ice Cream      | \$12,682 | \$7,466   | \$17,742     | \$17,742 | \$12,378      | \$5,364      | \$17,742 |
| Salad Dressing | \$3,814  | \$2,743   | \$7,500      | \$2,350  | \$5,228       | \$2,272      | \$2,272  |

**Retailer 7: Division 3**

*Sample Period: 2000.07 to 2001.04 (10 months)*

| Category       | Mean    | Standard  |              | Median  | Interquartile |              | Mode    |
|----------------|---------|-----------|--------------|---------|---------------|--------------|---------|
|                |         | Deviation | 3rd Quartile |         | Range         | 1st Quartile |         |
| Ice Cream      | \$3,106 | \$2,151   | \$5,760      | \$1,341 | \$4,419       | \$1,341      | \$1,341 |
| Salad Dressing | \$3,625 | \$2,377   | \$7,500      | \$2,350 | \$5,150       | \$2,350      | \$2,350 |

*If a category had less than 10 observations, the category was omitted for that particular region-chain.*

**b. Frequency Distributions of Slotting Allowances**

Figures 1.1 to 1.12 graph the frequency distribution of the magnitude of slotting allowances within a particular region-chain and category. The benefit of these figures is the ability to see the various dollar ranges in which the fees fall – as well as the relative number of UPCs that fall within these ranges. The following paragraph describes the information contained in Figure 1.1 (Retailer 1) in detail. The rest of the figures are constructed in the same manner.

Figure 1.1 displays all of the slotting allowance observations reported from Retailer 1 for the entire sample period. On the x-axis are the slotting allowance amounts; on the y-axis are the categories; and the z-axis (*i.e.*, the height of the cylinders) measures how many slotting allowance observations there are for a particular category and slotting allowance amount. For instance, the ice cream category had the most observations within the \$25,000 and \$30,000 range. The transparent cylinders have no special meaning. If solid, they would obscure other cylinders.

**c. Ratio of Slotting Allowance Payments to First Year Revenues**

Figures 2.1 to 2.12 graph the ratio of slotting allowance payments to first year revenues by region-chain and category.<sup>131</sup>

Although the ability to generalize these results is limited, the figures can be used to get a sense of the cost of launching new products and to provide another measure of the relative importance of slotting allowances.

Slotting allowances are one of many costs that might be involved in launching a new product. The previous tables and figures have provided information on the size of slotting allowances and the proportion of items that appear to pay such allowances in our sample. Presumably, other things being equal, the higher the slotting allowance relative to the net cash-flow the new product generates, the less likely a supplier is to launch a new product. Ideally, slotting allowances would be scaled by expected revenues to develop a sense of the dollar level of slotting allowances needed to launch a product. Unfortunately, the staff does not have information on the revenues either retailers or suppliers expect to earn on the new products studied here. Instead, the data set contains the actual revenues generated by the new products. Thus, the ratios presented in Figures 2.1 to 2.12 are the ratios of slotting allowances to observed first year revenues earned by retailers. Because we are observing actual sales and not expected sales, care should be taken when interpreting the ratios. Observing a very high ratio for a product may indicate that a retailer reported a large fee or that a product had unexpectedly low sales. Because the ratio corresponding to any particular product is the outcome of a process with substantial uncertainty (most

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<sup>131</sup> Figures 2.1 to 2.12 are constructed in a similar manner to Figures 1.1 to 1.12. However, the total number of items with slotting allowances in these figures does not precisely match the total number in Figures 1.1 to 1.12. Specifically, an item was included in Figures 2.1 to 2.12 if (a) there was a slotting allowance, (b) the product was new, as defined *supra* Section

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A.3, and (c) there was one year's worth of sales information available from the Nielsen data. For instance, a product introduced in January 2001 with a slotting allowance would not be included because the Nielsen sample period ends July 2001, which would give only six month's worth of sales data.

new products fail), it is best to interpret the findings by looking at the entire set of ratios for a particular region-chain. Nonetheless, to the extent that actual sales are, on average, similar to expected sales, the figures give an indication of the cost, in terms of slotting allowances, of introducing a new product. With this caveat in mind, one can view the mean or median ratio as a *lower bound* on the investment relative to revenue that manufacturers must make to place an item on a retailer's shelf, *e.g.*, the median slotting allowance on a new product at Retailer 1 was between 20% and 30% of first year revenue.<sup>132</sup>

Figure 2.1 shows the ratios for Retailer 1. In the bread category, most items had slotting allowance/first-year-sales ratios of less than 10%, while a few had ratios between 10% and 40%. Although the hot dog and pasta categories follow a ratio pattern similar to bread, the ratios for the ice cream and salad dressing categories mostly ranged between 20% to 70%. Thus, for Retailer 1 during this period, slotting allowances represented a significant portion of first-year sales for new ice cream and salad dressing items, which is not true for bread. Looking at all five categories combined, there were over 10 products with ratios over 100%.

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<sup>132</sup> This ratio is a lower bound on the investment suppliers make for two reasons. First, because retailers charge a mark-up on the items they sell, suppliers only receive a percentage of the retail revenue generated by a product; that is, retail revenue is an over estimate of the revenue the suppliers will receive. Second, in addition to slotting allowances, many suppliers also pay promotional and advertising allowances to retailers when launching new products, as well as advertising expenses independent of retailers. Thus, the costs of launching a new product are often much larger than the slotting allowances some suppliers pay.

Obviously, this implies that a retailer's sales during the first year did not surpass the original slotting allowance reported. Nonetheless, for this retailer, these products were only a small fraction of the total number of new products introduced. For some retailers, however, new products with ratios over 100% represented a significant portion of the total.

For instance, referencing Figure 2.3, Retailer 3 had many new ice cream products that had ratios over 100%. Thus, over one-third of Retailer 3's ice cream products had slotting allowances greater than first year sales. The fraction is higher for pasta. In addition to Retailer 3, Retailer 6 (Figure 2.9), Retailer 7: Division 2 (Figure 2.11), and Retailer 7: Division 3 (Figure 2.12) also have some categories with a high fraction of products with ratios over 100%.<sup>133</sup>

In contrast, almost all of the new products in Retailer 2 (Figure 2.2), Retailer 4: Division 1 (Figure 2.4), Retailer 4: Division 2 (Figure 2.5), Retailer 5: Division 1 (Figure 2.6), Retailer 5: Division 2 (Figure 2.7), Retailer 5: Division 3 (Figure 2.8), and Retailer 7: Division 1 (Figure 2.10) have ratios below 50%.

#### **d. Plotting First Year Revenues and Slotting Allowances**

To determine whether there are some empirical regularities between the amount of the slotting fee and the actual first year sales for a product, Figures 3.1 to 3.5 plot the relationship between a new product's first

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<sup>133</sup> The ratios for Retailer 7: Division 2 and Retailer 7: Division 3 might be partially explained by the small sample periods for these region-chains.

year revenue and the slotting allowance paid for the item. The data used to construct these figures combine information from all retailers for each product category. The two main findings are that (a) first year revenues are, generally, positively correlated with slotting allowances, and (b) there is substantial variation, even controlling for the amount of the slotting allowance paid, in first year revenues within a particular category.

The first main finding (*i.e.*, that products that pay higher slotting allowances appear, on average, to earn higher first-year revenues) holds for all of the product categories, except bread. More precisely, the correlations between slotting allowances and first-year revenues for products paying slotting allowances are -0.129 for bread, 0.470 for hotdogs, 0.359 for ice cream, 0.475 for pasta, and 0.210 for salad dressing.<sup>134</sup> This finding is consistent with the hypothesis that suppliers pay retailers with greater sales larger slotting allowances. Retailers with larger revenues make products available to more consumers, which, in turn (other things equal), should result in higher revenues for any given new product. Even though there is a relationship between slotting allowances and first year revenues, however, the relationship is not very strong. Many products that pay large slotting allowances fail to earn large revenues, and many products paying relatively low slotting allowances earn large revenues.

The second main finding from these tables is that there is substantial variation in

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<sup>134</sup> The estimated correlations for all categories other than bread are statistically significantly different from zero at the .02 level or smaller. The correlation coefficient for bread is not statistically significantly different from zero.

the revenues earned by new products, even controlling for the amount of the slotting allowance paid. For example, Figure 3.3 shows that, of the 39 products with slotting fees, about half failed to earn enough revenue to match the slotting fee while the other half did.

#### 4. *Direct Store Delivery and Slotting Allowances*

One retailer, Retailer 4, provided staff with DSD information for the year 2000, which presents an opportunity to relate the prevalence of DSD with slotting allowances. Thus, in Table 7, we examine for both Division 1 and Division 2 all new products by category introduced in 2000 in the Nielsen data that were DSD and paid a slotting allowance during the sample period.<sup>135</sup> Additionally, Table 7 calculates the “Percent of New Products that are DSD” and the “Percent of New DSD Products with Slotting Fees.” The first percentage gives an indication of the prevalence of DSD in a given category, while the second percentage gives an indication of whether or not slotting fees are paid for DSD items.

Most of Division 1’s and Division 2’s new bread and ice cream products were directly delivered, and about half of their new salad dressing items were also DSD. Conversely, none of the new products in the hot dog and pasta categories were DSD. Overall, 59.1% and 64.2% of Division 1’s and Division 2’s new products, respectively, were DSD in 2000.

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<sup>135</sup> This differs slightly from the approach in Table 3, which relates slotting fees reported in 2000 and new products in 2000.



**Table 7**  
**Percent of Retailer 4's New and Slotting Allowance Products that are DSD in 2000**

***Retailer 4: Division 1***

| <b>Category</b> | <b>Percent of New Products that are DSD</b> | <b>Percent of New DSD Products with Slotting Fees</b> |
|-----------------|---|---|
| Bread           | 72.7%                                       | 0%  |
| Hot Dog         | 0%  | 0%  |
| Ice Cream       | 70.1%                                       | 0%  |
| Pasta           | 0%  | 0%  |
| Salad Dressing  | 47.9%                                       | 0%  |
| <b>Combined</b> | <b>59.1%</b>                                | <b>0%</b>   |

***Retailer 4: Division 2***

| <b>Category</b> | <b>Percent of New Products that are DSD</b> | <b>Percent of New DSD Products with Slotting Fees</b> |
|-----------------|---|---|
| Bread           | 91.4%                                       | 0%  |
| Hot Dog         | 0%  | 0%  |
| Ice Cream       | 72.9%                                       | 0%  |
| Pasta           | 0%  | 0%  |
| Salad Dressing  | 42.5%                                       | 17.6%   |
| <b>Combined</b> | <b>64.2%</b>                                | <b>2.7%</b>   |

None of the new DSD items in the bread, hot dog, ice cream, or pasta categories had slotting allowances. Only new DSD items in the salad dressing category had slotting allowances in Division 2. Overall, 0% and 2.7% of Division 1's and Division 2's new DSD items, respectively, had slotting allowances in 2000. Conversely, 65.4% and 70.9% of Division 1's and Division 2's new *non*-DSD items, respectively, had slotting allowances in 2000.<sup>136</sup>

Thus, although it represents only a snapshot, the table suggests a significant relationship between DSD items and slotting allowances. Although a few DSD items did have a slotting allowance, the great majority did not. Analyzing DSD and slotting allowances jointly is relevant in assessing *why*, and predicting *when*, retailers charge slotting allowances; it is just one component of a full analysis, however.

**5. Aggregate Slotting Allowance Data**

This section presents the various aggregate slotting allowance data that staff received from four of the seven retailers. All four provided data on net sales, gross profits, and slotting allowances for the various categories, and three retailers provided the data at the corporate level. While aggregate data does not provide the same amount of flexibility as UPC-level data, it does avoid some of the issues encountered with UPC-level data, such as how funds received at the corporate level are allocated to the various regions and products. Additionally, relating slotting allowances to gross profits provides another useful measure of the relative importance of slotting allowances to a retailer's profitability.

**Retailer 3**

The first and second set of percentages in Table 8 present Retailer 3's annual, corporate-wide slotting allowances as a percent of net sales and gross profit, respectively, for 1999 to 2001.

<sup>136</sup> Table 7 does not directly present these percentages.

**Table 8**  
**Retailer 3's Slotting Allowances as a Percent of Net Sales and Gross Profit**

***Retailer 3***

*Sample Period: 1999.02 to 2001.05*

| Slotting Fees as a Percent of Net Sales |         |        |        | Slotting Fees as a Percent of Gross Profit |         |        |        |
|---|---------|--------|--------|--|---------|--------|--------|
| Category                                | FY2001* | FY2000 | FY1999 | Category                                   | FY2001* | FY2000 | FY1999 |
| Bread                                   | 0%      | 0.08%  | 0%     | Bread                                      | 0%      | 0.35%  | 0%     |
| Hot Dogs                                | 0.87%   | 0.17%  | 0.02%  | Hot Dogs                                   | 1.81%   | 0.41%  | 0.05%  |
| Ice Cream                               | 4.83%   | 1.68%  | 1.48%  | Ice Cream                                  | 25.24%  | 8.76%  | 7.74%  |
| Pasta                                   | 0.30%   | 1.06%  | 1.84%  | Pasta                                      | 1.17%   | 4.24%  | 7.51%  |
| Salad Dressing                          | 0.56%   | 1.49%  | 3.70%  | Salad Dressing                             | 0.57%   | 6.24%  | 16.07% |
| Combined                                | 1.61%   | 0.74%  | 0.92%  | Combined                                   | 5.25%   | 2.97%  | 3.73%  |

*\*Through May 5, 2001*

*The fiscal year runs from February to January*

*Salad dressing does not include mayonnaise*

Referencing the ice cream category in 2001, slotting allowances can reach as high as 25.24% of gross profit or, referencing the hot dog category in 1999, as low as 0.05% (this excludes the bread category in 1999 and 2001, where the percentages were zero). Overall, in 2000 (the last full year of data), if we combined all the categories, slotting allowances represented 0.74% of net sales and 2.97% of gross profits.

**Retailer 4**

For each of the five categories, Table 9 lists Division 1's and Division 2's total slotting allowances as a percent of total sales and gross profit. The sample period is 18 months from January 2000 through June 2001.

**Table 9**  
**Retailer 4's Slotting Allowances as a Percent of Total Sales and Gross Profit**

***Retailer 4***

*Sample Period: 2000.01 to 2001.06 (18 months)*

| Slotting Fees as a Percent of Total Sales |            |            |       | Slotting Fees as a Percent of Gross Profit |            |            |       |
|---|------------|------------|-------|--|------------|------------|-------|
| Category                                  | Division 1 | Division 2 | Both  | Category                                   | Division 1 | Division 2 | Both  |
| Bread                                     | 0.02%      | 0.01%      | 0.01% | Bread                                      | 0.07%      | 0.02%      | 0.04% |
| Hot Dogs                                  | 0.39%      | 0.13%      | 0.22% | Hot Dogs                                   | 0.99%      | 0.34%      | 0.56% |
| Ice Cream                                 | 0.49%      | 0.22%      | 0.30% | Ice Cream                                  | 1.66%      | 0.70%      | 1.00% |
| Pasta                                     | 0.71%      | 0.24%      | 0.36% | Pasta                                      | 2.40%      | 0.83%      | 1.24% |
| Salad Dressing                            | 0.70%      | 0.36%      | 0.47% | Salad Dressing                             | 2.71%      | 1.55%      | 1.97% |
| Combined                                  | 0.35%      | 0.15%      | 0.22% | Combined                                   | 1.22%      | 0.54%      | 0.76% |

**Table 10**  
**Retailer 6's Corporate Slotting Allowances as a Percent of Net Sales and Gross Profit**

***Retailer 6***

*Sample Period: 1998.10 to 2001.09*

| <b>Slotting Fees as a Percent of Net Sales</b> |               |               |               | <b>Slotting Fees as a Percent of Gross Profit</b> |               |               |               |
|--|---------------|---------------|---------------|---|---------------|---------------|---------------|
| <b>Category</b>                                | <b>FY2001</b> | <b>FY2000</b> | <b>FY1999</b> | <b>Category</b>                                   | <b>FY2001</b> | <b>FY2000</b> | <b>FY1999</b> |
| Hot Dogs                                       | 0.22%         | 0.17%         | 0.39%         | Hot Dogs  | 0.59%         | 0.48%         | 1.06%         |
| Ice Cream                                      | 0%            | 0.30%         | 0.46%         | Ice Cream   | 0%            | 0.84%         | 1.17%         |
| Pasta  | 4.36%         | 0.59%         | 2.70%         | Pasta   | 10.86%        | 0.59%         | 9.21%         |
| Salad Dressing                                 | 2.15%         | 0.87%         | 1.39%         | Salad Dressing                                    | 7.85%         | 3.35%         | 6.45%         |
| Combined                                       | 1.10%         | 0.46%         | 0.91%         | Combined  | 3.24%         | 1.19%         | 2.72%         |

*The fiscal year is from October to September*

Looking at the combined divisions and categories, slotting allowances represented less than 1% of both total sales (*i.e.*, 0.22%) and gross profit (*i.e.*, 0.76%). The slotting allowances for the ice cream, pasta, and salad dressing categories, however, represented 1-2% of their respective gross profit for both divisions combined.

**Retailer 6**

Table 10 presents the percentage that slotting allowances represent of net sales and gross profit for Retailer 6 over a three year period for all five categories.

Interestingly, Retailer 6 recorded no slotting allowance receipts for the ice cream category in fiscal year 2001, but it did report payments in 2000 and 1999. For all five categories combined, over the three year period, slotting allowances as a percentage of net sales ranged from 0.46% (in 2000) to 1.10% (in 2001). In terms of gross profit, the percentage ranged from 1.19% (in 2000) to 3.24% (in 2001). For particular categories, these percentages were much higher. In fiscal year 2001, slotting allowances for pasta represented 10.86% of the category's gross profit. For the three years, slotting allowances as a percent of gross profits were

highest in the salad dressing category (5.49%) and highest as a percent of net sales in the pasta category (2.34%). Overall, slotting allowances as a percent of net sales and gross profit percentages were the lowest in the hot dog category – except in 2001 when the ice cream category had no slotting allowances.

**Retailer 7**

The following table details Retailer 7's corporate-wide slotting allowances as a percent of net sales and gross profit for the ice cream and salad dressing categories (no slotting fees were reported for the other three categories).

**Table 11**  
**Retailer 7's Corporate Slotting Allowances as a Percent of Net Sales and Gross Profit**

***Retailer 7***

*Sample Period: 2000.07 to 2001.06 (12 months)*

| <b>Category</b> | <b>Percent of Net Sales</b> | <b>Percent of Gross Profit</b> |
|-----------------|-----------------------------|--------------------------------|
| Ice Cream       | 1.64%                       | 6.10%                          |
| Salad Dressing  | 4.25%                       | 27.51%                         |
| Combined        | 2.11%                       | 8.44%                          |

The most striking result is that, in the salad dressing category, slotting allowances, from mid-2000 to mid-2001, represented 27.51% of gross profit. Only Retailer 3 had similarly high percentages in terms of gross profit.<sup>137</sup> In terms of net sales, slotting allowances were 4.25% of net sales for the salad dressing category. For the ice cream category, slotting allowances represented 1.64% and 6.10% of net sales and gross profit, respectively. Thus, although this retailer only reported slotting allowances in two of the five categories, the amounts reported, in relation to net sales and gross profit, were high relative to the other retailers.

Retailer 7 also provided a breakdown of how some of the slotting allowances reported were allocated across UPCs and individual stores.<sup>138</sup> For salad dressing, the average slotting allowance per UPC was \$8,821 (the same statistic is unavailable for ice cream). Each store that did stock the UPC, on average, reported \$304 in slotting allowances for an ice cream product and \$175 for a salad dressing product.

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<sup>137</sup> In its fiscal year 2001, Retailer 3 had a percentage of 25.24% of gross profit for the ice cream category. Additionally, in its fiscal year 1999, Retailer 3 had a percentage of 16.07% of gross profit for the salad dressing category.

<sup>138</sup> Staff did not receive complete information on how all of the slotting allowances were allocated; thus, the following numbers only cover the subset that was complete.

## IV. ANALYSIS

Chapters II and III document the participating retailers' qualitative and quantitative information, respectively, on slotting allowances for the five product categories. The retailers' documents, data, and interrogatory responses demonstrate similarities and differences among retailers with respect to their slotting allowance practices. In some cases, inconsistencies appear between a retailer's documents or data and what the retailer said in interviews and written responses. Suppliers sometimes corroborated and sometimes disputed the retailers' information and perceptions. This chapter evaluates consistencies and inconsistencies in the information among and within retailers, and between retailers and suppliers.<sup>139</sup> The chapter concludes with a discussion of how the findings of this study apply to the various theories on slotting allowances.

### A. Consistent Information

For numerous facts, the surveyed retailers provided information and data that suggest that their practices or policies are consistent internally and with one another; we also note when supplier reports were consistent with those of the surveyed retailers.

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<sup>139</sup> Although certain information appears to be internally inconsistent (*i.e.*, within a retailer) or inconsistent with information from other sources, the FTC staff does not believe, nor does it imply, that any study participant provided false or misleading information. Rather, as discussed above, industry practices, including negotiations that do not occur at the corporate level, and the types of records maintained, make it difficult retrospectively to obtain complete, verifiable information and data.

- Surveyed retailers report that slotting allowances help defray the costs associated with new product introductions; two surveyed suppliers also stated that this may be a reason for slotting allowances.
- Surveyed retailers provided consistent information about the types of business practices, in addition to slotting, used in connection with new product introductions, including test introduction of the product in a few locations, introductory allowances applied on a per-unit basis, advertising allowances, marketing funds provided by the supplier, and other special funds or allowances; surveyed suppliers reported the use of these practices as well.
- Surveyed retailers report that slotting allowances may vary depending upon the supplier's promotional and marketing plans, the perceived sales potential of the product, whether the product is DSD, the product category, and the geographic area of the retailer; surveyed suppliers reported that slotting may vary depending upon the product category and whether the product is DSD.
- Surveyed retailers report that slotting frequency and amounts are generally lower in connection with DSD products than with regard to products shipped to the retailers' warehouses; surveyed suppliers reported this fact as well.

- Surveyed retailers report that slotting allowances are often higher for products in refrigerated and frozen categories (*e.g.*, hot dogs, ice cream); some surveyed suppliers also reported slotting was higher in these categories.
- Data from two surveyed retailers show that if a slotting allowance is paid, a supplier will spend approximately \$1.64 million in slotting allowances for a national roll-out of a new product to 85% of the supermarkets in the U.S., assuming that 85% of these supermarkets receive a slotting fee; surveyed suppliers provided estimates ranging between \$1.5 million and \$2.0 million in slotting fees for a new product roll-out.
- Surveyed retailers report that pay-to-stay fees are rare in the product categories surveyed; surveyed suppliers agreed that pay-to-stay fees are rare.
- Surveyed retailers report that exclusive and partially exclusive dealing arrangements are rare in the product categories surveyed; none of the surveyed suppliers addressed the topic of exclusive dealing arrangements.
- Surveyed retailers report that slotting allowances are recorded in retailers' accounting systems as a reduction in the cost of goods sold; none of the surveyed suppliers addressed this topic.

## 1. *Business Reasons for Slotting Allowances*

Six of the seven surveyed retailers provided similar business reasons for requesting or receiving slotting, most of which relate to the costs – both time and money – associated with introducing a new item into the retailers' systems.<sup>140</sup> Two suppliers stated that slotting allowances may be one way for retailers to offset the costs associated with getting a new product on the shelf.<sup>141</sup> Another supplier suggested that slotting is paid because of the proliferation of new product introductions.<sup>142</sup> A recent survey of suppliers and retailers noted that both groups think the growth in the number of new product introductions is one of the top two factors contributing to the use of slotting allowances and that the failure rate among new products is one of the top three factors.<sup>143</sup>

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<sup>140</sup> Only one retailer did not state that recovering costs played a role in its decision to accept slotting; this retailer stated that one reason it requests slotting allowances is to remain on a competitively level playing field with other retailers that require slotting. Retailer's Interrogatory Response. See discussion in Chapter II.A, *supra* at 9-11.

<sup>141</sup> Telephone Interviews with two suppliers. One supplier also stated that it believes that slotting fees exceed the costs retailers incur. See also Retailer Telephone Interview (sometimes slotting allowances are lower than the actual costs incurred, sometimes they are higher).

<sup>142</sup> Supplier Telephone Interview.

<sup>143</sup> Wilkie, W., Desrochers, D., and G. Gundlach (2002) "Marketing Research and Public Policy: The Case of Slotting Fees," *Journal of Public Policy & Marketing*, 21 at 275, 277, 279. See also, *Report on the Federal Trade Commission Workshop on Slotting Allowances and Other Marketing Practices in the Grocery Industry*, February 2001 Report by FTC Staff at 14-15 (with

## 2. *Slotting and Other Business Practices Used in Connection with New Product Introductions*

Retailers and suppliers provided consistent information about the types of practices, in addition to slotting, that are used in connection with new product introductions. All of the surveyed retailers stated that they use introductory allowances and other special funds or allowances;<sup>144</sup> four stated that they sometimes use test introductions for new products;<sup>145</sup> and five retailers stated that they did not use failure fees, while two did.<sup>146</sup> Only two of the seven retailers do not use vendors' category captains.<sup>147</sup>

The interviewed suppliers noted that, besides paying slotting allowances to introduce a new product, they negotiate with retailers over advertising allowances, introductory allowances per unit, marketing funds, and other special funds, such as those

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the rapid proliferation of new products, approximately 80 to 90 percent of which fail, slotting may "help to reduce the retailer's risks by compensating for a number of real, out-of-pocket costs involved in new-product introductions.")

<sup>144</sup> Retailers' Interrogatory Responses, Telephone Interviews, and Documents. See Chapter II.B, *supra* at 11-14 for more detail on the retailers' responses concerning all of the practices mentioned here.

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> *Id.* See Chapter II.B.3, *supra* at 12-13.

used for in-store displays and demonstrations, couponing, and customer savings cards.<sup>148</sup>

## 3. *Circumstances That Affect the Frequency and Amounts of Slotting*

Most surveyed retailers noted that the amounts of slotting allowances may vary depending upon the product category (including whether the product is DSD or requires refrigerated or frozen shelf space), the supplier's promotional and marketing plans, the perceived sales potential of the product, and the geographic area of the retailer. Some retailers also noted that they will waive or reduce slotting for smaller vendors, vendors who do not pay slotting to anyone in the market, and minority or ethnic vendors, especially if they provide products that satisfy specific consumer demands.<sup>149</sup> Most suppliers agreed that the dollar amounts of slotting allowances may vary depending upon DSD, product category, and retail chain, but that the frequency of slotting is generally the same for most products and categories except DSD products.<sup>150</sup> The data are consistent with large variations in the frequency and amounts of slotting, depending

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<sup>148</sup> Telephone Interviews with six suppliers. One of these six suppliers stated that slotting accounts for about 6-7% of total promotional "spend" for a new product. A seventh supplier stated it did not use slotting allowances, but did use these other practices in connection with introducing new products.

<sup>149</sup> See discussion in Chapter II.C, *supra* at 14-17.

<sup>150</sup> Telephone Interviews with five suppliers. One of these five suppliers also reported differences between slotting paid in fresh and frozen baked goods.

upon DSD, product category (*e.g.*, refrigerated/frozen products), and the retail chain.<sup>151</sup> Some suppliers noted that slotting amounts may sometimes be higher in the Northeast than other areas of the country, but that the frequency of slotting generally is the same across all geographic regions.<sup>152</sup> The data show large variations, but were not sufficient to assess the suggestion that the dollar amounts of slotting fees may be higher in the Northeast.

**a. Slotting in Connection with DSD Products**

The information for five retailers suggested that generally they either do not receive slotting allowances, or receive lower slotting amounts with less frequency, for DSD products than for products that go through the retailers' warehouse systems.<sup>153</sup> The suppliers that addressed this issue all stated that slotting is rare in connection with DSD items.<sup>154</sup> Three retailers stated that they do not receive slotting at the same level or with the same frequency for DSD items as they do for products processed through their warehouses, and their data are generally consistent with this report.<sup>155</sup> A fourth

retailer explained that it rarely, if ever, asks for or receives slotting allowances for fresh bread products, because they are DSD items and because the associated costs and the risk of product failure are relatively low; its data are consistent, showing no slotting allowances for bread.<sup>156</sup> A fifth retailer did not directly address this issue. Although a sixth retailer noted that slotting may vary depending on whether the product is shipped DSD, this retailer asks for and, according to its data, receives slotting on many branded bread products shipped DSD.<sup>157</sup> The seventh retailer stated explicitly that it asks for slotting on all products, including DSD, but that not all suppliers will pay.<sup>158</sup>

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<sup>151</sup> See also discussion in Chapter II.C, *supra* at 14-17.

<sup>152</sup> Telephone Interviews with three suppliers. A fourth supplier suggested that slotting is fairly consistent across geographic regions and within a single chain's divisions.

<sup>153</sup> See discussion in Chapter II.C.1, *supra* at 14-15.

<sup>154</sup> Telephone Interviews with three suppliers.

<sup>155</sup> Chapter III, Tables 4 and 5 (for data) (Retailer 6: slotting on 0% of bread and hot dogs,

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both of which Retailer 6 reported as DSD products; Retailer 2: slotting on 0% of bread, although no explanation given; Retailer 4: Division 1: slotting on 3.4%, with an average slotting allowance of \$3,174 (its lowest reported amount in any category); Retailer 4: Division 2: slotting on 3.3%, with an average slotting allowance of \$3,551 (its second lowest reported amount)). See also Retailers' Interrogatory Responses (three retailers) and Table 7 (data specific to Retailer 4's DSD items).

<sup>156</sup> Retailer's Interrogatory Responses and Telephone Interviews. See also Chapter III, Tables 4 and 5.

<sup>157</sup> Retailer's Interrogatory Response and telephone call between FTC staff and retailer's attorney.

<sup>158</sup> Retailer's Interrogatory Response and Telephone Interview. See also Chapter III, Tables 4 and 5.



**b. Product Category**

**(1) Refrigerated and Frozen Products – Ice Cream and Hot Dogs**

For the FTC's small sample, the average slotting allowances paid in connection with introducing new ice cream and hot dog products were higher than the fees paid in the other three product categories. Some surveyed retailers and suppliers suggested that shelf space for refrigerated and frozen products is more limited and more costly, resulting in higher slotting fees.<sup>159</sup> The FTC's study showed an average slotting allowance, assuming a retailer reported one for an item, at \$10,625 for ice cream and \$10,950 for hot dogs. These averages are higher than for any of the other three product categories.<sup>160</sup> Retailer 1's average slotting

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<sup>159</sup> Telephone Interviews with three suppliers. One of these suppliers noted that slotting for fresh baked products is less than .05% of total sales versus slotting for frozen products, which is approximately 5% of total sales. Another of these suppliers stated that slotting allowances tend to be higher for shelf space for refrigerated and frozen goods because the space is more limited. Chapter II.C.2, *supra* at 15-16 (discussion re: product categories). See also Chapter III, Table 5 and Retailer's Documents, some of which suggested some of its highest slotting allowances are in the frozen and refrigerated foods categories.

<sup>160</sup> Chapter III, Table 5. The average slotting allowances for hot dogs for the entire sample period are: Retailer 1 (\$20,233), Retailer 3 (\$7,727), Retailer 4: Division 1 (\$5,753), Retailer 4: Division 2 (\$8,804); Retailer 5: Division 1 (\$5,076); and Retailer 5: Division 2 (\$15,820). Retailer 1 and both of Retailer 4's divisions reported their highest average slotting allowance on hot dogs versus the other product categories. The average slotting allowances for ice cream for the entire sample period are: Retailer 1 (\$28,921); Retailer 3 (\$14,721); Retailer 4: Division 1 (\$5,563); Retailer 4: Division 2 (\$5,385); Retailer

allowances for ice cream and hot dogs were \$28,921 and \$20,233 respectively, again higher than for the other product categories.<sup>161</sup>

The frequency of slotting in the ice cream category is also relatively high – the average across all surveyed retailers over the entire sample period is 38.7% – a higher average frequency than for any of the other categories.<sup>162</sup> Ten of the twelve region-chains reported slotting for new ice cream products more than 20% of the time in 2000.<sup>163</sup> Retailer 2 reported no slotting for ice cream in 2000,<sup>164</sup> and Retailer 5: Division 2 reported slotting on only 2.5% of new ice cream products in 2000.<sup>165</sup> One supplier reported

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5: Division 1 (\$4,125); Retailer 5: Division 2 (\$10,000); Retailer 5: Division 3 (\$8,983); Retailer 6 (\$4,986); Retailer 7: Division 1 (\$2,680); Retailer 7: Division 2 (\$12,682); Retailer 7: Division 3 (\$3,106).

<sup>161</sup> Chapter III, Table 5.

<sup>162</sup> *Id.* at Table 4.

<sup>163</sup> The frequency of ice cream slotting allowances for these ten region-chains in 2000 are: Retailer 1 (64%); Retailer 3 (49.5%); Retailer 4: Division 1 (27.3%); Retailer 4: Division 2 (24.7%); Retailer 5: Division 1 (53.9%); Retailer 5: Division 3 (95.6%); Retailer 6 (20.3%) (Retailer 6 explained that most ice cream is delivered to its stores DSD and that this is the reason for the low percentage of slotting in this category); Retailer 7: Division 1 (159%); Retailer 7: Division 2 (73.1%); Retailer 7: Division 3 (62.3%).

<sup>164</sup> See Chapter III, Table 3. Retailer 2's documents, *albeit* for divisions other than the one for which it produced data, suggested some of its highest slotting allowances are in the frozen foods category. Retailer's Documents, described in Chapter II.C, *supra* at 14-17, n.60 & 67.

<sup>165</sup> Chapter III, Table 3. Retailer 5: Division 2 only reported slotting for 1.3% of new

that slotting is higher in the frozen goods category because of the large number of new products introduced each year relative to the available shelf space. According to this supplier, the average retailer has space for only 1,200 to 1,500 SKUs for frozen goods, 200 to 300 of which may be new products, which typically have a success rate of only 2.5% to 5.5%.<sup>166</sup>

In contrast, for hot dogs, eight of the twelve region-chains reported that they received no slotting for the year 2000.<sup>167</sup> One retailer explained that hot dogs generally are delivered DSD to its stores and, therefore, it does not seek slotting for hot dogs.<sup>168</sup> Nonetheless, the other four region-chains reported that they received slotting on more than 60% of new hot dog products for the

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ice cream products for the entire sample period (Table 4), yet it reported its second highest average slotting allowance of \$10,000 for ice cream products (hot dogs had the highest average fee of \$15,820). Retailer 5's low percentage of slotting for ice cream in Division 2 stands in stark contrast to the slotting it reported for its stores in Division 1 and Division 3. Despite repeated attempts by FTC staff to ascertain what might account for this large difference, Retailer 5 declined to provide any additional information or explanations regarding its data submission. See Chapter III, Tables 3, 4, and 5.

<sup>166</sup> Supplier Telephone Interview. Two other suppliers, in Telephone Interviews, discussed similar issues.

<sup>167</sup> Retailer 2; Retailer 5: Divisions 1, 2, & 3; Retailer 6; and Retailer 7: Divisions 1, 2, & 3. Chapter III, Table 3.

<sup>168</sup> Retailer's Interrogatory Response (this retailer noted that it rarely receives slotting on hot dogs because the product does not generally require "actual physical warehouse slotting").

year 2000.<sup>169</sup>

## (2) Bread Products

Six of the seven surveyed retailers reported slotting less than 10% of the time on fresh bread products.<sup>170</sup> For five retailers, this is consistent with the other information we obtained about the bread category and DSD products.<sup>171</sup> The sixth retailer stated that it always asks for slotting, even on DSD products.<sup>172</sup> For the full sample period for new bread products, however, it reported slotting on only 4.2% of these products at an average level of \$8,800, its second lowest average slotting allowance for the product categories studied.<sup>173</sup> The seventh retailer reported slotting for the entire sample period on 47.9% of new bread products, but at an average fee – \$9,478 – substantially lower than its average slotting allowances in the other product categories.<sup>174</sup>

## (3) Pasta Products

Although seven of the twelve region-chains reported no slotting for pasta in 2000, six of these seven region-chains belonged to

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<sup>169</sup> Retailer 1 (62.5%); Retailer 3 (125%); Retailer 4: Division 1 (100%); and Retailer 4: Division 2 (80%). Chapter III, Table 3.

<sup>170</sup> The six retailers are Retailer 2, Retailer 3, Retailer 4, Retailer 5, Retailer 6, and Retailer 7. See Tables 3 and 4.

<sup>171</sup> See discussion in Chapter II.C.1&2, *supra* at 14-16.

<sup>172</sup> Retailer Telephone Interview.

<sup>173</sup> Chapter III, Tables 4 and 5.

<sup>174</sup> See Chapter III, Tables 4 and 5.

just two retailers, each of which reported slotting data for three separate divisions. The remaining five region-chains reported slotting frequencies ranging from 25% to 212.5% on new pasta products in 2000.<sup>175</sup> The pasta supplier we spoke with reported paying slotting to virtually all retailers on over 90% of its new products.<sup>176</sup>

#### (4) Salad Dressing Products

All twelve region-chains reported slotting for new salad dressing products in 2000.<sup>177</sup> This is the only product category studied for which all seven surveyed retailers provided some data. Two of the three salad dressing suppliers we spoke with stated that they paid slotting on approximately 90% of

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<sup>175</sup> Retailer 6's personnel stated that it receives slotting on 90% or more of new pasta products, and its data for 2000 are very consistent with this statement: Retailer 6 reported slotting on 86.8% of new pasta products. Telephone Interview with Retailer 6; Chapter III, Table 3. The slotting frequencies for the pasta category for those region chains that reported slotting in 2000 are: Retailer 1 (41.2%); Retailer 3 (25%); Retailer 4: Division 1 (122.2%); Retailer 4: Division 2 (212.5%). See discussion in Chapter III.B.2.a(2), *supra* at 31-35.

<sup>176</sup> Supplier Telephone Interview.

<sup>177</sup> See Chapter III, Table 3. The slotting frequencies for these twelve region-chains in 2000 are: Retailer 1 (46.8%); Retailer 2 (35.8%); Retailer 3 (43.8%); Retailer 4: Division 1 (31.3%); Retailer 4: Division 2 (47.5%); Retailer 5: Division 1 (17%); Retailer 5: Division 2 (28.3%); Retailer 5: Division 3 (37%); Retailer 6 (88%); Retailer 7: Division 1 (38.9%); Retailer 7: Division 2 (36.4%); Retailer 7: Division 3 (46.6%). Chapter III, Table 3. Retailer 6's data are consistent with its statement that it receives slotting on approximately 80% of salad dressing products. Telephone Interview with Retailer 6.

their new products.<sup>178</sup> The third supplier stated that it paid no slotting, but the data submitted by surveyed retailers suggest they received slotting from this supplier on some occasions.<sup>179</sup>

#### c. Geographic Region

The three chains that provided data for multiple divisions<sup>180</sup> showed some variability in both the frequency and average amounts of slotting across divisions and geographic areas. Retailer 5's data varied the most across divisions, and Retailer 4's data varied the least.<sup>181</sup> Most suppliers that indicated that they paid slotting allowances stated that slotting frequency was fairly consistent across geographic regions, retail chains, and divisions within a single retail chain, but that there were significant variations in dollar amounts, and that slotting amounts tended to be somewhat higher in the Northeast than in other regions.<sup>182</sup>

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<sup>178</sup> Telephone Interview with two suppliers.

<sup>179</sup> Supplier Telephone Interview; confidential data submitted by retailers. As previously noted, the way in which different parties document their negotiations may explain this discrepancy. For example, this supplier indicated that it did not know how retailers documented the promotional money it provides; it is possible that a retailer could charge the supplier \$20,000 for an advertisement, but only use \$5,000 for the ad and "pocket" (*i.e.*, as slotting) the other \$15,000.

<sup>180</sup> One retailer stated it does not have a formal slotting allowance policy, but negotiates slotting allowances with each supplier. Retailer's Interrogatory Response.

<sup>181</sup> See Chapter III, Tables 3, 4, and 5.

<sup>182</sup> Supplier Telephone Interviews. One supplier stated that slotting varies across

#### 4. *Slotting Allowances Necessary for a National Product Rollout*

According to surveyed suppliers, the total slotting allowance amount necessary for a national rollout of a new product (*i.e.*, an introduction into approximately 80% to 90% of the retailer grocery outlets in the United States) ranges between \$1.5 and \$2 million.<sup>183</sup>

To corroborate this range, we looked to the retailers' data. Only two retailers provided data detailed enough to calculate a per store average for slotting fees, which came out to be \$69.20 per UPC per store, across all categories.<sup>184</sup> Using this average

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geographic regions, with the East Coast being the highest, and also varies across chains and sometimes within the same retail chain depending on the chain's share of the market. A second supplier stated that slotting can vary across geographic regions and across divisions within one company, and that East Coast stores charge higher amounts. A third supplier stated there were substantial variations in the level of slotting, but not in the frequency. A fourth supplier stated that the Northeast tends to be higher, although it would expect to see about the same amounts in cities like NY and San Francisco. A fifth supplier reported that the highest cost per slot occurs in the Northeast and that the level differs substantially from chain to chain and within decentralized chains. Only one supplier suggested that slotting is fairly consistent across geographic regions and within a single chain's divisions.

<sup>183</sup> Telephone Interviews with six suppliers (three suppliers estimated the slotting amounts at about \$2 million, \$1.65 million, and \$1.7 million respectively; two suppliers estimated the amount at \$1.5 million; one supplier estimated slotting at \$20 million to launch 20 new products nationwide, with the average customer only accepting 12 or 13 of the 20 new products).

<sup>184</sup> The two retailers were Retailer 4 and Retailer 5.

and assuming (a) a national rollout requires distribution to 85% of the U.S. retail grocery stores and (b) 85% of these stores receive a slotting fee (which is asserted by suppliers), a national rollout would cost \$1.64 million in slotting fees.<sup>185</sup> This average is consistent with the surveyed suppliers' estimates that they pay slotting allowances ranging between \$1.5 and \$2 million to introduce a new product nationally. Nonetheless, if 85% of the stores do not receive a slotting allowance, then, obviously, this cost will be lower. For instance, if only 33% of the retail stores receive a slotting allowance for a new product (which is the approximate median frequency across all categories, looking at the twelve region-chains, that a new product has a slotting fee),<sup>186</sup> then a national rollout into 85% of the U.S. grocery stores would cost \$0.64 million, not \$1.64 million.

Using the data from these two retailers and looking at each category separately, the per store average slotting allowance was \$65.37 for bread, \$92.62 for hot dogs, \$83.32 for ice cream, \$33.99 for pasta, and \$49.45 for salad dressing. It follows that a national rollout to 85% of the stores, where 85% of these stores receive a slotting allowance, would cost \$1.55 million for bread, \$2.20 million for hot dogs, \$1.98 million for ice cream, \$0.80 million for pasta, and \$1.17 million for salad dressing. Thus, depending

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<sup>185</sup> According to the Food Marketing Institute (FMI) website (<http://www.fmi.org>), there were approximately 32,981 supermarkets in the country with sales over \$2 million in 2002. If one multiplies 32,981 by 0.85, then the result is approximately 23,829 stores that need to be paid \$69.20 each. Therefore, the estimate for a new product rollout is \$1.64 million.

<sup>186</sup> See Chapter III, Table 4 for the actual frequency of each region-chain.

on the category, the total cost for a national rollout, in terms of slotting fees, could range from a little under \$1 million to over \$2 million.

## 5. *Pay-to-Stay Fees*

As previously discussed, pay-to-stay fees are fees paid by a supplier to persuade a retailer to keep an existing product on the retailer's shelves. The surveyed retailers stated that they did not use pay-to-stay fees in the product categories for which information was requested, and the surveyed suppliers stated that pay-to-stay fees are uncommon in these product categories. None of the surveyed retailers produced any data with respect to pay-to-stay fees.<sup>187</sup> Nonetheless, several surveyed retailers and suppliers noted that some suppliers pay fees for shelf space for snack foods, spices, light bulbs, greeting cards, and racks near the check-out cashiers.<sup>188</sup> Although these fees appear similar to pay-to-stay because they may cover existing products, some survey respondents suggested that shelf space for some of these categories is "rented" to suppliers for a specified time period and dollar amount. These are not necessarily fees paid to keep a specific product on the shelf.

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<sup>187</sup> As discussed in Chapter II.E, *supra* at 19-20, however, it appears that one retailer may use pay-to-stay fees, but it produced no data or documents from which FTC staff could assess the extent or magnitude of such payments.

<sup>188</sup> See, *e.g.*, Telephone Interviews with three suppliers; and Retailer Telephone Interview.

## 6. *Exclusive or Partially Exclusive Dealing Arrangements in the Product Categories Surveyed*

Six of the seven surveyed retailers stated that they did not use exclusive or partially exclusive dealing arrangements in the product categories surveyed.<sup>189</sup> None of the suppliers with whom we spoke addressed the issue of exclusive dealing arrangements. Based upon the information collected, neither exclusive nor partially exclusive dealing appears to be a prevalent practice in the product categories studied.

## 7. *Accounting Practices*

All of the surveyed retailers stated that they record slotting allowances in their accounting systems as a reduction in the cost of goods sold.<sup>190</sup> The suppliers did not discuss how they accounted for the payment of slotting allowances, nor did they comment upon the accounting methods used by retailers. As previously discussed, however, the nuances of the internal recording, billing, and accounting vary across surveyed retailers, which likely affects the amount of detail about slotting allowances the retailers maintain in their business records.

## B. *Inconsistent Information*

Surveyed retailers and suppliers provided information that appears inconsistent with respect to two significant, and interrelated, areas: the flexibility in

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<sup>189</sup> See discussion in Chapter II.B.4, *supra* at 13-14. See also Retailer Telephone Interview and Retailer's Documents.

<sup>190</sup> See discussion in Chapter II.D, *supra* at 17-18.

negotiations over whether and how much slotting is paid and the resulting percentage of products on which slotting is paid. All of the surveyed retailers stated that whether and how much slotting is paid is the subject of negotiations between the retailer's buyer or category manager and the supplier. The surveyed retailers suggested that slotting is often negotiated along with other promotional allowances and discounts, and that they look at the whole package of what is being offered by the supplier in connection with introducing a new product to the marketplace.<sup>191</sup>

The suppliers' responses suggest that they perceive much less flexibility in whether and how much slotting is required. Six of the eight suppliers with whom we conducted interviews stated that slotting occurred 80 to 90 percent of the time, at least for products that were processed through a retailer's warehouse versus DSD.<sup>192</sup> One stated that it never pays slotting, although the retailers' data suggest it may on occasion.<sup>193</sup> The eighth supplier was interviewed with respect to fresh baked bread products and stated that

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<sup>191</sup> Interrogatory Responses from all seven retailers. Telephone Interviews with four retailers. (One retailer stated that it would be incorrect to look at slotting frequency and amounts in the absence of examining other types of promotional and marketing programs; another retailer stated that promotional allowances take precedence over slotting allowances and that slotting is only about 1% of the promotional dollars this retailer receives.)

<sup>192</sup> Telephone Interviews with six suppliers.

<sup>193</sup> Supplier Telephone Interview. Product specific data from the surveyed retailers show that retailers recorded as slotting allowances money paid by this supplier. See also, discussion, *supra* at 55, n.180.

it rarely pays slotting on these because of DSD.<sup>194</sup> Most suppliers also stated that the amount of the required slotting payment is set by each retailer and known by vendors in advance of discussions, albeit without written communications. Suppliers stated that very little negotiation over the amount takes place.<sup>195</sup>

The surveyed retailers' perceptions with respect to the frequency of slotting often differed from one another, their own slotting data, and the suppliers' perceptions. The following paragraphs highlight the main inconsistencies for each retailer.

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<sup>194</sup> Supplier Telephone Interview.

<sup>195</sup> Telephone Interviews with six suppliers. One supplier reported that all retailers (except Walmart) charge and are paid slotting and that 80% of slotting dollars are not negotiated; rather, there is a "posted" amount that all suppliers and brokers know. A second supplier stated that slotting is paid on more than 90% of new products, and it is not typical to negotiate down the amount of a retailer's slotting allowance. A third supplier reported that slotting is paid on over 90% of new products and that 35% - 40% of slotting allowances involve negotiations over the amount. A fourth supplier stated that more than 90% of retailers require slotting for new product placement, and that there is very little negotiation over the amount; this supplier can negotiate for some type of multi-product discount or advertisement in connection with the slotting allowance only 5% to 10% of the time. A fifth supplier noted that it only rarely avoids a slotting allowance, although occasionally it might be able to negotiate a discount, such as paying to place 3 new items, but actually placing 4. The sixth supplier reported that it pays slotting to all retailers, except Walmart, and perhaps 10% of the time it can negotiate an ad for some of the slotting dollars.

### **Retailer 1**

- In written responses and interviews, Retailer 1 stated that it does not require slotting.
- Retailer 1's data, however, come relatively close to reflecting suppliers' perceptions concerning slotting.<sup>196</sup>

### **Retailer 2**

- In interviews, Retailer 2 stated that it has no corporate-wide policy on slotting allowances and each operating division determines its own policy regarding whether or not to charge or receive slotting allowances.
- Retailer 2's documents for some divisions suggest that they expect slotting for most product categories, at levels ranging from a low of \$2,500 for DSD products to a high of \$10,000 for new meat and seafood items.
- Retailer 2's data for the one division for which it produced data, however, show no slotting allowances reported in 2000 for any product category except salad dressings, for which it reported slotting on 58.9% of new products.<sup>197</sup>

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<sup>196</sup> According to Retailer 1's data, in 2000 it reported slotting on new products in the five categories with the following frequency: 51.9% of bread, 62.5% of hot dogs, 64% of ice cream, 41.2% of pasta, and 46.8% of salad dressing. Chapter III, Table 3.

<sup>197</sup> Chapter III, Table 3.

### **Retailer 3**

- In interviews and documents, Retailer 3 suggested that it has a policy of always asking for slotting, even on DSD items.
- In interviews, Retailer 3 also suggested that it requests slotting on almost 100% of ice cream products and that it receives slotting on an estimated 80% of ice cream products and 50% of other grocery items.<sup>198</sup>
- Retailer 3's data, however, show slotting for only 49.5% of new ice cream products and even lower percentages for three of the remaining four product categories.<sup>199</sup>

### **Retailer 4**

- In interviews, Retailer 4 suggested that slotting is offered approximately 80% of the time, which is fairly consistent with the suppliers' perceptions.
- Retailer 4's data in 3 of the 5 product categories studied are inconsistent with this perception.<sup>200</sup>

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<sup>198</sup> Telephone Interviews with Retailer 3.

<sup>199</sup> Chapter III, Table 3. According to Retailer 3's data, it reported slotting on new products in the other four categories with the following frequency: 5.8% of bread, 125% of hot dogs, 25% of pasta, and 43.8% of salad dressing.

<sup>200</sup> According to Retailer 4's data, its two divisions reported slotting on new products with the following frequency: 3.6% of bread, 100% of hot dogs, 27.3% of ice cream, 122% of pasta, and 31.3% of salad dressing in Retailer 4: Division 1; 2.9% of bread, 80% of hot dogs, 24.7% of ice cream, 212.5% of pasta, and 47.5% of salad

### **Retailer 5**

- In interviews, Retailer 5 suggested that slotting is not a key driver of its business; it prefers scan-based allowances.
- Retailer 5's documents, however, suggest that slotting allowances are a standard component of the negotiation process with vendors for new item introductions.
- Retailer 5's data suggest a wide variation in the receipt of slotting allowances, depending upon geographic region, division, and product category.<sup>201</sup>

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dressing in Retailer 4: Division 2. Chapter III, Table 3.

<sup>201</sup> Retailer's Documents. The data indicate that for 2000 Retailer 5: Division 1 reported slotting on 0% of new bread, hot dog, and pasta products, 53.9% of new ice cream products, and 17% of new salad dressing products; Retailer 5: Division 2 reported slotting on 0% of new bread, hot dog, and pasta products, 2.5% of new ice cream products, and 28.3% of new salad dressing products; and Retailer 5: Division 3, reported slotting on 0% of new, bread, hot dog, and pasta products, 95.6% of new ice cream products, and 37% of new salad dressing products. Chapter III, Table 3.

### **Retailer 6**

- In written responses and interviews, Retailer 6 stated that it has a standard business practice of requesting slotting allowances on many of the items it agrees to sell and/or warehouse and that it usually receives slotting on approximately 90% of pasta products and somewhat less on salad dressing products.<sup>202</sup>
- Retailer 6's data are consistent with both these estimates and its policy for DSD products, such as bread, hot dogs, and ice cream.<sup>203</sup>

### **Retailer 7**

- In interviews, Retailer 7 suggested that slotting occurs approximately 50% of the time.
- Retailer 7's data evidence no slotting for three product categories and less than 50% for a fourth.<sup>204</sup>

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<sup>202</sup> Telephone Interview with Retailer 6.

<sup>203</sup> According to Retailer 6's data, in 2000 it reported slotting on new products in the five categories with the following frequency: 0% of bread, 0% of hot dogs, 20.3% of ice cream, 86.8% of pasta, and 88% of salad dressing. Chapter III, Table 3. See also Retailer 6's Interrogatory Responses (it rarely receives slotting on bread, hot dogs, and ice cream because most products in these categories are DSD).

<sup>204</sup> Telephone Interviews with Retailer 7. According to Retailer 7's data, its three divisions reported no slotting for pasta, hot dogs, or bread. Retailer 7's data show slotting was reported on: 159% of new ice cream products and 38.9% of new salad dressing products in Retailer 7: Division 1; 73.1% of new ice cream products and 36.4% of new salad dressing products in Retailer 7: Division 2; and 62.3% of new ice cream products and



Two key factors may explain the discrepancies between some of the retailers' data and the suppliers' perceptions, as well as between a particular retailer's data and its own stated policies, documents, and perceptions concerning how frequently slotting allowances are paid. These two factors are accounting/record keeping issues and the negotiation process.

### **1. Accounting/Record Keeping**

There are questions about both the reliability of the retailers' systems for collecting information separately for promotional and slotting allowances and the accuracy with which slotting allowance data are separated from all other allowances. Some surveyed retailers explained that, for accounting and record keeping purposes, recording slotting allowances as a separate line item is not important – they are only interested in the total amount being used to reduce the cost of the products they are buying and selling.<sup>205</sup> This explanation supports the hypothesis that the data under-report the frequency of slotting.

### **2. Negotiation Process**

The negotiation process also may result in bundling slotting allowances with other promotional payments. For example, some surveyed suppliers stated that they do not pay slotting; their sales representatives are encouraged to tie performance requirements to all money given to retailers. Thus, it may be in the sales representatives' interest to

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46.6% of new salad dressing products in Retailer 7: Division 3. Chapter III, Table 3.

<sup>205</sup> See discussion in Chapter I.C.1, *supra* at 14-15 and Chapter II.D, *supra* at 17-18.

have all allowances lumped together as performance-based (*i.e.*, promotional/advertising allowances), even though some may actually be slotting allowances and not tied to any specific performance criteria.<sup>206</sup> Interestingly, two suppliers explained that although some suppliers claim not to pay any slotting, they make other payments (*i.e.*, \$25,000 for a \$10,000 advertisement) that provide compensation over and above specific costs incurred by the retailer.<sup>207</sup> One retailer noted similar practices.<sup>208</sup>

### **C. Theory and Evidence**

As the introduction and Chapter I of this Report highlight, there are many theories that attempt to explain the role of slotting allowances in the introduction of new products. Broadly, these theories can be categorized into those that explain how slotting allowances may enhance consumer welfare by making markets more efficient and those that explain how slotting allowances may reduce consumer welfare through increased prices and reduced product variety. These various theories, of course, need not be mutually exclusive. Slotting fees may accomplish multiple goals for different product categories, for a particular product category, or even for a specific item. In this section, we explain the difficulties involved in

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<sup>206</sup> Telephone Interviews with three suppliers; Retailer's Interrogatory Response.

<sup>207</sup> Telephone Interviews with two suppliers.

<sup>208</sup> Retailer's Interrogatory Response (noting that when no slotting fee is paid, suppliers sometimes will pay merchandising fees or for special ads).

attempting to make inferences about the theories based on the study's empirical findings.

The study found a number of important facts about slotting practices. Retailers demonstrated that introduction of new products involves significant costs. Various factors such as DSD and refrigeration can influence these retailer costs for a particular item. The frequency and magnitude of slotting fees varies significantly across product categories and retailers, and often within a product category for a specific retailer. Retailers' documents, interviews with suppliers and retailers, and an analysis of retailers' data suggest that frozen and refrigerated categories have the highest average slotting allowance per item.

Our ability to comment about the relevance of the various theories of slotting based on our study is limited, however. Neither the academic and market researchers who developed the theories nor others have detailed how the theories could be tested with real world data.<sup>209</sup> Some potential observations, such as a positive correlation between wholesale prices and slotting fees, would be consistent with both efficiency and facilitating practice theories of slotting allowances and therefore would not enable one to discriminate among theories.<sup>210</sup> To

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<sup>209</sup> While there is some research examining slotting allowances using highly aggregated data, see, *e.g.*, Sullivan (1997), to our knowledge no one has formally examined how highly disaggregated data like that collected in this study could be used to differentiate among theories.

<sup>210</sup> The facilitating practice theory predicts that retailers will require manufacturers to pay them a slotting fee, and that manufacturers will increase the wholesale prices charged to retailers to

test predictions for any theory that attempts to explain the level or frequency of slotting allowances, it is necessary to have a method for holding constant many variables that could affect the level of slotting (*e.g.*, other types of allowances that are used in conjunction with new product introductions).<sup>211</sup> Moreover, the various theories are not mutually exclusive. For instance, while slotting fees for one product category might be used primarily to defray costs, slotting fees for the same product category or for a different product category also might be used to signal product quality.

To illustrate the difficulty in testing theories with our available data, we discuss the theory that slotting allowances can offset

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pay this fee. See discussion in Chapter I.A at 1-4. One of the efficiency theories examines how the higher wholesale prices induced by slotting fees can increase a manufacturer's incentive to make certain investments in the product's success, *e.g.*, increasing quality. See discussion in Chapter I.A at 1-4.

<sup>211</sup> The "other things held constant" requirement is often the most important factor in testing theories. For example, under the screening theories slotting allowances are used to infer how confident a manufacturer is in the success of its new product, *i.e.*, more confident manufacturers would be willing to pay higher fees to introduce a new product. Presumably, if other means of communicating this confidence to retailers were available that were more efficient, *e.g.*, sharing the results from test marketing, then these could be used instead of slotting allowances. Alternatively, results from a successful test marketing experiment might be used to convince a retailer to accept a lower slotting allowance. To examine what the screening role of slotting is, the analyst must control for other methods the manufacturer uses to convince the retailer of its commitment to the new product, *e.g.*, other forms of promotion, sharing information on product testing, etc.

costs and risks involved in the introduction of new products. These costs, which include evaluation, inventory, and stocking costs, may otherwise be a significant deterrent for retailers to accept some new products. If the cost theory is correct, then, all else equal, one would expect product categories that have high introduction costs or that are prone to high failure rates to have higher or more frequent occurrences of slotting allowances. Some of our observations are consistent with these predictions. For example, the surveyed retailers explained that products in the bread category are typically DSD and the surveyed retailers' data and other submitted information suggest that slotting occurs less frequently for bread than the other product categories studied, and, except for salad dressing, at lower amounts than the other studied categories. Because suppliers pay a larger portion of the costs associated with new DSD product introductions, *e.g.*, suppliers are responsible for warehousing the new product and stocking retailers' store shelves, this finding supports the theory that slotting fees are used to defray the costs of new product introductions. Given the study's limited sample of retailers and product categories, however, we cannot conclude that slotting fees are lower for all, or even most, DSD products.<sup>212</sup> In addition, the refrigerated and frozen categories in our study have higher average slotting fees, which may reflect higher introduction costs for refrigerated and frozen items. Moreover, the costs of introducing products likely vary across retailers (*e.g.*, some retailers have many more

outlets in which the new product is to be stocked). As a result, we might expect slotting fees to vary significantly across retailers, and, in fact, this is what we observe.

Additionally, if one assumes that the products in a given category face similar costs of introduction and similar risks, then, other things equal, one would expect to observe similar slotting fees for different products in a given category carried by a given retailer. Nonetheless, suppliers of some products in a given category may do more advertising or may have stronger brand names that may translate into a greater probability of success. As a result, we might expect to see significant variation among slotting fees even for a given product category at a given retailer. Indeed, this is what the study found. On the other hand, surveyed suppliers tend to be skeptical that slotting allowances are used primarily to defray the costs of new product introductions.

The study's findings do not allow us to eliminate any of the theories of slotting allowances or to determine which, if any, is most important. Virtually all, if not all, of the theories of slotting allowances appear to be consistent with the observed variation in slotting fees, *i.e.*, considerable variation across retailers, across product categories, and within a product category for a given retailer.

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<sup>212</sup> While we learned that some retailers have some ice cream and hot dog products that are DSD, we do not have sufficient information on which ice cream and hot dog products are DSD to determine if DSD products in these categories pay lower slotting fees.

## V. CONCLUSION

This study provides substantial new information, both qualitative and quantitative, on the payment of slotting fees by suppliers to retailers to place new food products on supermarket shelves in the U.S. This study provides actual data from seven retailers' records on the presence and magnitude of slotting payments in five product categories. In contrast, previous studies of slotting fees relied on purely qualitative information (*e.g.*, interviews with purchasing managers, broad surveys) or the records of a single retailer. Although it is not possible to draw precise conclusions about the magnitude of slotting payments or the proportion of items that pay such fees in the U.S. as a whole (given the limited number of retailers and product categories studied), the report does draw two important conclusions about slotting allowances generally. First, there is considerable variability across product categories both in the likelihood of paying fees and in the magnitude of fees paid. Products that must be refrigerated (where shelf space is more scarce and product introductions more common) are more likely to pay fees and to pay higher fees. Products that are distributed through direct store delivery are less likely to pay fees and to pay lower fees. Second, slotting fees make up a large fraction of the revenues earned by some products in their first year. For example, roughly 10% of ice cream products fail to earn enough revenue in their first year to cover their slotting fees. Interviews with suppliers and retailers, however, also suggest that the advertising and promotional allowances associated with new product introductions are more important (in terms of costs) than slotting allowances.

By working closely with retailers in developing the data set in this study, the staff learned what types of information on slotting payments retailers keep in the ordinary course of business. This should aid future researchers and policy makers interested in designing studies to best make use of the available data in further investigating slotting allowances. In particular, even with retailer cooperation, it is difficult to obtain historical data on the frequency and amount of slotting paid for specific grocery items, because retailers typically do not maintain this information in a readily accessible form for a retrospective study.<sup>213</sup> Most retailers maintain databases containing information on all promotional payments made to the retailer for a particular supplier or a supplier's products in a given category. For this reason, it is very difficult to determine how much of the promotional payments made to a retailer are for slotting fees, or to which specific products (*i.e.*, UPCs) the payments correspond.

Given the complexity of the relationships between retailers and suppliers, it is not surprising that retailers do not keep extensive records on slotting allowances in the ordinary course of business. Retailers stock literally thousands of items in their

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<sup>213</sup> Many of the participating retailers expended a great deal of time and effort to verify the data they submitted. The retailers reviewed and commented upon data bases that were compiled by FTC staff using both the specific retailer's data and the ACNielsen data for that retailer. Their review resulted in corrections where appropriate, as well as explanations for some of what initially appeared to staff to be anomalies in the data. The Report includes these explanations where applicable.

stores at any point in time, and are constantly approached by suppliers to add new products. For existing products, retailers and suppliers bargain over wholesale price and multiple payments made by the supplier to the retailer (*e.g.*, promotional and advertising fees). With new products, the negotiations are even more complicated (*e.g.*, involving slotting fees and negotiations over how many varieties of the new product to carry), as the supplier needs to convince the retailer to remove an existing product in an environment where most new products are unsuccessful. In light of these factors, it is not surprising that the only consistency staff found among retailers' record keeping was that retailers systematically maintained records on the aggregate payments received from suppliers (which are not necessarily allocated to particular UPCs).

As a result, we believe that the frequency and amounts of slotting reported by the retailers in this study may be lower than the actual incidence of slotting. These considerations may explain, in part, the discrepancies between the suppliers' perceptions that slotting allowances are paid on 80% to 90% of new products and the retailers' data, which in some cases show a much lower incidence of slotting fees. It also may explain why the retailers' perceptions, policies, and documents concerning slotting allowances are not always consistent with the data provided to the FTC in connection with this study.

As discussed in Chapter IV.C, the staff has only a small subset of the information available to retailers and suppliers involved in the introduction of new

products.<sup>214</sup> Without having additional information about other characteristics of a new product introduction, it is not possible to determine with confidence which, if any, of the discussed economic theories best explain why suppliers pay retailers slotting fees.

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<sup>214</sup> We only have information about whether or not a product paid a fee and the magnitude of the fee (and we have reason to believe this information is incomplete). We do not have information on the level of promotional support a supplier promises to devote to a new product introduction or any market research presented to the retailer.

# Appendix A

## Access Letter

## **REQUEST FOR INFORMATION**

### **DEFINITIONS AND INSTRUCTIONS**

The following definitions and instructions shall apply for purposes of responding to this information request:

(a) The term “the company” means Retailer 1, its predecessors and divisions, and all directors, officers, employees, agents and representatives of the foregoing;

(b) the term “slotting allowance” means a fee or other consideration of value charged by or received by the company, either as a lump sum or as payments due at intervals or upon fulfillment of volume commitments (not directly related to each increment of unit sales), and payable in cash, in free goods, or in any other thing of value, as a condition for the initial placement of a supplier’s product on the company’s store shelves or for initial access to the company’s warehouse space;

(c) the term “pay-to-stay fee” means a fee or other consideration of value charged by or received by the company, either as a lump sum or as payments due at intervals or upon fulfillment of volume commitments (not directly related to each increment of unit sales), and payable in cash, in free goods, or in any other thing of value, as a condition for continued stocking of a supplier’s product that the company already carries on its shelves or for continued access to the company’s warehouse space;

(d) the term “MSA” means a Metropolitan Statistical Area; the term “PMSA” means a Primary Metropolitan Statistical Area; and the term “CMSA” means a Consolidated Metropolitan Statistical Area;

(e) the term “UPC” means a Universal Product Code;

(f) the term “product” means an item assigned a particular UPC designation;

(g) the term "documents" means all computer files and written, recorded, and graphic materials of every kind in the possession, custody or control of the company and includes electronic correspondence and drafts of documents, copies of documents that are not identical duplicates of the originals, and copies of documents the originals of which are not in the possession, custody or control of the company;

(h) the term “relating to” means constituting in whole or in part, containing, incorporating, memorializing, concerning, discussing, describing, analyzing, commenting on, identifying, or stating;

(i) the terms "and" and "or" have both conjunctive and disjunctive meanings;

(j) where information and documents are requested for each "designated product category," the company's responses shall be provided separately for each of the following product categories as defined by Information Resources Inc.: fresh bread; salad dressing and mayonnaise; ice cream, sherbet, sorbet, frozen yogurt, and novelty ice cream products; shelf-stable pasta; and refrigerator-case hot dogs; each designated product category will likely contain multiple products (including, without limitation, private label products), as defined in paragraph (f) above;

(k) all documents submitted in response to this information request shall be marked on each page with corporate identification; and

(l) in order for the company's response to this information request to be complete, the attached certification must be executed by the official supervising compliance with this information request, notarized, and submitted along with the responsive materials.

### **SPECIFICATIONS**

Please supply written answers and the appropriate documents (translated into English if applicable) in response to the following specifications:

1. State the full name, business address, and official capacity or position of the subscriber to the company's response.

2. State the full name and headquarters address of Retailer 1, its corporate parent (if any), and each subsidiary that is engaged in retail grocery operations.

3. Provide the following information and documents separately for (1) slotting allowances and (2) pay-to-stay fees:

(a) describe in detail the company's business practices regarding slotting allowances and pay-to-stay fees, including, but not limited to, the circumstances under which they are charged or received by the company; the product categories to which, the geographic areas in which, and the kinds of suppliers for which they are applicable (*e.g.*, a supplier with no previous business with the company); how the level of the allowance or fee and its lump sum or continuing nature are determined; and the circumstances under which the allowance or fee may be reduced or waived for a particular product or supplier;

(b) provide all documents, prepared since January 1, 1999, stating the company's policies and business practices regarding slotting allowances and pay-to-stay fees, including, but not limited to, any documents providing instructions to buyers regarding slotting allowances or pay-to-stay fees;

(c) describe in detail the company's business reasons for charging or receiving slotting allowances or pay-to-stay fees, including, without limitation, a description (including magnitudes) of any costs or risks that are incurred by the company in carrying or continuing to



carry a supplier's products (whether out-of-pocket or opportunity costs) and that are associated with slotting allowances or pay-to-stay fees;

(d) provide all documents prepared since January 1, 1999, stating, discussing, describing, analyzing, or commenting on the company's business reasons for charging or receiving slotting allowances or pay-to-stay fees, including, without limitation, any documents that state, estimate, discuss, describe, analyze, or comment on any costs or risks identified in part (c) of this specification; and

(e) provide the relevant sections of the company's accounting manual, policies and procedures manual, or other internal documents sufficient to show the company's policies regarding the accounting treatment of slotting allowances and pay-to-stay fees, including, without limitation, whether, and under what circumstances, they are treated as miscellaneous income, promotional income, reductions in the cost of goods, allowances, or under other classifications and the extent to which slotting allowances and pay-to-stay fees are recorded as a lump sum or accrued over the life of the benefit; to the extent that such manuals or documents are insufficient to show those policies, explain in detail the company's policies regarding the accounting treatment of slotting allowances and pay-to-stay fees.

4. For each designated product category, provide the following information and documents separately for (1) slotting allowances and (2) pay-to-stay fees:

(a) state separately for each year since January 1, 1999 (indicating whether each answer is for a calendar or fiscal year, and the months covered) the company's total receipts of slotting allowances and pay-to-stay fees (including, without limitation, the value of free goods) in the designated product category; the company's net sales (total sales to customers less store discounts not reimbursed by suppliers, such as loyalty card or bonus card discounts) in the designated product category; and the company's gross profits (net sales minus cost of goods sold) in the designated product category, excluding from both net sales and gross profits the company's receipts of slotting allowances and pay-to-stay fees in the designated product category;

(b) provide all written agreements entered into since January 1, 1999, and all documents that in whole or in part incorporate, memorialize, reflect, or describe unwritten agreements entered into since January 1, 1999, that provide or provided for the payment of slotting allowances or pay-to-stay fees to the company, and provide all such written agreements and documents entered into before January 1, 1999, that are still in effect;

(c) to the extent that the written agreements and documents provided pursuant to part (b) of this specification do not provide the following information for any agreement specified in part (b), state the number of UPCs for which the slotting allowances or pay-to-stay fees would be paid; the number of stores in which those products would be stocked; the duration of the stocking commitment; and whether the slotting allowances or pay-to-stay fees are lump sum or continuing in nature (describing any continuing payment obligations and identifying any variations in such obligations across geographic regions or other factors), and describe in detail any conditions or contingencies attached to the slotting allowances or pay-to-stay fees that impose obligations or

undertakings on the company, including, but not limited to, volume purchase commitments, promotional requirements, and any circumstances under which the company would be required to rebate or repay all or some portion of the slotting allowances or pay-to-stay fees (identifying any variations in such conditions or contingencies across geographic regions or other factors);

(d) for each month since January 1, 1999, using the format of Appendix 1,<sup>1</sup> state separately for each MSA and PMSA the number of UPCs stocked; the proportion of UPCs stocked for which slotting allowances or pay-to-stay fees were received; the total amount of slotting allowances and pay-to-stay fees received for the designated product category; and the average amount of shelf space devoted to the designated product category per store (measured in linear feet);

(e) for each month since January 1, 1999, and each region listed in Appendix 2, using the format of Appendix 3,<sup>2</sup> state separately for each product stocked by the company within each designated product category the UPC code for, and a brief description of, the product, including, without limitation, the brand name and the manufacturer name; the number of stores for which data is being reported; the proportion of stores that stocked the product; the average amount of slotting allowances and pay-to-stay fees received on the product per store that carried the product; the nature and amount of other payments made between the manufacturer or distributor and the company, including, without limitation, the wholesale list price and the nature and amount of any advertising or promotional allowances received; the average number of facings devoted to the product per store; and the average amount of shelf space devoted to the product per store (measured in linear feet);

(f) provide all documents prepared or received since January 1, 1999, relating to any request for, or the offer or negotiation of, slotting allowances or pay-to-stay fees, whether or not an agreement ultimately was reached to stock the products in question; and

(g) describe in detail any instances in which a slotting allowance or pay-to-stay fee has been reduced or waived for a particular product or supplier since January 1, 1999, including, but not limited to, the name of the supplier, the product(s) involved, and the reasons for reducing or waiving the slotting allowance or pay-to-stay fee.

5. For each designated product category, state whether the company uses, or at any time since January 1, 1999, has used any of the following practices in conjunction with stocking a new product: test introduction of the product in a few locations, introductory allowances applied on a per-unit basis, advertising allowances, marketing funds provided by the supplier, any other special funds or allowances, buy-back guarantees, failure fees, or the assistance of a category captain in selecting new products; explain in detail the company's use of any such practices,

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<sup>1</sup> This specification should be answered by presenting responsive information in both hard copy and machine readable form using the format of Appendix 1.

<sup>2</sup> This specification should be answered by presenting responsive information in both hard copy and machine readable form using the format of Appendix 3.

including, but not limited to, the supplier(s) and product(s) for which the practice was used and the time period in question; and provide all documents prepared since January 1, 1999, describing, discussing, analyzing, or commenting on any of the practices referred to in this specification.

6. For each designated product category:

(a) identify each agreement, written or oral, entered into since January 1, 1999, or entered prior to January 1, 1999, and still in effect, that guaranteed a supplier more than 50 percent of the shelf space allocated to a designated product category (or any subset thereof), or that expressly limited the amount or share of shelf space to be made available to any competing supplier.<sup>3</sup> For each such agreement, identify the supplier, the designated product category (or subset thereof), the amount of shelf space guaranteed (in the manner specified in the agreement), any limitations on the shelf space to be made available to any competitor, and any allowances, fees, or other financial benefit received by the company in consideration for such shelf space guarantees or limitations; state whether the exclusivity or partial exclusivity arrangement was initiated by or for the company or by the supplier; and explain in detail the reasons for entering into the agreement;

(b) for each agreement identified in response to part (a) of this specification, provide all documents that, in whole or in part, constitute, contain, incorporate, or memorialize the agreement;

(c) for each agreement identified in response to part (a) of this specification, provide all documents relating to any request for, or the offer or negotiation of, the agreement; and

(d) provide all documents prepared since January 1, 1999, stating, discussing, describing, analyzing, or commenting on the company's policies and business reasons for any use of shelf space guarantees or limitations as identified in part (a) of this specification.

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<sup>3</sup> For purposes of this specification, an agreement is considered as guaranteeing a particular percentage of shelf space if it does so either in a retail establishment as a whole or in some particular part of it, and if it does so through either an explicit reference to "exclusivity," or in explicit percentage terms or in terms calculated from market shares, or using qualitative terms such as, but not limited to, "primary supplier" or "predominant space."

**APPENDIX 1 -- Specification 4(d)**  
**Table of Category-Specific Questions**

| <b>DATA CATEGORY</b>   | <b>RESPONSES</b> |
|--|------------------|
| Corporate Name   |                  |
| Trade Name of Grocery Chain  |                  |
| Designated Product Category  |                  |
| Metropolitan Statistical Area or Primary Metropolitan Statistical Area           |                  |
| Month  |                  |
| Number of UPCs Stocked   |                  |
| Proportion of UPCs Stocked for which Slotting Allowances were Received           |                  |
| Proportion of UPCs Stocked for which Pay-to-Stay Fees were Received              |                  |
| Total Slotting Allowances Received for the Category                              |                  |
| Total Pay-to-Stay Fees Received for the Category                                 |                  |
| Average Amount of Shelf Space Devoted to the Category per Store (in linear feet) |                  |

**APPENDIX 2 – Specification 4(e)  
Regions Covered**

**APPENDIX 3 -- Specification 4(e)  
Table of Product-Specific Questions**

| <b>Data Category</b>   | <b>Responses</b> |
|--|------------------|
| Corporate Name   |                  |
| Trade Name of Grocery Chain  |                  |
| Region <sup>4</sup>  |                  |
| Month  |                  |
| Designated Product Category  |                  |
| Universal Product Code   |                  |
| Brand Name of Product  |                  |
| Manufacturer of Product  |                  |
| Description/Size of Product  |                  |
| Number of Stores Reporting Data  |                  |
| Proportion of Stores in the Region that Carried the Product                            |                  |
| Average Wholesale List Price per Unit  |                  |
| Average Slotting Allowances Received on the Product per Store that Carried the Product |                  |
| Average Pay-to-Stay Fees Received on the Product per Store that Carried the Product    |                  |
| Promotional Allowances: Dollars <sup>5</sup>   |                  |
| Promotional Allowances: Merchandise <sup>6</sup>                                       |                  |
| Advertising Allowances   |                  |

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<sup>4</sup> MSA, PMSA, or CMSA, as applicable.

<sup>5</sup> Amount of any cash-based promotional allowances received during the month.

<sup>6</sup> Number of free good units received during the month.

|   |  |
|---|--|
| All Other Discounts, Payments and Allowances <sup>7</sup>   |  |
| Average Number of Facings Given to the Product              |  |
| Average Shelf Space Devoted to the Product (in linear feet) |  |

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<sup>7</sup> Nature and amount of all other discounts from wholesale list price or payments made to the company by the manufacturer or distributor. Exclude payments for returned merchandise.

**CERTIFICATION**

This response to the Request for Information, together with all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with the instructions set forth in the Request. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required information, the information is, to the best of my knowledge, true, correct, and complete. Where copies rather than original documents have been submitted, the copies are true, correct, and complete.

\_\_\_\_\_  
TYPE OR PRINT NAME AND TITLE

\_\_\_\_\_  
(Signature)

Subscribed and sworn to before me at the City of \_\_\_\_\_, State of \_\_\_\_\_,  
this day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
(Notary Public)

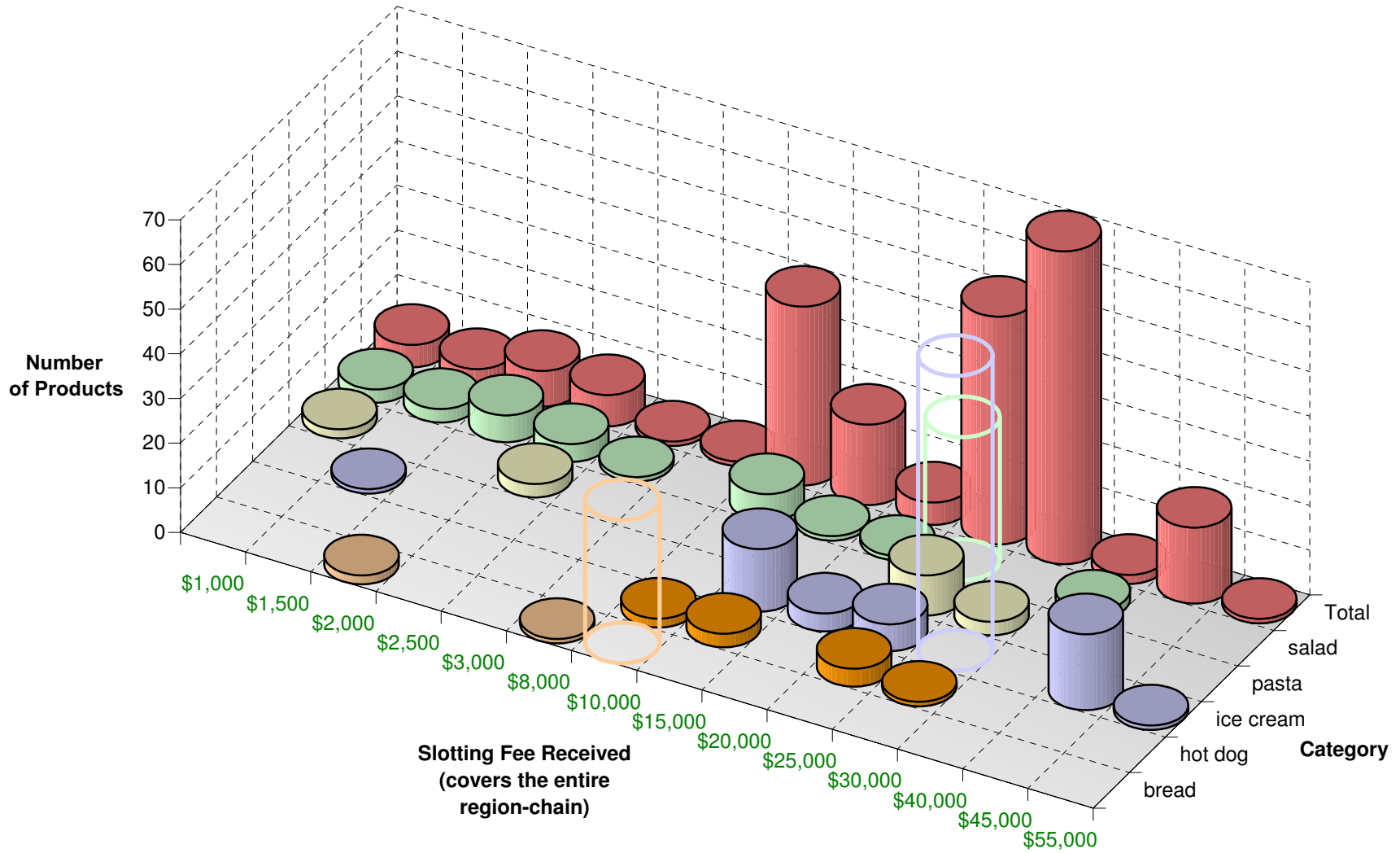
My Commission Expires: \_\_\_\_\_



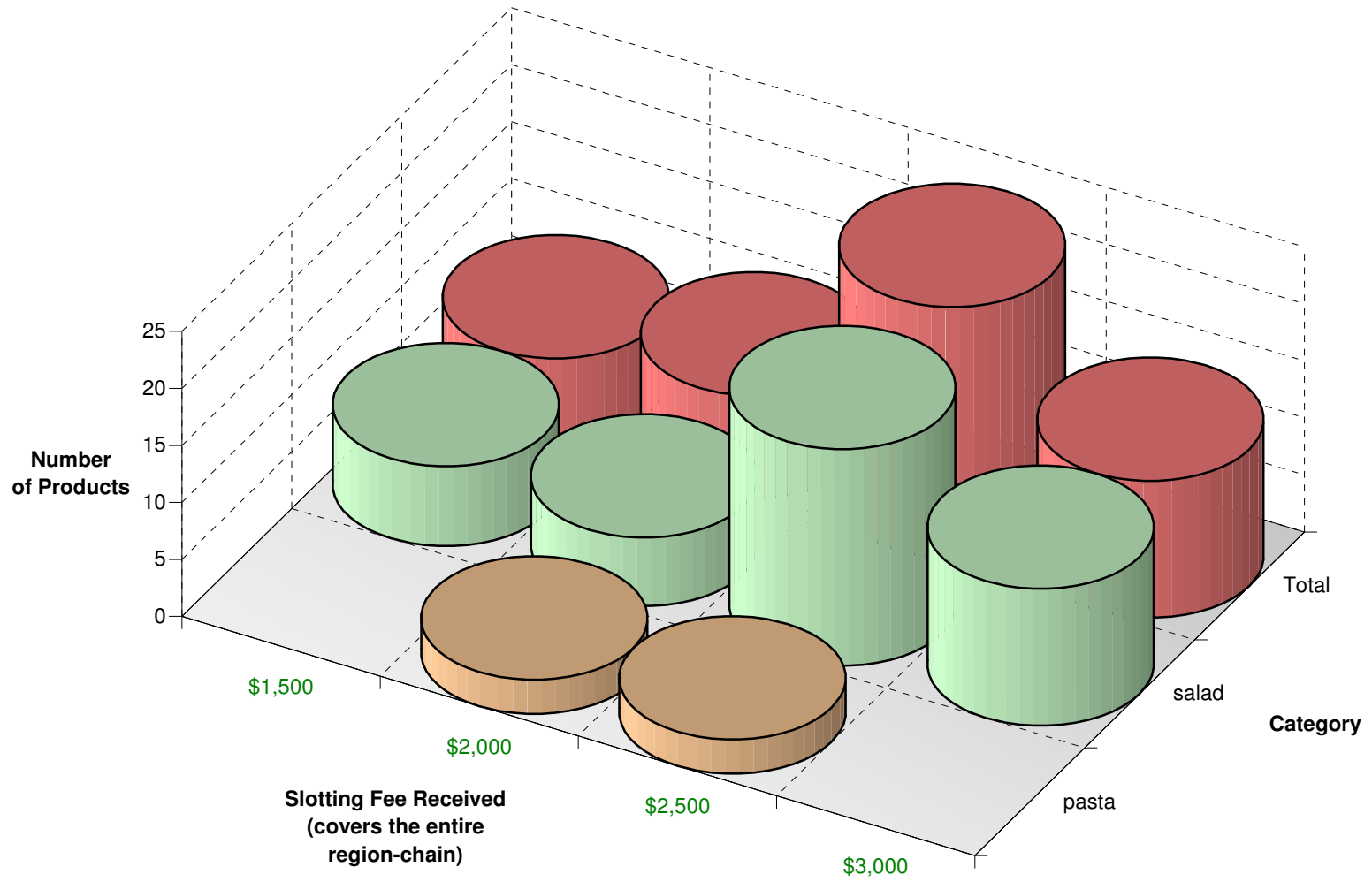
# Appendix B

## Figures

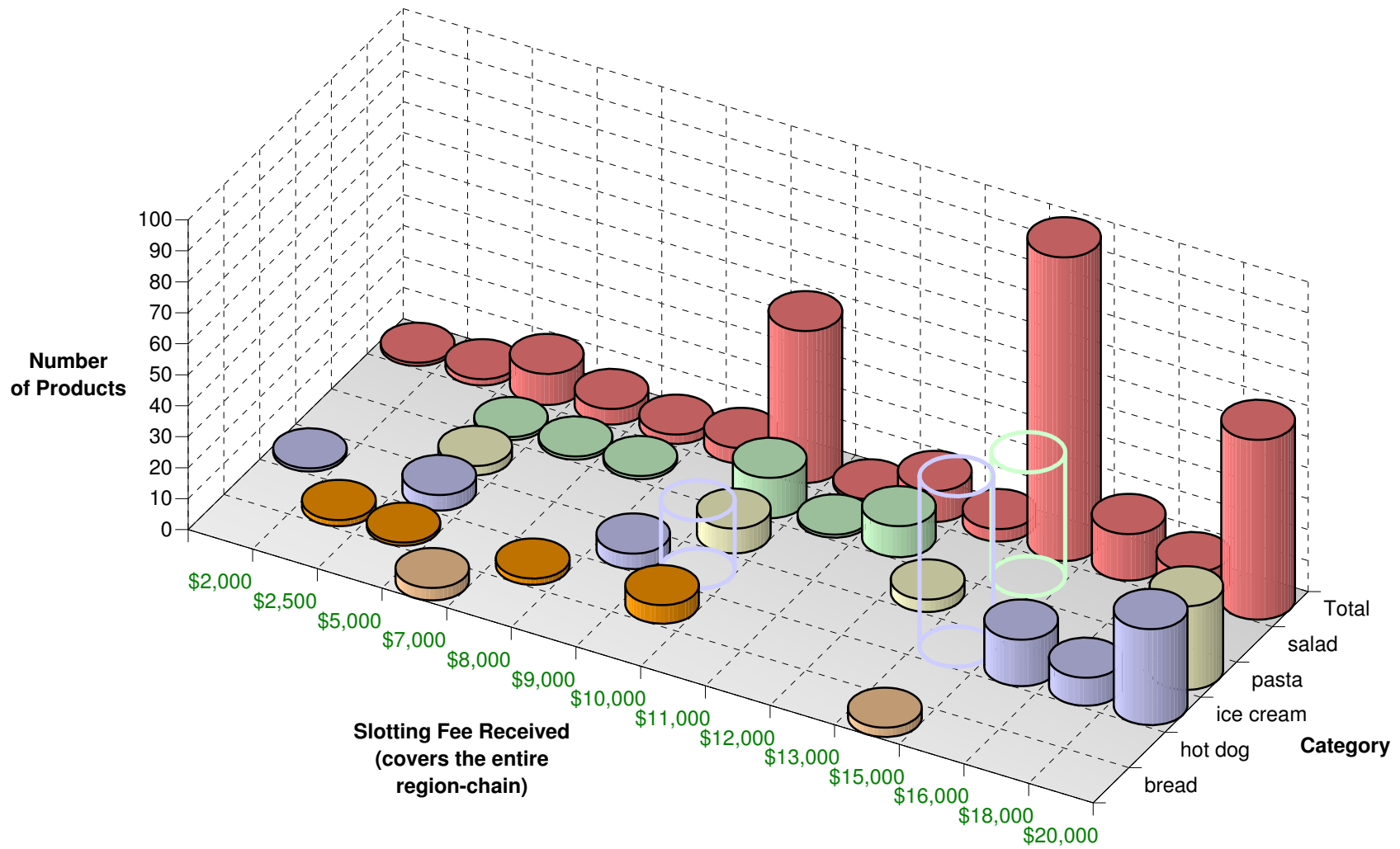
**Figure 1.1**  
**Retailer 1 Slotting Fees**  
**(29 months)**



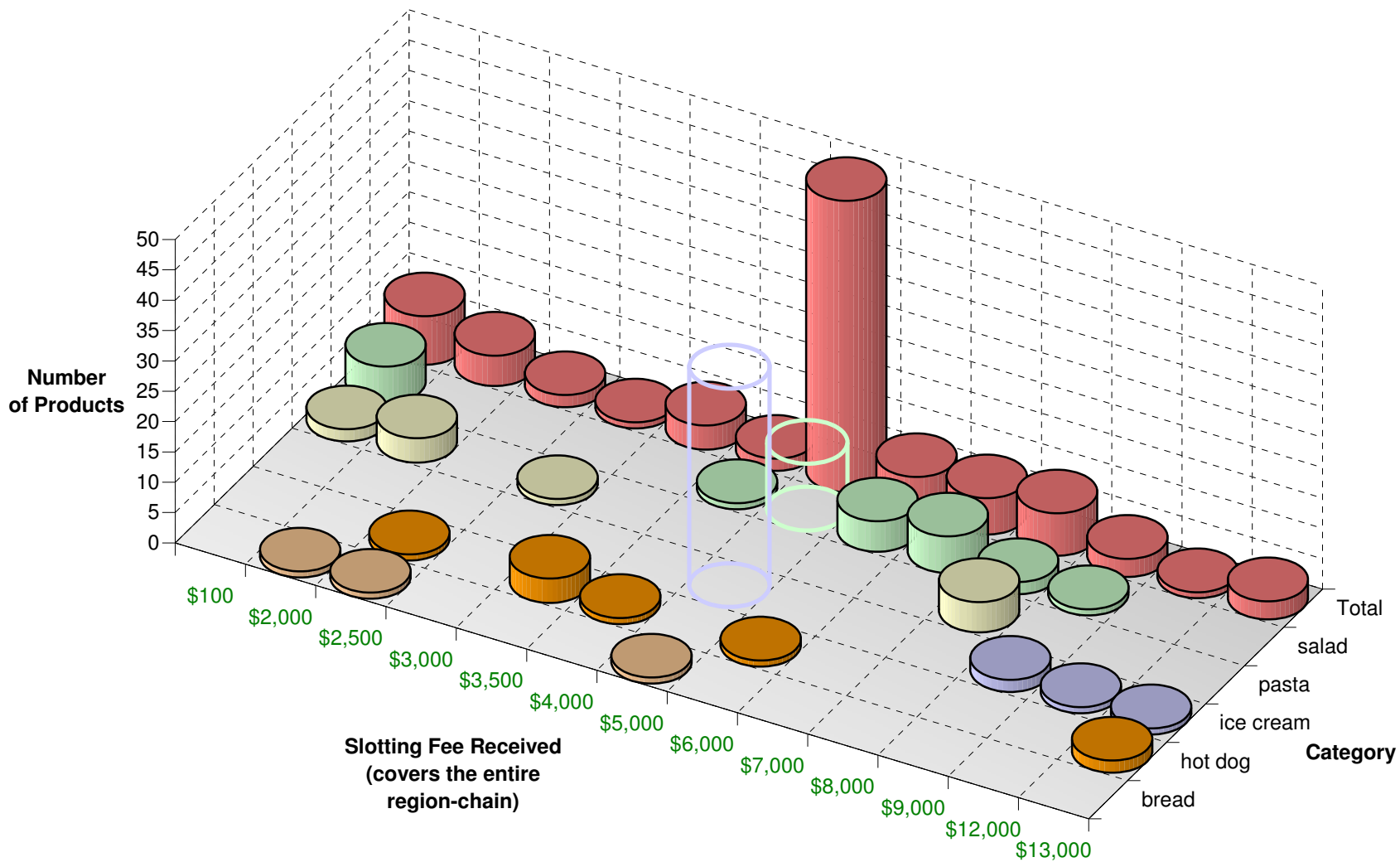
**Figure 1.2**  
**Retailer 2 Slotting Fees**  
**(32 months)**



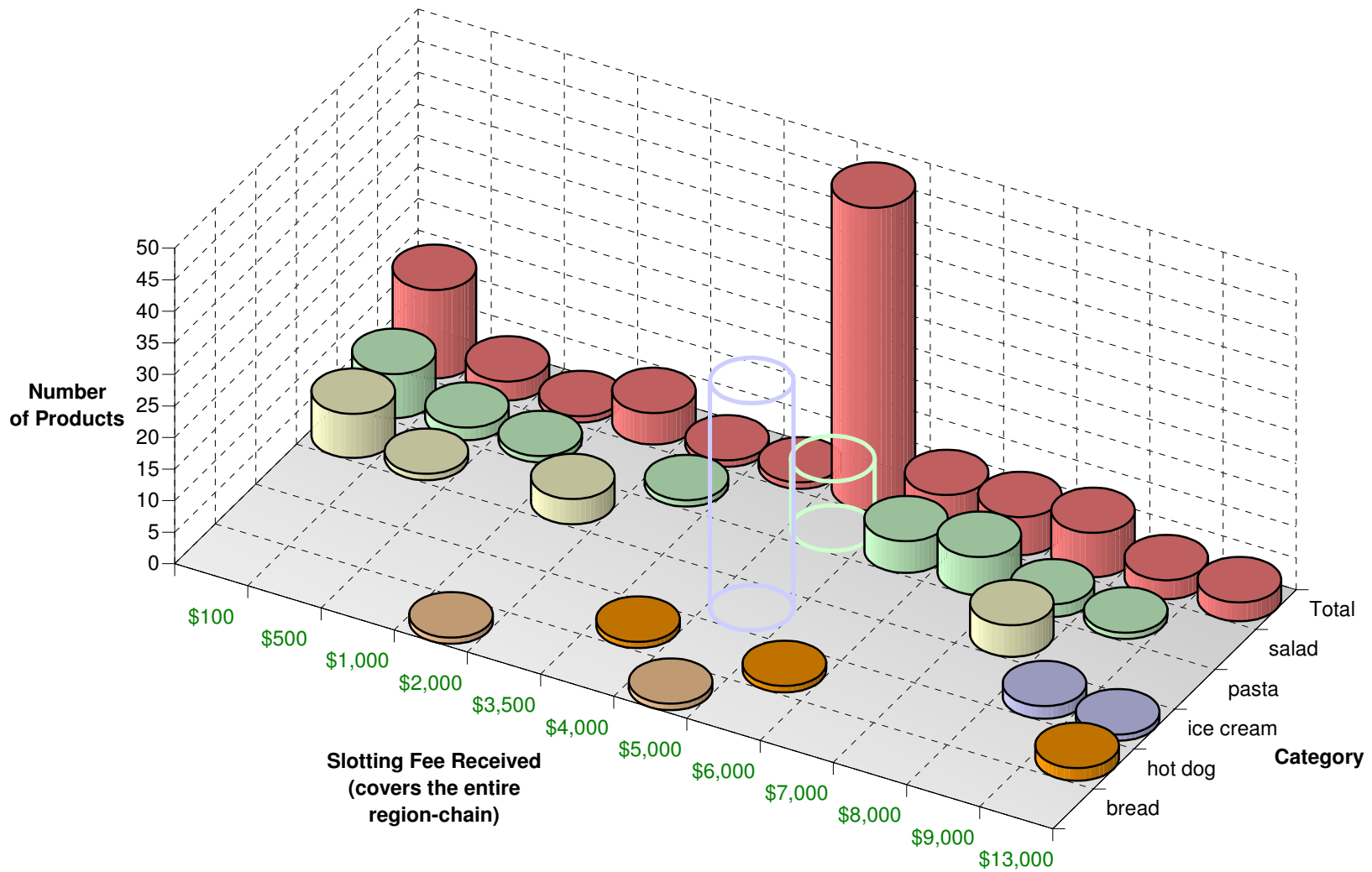
**Figure 1.3**  
**Retailer 3 Slotting Fees**  
**(31 months)**



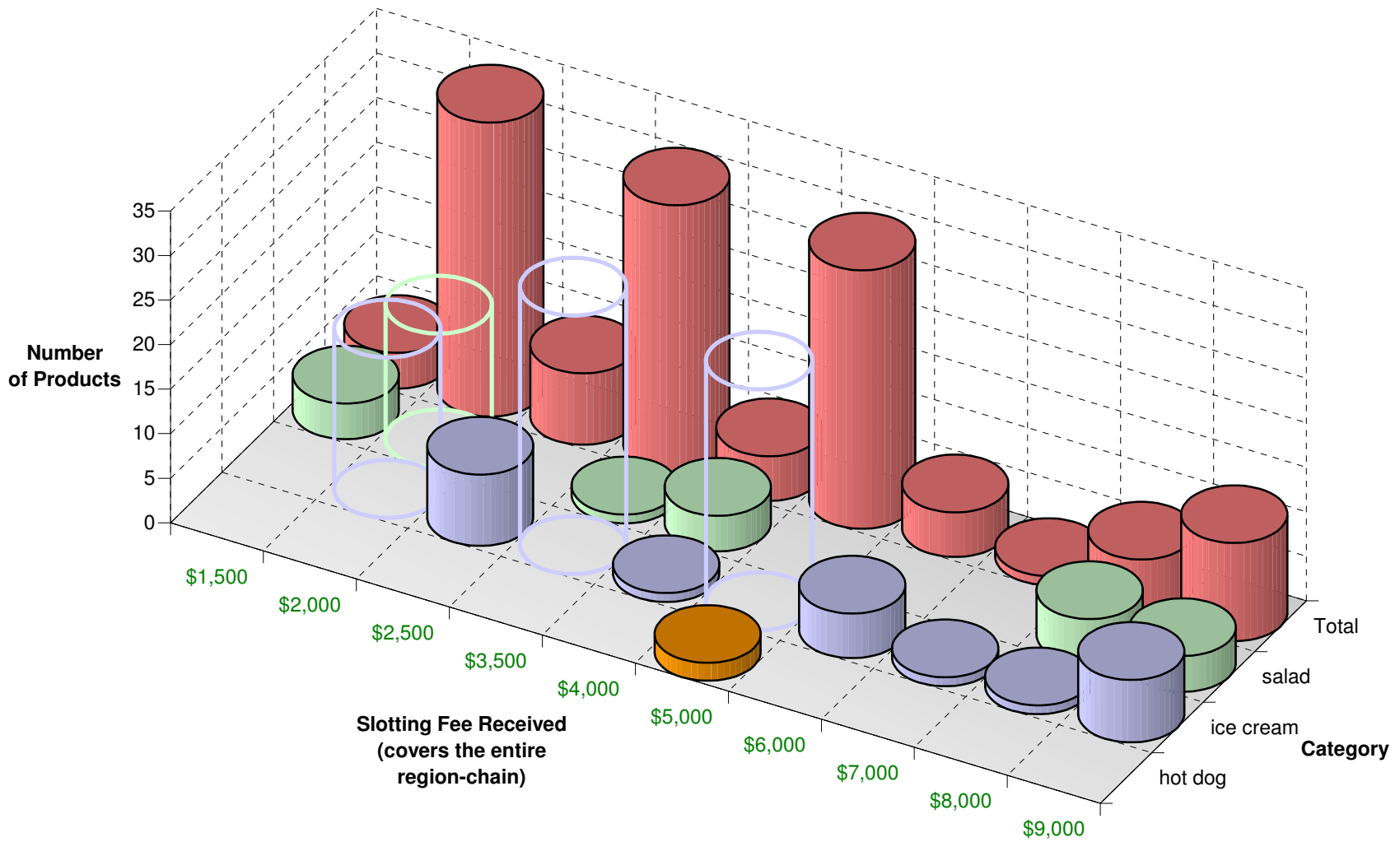
**Figure 1.4**  
**Retailer 4: Division 1 Slotting Fees**  
**(18 months)**



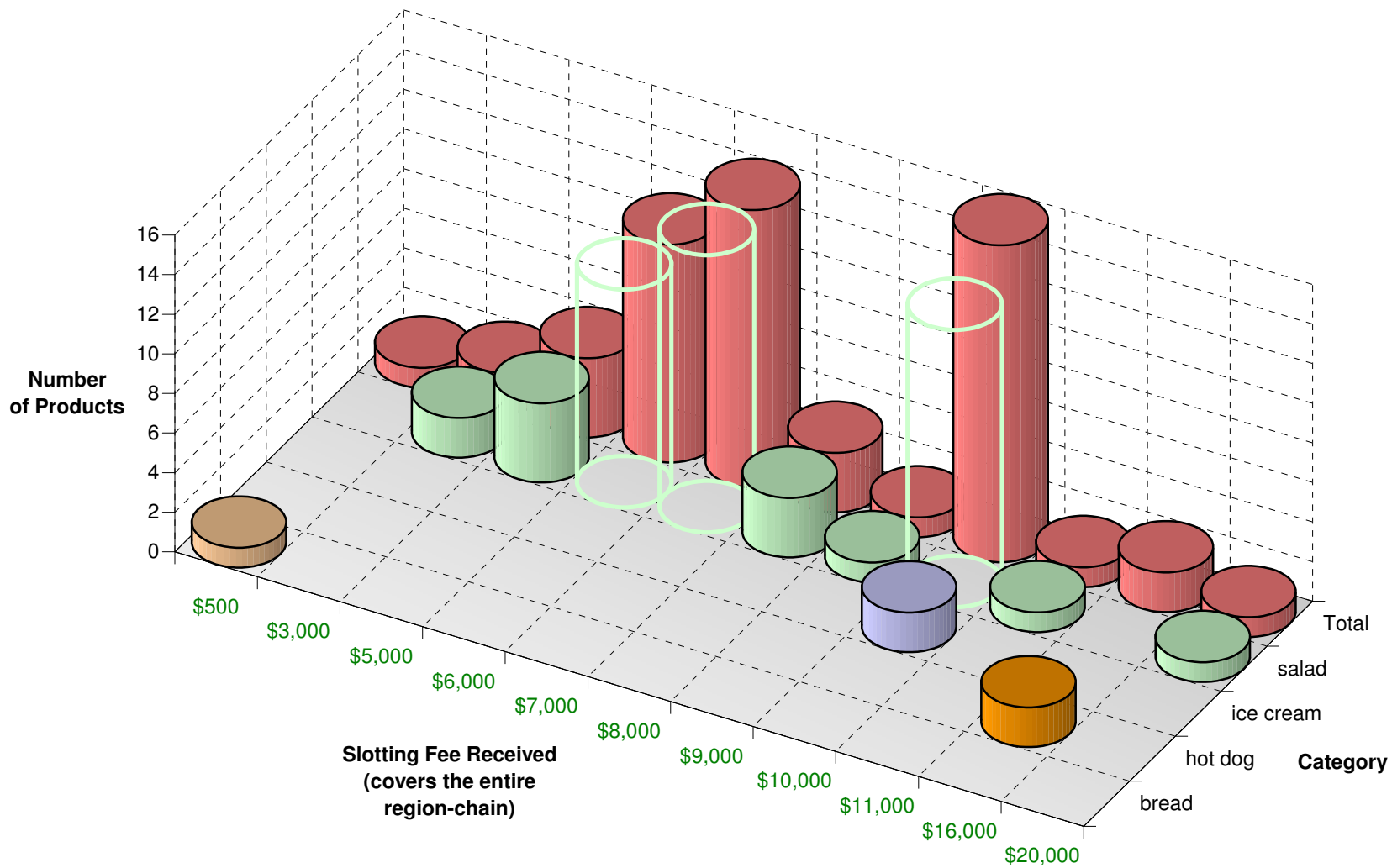
**Figure 1.5**  
**Retailer 4: Division 2 Slotting Fees**  
**(18 months)**



**Figure 1.6**  
**Retailer 5: Division 1 Slotting Fees**  
**(22 months)**

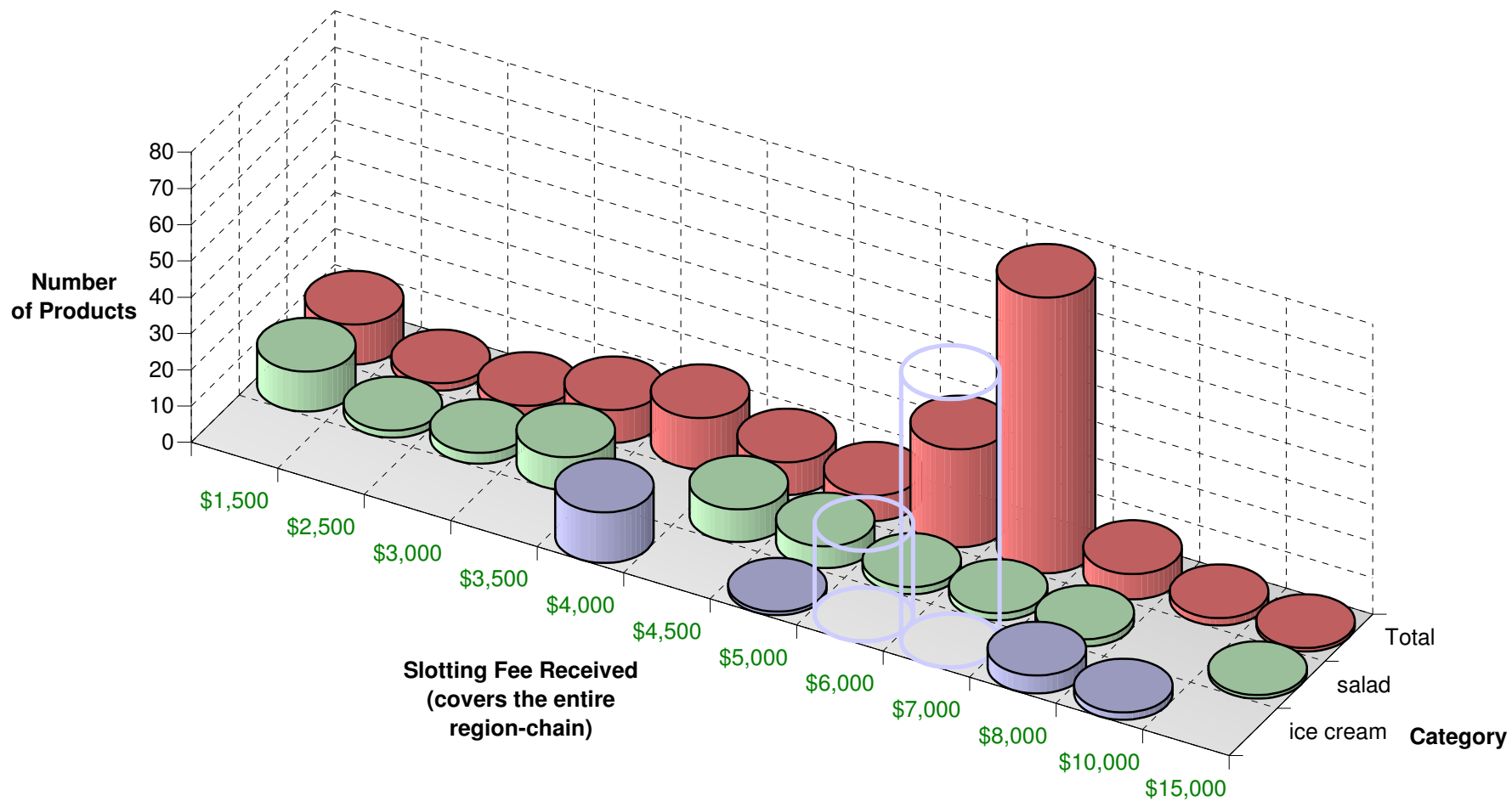


**Figure 1.7**  
**Retailer 5: Division 2 Slotting Fees**  
**(28 months)**

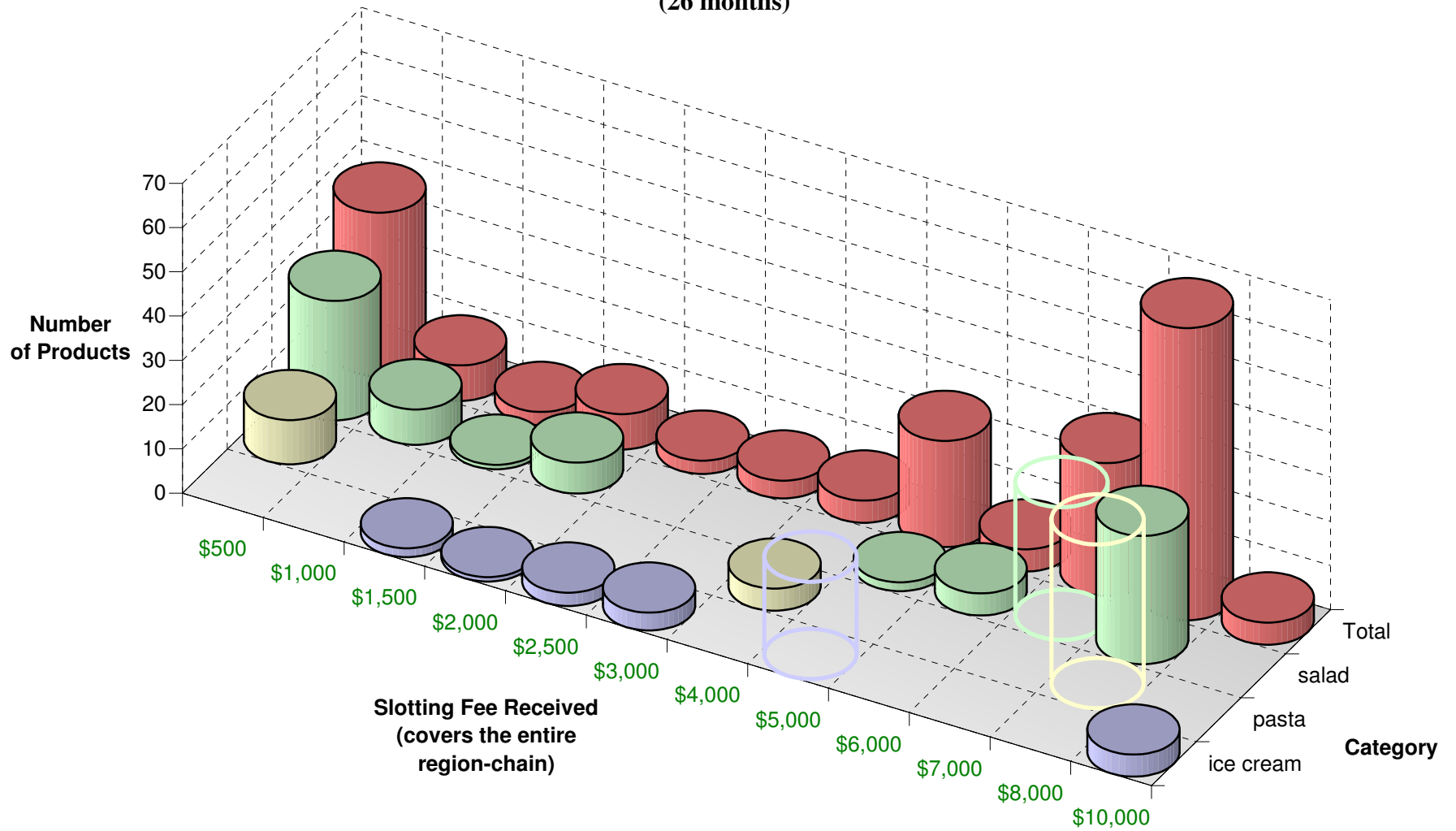




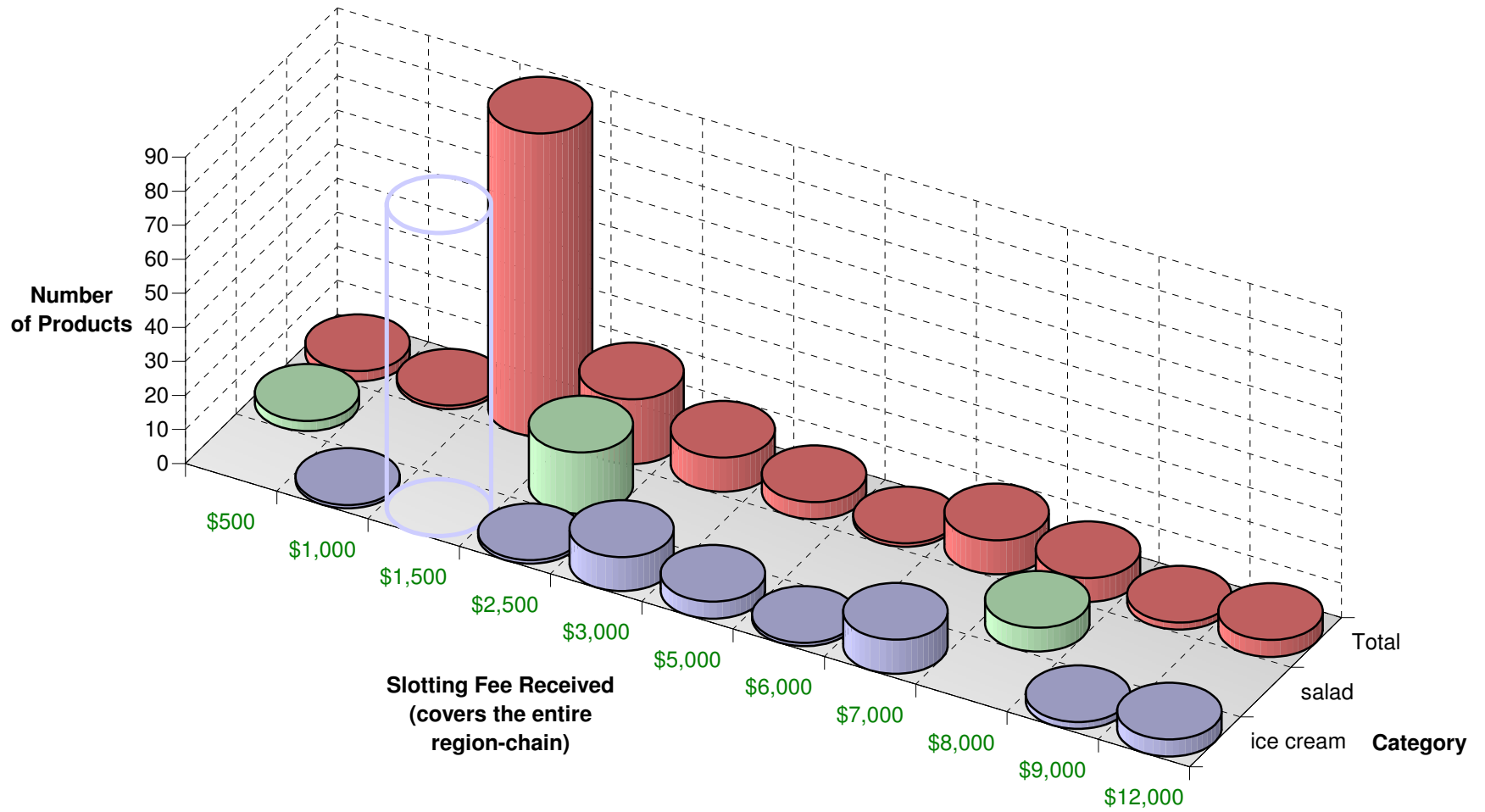
**Figure 1.8**  
**Retailer 5: Division 3 Slotting Fees**  
**(30 months)**



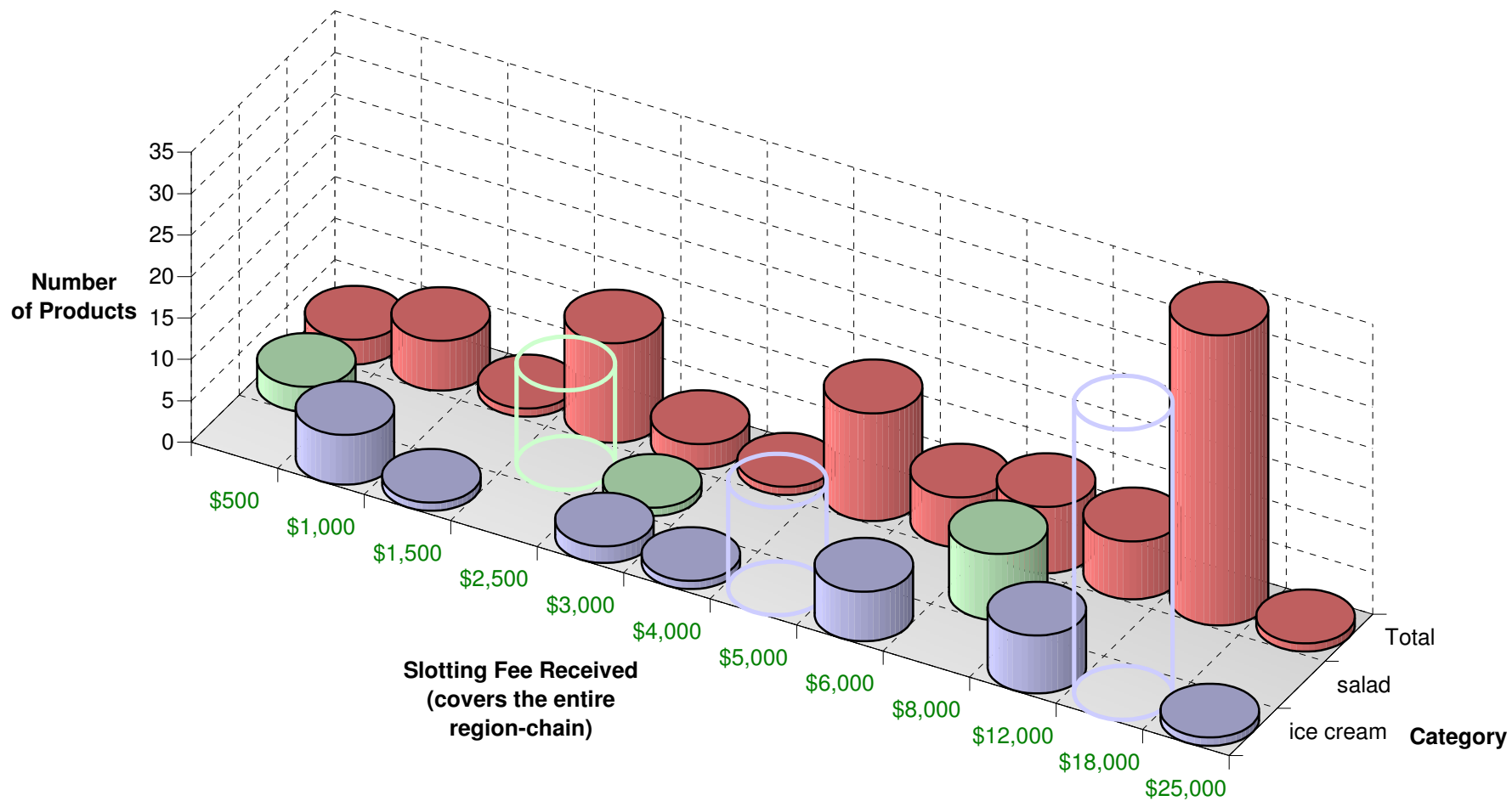
**Figure 1.9**  
**Retailer 6 Slotting Fees**  
**(26 months)**



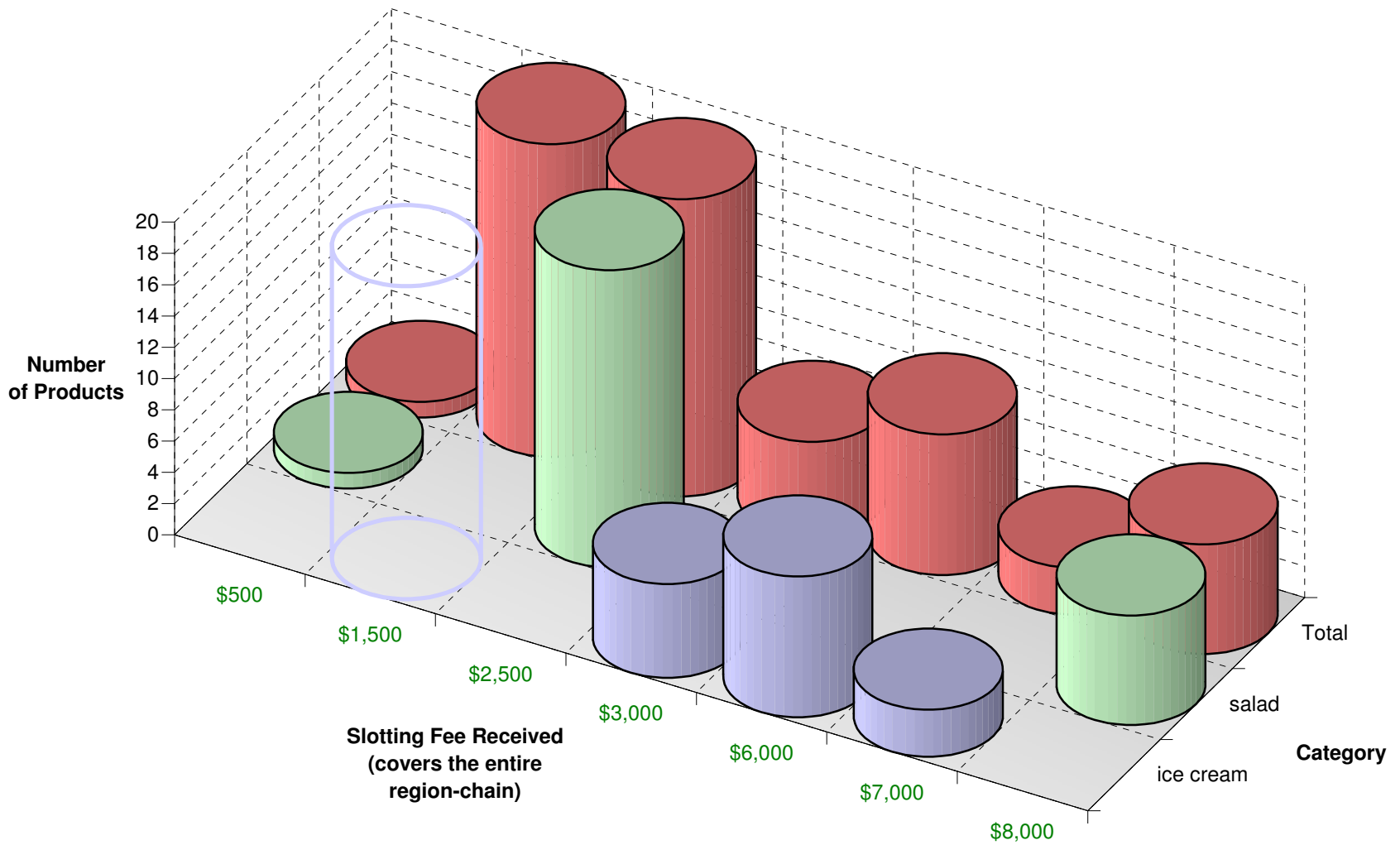
**Figure 1.10**  
**Retailer 7: Division 1 Slotting Fees**  
**(10 months)**



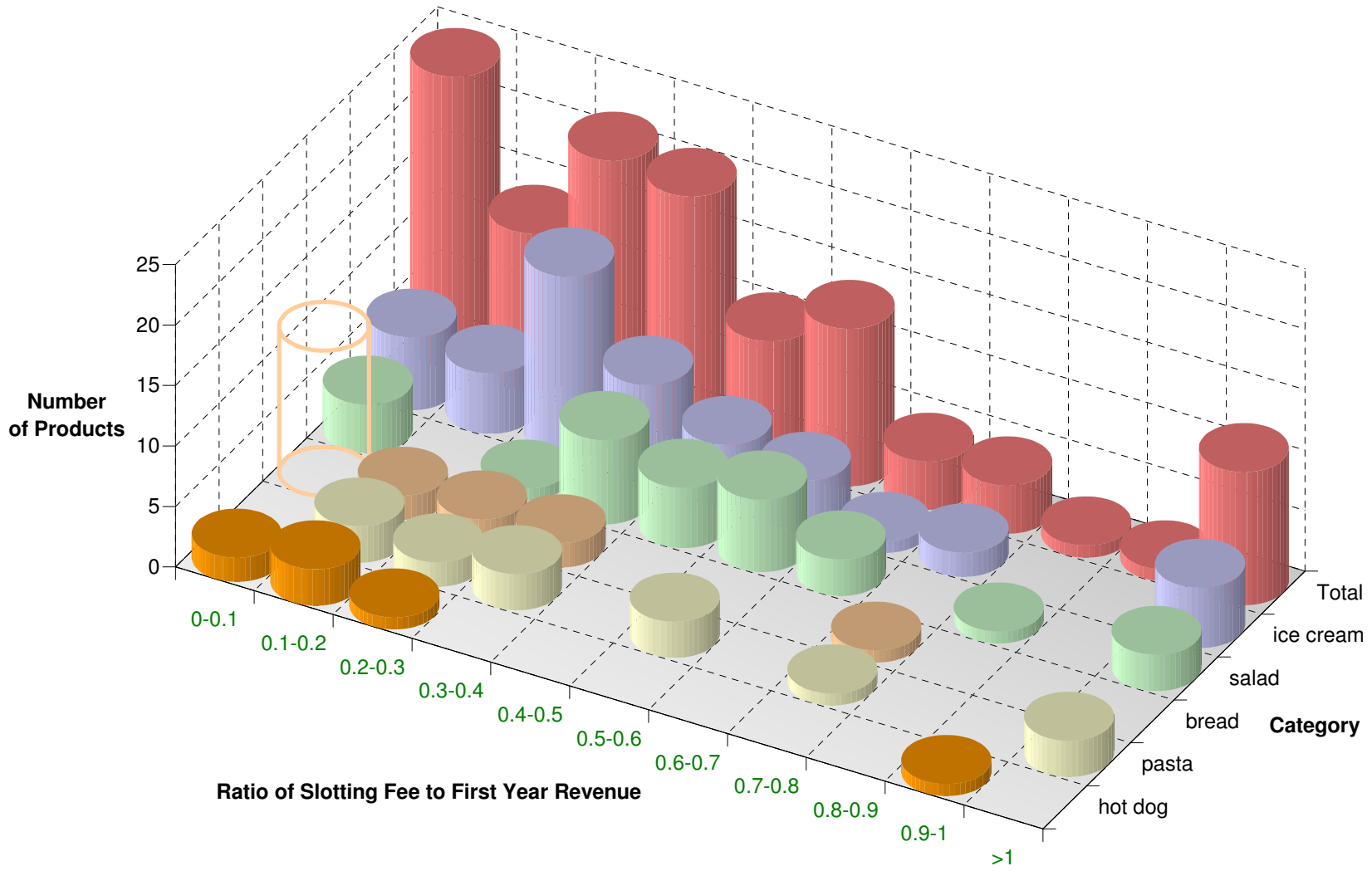
**Figure 1.11**  
**Retailer 7: Division 2 Slotting Fees**  
**(10 months)**



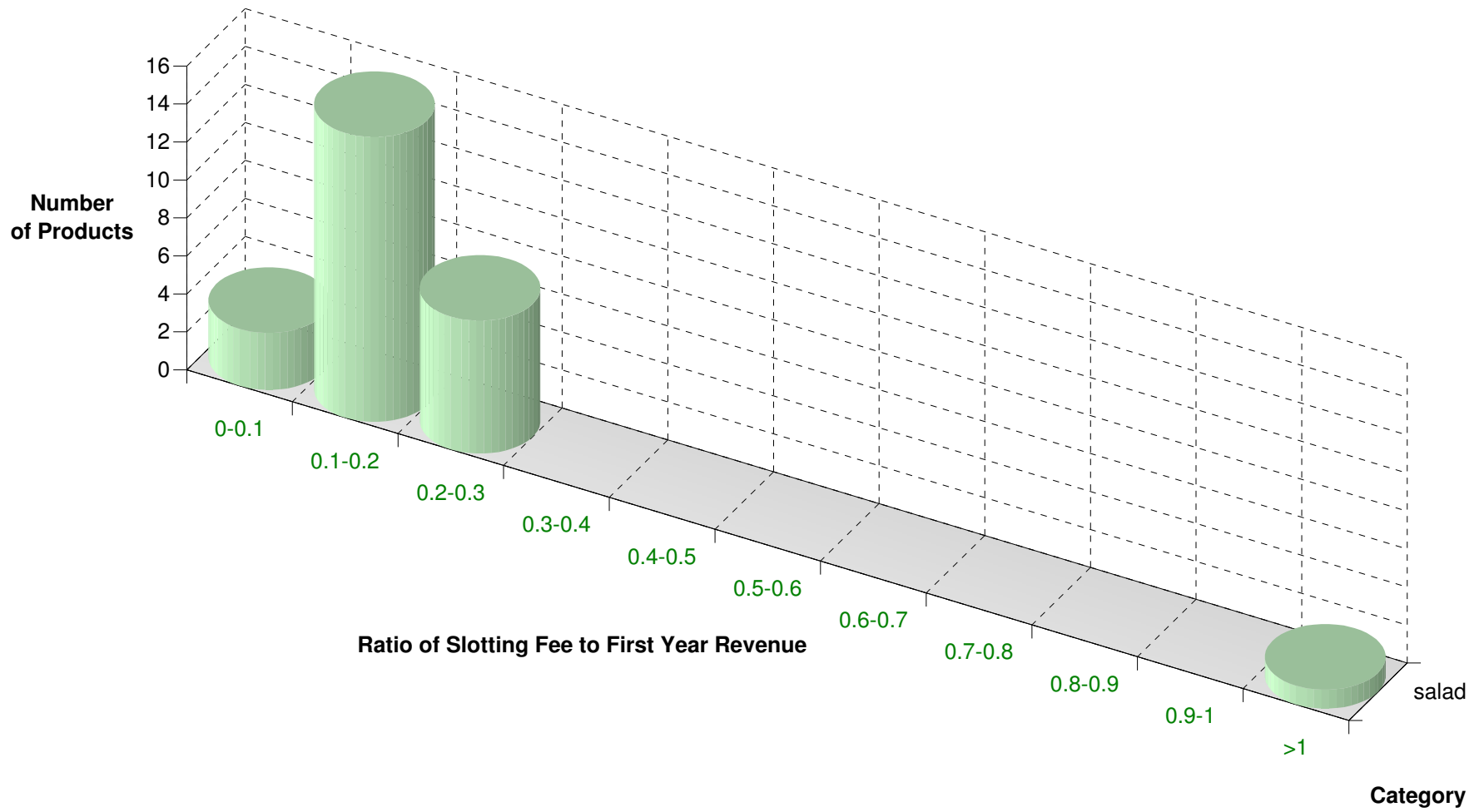
**Figure 1.12**  
**Retailer 7: Division 3 Slotting Fees**  
**(10 months)**



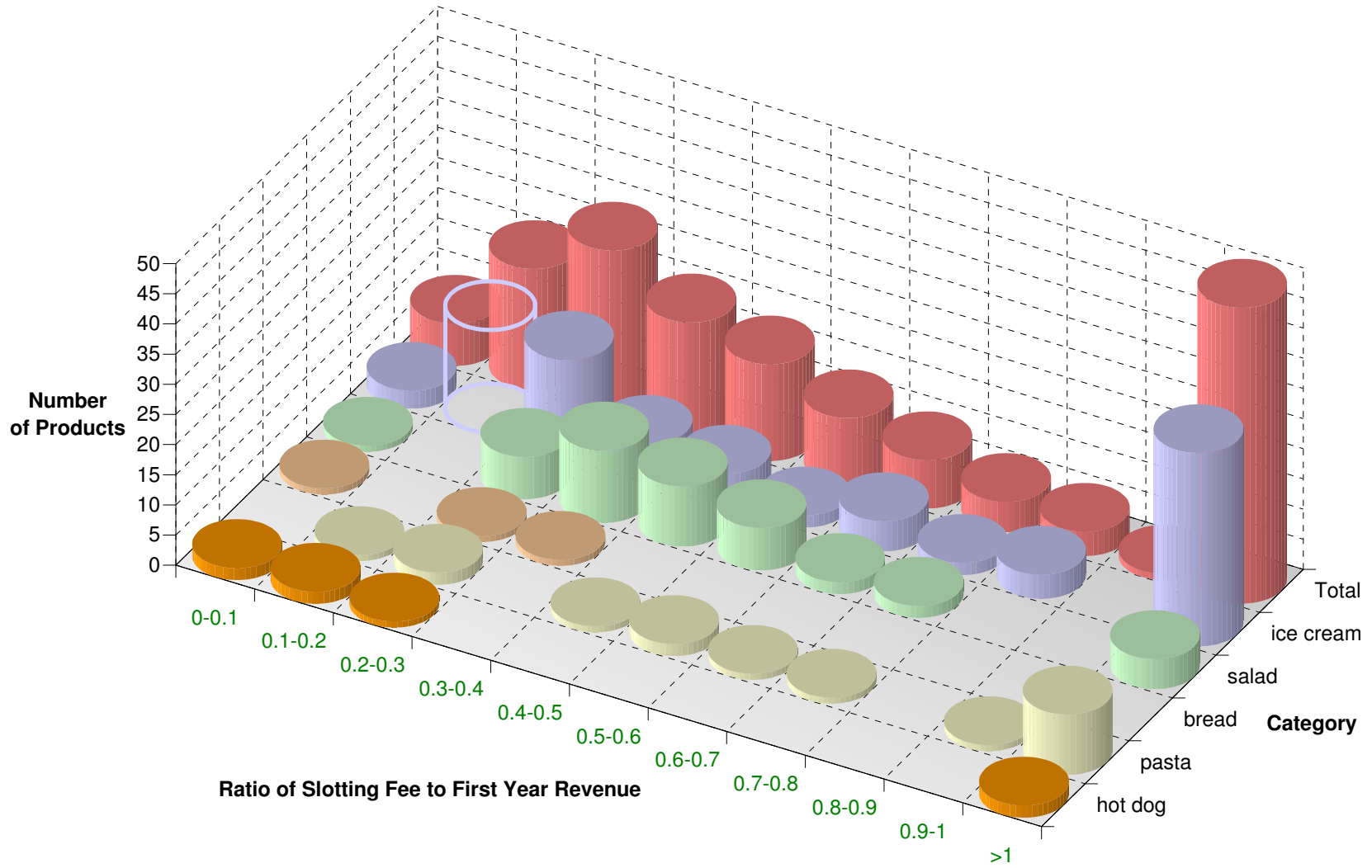
**Figure 2.1**  
**Retailer 1 Ratios**  
**(29 months)**



**Figure 2.2**  
**Retailer 2 Ratios**  
**(32 months)**

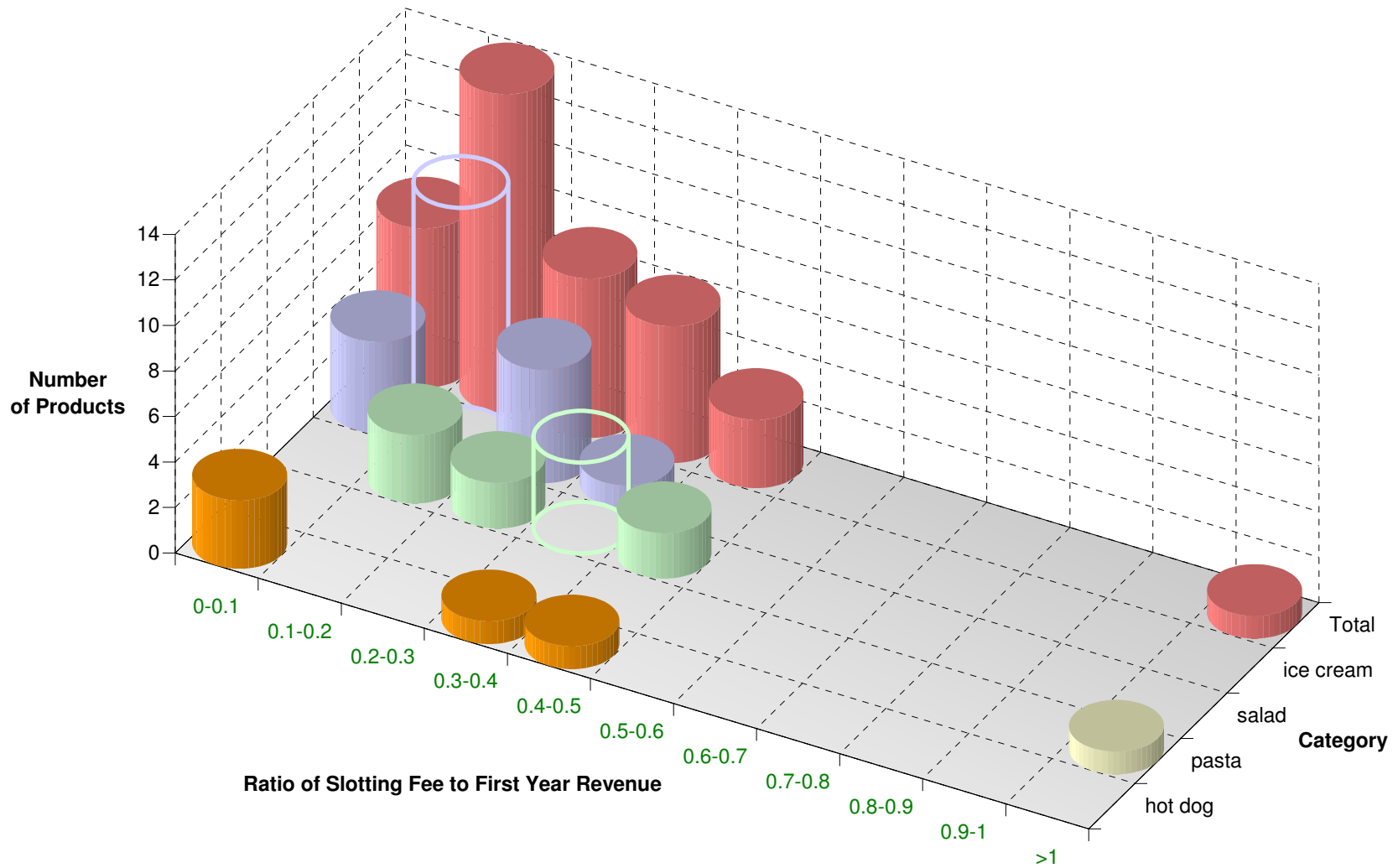


**Figure 2.3**  
**Retailer 3 Ratios**  
**(31 months)**

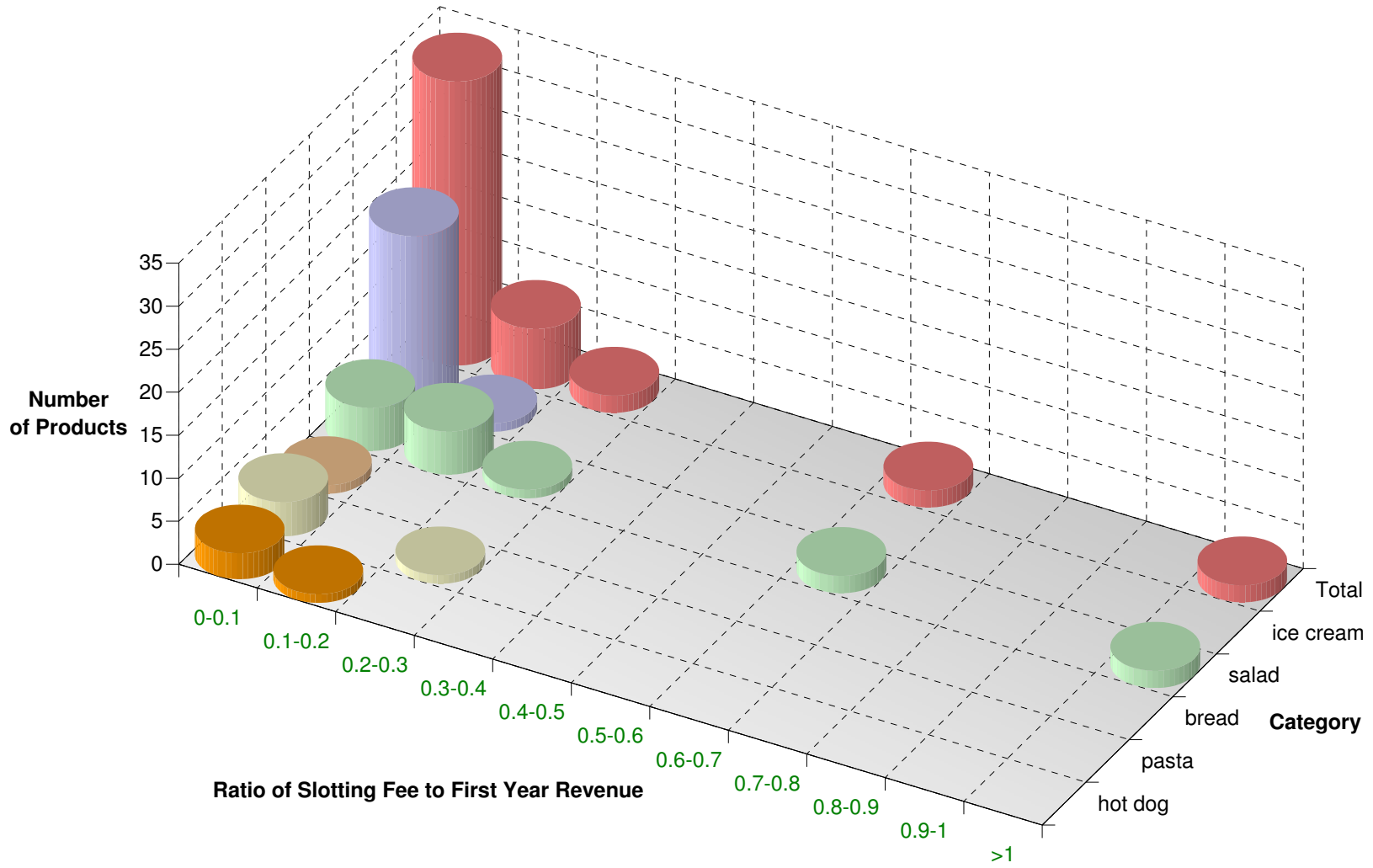




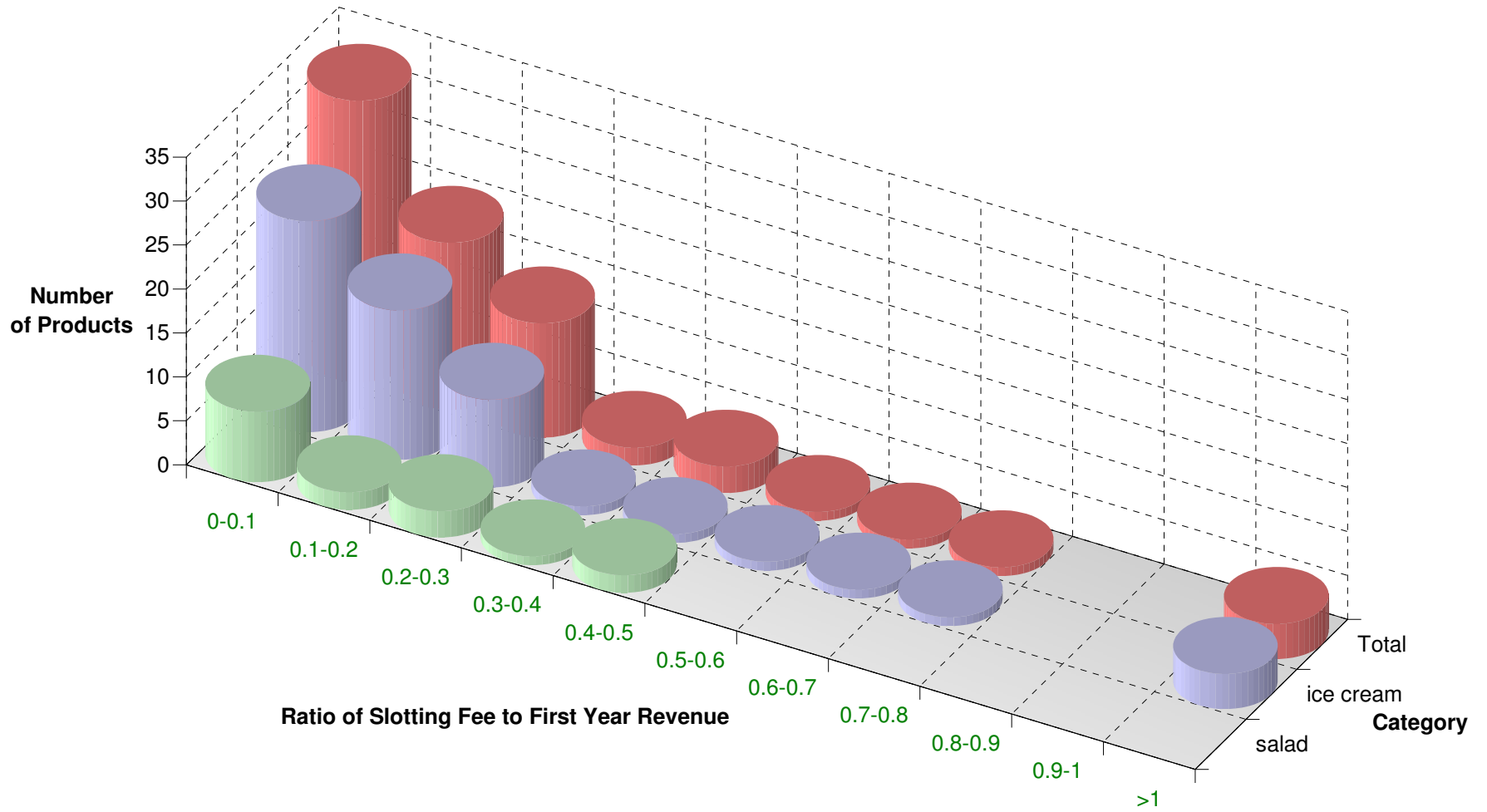
**Figure 2.4**  
**Retailer 4: Division 1 Ratios**  
**(18 months)**



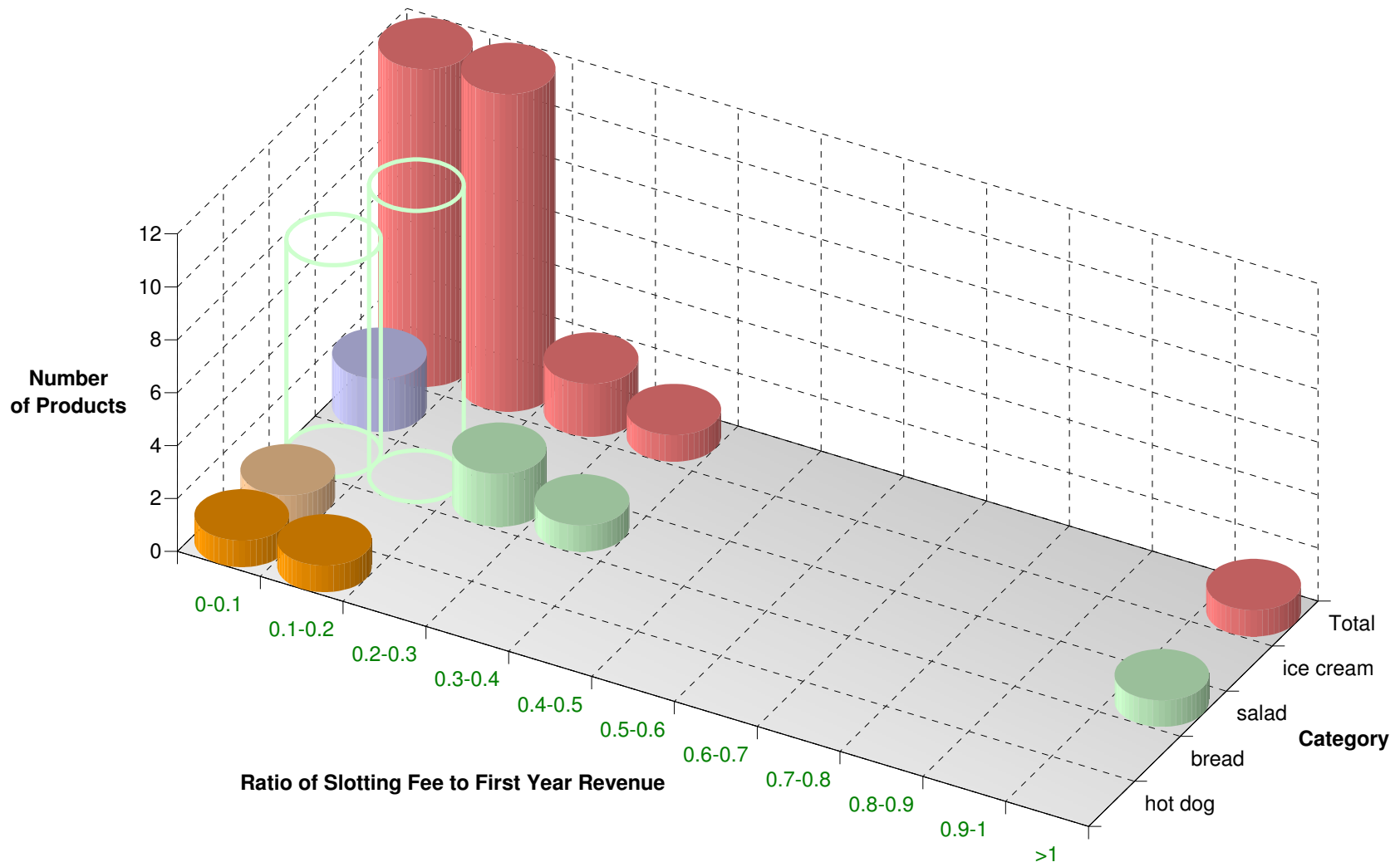
**Figure 2.5**  
**Retailer 4: Division 2 Ratios**  
**(18 months)**



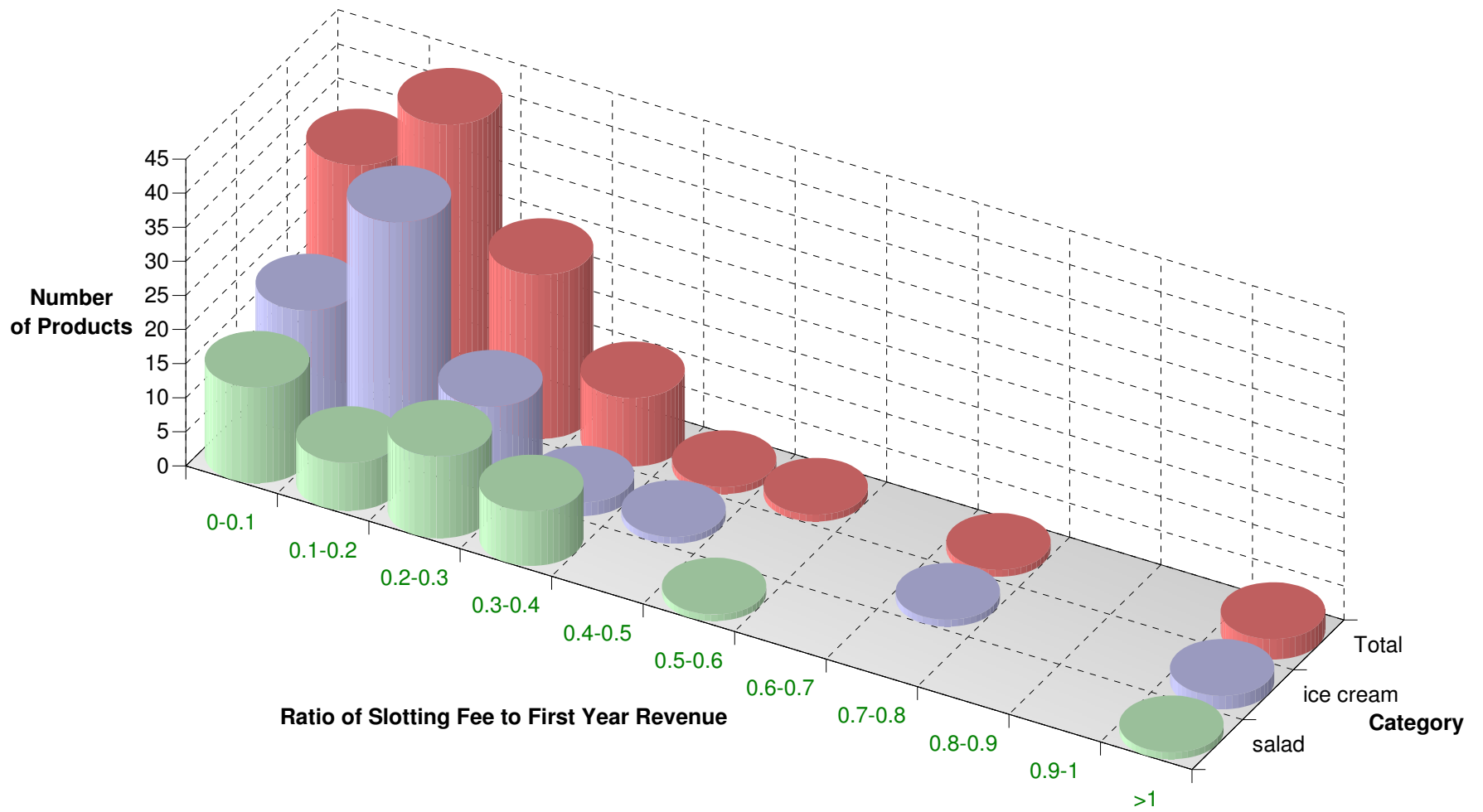
**Figure 2.6**  
**Retailer 5: Division 1 Ratios**  
**(22 months)**



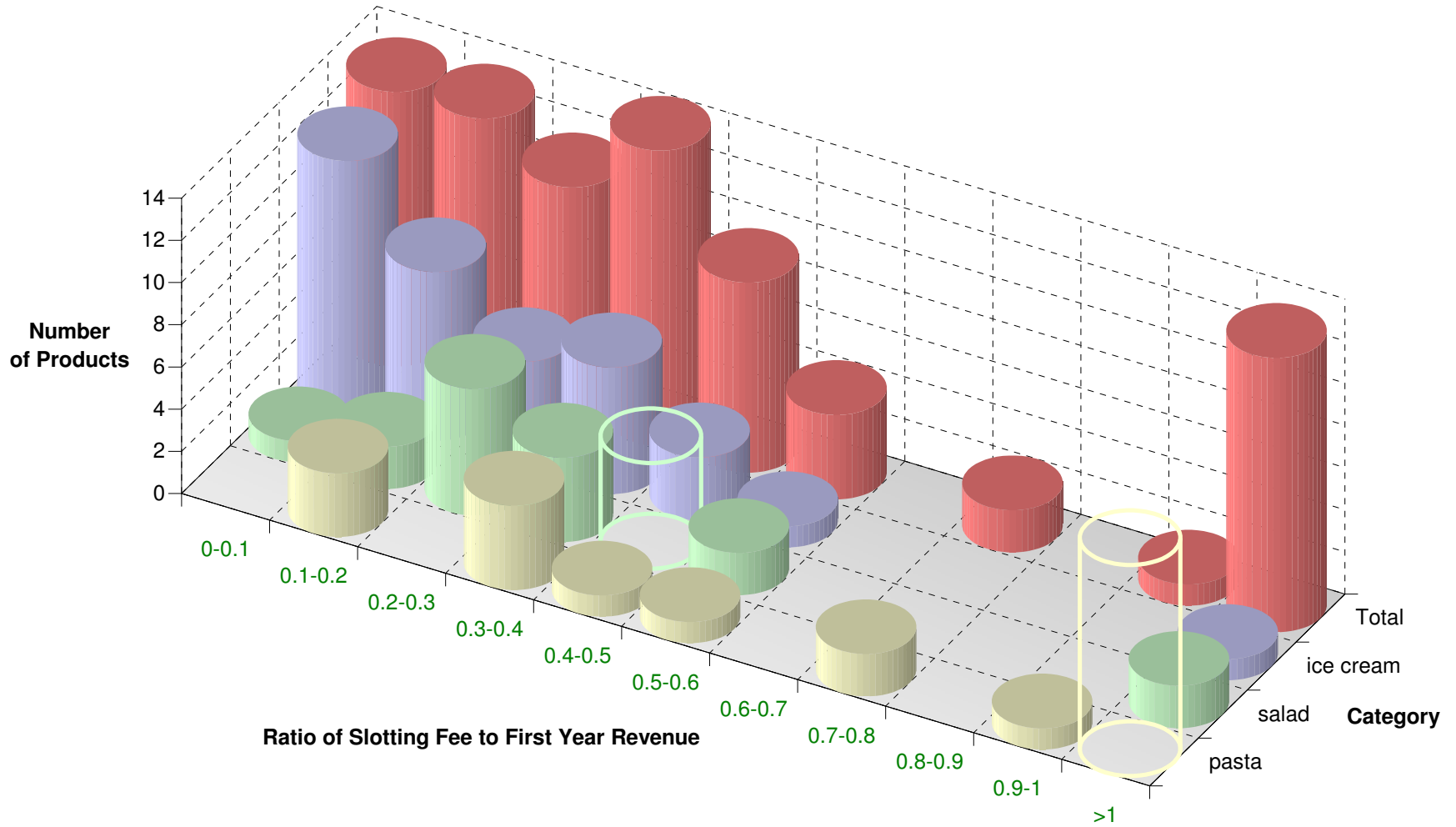
**Figure 2.7**  
**Retailer 5: Division 2 Ratios**  
**(28 months)**



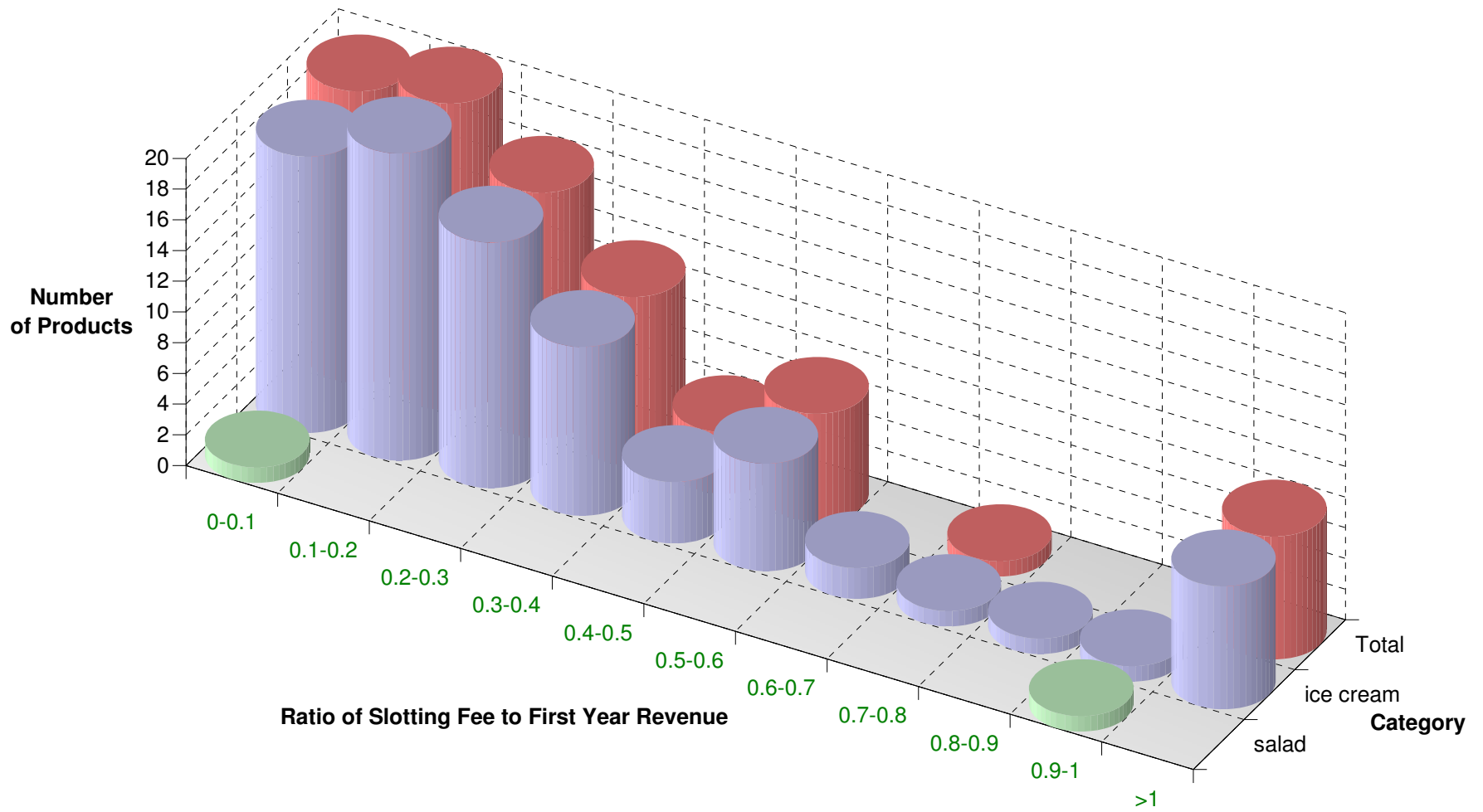
**Figure 2.8**  
**Retailer 5: Division 3 Ratios**  
**(30 months)**



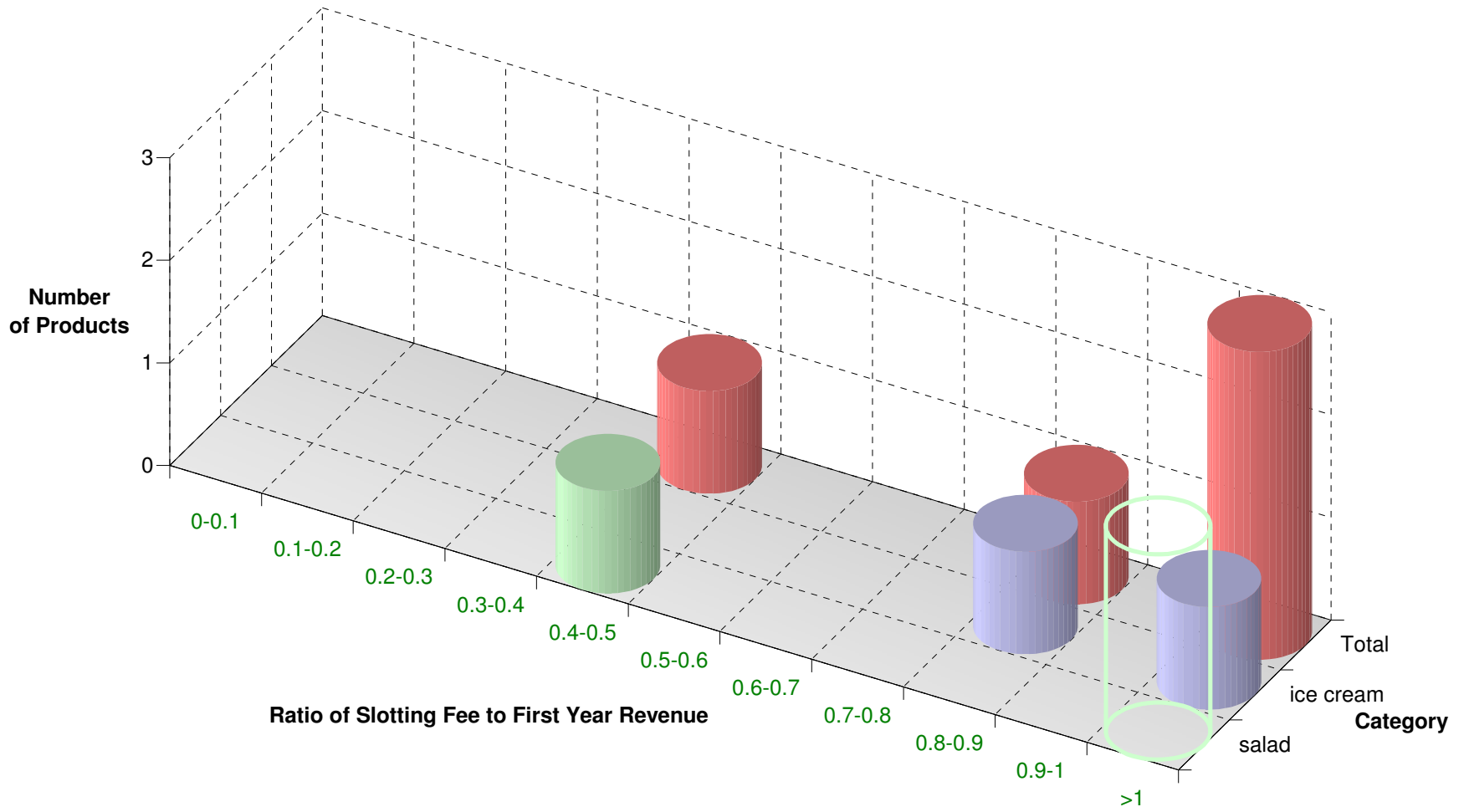
**Figure 2.9**  
**Retailer 6 Ratios**  
**(26 months)**



**Figure 2.10**  
**Retailer 7: Division 1 Ratios**  
**(10 months)**



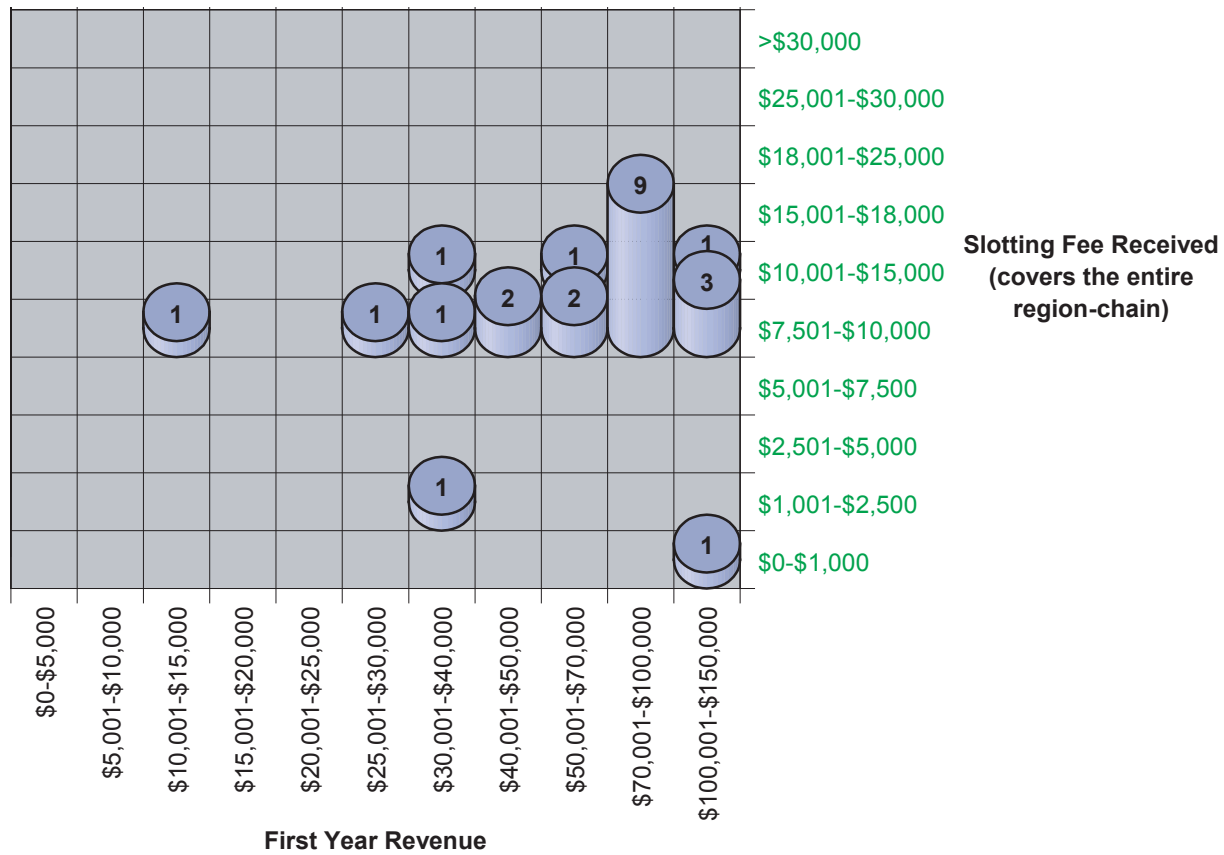
**Figure 2.11**  
**Retailer 7: Division 2 Ratios**  
**(10 months)**



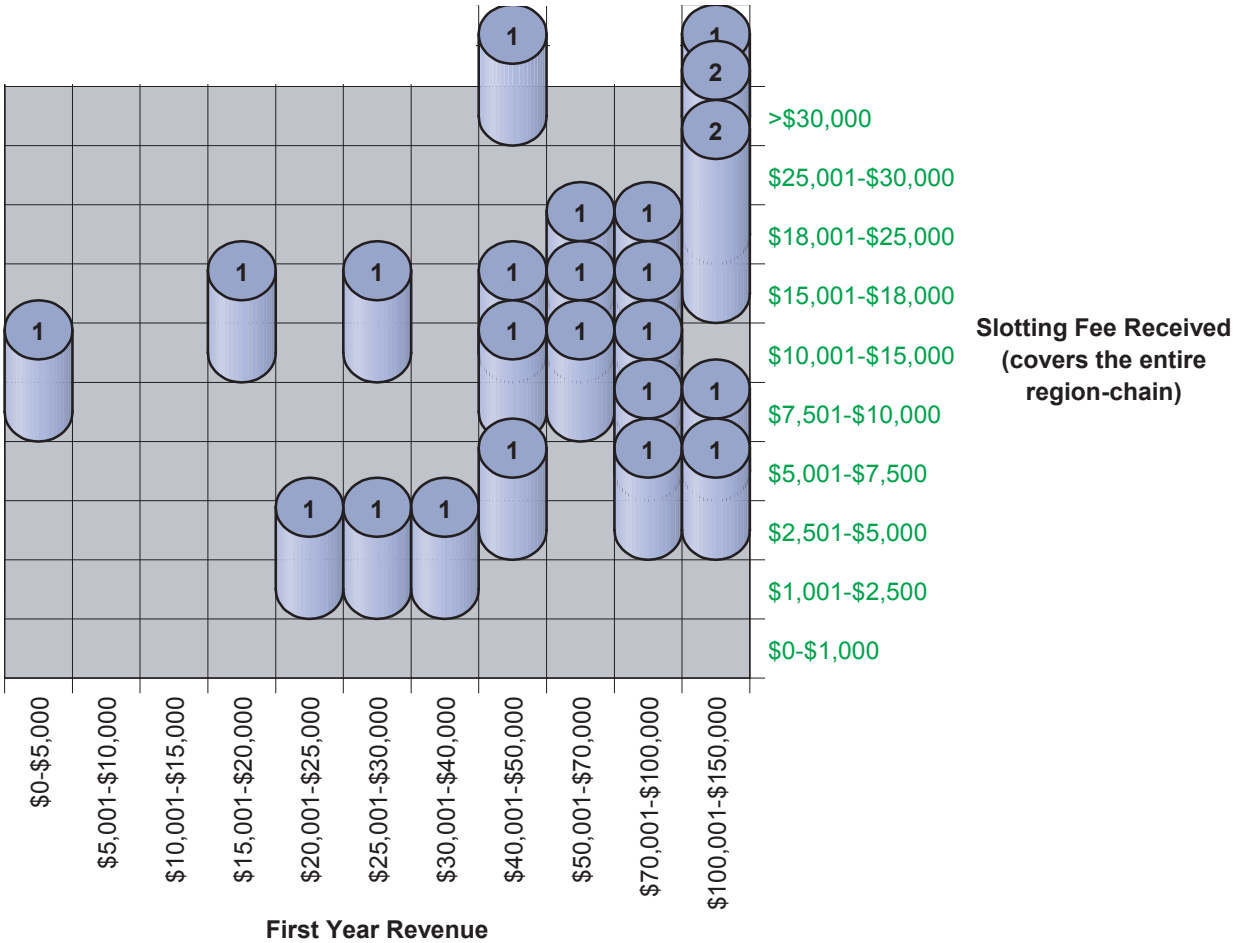




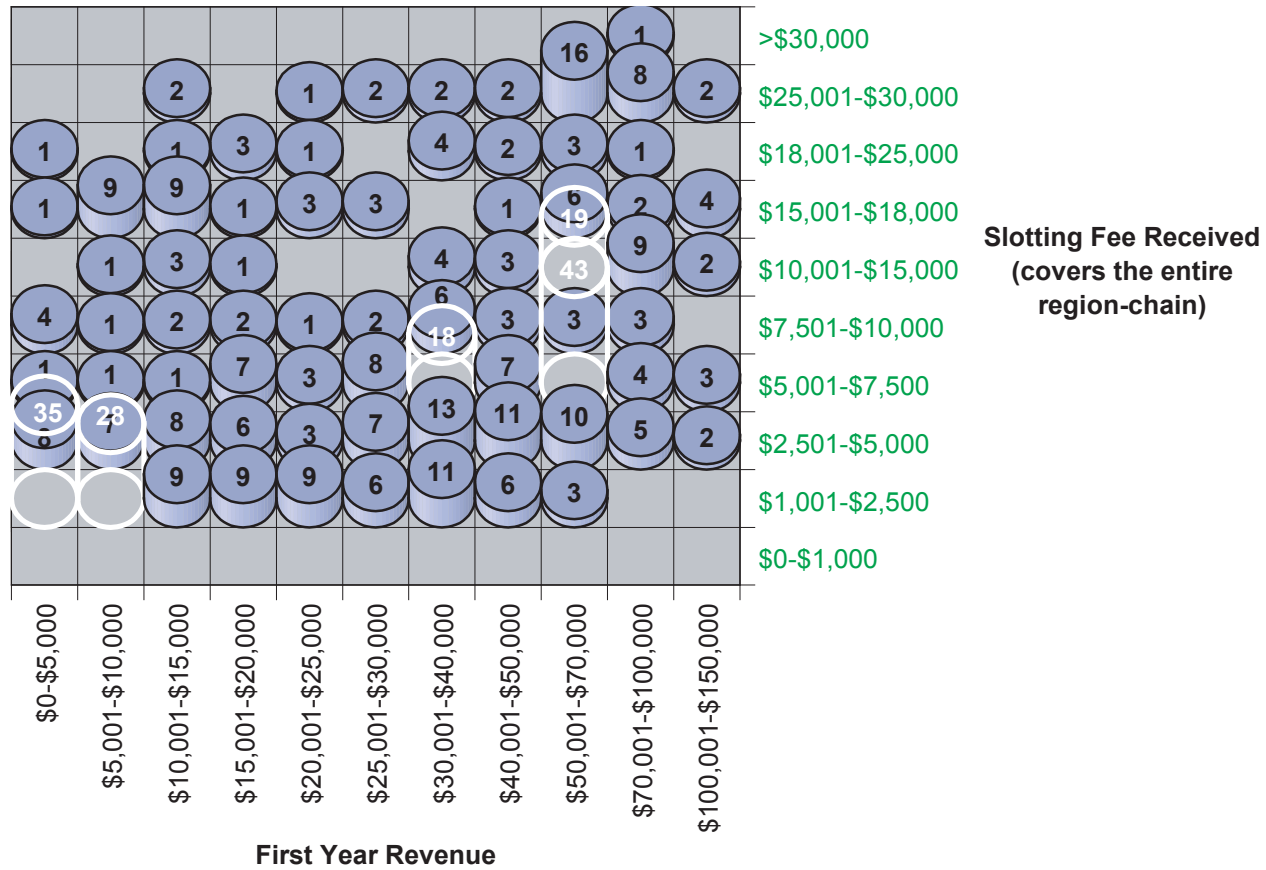
**Figure 3.1**  
**Bread, All Region-Chains, Comparing First Year Revenue with Slotting Fees**



**Figure 3.2**  
**Hot Dogs, All Region-Chains, Comparing First Year Revenue with Slotting Fees**



**Figure 3.3**  
**Ice Cream, All Region-Chains, Comparing First Year Revenue with Slotting Fees**





**Figure 3.5**  
**Salad Dressing, All Region-Chains, Comparing First Year Revenue with Slotting Fees**

