

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](#)

[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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[Reflecting on Europe: How Europe is perceived by people in regions and cities](#)

This week the first [preliminary report](#) on the Reflecting on Europe initiative has been released, providing some interesting insights into the ways citizens want to see the EU developing in the future.

Since March 2016, the European Committee of the Regions (CoR) has been listening to about **30.000 citizens** in **81 regions** and **114 cities and municipalities**. The results of the citizens dialogues and the online survey/app collected so far are presented in this report.

Thank you to those who shared their thoughts and contributed to this listening process!

The final report will be delivered in view of the CoR opinion on the future of Europe due for adoption in October 2018.

The CoR will continue its citizens' dialogues over the coming months in the run-up to the European elections in May 2019.□

[Future of Europe: politicians and academics share view that more regional and local authorities' power](#)

must be reflected in the EU

EU policy-makers have recently come up with policy proposals and scenarios on the way forward for Europe. Yet many of these proposals remain silent about the role of regions and cities – even if their follow-up might significantly impact local governments' leverage in a renewed Union. Regions will however have to be granted more influence in the EU architecture to facilitate policy-making and ownership of policy decision on the ground. This was one of the key messages expressed by politicians and academics at a [conference](#) organised yesterday by the European Committee of the Regions' Commission for Citizenship, Governance, Institutional and External Affairs ([CIVEX](#)).

In the context of the debate on the future of the EU, the rise of regional separatist movements and the ongoing work of the [Task Force on Subsidiarity](#), this [one-day conference](#) brought together politicians from local and regional governments, members of the European Parliament and academics to shed some light on the role that regions and local communities could and should play in the future EU27. The event was co-organised by the CoR, the University of Tübingen (Germany), and Danube University Krems (Austria). The outcome of discussions will feed into the CoR opinion on the Future of Europe – to be adopted on 9 October – as asked by the European Council President.

CoR President **Karl-Heinz Lambertz** stressed that: *“Europe is not Brussels, Strasbourg and Luxembourg but its where its citizens live – its regions, cities, towns and villages. A stronger, more united EU is only possible by improving the lives of every citizen. This doesn't mean less Europe but a more effective Europe. This will only be achieved by strengthening the role of local and regional authorities and ensuring every level of government work together to show the EU's added value in the lives of the people it serves”.*

Speakers to the conference recalled that stronger demands for a “Europe of the regions” were voiced in the early 1990s, leading to a number of reforms, including the creation of the CoR. In this regards, **Barbara Duden (DE/PES)**, CIVEX commission President and member of the Hamburg City Parliament, was eager to underline: *“ We need to be careful that the ‘Europe of the Regions’, which some consider an outdated concept, is not played off against the ‘Europe of the Cities’ that is nowadays more fashionable. In the CoR, we represent local and regional authorities of very different sizes and structures, and we need both, cities and regions, with a stronger role in European integration, to make it work for citizens. ”*

MEP Danuta Hübner (PL/EPP), Chair of the Committee on Constitutional Affairs and former EU Commissioner for Regional Policy, emphasised: *“Regions, cities and local communities have always played a unique role in linking citizens' daily life with Europe. In these times, this link must not be a missing link”.* She further pointed out that subsidiarity should not be used as an instrument to defend local or national interest against the European one, but that it should focus on effectiveness to determine which level is the more effective for policy action.

Prof Dr Gabriele Abels , Director of Jean Monnet Centre of Excellence PRRIDE, University of Tübingen, Germany, insisted on the need to focus on the EU institutional architecture so as to tackle the perceived democratic deficit of the EU. In particular, she suggested a better involvement of regional parliaments in EU policy-making; notably by securing more seats to members of regional parliaments in the CoR. She further called for a more systematic use of territorial impact assessments to evaluate the likely impact of policies, programmes and projects at local and regional levels.

The conference was followed by an evening debate on the regional impact of Brexit. Participants discussed among others the results of the recent [CoR report](#) detailing the consequences of Brexit on trade and economy in the EU27 regions and cities. Speakers included **Mairi Angela Gougeon**, Member of the Scottish Parliament and CoR member

Michael Murphy , head of the Irish EPP delegation to the CoR and Councillor from Tipperary County Council, **Prof Dr Raquel Ortega Argilés** from the University of Birmingham, UK, and **Prof Dr Ulrike Guérot** from Danube University Krems, Austria.

About the event:

Co-organised by the CoR, and Prof Dr Gabriele Abels, Jean Monnet Centre of Excellence PRRIDE, University of Tübingen, Germany, in cooperation with Prof Dr Ulrike Guérot, Danube University Krems, Austria, founder of the European Democracy Lab., the event entitled " [The future of the EU and the role of the regions / BREXIT: a regional perspective](#) " aimed to investigate the role of regions as actors of democracy at the European level through various angles: "multi-speed Europe", subsidiarity, macroregional strategies, economic governance, solidarity, democracy in the European regional governance, and the regional consequences of Brexit.

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