

European Commission acts to ban unfair trade practices in the food supply chain

The Commission proposes today to ban the more damaging unfair trading practices in the food supply chain to ensure fairer treatment for small and medium sized food and farming businesses. In addition, the proposal includes effective enforcement provisions: sanctions can be imposed by national authorities where infringements are established.

Smaller operators in the food supply chain, including farmers, are vulnerable to unfair trading practices employed by partners in the chain. They often lack bargaining power and alternatives to get their products to consumers.

Vice-President Jyrki **Katainen**, responsible for Jobs, Growth Investment and Competitiveness, said: *“There are imbalances of bargaining power in the food supply chain and with this proposal the Commission is tackling the unfair trading practices head-on. We act because unfair business conduct undermines the economic viability of operators in the chain. By setting minimum standards and reinforcing the enforcement, the proposal should ensure that these operators are able to compete on fair terms, thereby contributing to the overall efficiency of the chain. This is a clear statement for more fair business conduct.”*

Agriculture and rural development Commissioner Phil **Hogan** said: *“Any chain is only as strong as its weakest link. An efficient and effective food supply chain is a fair one. Today’s proposal is fundamentally about fairness – about giving voice to the voiceless – for those who, through no fault of their own, find themselves the victims of a weak bargaining position. Today’s initiative to ban unfair trading practices is about strengthening the position of producers and SMEs in the food supply chain. The initiative is equally about providing strong and effective enforcement. We are looking to eliminate the “fear factor” in the food supply chain, through a confidential complaints procedure.”*

The unfair trading practices to be banned are late payments for perishable food products, last minute order cancellations, unilateral or retroactive changes to contracts and forcing the supplier to pay for wasted products. Other practices will only be permitted if subject to a clear and unambiguous upfront agreement between the parties: a buyer returning unsold food products to a supplier; a buyer charging a supplier payment to secure or maintain a supply agreement on food products; a supplier paying for the promotion or the marketing of food products sold by the buyer.

The Commission’s proposal requires Member States to designate a public authority in charge of enforcing the new rules. In case of proven infringement, the responsible body will be competent to impose a proportionate and dissuasive sanction. This enforcement authority will be

able to initiate investigations of its own initiative or based on a complaint. In this case, parties filing a complaint will be allowed to request confidentiality and anonymity to protect their position towards their trading partner. The Commission will set up a coordination mechanism between enforcement authorities to enable the exchange best practices.

The proposed measures are complementary to measures existing in Member States and the code of conduct of the voluntary Supply Chain Initiative. Member States can take further measures as they see fit.

The Commission's proposal will take the form of a European law (directive) and will now be submitted together with an impact assessment to the two co-legislators, the European Parliament and the Council, where Member States' governments are represented.

Background

The Commission Work Programme 2018 states that *"the Commission will propose measures to improve the functioning of the food supply chain to help farmers strengthen their position in the market place and help protect them from future shocks"*.

This initiative follows the references to the food chain in President Juncker's State of the Union speeches of 2015 and 2016, and is a political response to the resolution by the European Parliament adopted in June 2016 inviting the European Commission to submit a proposal for an EU-level framework concerning unfair trading practices. Moreover, in December 2016, the Council called on the Commission to undertake an impact assessment with a view to proposing an EU legislative framework or other non-legislative measures to address unfair trading practices.

The Commission has been working towards a fairer and more balanced food supply chain since the beginning of its mandate. In 2016 we set up the [Agricultural Markets Task Force](#) (AMTF) to assess the role of farmers in the wider food supply chain and make [recommendations](#) on how it can be strengthened. On the basis of these recommendations, the Commission launched an [inception impact assessment](#) and a [public consultation](#) on the improvement of the food supply chain in 2017, which in turn helped identify the specific unfair trading practices covered by the Directive. A [recent EU-wide opinion poll](#) published in February 2018 shows that a great majority of respondents (88%) consider that strengthening farmers' role in the food supply chain is important. 96% of the respondents to the 2017 public consultation on the modernisation of the CAP agreed with the proposition that improving farmers' position in the value chain including addressing UTPs should be an objective of the EU's Common Agricultural Policy.

The proposals build on an existing voluntary code of best practice in the supply chain, known as the [Supply Chain Initiative](#) (SCI). The SCI was established in 2013 by seven EU-level associations covering the food and drink industry, branded goods manufacturers, the retail sector, small and medium-sized enterprises, and agricultural traders. The SCI was developed as a result of the Commission-led [High-Level Forum on a Better Functioning Food](#)

[Supply Chain](#) established in 2010 to help develop policy in the food and drink sector and contribute to a better functioning food supply chain.

For More Information

[Commission proposal against unfair trading practices in the food supply chain](#)

[MEMO: Tackling unfair trading practices in the food supply chain](#)