

# 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](#)

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## **Tackling unfair trading practices in the food supply chain**

### **What are unfair trading practices?**

Unfair Trading Practices (UTPs) are Business-to-Business practices that deviate from good commercial conduct and are contrary to good faith and fair dealing. They are usually imposed unilaterally by one trading partner on another. The food supply chain (FSC) is particularly vulnerable to unfair trading practices due to large differences in bargaining power.

### **Why regulate unfair trading practices now? Why aren't voluntary codes of conduct enough?**

The European Commission has been looking into unfair trading practices (UTPs) in the food supply chain for several years already. There were [Communications](#) on the subject published in 2009 and 2014. In January 2016, the Commission took note in a [specific report](#) of positive developments to address unfair trading practices in the sector, both at national level and in the form of the voluntary “[Supply Chain Initiative](#)” initiated by the private sector. At the time, the need for EU legislation in this area was considered unnecessary but the Commission committed nevertheless to re-assess that need in the light of subsequent developments before the end of its mandate.

In November 2016, the Agricultural Markets Taskforce, an independent high-level group of experts created by the European Commission, presented its findings in a report entitled [‘Improving Market Outcomes – Enhancing the Position of Farmers in the Supply Chain’](#). It recommended, among other recommendations, that the EU legislate in the areas of unfair trading practices for agricultural products.

In early 2018, the Commission finalised a stock-taking of the developments related to unfair trading practices in the Member States and within the private sector, and it found that the expectations from 2016 were not met, as the earlier promising developments had slowed down with few recommendations being taken up. For instance, several Member States still had no or only limited UTP regimes in place, and key stakeholders had not joined the Supply

Chain Initiative because of a weak governance structure that prevented effective investigation and enforcement of instances UTP cases.

As there are often significant differences in bargaining power between the different operators in the food supply chain, that still leads to situations where the weakest link, more often than not the agricultural producers, is being put in a vulnerable situation and subject to undue economic pressure.

A [EU-wide online public consultation](#) carried out in the second half of 2017 also confirmed that unfair trading practices in the food supply chain were still considered an issue by a majority of stakeholders, be it trade organisations, the farm sector and the food sector. 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 most recent [Eurobarometer survey of citizens across the EU](#) also shows that strengthening farmers' role in the food chain is supported by a majority of citizens.

The Juncker Commission is a Commission that protects and in the face of unbalance and unfair behaviour which could be corrected, we decided to act and for the first time ever submit legislative proposals to regulate unfair practices in the food supply chain.

**Why did you choose these particular unfair trading practices to prohibit?  
What about the others?**

There is a wide variety of trading practices covered by legislation at national level or by the private sector code of conduct. The UTPs selected by the Commission were widely seen as the most obviously unfair, affecting as they do in particular the weakest links in the food supply chain (namely farmers and small and medium-sized enterprises). There was also widespread consensus that these particular UTPs have a disruptive impact on the proper and efficient functioning of the food supply chain.

This consensus came from several sources: the [findings](#) of the [Agricultural Markets Task Force](#), an expert group set up by the Commission in 2016; the Supply Chain Initiative's [Principles of Good Practice](#); and the feedback the Commission received in response to various stakeholder consultations. For instance, in the Commission's [public consultation](#) on UTPs, respondents were asked to identify the practices they considered to be unfair and that had the most negative impact, while the Commission's [inception impact assessment](#) also received considerable feedback. The Commission also sent targeted questions to companies, consumer organisations and national authorities, hosted a workshop on UTPs and had numerous meetings with food supply chain stakeholders and civil society groups.

**What are the products covered by the proposal?**

Food products covered include agricultural products and products processed from agricultural products. Fishery products are included as agricultural products. The product coverage is in line with the occurrence of unfair

trading practices in the food supply chain.

**For the purpose of this proposal, how do you describe buyers and suppliers? Which stakeholders are targeted?**

The proposal applies to anyone involved in the food supply chain, be it a retailer, a food processor, a wholesaler, a cooperative or producers' organisation, or a single producer who would be engaging in any of the unfair trade practices identified. The proposal aims specifically at empowering the weakest partners with little bargaining power so the supplier has to be of small and medium size according to the [definition](#) set at EU level.

**Will this be an additional administrative burden for Member States? Will stakeholders in the food supply chain have to bear a financial cost?**

Most Member State administrations already have structures in place to monitor and enforce legislation on UTPs, and in this case additional costs are expected to be marginal. Where such structures do not exist, the enforcement could be carried out by existing bodies such as competition authorities or consumer protection agencies which highly limit the costs.

In addition, evidence from those Member States that have recently established new structures to regulate UTPs under their national legislation shows that this is possible with a relatively low financial commitment.

Since most Member States already have some form of regulation of UTPs, businesses are likely to be well prepared and face only limited costs as a result. In any case, any additional costs are likely to be more than offset by the expected benefits of the policy in addressing particularly damaging UTPs.

**Will there be any sanctions in case of non-compliance? If so, what will they be?**

Yes. One of the principal reasons for creating an EU-wide unfair trading practices regime is to complement the private sector initiative, known as the Supply Chain Initiative, with an enforceable minimum level of protection across Member States. The proposed Directive therefore requires Member States to designate a public authority to enforce the ban on the listed practices. This authority must be able to carry out investigations – upon request but also under its own initiative -, to impose fines, and to publish its decisions.

**What is the expected impact for farmers, processors, retailers?**

Prohibiting the use of the UTPs identified as the most damaging for farmers and small and medium-sized suppliers in the food industry will increase trust within the supply chain, as well as compensating for the relative lack of bargaining power that these smaller operators have compared to their larger buyers. This should provide them with greater certainty (for example, they will no longer need to worry about finding a new buyer, due to last minute order cancellations) and reduce the need for them to manage risks over which they have little or no control.

### **Will the price of food products increase for consumers?**

No. There is no reason why this EU legislation should lead to price increases for consumers: in the public consultation carried out by the Commission, there was no evidence presented to suggest that the unfair trading practices targeted lead to lower consumer prices or that prohibiting them would lead to higher prices. Consumer organisations in fact tend to encourage the regulation of these practices because they have a negative effect on consumers in the longer term.

The legislation also allows for a report by the Commission on the application of the rules after three years, including on any impact on prices.

### **How does this proposal relate to the High Level Forum for a Better Functioning Food Supply Chain and to the Supply Chain Initiative?**

The proposed Directive complements – but does not replace – the voluntary code of conduct from the Supply Chain Initiative, which itself is a result of the High Level Forum set up by the Commission in 2010 to investigate issues across the food supply chain. The decision to propose a common minimum standard of protection in the EU enables those Member States that already apply tougher standards against unfair trading practices to continue to do so.

### **Will Member States be allowed to go further and take their own measures? Will this duplicate or replace efforts of Member States?**

Today's proposal, in the form of a Directive, is complementary to regulation at Member State level. Member States can go further in legislating, and many have more ambitious regulations already in place. Action at EU level creates a basic level of protection for operators in the food supply chain across the EU, through a minimum harmonisation of rules, shared rules on enforcement, and coordination of enforcement efforts.

### **Will these rules apply to non-EU suppliers and/or buyers?**

Yes, they will apply to non-EU suppliers. This is for reasons of fairness and to avoid unintended distorting effects. For instance, if only suppliers in the EU were protected from UTPs, but not suppliers from third countries, buyers might have an incentive to buy from these third-country suppliers (where they would be free to impose UTPs).

### **Why is the Commission not taking action on price transparency?**

The next step is indeed to turn to the issue of market transparency. The Commission will continue to work on this topic and we can expect to see the first results of this work in the second half of 2018. In parallel, the High Level Forum on the Better Functioning of the Food Supply Chain has a work strand dealing with this.

This work has to be seen as being undertaken on top of the transparency measures the Commission has already enacted such as the launch and working of the [market observatories](#) managed by DG AGRI.

## For More Information

[The Agricultural Markets Taskforce](#)

[Basic facts and figures on the food supply chain](#)

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# [Data mining algorithms needed. Second EFSA crowdsource challenge now live](#)

Following a successful start in 2017 EFSA has launched a second crowdsourcing challenge aimed at ‘people scientists’ and computer whizzes.

This [second challenge](#) aims to find ways to automate systematic reviews – the ‘data extraction’ step of scientific assessments.

The prize of US\$28,000 (EUR 23,000) is targeted at software experts or amateur computer enthusiasts who can build information extraction algorithms to identify data elements from a full-text scientific article. The challenge was launched on 11 April 2018 – and runs for 90 days until 10 July.

The [first challenge](#), held in 2017, asked for ideas about how to visualise scientific uncertainty – the limitations in available knowledge. Three participants based in Australia and the US won prizes ranging from US\$1,000 to US\$2,500 for their ideas.

EFSA’s technical staff are looking at how their ideas can be adapted to EFSA’s work and used to support its new approach to [assessing scientific uncertainties](#).

## Who can apply?

Anyone can apply after registering on the [InnoCentive platform](#). It is quick and easy, requiring only five simple steps.

## Why are the prizes in dollars?

‘Solvers’ registered on the InnoCentive platform come from across the world so the prizes are in US dollars.

## How is EFSA involved in crowdsourcing?

In 2015 EFSA launched a [project](#) on ‘Crowdsourcing: Engaging communities effectively in food and feed risk assessment’ to explore the risks and opportunities in applying crowdsourcing and citizen science to collect and process data and increase the openness of EFSA.

## Why is EFSA interested in crowdsourcing?



Several factors make crowdsourcing appealing: engaging the public and stakeholders in the process of scientific assessment, widening our evidence base, promoting data sharing and re-use of data, better use of expertise, encouraging public enthusiasm and support for science, and increasing transparency and trust in science.

### **Is EFSA part of other European crowdsourcing initiatives?**

EFSA is part of [Citizen Science Cost Action](#) where we participate on activities related to scientific quality, standardisation and interoperability of data.

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## **[Harris Education and Recreation Association – new evening classes!](#)** **[#dundeewestend](#)**

Here's details below of the Harris Education and Recreation Association new evening classes.

HERA enrolment night will take place in Harris Academy on Tuesday 24th April from 6pm.

**DATES/TIMES**

**Wednesday Evenings**  
**6:30pm until 8:30pm**

Courses - 8 Weeks: 02 May - 20 June 2018

Pilates - 10 weeks: 04 Apr - 20 June 2018  
 except 18 Apr & 30 May  
 Strictly limited places available

Pilates - 45 minute session  
 5-5.45pm or 6-6.45pm, Blackness Library

**ENROLMENT**

**Enrolment evening, TUESDAY**  
**24th April 2018, 6pm - 7.30pm**

**Harris Academy**  
**Perth Road**  
**Dundee**  
**DD2 1NY**

Places allocated upon registration

**NOTES**

- Classes will run at Harris Academy
- Disabled access to all classes
- Fees non-refundable
- Minimum age 16/18 applies
- Payment by cash or cheque
- Please do not contact the school
- Classes subject to minimum numbers

For more information contact:

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 01382 435827  
 or  
[heradundee@outlook.com](mailto:heradundee@outlook.com)

<https://heradundee.wordpress.com/>

**Evening Activity Programme**

Cookery  
 Pilates  
 Drawing & Painting  
 Conversational German  
 Photography

**Conversational German**

Lynne Topping has aimed this course at complete beginners, although also suitable for those who have studied German already, but have forgotten most of it! The emphasis will be on speaking, with time spent in conversation and practice of structure. Topics will include: talking about yourself and your family, daily routine, ordering food & drink, sports & hobbies, shopping for clothes, directions around town, travelling by train.

Cost £48

**Pilates**

Pilates, with Ali Henderson, is a fabulous full-body workout, gentle enough to be suitable for all ages and abilities yet really effective in strengthening the core and aiding both flexibility and balance. Improve your posture, ease your niggly back and boost your overall wellbeing in just 45 minutes a week for this 10 week class.

Cost £30, bring your own mat

**Cookery**

Whether you want to learn to cook, or further your culinary skills, Pamela Maddison welcomes you to her class. Recipes have been chosen to showcase different flavours that will take you on a global journey, preparing delicious food within an affordable budget. Recipes will be provided at enrolment.

Cost £51, bring your own ingredients

**Drawing & Painting**

Rod Smith's class topics will vary from landscape, dogs, dance, flowers, still life to portrait and figure studies. Acrylic is the most popular medium but watercolour, oil and chalk pastel are taught too. There is individual guidance with techniques, so that everyone develops their own style at a comfortable pace. Whether beginners or experienced, all are all welcome.

Cost £48, bring your own materials

**Introduction to Photography**

Kathryn Ratray is a contemporary lifestyle & reportage photographer. This photography course "The Art of Seeing" will take you on an exciting photographic journey. All you need is determination and a camera of any sort. Whether it's the latest SLR or your phone, you'll be amazed by what you can capture and learn in such a small space of time!

Cost £50, materials provided