



Briefing document

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Commercial practices in the food chain

Background:

Due to developments such as increased market concentration, there are very different levels of bargaining power in the relations between the players in the supply chain. While differences in bargaining powers are common and legitimate in commercial relationships, these imbalances can, in some cases, lead to unfair trading practices (UTPs). To address these, back in July 2014, the Commission adopted a [communication](#) which did not propose regulatory action at EU level but encouraged Member States to look for ways to improve protection of small food producers and retailers against the unfair practices of their sometimes much stronger trading partners. The EU was expected to monitor the progress made in this area and decide whether further action should be taken at EU level.

Where we are:

On 29 January 2016, the Commission adopted a [Report to the European Parliament and the Council on unfair business-to-business trading practices in the food supply chain](#). The report is a follow-up to the communication of July 2014.

The report concludes that there is no added value of an harmonised EU regulatory approach to address unfair business-to-business trading practices (UTPs) in the food supply chain at this stage.

In total, more than 20 Member States have introduced legislation to combat UTPs (15 have introduced it in the last five years) or are planning to do so in the near future. The report



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suggests that all Member States' enforcement systems allow confidential complaints and own initiative investigations in order to address the fear factor.

The Commission also concludes that the EU-wide Supply Chain Initiative has stimulated discussion of best practices and UTPs among operators and has started to induce a cultural change in the food supply chain. The report, however, finds that voluntary initiatives work better in some countries than in others, and were less successful in the UK, confirming the need for regulatory measures and effective independent enforcement.

A couple of months later, the EU Parliament adopted a [resolution](#) urging the Commission to put forward proposals against unfair trading practices in the food supply chain. MEPs stress that selling below the cost of production, and the serious misuse of basic agricultural foods such as dairy, fruit and vegetables as “loss leaders” by large-scale retailers, threaten the long-term sustainability of EU production of these items. The resolution highlights that voluntary and self-regulatory schemes have so far shown limited results owing to a lack of proper enforcement, under-representation of farmers, conflicts of interest between the parties, dispute settlement mechanisms that fail to reflect the supplier "fear factor" and the fact that they do not apply to the whole supply chain.

Although Parliament resolutions are not legally binding, the fact that 600 MEPs voted in favour (48 voting against and 24 abstentions) of this text makes it difficult for the Commission to ignore it.

What's next?

In July 2016, the Slovakian Presidency presented its work programme and priorities in the areas of agriculture and fisheries. One of the prominent priorities will be to strengthen the position of farmers in the supply chain and to increase transparency in the relations between different factors of the chain.



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They also reported on the outcome of a conference on the food supply chain which took place in Bratislava on 30 June – 1 July 2016. One of the conclusions of the conference was that there is a need to reinforce farmers' position as they appear as the weakest link in the food supply chain. This conference prepared the ground for the next informal agricultural Council which will take place on 11-13 September 2016 and will focus on the same topic.

The Presidency also aims to work on Council conclusions on this topic to be adopted in December 2016.

Further Information:

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