



2018/0082(COD)

20.7.2018

AMENDMENTS

49 - 300

Draft opinion
Marc Tarabella
(PE625.314v01)

on the proposal for a directive of the European Parliament and of the Council
on unfair trading practices in business-to-business relationships in the food
supply chain

Proposal for a directive
(COM(2018/0173 – C8-0139/2018 – 2018/0082(COD))

Amendment 49
Anna Maria Corazza Bildt

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) In 2010, the Commission-led High Level Forum endorsed a set of principles of good practice in vertical relations in the food supply chain agreed by business organisations representing all links in the food supply chain, including farmers. These principles became the basis for the Supply Chain Initiative, launched in 2013.

Or. en

Amendment 50
Igor Šoltes

Proposal for a directive
Recital 3

Text proposed by the Commission

Amendment

(3) Different operators are active in the food supply chain at the stages of production, processing, marketing, distribution *and* retail *of* food products. The chain is by far the most important channel for bringing food products from “farm to fork”. Those operators trade food products, that is to say primary agricultural products, including fishery and aquaculture products, as listed in Annex I to the Treaty *for use as food*, and other food products not listed in that Annex but processed from agricultural products for use as food.

(3) Different operators are active in the *agricultural and* food supply chain at the stages of production, processing, *importing, exporting*, marketing, distribution, retail *and sale to final consumers of agricultural and* food products. The chain is by far the most important channel for bringing *agricultural and* food products from “farm to fork”. Those operators trade *agricultural and* food products, that is to say primary agricultural products, including fishery and aquaculture products, as listed in Annex I to the Treaty, and other food products not listed in that Annex but processed from agricultural products for use as food.

Amendment 51**Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz****Proposal for a directive****Recital 3***Text proposed by the Commission*

(3) Different operators are active in the food supply chain at the stages of production, processing, marketing, distribution and retail of food products. The chain is by far the most important channel for ***bringing food products from “farm to fork”***. Those operators trade food products, that is to say primary agricultural products, including fishery and aquaculture products, as listed in Annex I to the Treaty ***for use as food, and*** other food products not listed in that Annex but processed from agricultural products for use as food.

Amendment

(3) Different operators are active in the ***agricultural and*** food supply chain at the stages of production, processing, marketing, distribution and retail of ***agricultural or*** food products. The chain is by far the most important channel for ***delivering products***. Those operators trade ***agricultural or*** food products, that is to say primary agricultural products, including fishery and aquaculture products, as listed in Annex I to the Treaty, other food products not listed in that Annex but processed from agricultural products for use as food ***and agricultural products***.

Or. en

Amendment 52**Igor Šoltes****Proposal for a directive****Recital 4***Text proposed by the Commission*

(4) While business risk is inherent in all economic activity, agricultural production is particularly fraught with uncertainty due to its reliance on biological processes, since agricultural products are to a greater or lesser extent perishable and seasonable, and its exposure to weather conditions. In an agricultural policy environment that is distinctly more market-oriented than in the past, protection against

Amendment

(4) While business risk is inherent in all economic activity, agricultural production is particularly fraught with uncertainty due to its reliance on biological processes, since agricultural products are to a greater or lesser extent perishable and seasonable, and its exposure to weather conditions. In an agricultural policy environment that is distinctly more market-oriented than in the past, protection against

unfair trading practices has become more important for operators active in the food supply chain and in particular for agricultural producers and their organisations.

unfair trading practices has become more important for operators active in the ***agricultural and*** food supply chain and in particular for agricultural producers and their organisations.

Or. en

Amendment 53 **Othmar Karas**

Proposal for a directive **Recital 5**

Text proposed by the Commission

(5) The number and size of operators vary across the different stages of the ***food*** supply chain. Differences in bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized operators in the food supply chain. Agricultural producers, who supply primary agricultural products, are largely small and medium-sized.

Amendment

(5) The number and size of operators vary across the different stages of the supply chain ***for food and agricultural products***. Differences in bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized operators in the food supply chain. Agricultural producers, who supply primary agricultural products, are largely small and medium-sized. ***Agricultural producer organisations and agricultural cooperatives shall also fall under the scope of this Directive provided that their relationship with the buyer is characterized by an economic dependence due to which the supplier depends on the buyer because of the importance of the deliveries to the buyer in terms of quantity, the buyer's reputation, its market share or the absence of sufficient alternative sales possibilities.***

Or. en

Justification

Based on the proposed definition for "economic dependence" by the AGRI Rapporteur.

Amendment 54

Jasenko Selimovic, Fredrick Federley

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) The number and size of operators vary across the different stages of the food supply chain. Differences in bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized operators in the food supply chain. Agricultural producers, who supply primary agricultural products, are largely small and medium-sized.

Amendment

(5) ***Freedom of contract is a cornerstone of any business-to-business relationship in the market economy and parties should be able to design contracts that best suit their needs. However,*** the number and size of operators vary across the different stages of the food supply chain. ***Therefore,*** differences in bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized operators in the food supply chain. Agricultural producers, who supply primary agricultural products, are largely small and medium-sized.

Or. en

Amendment 55

Andreas Schwab

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) The number and size of operators vary across the different stages of the food supply chain. Differences in bargaining power relate to the different levels of

Amendment

(5) The number and size of operators vary across the different stages of the food supply chain. Differences in bargaining power relate to the different levels of

concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized operators in the food supply chain. Agricultural producers, who supply primary agricultural products, are largely small and medium-sized.

concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized **and mid-cap** operators in the food supply chain. Agricultural producers, who supply primary agricultural products, are largely small and medium-sized **or mid-cap, considering that they employ seasonal workers.**

Or. en

Amendment 56 **Igor Šoltes**

Proposal for a directive **Recital 5**

Text proposed by the Commission

(5) The number and size of operators vary across the different stages of the food supply chain. Differences in bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are ***in particular*** harmful for ***small and medium-sized*** operators in the food supply chain. Agricultural producers, who supply primary agricultural products, are ***largely*** small and medium-sized.

Amendment

(5) The number and size of operators vary across the different stages of the ***agricultural and*** food supply chain. Differences in bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are harmful for operators in the ***agricultural and*** food supply chain ***both inside and outside the Union.*** Agricultural producers, who supply primary agricultural products, are ***often*** small and medium-sized ***actors in the food supply chain.***

Or. en

Justification

Small-scale food producers and workers in developing countries suffer directly or indirectly from unfair trading practices imposed by the most powerful actors in the food supply chain.

Amendment 57

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) The number and size of operators vary across the different stages of the food supply chain. Differences in bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized operators in the food supply chain. ***Agricultural producers, who supply primary agricultural products, are largely small and medium-sized.***

Amendment

(5) The number and size of operators vary across the different stages of the food supply chain. Differences in bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized ***and mid-cap*** operators in the ***agricultural and*** food supply chain.

Or. en

Amendment 58

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz, Andreas Schwab

Proposal for a directive

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Agricultural producers, who supply primary agricultural products, are largely small and medium-sized. But the limited criteria of small and medium-sized enterprises in agricultural production are often exceeded e.g. when employing seasonal workers. Therefore, it is adequate to enlarge the scope to mid-caps. Mid-cap companies are enterprises or Producer Organisation, cooperatives or Associations of Producer Organisations with a medium-sized structure and with a high capital ratio with a staff headcount of up to 3000 employees. Furthermore, mid-caps can be family-run enterprises.

Small and medium-sized enterprises and mid-caps have little market power in comparison to the big players in the agricultural or food supply chain.

Or. en

Amendment 59
Anna Maria Corazza Bildt

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) A majority of all Member States, but not all of them, have specific national rules that protect suppliers against unfair trading practices occurring in business-to-business relationships in the food supply chain. *Where reliance on contract law or self-regulatory initiatives is possible*, fear of retaliation against a complainant *limits the practical value of these forms of* redress. Certain Member States, which have specific rules on unfair trading practices in place, therefore entrust administrative authorities with their enforcement. However, Member States' unfair trading practices rules - to the extent they exist - are characterised by significant divergence.

Amendment

(6) A majority of all Member States, but not all of them, have specific national rules that protect suppliers against unfair trading practices occurring in business-to-business relationships in the food supply chain. Fear of retaliation against a complainant *is often invoked as an issue in seeking* redress. Certain Member States, which have specific rules on unfair trading practices in place, therefore entrust administrative authorities with their enforcement. However, Member States' unfair trading practices rules - to the extent they exist - are characterised by significant divergence.

Or. en

Amendment 60
Igor Šoltes

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) A majority of all Member States, but not all of them, have specific national

Amendment

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rules that protect suppliers against unfair trading practices occurring in business-to-business relationships in the food supply chain. Where reliance on contract law or self-regulatory initiatives is possible, fear of retaliation against a complainant limits the practical value of these forms of redress. Certain Member States, which have specific rules on unfair trading practices in place, therefore entrust administrative authorities with their enforcement. However, Member States' unfair trading practices rules - to the extent they exist - are characterised by significant divergence.

rules that protect suppliers against unfair trading practices occurring in business-to-business relationships in the ***agricultural and*** food supply chain. Where reliance on contract law or self-regulatory initiatives is possible, fear of retaliation against a complainant limits the practical value of these forms of redress. Certain Member States, which have specific rules on unfair trading practices in place, therefore entrust administrative authorities with their enforcement. However, Member States' unfair trading practices rules - to the extent they exist - are characterised by significant divergence.

Or. en

Amendment 61

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) A majority of all Member States, but not all of them, have specific national rules that protect suppliers against unfair trading practices occurring in business-to-business relationships in the food supply chain. Where reliance on contract law or self-regulatory initiatives is possible, fear of retaliation against a complainant limits the practical value of these forms of redress. Certain Member States, which have specific rules on unfair trading practices in place, therefore entrust administrative authorities with their enforcement. However, Member States' unfair trading practices rules - to the extent they exist - are characterised by significant divergence.

Amendment

(6) A majority of all Member States, but not all of them, have specific national rules that protect suppliers against unfair trading practices occurring in business-to-business relationships in the ***agricultural or*** food supply chain. Where reliance on contract law or self-regulatory initiatives is possible, fear of retaliation against a complainant limits the practical value of these forms of redress. Certain Member States, which have specific rules on unfair trading practices in place, therefore entrust administrative authorities with their enforcement. However, Member States' unfair trading practices rules - to the extent they exist - are characterised by significant divergence.

Or. en

Amendment 62
Anna Maria Corazza Bildt

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) A minimum Union standard of protection against certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹². Those micro, small or medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. ***As the financial pressure on small and medium-sized enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect small and medium-sized intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.***

¹² OJ L 124, 20.5.2003, p. 36.

Amendment

(7) A minimum Union standard of protection against certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹². Those micro, small or medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability.

¹² OJ L 124, 20.5.2003, p. 36.

Or. en

Amendment 63
Robert Jarosław Iwaszkiewicz

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) A minimum Union standard of protection against certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices ***and to contribute to ensuring a fair standard of living for agricultural producers***. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, ***provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹²***. ***Those micro, small or medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on small and medium-sized enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect small and medium-sized intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.***

¹² OJ L 124, 20.5.2003, p. 36.

Amendment

(7) A minimum Union standard of protection against certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer, ***producer*** organisations and associations of producer organisations.

Or. en

Amendment 64

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) A minimum Union standard of protection against certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹². Those micro, small *or* medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on small and medium-sized enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect small and medium-sized intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.

¹² OJ L 124, 20.5.2003, p. 36.

Amendment

(7) A minimum Union standard of protection against certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies *agricultural or* food products, including producer organisations and associations of producer organisations, provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹² *or are mid-cap enterprises*. Those micro, small, medium *or mid-cap* suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on small and medium-sized *and mid-cap* enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect small and medium-sized *and mid-cap* intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.

¹² OJ L 124, 20.5.2003, p. 36.

Amendment 65
Andreas Schwab

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) A minimum Union standard of protection against certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹². Those micro, small *or* medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on small and medium-sized enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect small and medium-sized intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.

Amendment

(7) A minimum Union standard of protection against certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹² *or are mid-cap enterprises*. Those micro, small, medium *or mid-cap* suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on small and medium-sized *and mid-cap* enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect small and medium-sized *and mid-cap* intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.

Amendment 66
Jasenko Selimovic

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) A minimum Union standard of protection against certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹². Those micro, small or medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on small and medium-sized enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect small and medium-sized intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.

Amendment

(7) A minimum Union standard of protection against certain **widespread** manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹². Those micro, small or medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on small and medium-sized enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect small and medium-sized intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.

Amendment 67
Igor Šoltes

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) A minimum Union standard of protection against ***certain manifestly*** unfair trading practices should be introduced to reduce the occurrence of such practices ***and*** to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, ***provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹²***. Those micro, small or medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on small and medium-sized enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect ***small and medium-sized*** intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed

Amendment

(7) A minimum Union standard of protection against unfair trading practices should be introduced to reduce the occurrence of such practices, to contribute to ensuring a fair standard of living for agricultural producers ***inside and outside the Union, to prevent precarious working conditions, unsafe and unsustainable practices, loss of food quality and food waste along the food supply chain***. It should benefit all agricultural producers or any natural or legal person that supplies ***agricultural and*** food products, including producer organisations and associations of producer organisations. Micro, small or medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. ***However***, as the financial pressure on small and medium-sized enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers ***inside and outside the Union*** should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-

products, to non-protected suppliers.

protected suppliers.

¹² OJ L 124, 20.5.2003, p. 36.

Or. en

Justification

Unfair trading practices are a driver of food waste, unsafe and unsustainable practices, precarious working conditions and a threat to the income of small-scale food producers and workers all along the food supply chain both in the European Union and around the world. This directive should contribute to tackling all these issues.

Amendment 68 **Jasenko Selimovic, Dita Charanzová**

Proposal for a directive **Recital 7 a (new)**

Text proposed by the Commission

Amendment

(7a) It is essential to prohibit at Union level manifestly widespread unfair trading practices in business-to-business relationships between suppliers without bargaining power and non-SME buyers in the food supply chain, and to provide an exhaustive and minimum list of what can be considered as such. Having a broad or vague definition of unfair trading practices could prevent efficiency-enhancing behaviours and commercial practices between those operators from taking place. Proscribing behaviours that are efficiency-enhancing will reduce the surplus to a transaction and likely harm all parties to it, making it imperative not to incorrectly identify such behaviours as unfair trading practices at Union level.

Or. en

Amendment 69

Maria Grapini

Proposal for a directive

Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) In order for the difficulties of the suppliers not to persist, thus avoiding the fragmentation of the market for food, it is necessary for the list of prohibited practices to explicitly include other types of practice which are extremely harmful to the market.

Or. en

Amendment 70

Robert Jarosław Iwaszkiewicz

Proposal for a directive

Recital 8

Text proposed by the Commission

Amendment

(8) Suppliers established outside the Union should be able to rely on the Union minimum standard when they sell food products to buyers established in the Union to avoid unintended distorting effects resulting from the protection of suppliers in the Union.

deleted

Or. en

Amendment 71

Igor Šoltes

Proposal for a directive

Recital 8

Text proposed by the Commission

Amendment

(8) Suppliers established outside the

(8) *To ensure the Union meets its*

Union should be able to rely on the Union minimum standard when they sell food products to buyers *established in the Union* to avoid unintended distorting effects resulting from the protection of suppliers in the Union.

Treaty obligation of Policy Coherence for Development and its commitments under the Sustainable Development Goals, suppliers established outside the Union should be able to rely on the Union minimum standard when they sell ***agricultural and*** food products to ***all*** buyers ***marketing and placing those products on the Union market*** to avoid unintended distorting effects resulting from the protection of suppliers in the Union.

Or. en

Justification

The diminishing share of revenues reaching small scale food producers and workers in developing countries and the working conditions they face as a consequence of unfair trading practices undermine the Union's development policy and its objectives under the 2030 Agenda for Sustainable Development.

Amendment 72 **Igor Šoltes**

Proposal for a directive **Recital 9**

Text proposed by the Commission

(9) The relevant rules should apply to business conduct by ***larger, that is to say non-small and medium-sized,*** operators in the food supply chain ***as they are the ones who normally possess stronger relative bargaining power when trading with small and medium-sized suppliers.***

Amendment

(9) The relevant rules should apply to business conduct by operators in the ***agricultural and*** food supply chain.

Or. en

Amendment 73 **Jasenko Selimovic**

Proposal for a directive **Recital 10**

Text proposed by the Commission

(10) As a majority of Member States already have national rules on unfair trading practices, albeit diverging, it is appropriate to use the tool of a Directive to introduce a minimum protection standard under Union law. This should enable Member States to integrate the relevant rules into their national legal order in such a way as to bring about a cohesive regime. Member States should not be precluded from adopting and applying on their territory stricter national laws protecting small and medium-sized suppliers and buyers against unfair trading practices occurring in business-to-business relationships in the food supply chain, subject to the limits of Union law applicable to the functioning of the internal market.

Amendment

(10) As a majority of Member States already have national rules on unfair trading practices, albeit diverging, it is appropriate to use the tool of a Directive to introduce a minimum protection standard ***against widespread unfair practices*** under Union law. This should enable Member States to integrate the relevant rules into their national legal order in such a way as to bring about a cohesive regime. Member States should not be precluded from adopting and applying on their territory stricter national laws protecting small and medium-sized suppliers and buyers against unfair trading practices occurring in business-to-business relationships in the food supply chain, subject to ***proportionality and*** the limits of Union law applicable to the functioning of the internal market.

Or. en

Amendment 74

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) As a majority of Member States already have national rules on unfair trading practices, albeit diverging, it is appropriate to use the tool of a Directive to introduce a minimum protection standard under Union law. This should enable Member States to integrate the relevant rules into their national legal order in such a way as to bring about a cohesive regime. Member States should not be precluded from adopting and applying on their territory stricter national laws protecting small and medium-sized suppliers and

Amendment

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buyers against unfair trading practices occurring in business-to-business relationships in the food supply chain, subject to the limits of Union law applicable to the functioning of the internal market.

buyers against unfair trading practices occurring in business-to-business relationships in the *agricultural and* food supply chain, subject to the limits of Union law applicable to the functioning of the internal market.

Or. en

Amendment 75

Igor Šoltes

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) As a majority of Member States already have national rules on unfair trading practices, albeit diverging, it is appropriate to use the tool of a Directive to introduce a minimum protection standard under Union law. This should enable Member States to integrate the relevant rules into their national legal order in such a way as to bring about a cohesive regime. Member States should not be precluded from adopting and applying on their territory stricter national laws protecting *small and medium-sized* suppliers and buyers against unfair trading practices occurring in business-to-business relationships in the food supply chain, subject to the limits of Union law applicable to the functioning of the internal market.

Amendment

(10) As a majority of Member States already have national rules on unfair trading practices, albeit diverging, it is appropriate to use the tool of a Directive to introduce a minimum protection standard under Union law. This should enable Member States to integrate the relevant rules into their national legal order in such a way as to bring about a cohesive regime. Member States should not be precluded from adopting and applying on their territory stricter national laws protecting suppliers and buyers against unfair trading practices occurring in business-to-business relationships in the *agricultural and* food supply chain, subject to the limits of Union law applicable to the functioning of the internal market.

Or. en

Amendment 76

Marco Zullo

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) As unfair trading practices may occur at any stage of the sale of a food product, i.e. before, during or after a sales transaction, Member States should ensure that the provisions of this Directive should apply to such practices whenever they occur.

Amendment

(11) As unfair trading practices may occur at any stage of the sale of a food product, i.e. before, during or after a sales transaction, ***or in connection with the provision of services by the buyer to the supplier***, Member States should ensure that the provisions of this Directive should apply to such practices whenever they occur.

Or. en

Amendment 77
Igor Šoltes

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) As unfair trading practices may occur at any stage of the sale of ***a*** food product, i.e. before, during or after a sales transaction, Member States should ensure that the provisions of this Directive should apply to such practices whenever they occur.

Amendment

(11) As unfair trading practices may occur at any stage of the sale of ***an agricultural or*** food product, i.e. before, during or after a sales transaction, Member States should ensure that the provisions of this Directive should apply to such practices whenever they occur.

Or. en

Amendment 78
Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) As unfair trading practices may occur at any stage of the sale of ***a*** food product, i.e. before, during or after a sales transaction, Member States should ensure

Amendment

(11) As unfair trading practices may occur at any stage of the sale of ***an agricultural or*** food product, i.e. before, during or after a sales transaction, Member

that the provisions of this Directive should apply to such practices whenever they occur.

States should ensure that the provisions of this Directive should apply to such practices whenever they occur.

Or. en

Amendment 79
Jasenko Selimovic

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) As unfair trading practices may occur at any stage of the sale of a food product, i.e. before, during or after a sales transaction, Member States should ensure that the provisions of this Directive should apply to such practices whenever they occur.

Amendment

(11) As unfair trading practices may occur at any stage of the sale of a food product, i.e. before, during or after a sales transaction, Member States should ensure that the provisions of this Directive should apply to such *widespread* practices whenever they occur.

Or. en

Amendment 80
Dennis de Jong

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) When deciding whether an individual trading practice is considered unfair it is important to reduce the risk of limiting the use of fair and efficiency-creating agreements agreed between parties. As a result, it is appropriate to distinguish practices that are foreseen in clear and unambiguous terms in supply agreements between parties from practices that occur after the transaction has started without being agreed in advance in clear and unambiguous terms, so that only unilateral and retrospective changes to

Amendment

(12) When deciding whether an individual trading practice is considered unfair it is important to reduce the risk of limiting the use of fair and efficiency-creating agreements agreed between parties. As a result, it is appropriate to distinguish practices that are foreseen in clear and unambiguous terms in supply agreements between parties from practices that occur after the transaction has started without being agreed in advance in clear and unambiguous terms, so that only unilateral and retrospective changes to

those relevant terms of the supply agreement are prohibited. However, certain trading practices are considered as unfair by their very nature and should not be subject to the parties' contractual freedom to deviate from them.

those relevant terms of the supply agreement are prohibited. ***Member States, supplier organizations or associations of such organizations should assist individual suppliers with drafting and negotiating agreements as their negotiation power and experience in negotiations are often lagging as opposed to the buyers.*** However, certain trading practices are considered as unfair by their very nature and should not be subject to the parties' contractual freedom to deviate from them.

Or. en

Amendment 81 **Igor Šoltes**

Proposal for a directive **Recital 12**

Text proposed by the Commission

(12) When deciding whether an individual trading practice is considered unfair it is important to reduce the risk of limiting the use of fair and efficiency-creating agreements agreed between parties. As a result, it is appropriate to distinguish practices that are foreseen in clear and unambiguous terms in supply agreements between parties from practices that occur after the transaction has started without being agreed in advance in clear and unambiguous terms, so that only unilateral and retrospective changes to those relevant terms of the supply agreement are prohibited. However, certain trading practices are considered as unfair by their very nature and should not be subject to the parties' contractual freedom to deviate from them.

Amendment

(12) When deciding whether an individual trading practice is considered unfair it is important to reduce the risk of limiting the use of fair and efficiency-creating agreements agreed between parties. As a result, it is appropriate to distinguish practices that are foreseen in clear and unambiguous terms, ***and which do not result from the unfair exercise of bargaining power or of an unbalanced relationship, such as the exploitation of an economic dependence,*** in supply agreements between parties from practices that occur after the transaction has started without being agreed in advance in clear and unambiguous terms, so that only unilateral and retrospective changes to those relevant terms of the supply agreement are prohibited. However, certain trading practices are considered as unfair by their very nature and should not be subject to the parties' contractual freedom

to deviate from them.

Or. en

Amendment 82
Jasenko Selimovic

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) When deciding whether an individual trading practice is considered unfair it is important to reduce the risk of limiting the use of fair and efficiency-creating *agreements* agreed between parties. As a result, *it is appropriate to distinguish practices that are foreseen in clear and unambiguous terms in supply agreements between parties from practices that occur after the transaction has started without being agreed in advance in clear and unambiguous terms, so that only unilateral and retrospective changes to those relevant terms of the supply agreement are prohibited.* However, certain trading practices are considered as unfair by their very nature and should not be subject to the parties' contractual freedom to deviate from them.

Amendment

(12) When deciding whether an individual trading practice is considered unfair it is important to reduce the risk of limiting the use of fair and efficiency-creating *arrangements* agreed between parties. *As a result, a specific distinction between provisions or conditions agreed ex-ante and which typically lead to efficiencies for both parties and practices that occur ex-post and reduce or eliminate the efficiencies for the party with weaker bargaining power should be applied in this Directive. Contractual provisions or trading conditions agreed ex-ante should only be regulated as unfair trading practices where it is generally the case that they do not lead to efficiencies for the party with weaker bargaining power in the transaction.* However, certain trading practices are considered as unfair by their very nature and should not be subject to the parties' contractual freedom to deviate from them.

Or. en

Amendment 83
Igor Šoltes

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) Complaints by producer organisations or associations of such organisations can serve to protect the identity of individual members of the organisation who are small and medium-sized suppliers and consider themselves exposed to unfair trading practices. Enforcement authorities of the Member States should therefore be able to accept and act upon complaints by such entities while protecting the procedural rights of the defendant.

Amendment

(14) Complaints by producer organisations or associations of such organisations, ***as well as by organisations working with producers or with a proven expertise trading practices in food supply chains, including non-governmental and civil society organisations***, can serve to protect the identity of individual members of the organisation who are small and medium-sized suppliers and consider themselves exposed to unfair trading practices. Enforcement authorities of the Member States should therefore be able to accept and act upon complaints by such entities while protecting the procedural rights of the defendant.

Or. en

Justification

The amendment aims at extending to representative associations the right to lodge a complaint on behalf of one or more of their members, as most of the individual suppliers do not have the means to proceed autonomously.

Amendment 84

Marco Zullo

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Complaints by producer organisations or associations of such organisations can serve to protect the identity of individual members of the organisation who are small and medium-sized suppliers and consider themselves exposed to unfair trading practices. Enforcement authorities of the Member States should therefore be able to accept and act upon complaints by such entities

Amendment

(14) Complaints by producer organisations or associations of such organisations ***or organisations with knowledge of trading practices in the supply chain*** can serve to protect the identity of individual members of the organisation who are small and medium-sized suppliers and consider themselves exposed to unfair trading practices. Enforcement authorities of the Member

while protecting the procedural rights of the defendant.

States should therefore be able to accept and act upon complaints by such entities while protecting the procedural rights of the defendant.

Or. en

Amendment 85
Edward Czesak

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) Special attention should be paid to the protection of the identity of complainants and other victims of practices if the authority pursues the obligation under Article 6(e) of the Directive.

Or. en

Amendment 86
Igor Šoltes

Proposal for a directive
Recital 15

Text proposed by the Commission

Amendment

(15) The enforcement authorities of the Member States should have the necessary powers that enable them to effectively gather any factual information by way of information requests. They should have the power to order the termination of a prohibited practice, where applicable. The existence of a deterrent, such as the power to impose fines and the publication of investigation results, can encourage behavioural change and pre-litigation solutions between the parties and should therefore be part of the powers of the

(15) The enforcement authorities of the Member States should have the necessary powers that enable them to effectively gather any factual information by way of information requests ***or being able to perform on-site inspections***. They should have the power to order the termination of a prohibited practice, where applicable. The existence of a deterrent, such as the power to impose fines and the publication of investigation results, can encourage behavioural change and pre-litigation solutions between the parties and should

enforcement authorities. The Commission and the enforcement authorities of the Member States should *cooperate* closely so as to ensure a common approach with respect to the application of the rules set out in this Directive. In particular, the enforcement authorities should provide each other mutual assistance, for example by sharing information *and* assisting in investigations which have a cross-border dimension.

therefore be part of the powers of the enforcement authorities. The Commission and the enforcement authorities of the Member States should *coordinate their actions* closely *via the establishment of a Coordination Forum* so as to ensure a common approach with respect to the application of the rules set out in this Directive. In particular, the enforcement authorities should provide each other mutual assistance, for example by sharing information, assisting in investigations *and taking enforcement measures in cases* which have a cross-border dimension.

Or. en

Amendment 87
Anna Maria Corazza Bildt

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) The enforcement authorities of the Member States should have the necessary powers that enable them to effectively gather any factual information by way of information requests. They should have the power to order the termination of a prohibited practice, where applicable. The existence of a deterrent, such as the power to impose *fines and the publication of investigation results, can encourage behavioural change and pre-litigation solutions between the parties and* should therefore be part of the powers of the enforcement authorities. The Commission and the enforcement authorities of the Member States should cooperate closely so as to ensure a common approach with respect to the application of the rules set out in this Directive. In particular, the enforcement authorities should provide each other mutual assistance, for example by sharing information and assisting in

Amendment

(15) The enforcement authorities of the Member States should have the necessary powers that enable them to effectively gather any factual information by way of information requests. They should have the power to order the termination of a prohibited practice, where applicable. The existence of a deterrent, such as the power to impose *penalties*, should therefore be part of the powers of the enforcement authorities. *Penalties should be proportionate and non-discriminatory.* The Commission and the enforcement authorities of the Member States should cooperate closely so as to ensure a common approach with respect to the application of the rules set out in this Directive. In particular, the enforcement authorities should provide each other mutual assistance, for example by sharing information and assisting in investigations

investigations which have a cross-border dimension.

which have a cross-border dimension.

Or. en

Amendment 88
Anna Maria Corazza Bildt

Proposal for a directive
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15a) National authorities should encourage operators to make use of established mediation services where available and facilitate dialogue among stakeholders as a means of improving the governance of the food supply chain.

Or. en

Amendment 89
Igor Šoltes

Proposal for a directive
Recital 16

Text proposed by the Commission

Amendment

(16) To *facilitate effective* enforcement, the Commission should *help organise meetings between* the enforcement authorities of the Member States where best practices can be exchanged and relevant information can be shared. The Commission should establish and manage a website to facilitate *those exchanges*.

(16) To *ensure proper* enforcement, the Commission should *establish a Coordination Forum with representatives of* the enforcement authorities of the Member States where best practices can be exchanged and relevant information can be shared. The Commission should *also* establish and manage a website to facilitate *this coordination*.

Or. en

Amendment 90
Anna Maria Corazza Bildt

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) The rules laid down in this Directive should not impair the possibility for the Member States to maintain existing rules that are further-reaching or to adopt such rules in the future, subject to the limits of Union law applicable to the functioning of the internal market. The rules would apply alongside voluntary governance measures.

Amendment

(17) The rules laid down in this Directive should not impair the possibility for the Member States to maintain existing rules that are further-reaching or to adopt such rules in the future, subject to the limits of Union law applicable to the functioning of the internal market. The rules ***should be subject to a pre-notification procedure and*** would apply alongside voluntary governance measures.

Or. en

Amendment 91
Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) In the interest of an effective implementation of the policy in respect of unfair trading practices in business-to-business relationships in the food supply chain, the Commission should review the application of this Directive and submit a report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The review should also pay particular attention to whether protection of small and medium-sized buyers of food products in the supply chain – in addition to the protection of small and medium sized suppliers – in the future would be justified,

Amendment

(19) In the interest of an effective implementation of the policy in respect of unfair trading practices in business-to-business relationships in the food supply chain, the Commission should review the application of this Directive and submit a report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The review should also pay particular attention to ***a possible enlargement of the lists of prohibited unfair trading practices and*** whether protection of small and medium-sized buyers of food products in the supply chain – in addition to the protection of small and medium sized suppliers – in the future would be justified,

Amendment 92**Igor Šoltes****Proposal for a directive****Recital 19***Text proposed by the Commission*

(19) In the interest of an effective implementation of the policy in respect of unfair trading practices in business-to-business relationships in the food supply chain, the Commission should review the application of this Directive and submit a report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The review should also pay particular attention to whether protection of *small and medium-sized* buyers of food products in the supply chain – in addition to the protection of *small and medium sized* suppliers – in the future would be justified,

Amendment

(19) In the interest of an effective implementation of the policy in respect of unfair trading practices in business-to-business relationships in the *agricultural and* food supply chain, the Commission should review the application of this Directive and submit a report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The review should also pay particular attention to whether protection of buyers of food products in the supply chain – in addition to the protection of suppliers – in the future would be justified,

Or. en

Amendment 93**Marco Zullo****Proposal for a directive****Article 1 – paragraph 1***Text proposed by the Commission*

1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers in the food supply chain and lays down minimum rules concerning their enforcement and arrangements for the coordination between enforcement authorities.

Amendment

1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers, *such as producers, producer organisations, cooperatives and associations of producer organisations*, in the food supply chain and lays down minimum rules concerning their

enforcement and arrangements for the coordination between enforcement authorities.

Or. en

Amendment 94

Othmar Karas

Proposal for a directive

Article 1 – paragraph 1

Text proposed by the Commission

1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers in the *food* supply chain and lays down minimum rules concerning their enforcement and arrangements for the coordination between enforcement authorities.

Amendment

1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers in the supply chain ***regarding food products and agricultural products listed in Annex I to the Treaty*** and lays down minimum rules concerning their enforcement and arrangements for the coordination between enforcement authorities.

Or. en

Justification

Changes should be reflected throughout the whole text with regard to the usage of food products and/or agricultural products.

Amendment 95

Igor Šoltes

Proposal for a directive

Article 1 – paragraph 1

Text proposed by the Commission

1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers in the food supply chain and lays down minimum rules concerning their

Amendment

1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers in the ***agricultural and*** food supply chain and lays down minimum rules concerning their

enforcement and arrangements for the coordination between enforcement authorities.

enforcement and arrangements for the coordination between enforcement authorities.

Or. en

Amendment 96

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive

Article 1 – paragraph 1

Text proposed by the Commission

1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers in the food supply chain and lays down minimum rules concerning their enforcement and arrangements for the coordination between enforcement authorities.

Amendment

1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers in the ***agricultural or*** food supply chain and lays down minimum rules concerning their enforcement and arrangements for the coordination between enforcement authorities.

Or. en

Amendment 97

Jasenko Selimovic

Proposal for a directive

Article 1 – paragraph 1

Text proposed by the Commission

1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers in the food supply chain and lays down minimum rules concerning their enforcement and arrangements for the coordination between enforcement authorities.

Amendment

1. This Directive establishes a minimum list of ***widespread*** prohibited unfair trading practices between buyers and suppliers in the food supply chain and lays down minimum rules concerning their enforcement and arrangements for the coordination between enforcement authorities.

Or. en

Amendment 98

Sergio Gutiérrez Prieto, Clara Eugenia Aguilera García

Proposal for a directive

Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive applies to certain unfair trading practices which occur *in relation* to the *sales of food products by a supplier that is a small and medium-sized enterprise to a buyer that is not a small and medium-sized enterprise*.

Amendment

2. This Directive applies to certain unfair trading practices which occur to *all types of operator along the food supply chain, in any of the following circumstances*:

a) *one of the operators is an SME and the other is not;*

b) *one of the operators has primary agricultural, livestock, fishery or forestry producer status, or is a group having such status, and the other does not;*

c) *one of the operators is economically dependent on the other operator, meaning that the total sum for which the supplier invoiced the buyer accounts for at least 30% of the supplier turnover during the previous year.*

Or. en

Justification

From the expression "minimum list of unfair commercial practices prohibited between buyers and suppliers in the food supply chain", it cannot be deduced that the purpose of the Directive is exclusively the protection of the supplier from the buyer abuses. The wording indicated will apply to all operations between operators of the chain, both upwards and downwards.

Amendment 99

Othmar Karas

Proposal for a directive

Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive applies to certain

Amendment

2. This Directive applies to certain

unfair trading practices which occur in relation to the sales of food products by a supplier *that is a small and medium-sized enterprise* to a buyer that is not a small and medium-sized enterprise.

unfair trading practices which occur in relation to the sales of food products *and agricultural products listed in Annex I to the Treaty* by a supplier to a buyer that is not a small and medium-sized enterprise *for processing or distribution in the Union, irrespective of their place of establishment*.

Or. en

Amendment 100

Robert Jarosław Iwaszkiewicz

Proposal for a directive Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive applies to *certain* unfair trading practices which occur in relation to the sales of food products by a supplier *that is a small and medium-sized enterprise* to a buyer *that is not a small and medium-sized enterprise*.

Amendment

2. This Directive applies to unfair trading practices which occur in relation to the sales of *agricultural or* food products by a supplier to a buyer.

Or. en

Amendment 101

Lara Comi

Proposal for a directive Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products by a supplier *that is a small and medium-sized enterprise* to a buyer that is not a small and medium-sized enterprise.

Amendment

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products, *as well as to the services related to those products*, by a supplier to a buyer that is not a small and medium-sized enterprise.

Or. en

Amendment 102

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive

Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products by a supplier that is a small and medium-sized enterprise to a buyer that is not a small and medium-sized enterprise.

Amendment

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of ***agricultural or*** food products by a supplier that is a small and medium-sized ***or mid-cap*** enterprise to a buyer that is not a small and medium-sized enterprise.

Or. en

Justification

The limitation of the scope to only SMEs on the supplier sides is too narrow. Food producers and farmers are the weakest link in the supply chain. That's why they need special protection. But many food producers and farmers would fall out of the scope because of the restriction to SMEs. Very often these undertakings employ more than 250 employees but are still not comparable to the "big players" in the market.

Amendment 103

Igor Šoltes

Proposal for a directive

Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products by a supplier ***that is a small and medium-sized enterprise*** to a buyer ***that is not a small and medium-sized enterprise***.

Amendment

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of ***agricultural and*** food products by a supplier to a buyer, ***including transactions between producer organisations or cooperatives and their members***.

Or. en

Justification

Extending the scope to all buyers is essential to prevent UTPs being passed on along the supply chain without any access to complaint mechanisms for affected producers and suppliers (“domino effect”). Including the relations between cooperatives and their members is necessary especially in the dairy sector, where cooperatives often have acquired substantial bargaining power vis-à-vis their members.

Amendment 104 **Andreas Schwab**

Proposal for a directive **Article 1 – paragraph 2**

Text proposed by the Commission

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products by a supplier that is a small and medium-sized enterprise to a buyer that is not a small and medium-sized enterprise.

Amendment

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products by a supplier that is a small and medium-sized **or mid-cap** enterprise to a buyer that is not a small and medium-sized enterprise.

Or. en

Amendment 105 **Nicola Danti, Olga Sehnalová**

Proposal for a directive **Article 1 – paragraph 2**

Text proposed by the Commission

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products by a supplier **that is a small and medium-sized enterprise** to a buyer **that is not a small and medium-sized enterprise**.

Amendment

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of **agricultural and** food products by a supplier to a buyer, **and to the ancillary or access services provided by a buyer related to those products**.

Or. en

Amendment 106
Jasenko Selimovic

Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products by a supplier that is a small and medium-sized enterprise to a buyer that is not a small and medium-sized enterprise.

Amendment

2. This Directive applies to certain **widespread** unfair trading practices which occur in relation to the sales of food products by a supplier that is a small and medium-sized enterprise to a buyer that is not a small and medium-sized enterprise.

Or. en

Amendment 107
Marco Zullo

Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products by a supplier **that is a small and medium-sized enterprise** to a buyer that is not a small and medium-sized enterprise.

Amendment

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products, **or to services related to those products**, by a supplier to a buyer that is not a small and medium-sized enterprise.

Or. en

Amendment 108
Edward Czesak

Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive applies to **certain** unfair trading practices which occur in relation to the sales of food products by a

Amendment

2. This Directive applies to unfair trading practices which occur in relation to the sales of **agricultural and food**

supplier *that is a small and medium-sized enterprise* to a buyer *that is not a small and medium-sized enterprise*.

products, *as well as to the services related to those products*, by a supplier to a buyer.

Or. en

Amendment 109

Sergio Gutiérrez Prieto, Clara Eugenia Aguilera García

Proposal for a directive

Article 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Directive shall not apply to product deliveries made to agricultural cooperatives and other associated entities by their members, provided that they are compulsory according to their organization's rules.

Or. en

Justification

The proposed wording excludes of the scope agriculture cooperatives.

Amendment 110

Jasenko Selimovic, Dita Charanzová, Fredrick Federley

Proposal for a directive

Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. This Directive shall apply to supply **agreements** concluded after the date of applicability of the provisions transposing this Directive referred to in the second subparagraph of Article 12(1).

3. This Directive shall apply to supply **arrangements** concluded after the date of applicability of the provisions transposing this Directive referred to in the second subparagraph of Article 12(1).

Or. en

Amendment 111

Sergio Gutiérrez Prieto, Clara Eugenia Aguilera García

Proposal for a directive

Article 1 – paragraph 3

Text proposed by the Commission

3. This Directive shall apply to **supply** agreements concluded after the date of applicability of the provisions transposing this Directive referred to in the second subparagraph of Article 12(1).

Amendment

3. This Directive shall apply to **food** agreements concluded after the date of applicability of the provisions transposing this Directive referred to in the second subparagraph of Article 12(1).

Or. en

Amendment 112

Jasenko Selimovic, Dita Charanzová

Proposal for a directive

Article 1 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States may, in accordance with Article 8, provide for rules that go beyond the provisions of this Article.

Or. en

Amendment 113

Lara Comi

Proposal for a directive

Article 2 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) “buyer” means any natural or legal person **established in the Union** who buys food products by way of trade. The term "buyer" may include a group of such natural and legal persons;

(a) “buyer” means any natural or legal person **which is not a small and medium-sized enterprise, irrespective of their place of establishment**, who buys food products **for processing or distribution in the Union and provides services to suppliers** by way of trade. The term "buyer" may

include a group of such natural and legal persons, **including those that only provide services to suppliers.**

Or. en

Justification

Non-EU buyers should be covered as long as the product is intended for the EU food supply chain. Often, the place of establishment of the buyer is the place where the food product is going to be delivered and marketed but not always. Several international retail alliances of EU retailers are established outside the EU (e.g., Switzerland). It is important to clarify that the Directive also covers UTPs committed by the subsidiaries or alliances of buyers when they negotiate/impose ancillary services to suppliers of food products.

Amendment 114 **Othmar Karas**

Proposal for a directive **Article 2 – paragraph 1 – point a**

Text proposed by the Commission

(a) “buyer” means any natural or legal person **established in the Union** who buys **food** products by way of trade. The term "buyer" may include a group of such natural and legal persons;

Amendment

(a) “buyer” means any natural or legal person, **irrespective of their place of establishment**, who buys **agricultural products for processing or distribution in the Union and provides services to suppliers** by way of trade. The term "buyer" may include a group of such natural and legal persons, **including those that only provide services to suppliers;**

Or. en

Justification

Adaption of the definition necessary in order to avoid retailers and alliances to establish buying units outside the EU in order to escape the Directive's jurisdiction. Directive should also cover UTPs committed by the subsidiaries or alliances of buyers when they negotiate/impose ancillary services to suppliers of food products. Some international alliances of buyers only negotiate services.

Amendment 115
Andreas Schwab

Proposal for a directive
Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) “buyer” means any natural or legal person established *in the Union* who buys food products by way of trade. The term "buyer" may include a group of such natural and legal persons;

Amendment

(a) “buyer” means any natural or legal person *which not a small, medium-sized or cap-sized enterprise, irrespective of where they are* established, who buys food products *for processing or distribution in the Union* by way of trade. The term "buyer" may include a group of such natural and legal persons;

Or. en

Amendment 116
Marco Zullo

Proposal for a directive
Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) “buyer” means any natural or legal person *established in the Union* who buys food products by way of trade. The term "buyer" may include a group of such natural and legal persons;

Amendment

(a) “buyer” means any natural or legal person *irrespective of their place of establishment*, who buys food products by way of trade *in order to process or distribute them in the Union*. The term "buyer" may include a group of such natural and legal persons;

Or. en

Amendment 117
Igor Šoltes

Proposal for a directive
Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) “buyer” means any natural or legal person ***established in the Union*** who buys food products by way of trade. The term "buyer" may include a group of such natural and legal persons;

Amendment

(a) “buyer” means any natural or legal person ***irrespective of their place of establishment*** who buys ***agricultural or*** food products by way of trade ***to place them on the Union market***. The term "buyer" may include a group of such natural and legal persons;

Or. en

Justification

The amendment aims at including within the scope of the Directive those operators that, though established outside the EU, buy and sell products in the EU market, and avoiding that a buyer can escape the provisions by simply moving its place of establishment outside the EU.

Amendment 118

Robert Jarosław Iwaszkiewicz

Proposal for a directive

Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) “buyer” means ***any natural or legal*** person ***established in the Union who buys*** food products by way of trade. The term "buyer" may include a group of such natural and legal persons;

Amendment

(a) “buyer” means ***a person who directly or indirectly purchases from the supplier agricultural or*** food products by way of trade ***for sale, resale or processing***. The term "buyer" may include a group of such natural and legal persons;

Or. en

Amendment 119

Sergio Gutiérrez Prieto, Clara Eugenia Aguilera García

Proposal for a directive

Article 2 – paragraph 1 – point b

Text proposed by the Commission

(b) “supplier” means any agricultural

Amendment

(b) “supplier” means any agricultural

producer or any natural or legal person, ***irrespective of their place of establishment***, who sells food products. The term “supplier” may include a group of such agricultural producers or such natural and legal persons, including producer organisations and associations of producer organisations;

producer or any natural or legal person, ***established in the Union***, who sells food products. The term “supplier” may include a group of such agricultural producers or such natural and legal persons, including producer organisations and associations of producer organisations ***or agricultural cooperatives***;

Or. en

Amendment 120

Igor Šoltés

Proposal for a directive **Article 2 – paragraph 1 – point b**

Text proposed by the Commission

(b) “supplier” means any agricultural producer or any natural or legal person, irrespective of their place of establishment, who sells food products. The term “supplier” may include a group of such agricultural producers or such natural and legal persons, including producer organisations and associations of producer organisations;

Amendment

(b) “supplier” means any agricultural producer or any natural or legal person, irrespective of their place of establishment, who sells ***agricultural or*** food products. The term “supplier” may include a group of such agricultural producers or such natural and legal persons, including producer organisations and associations of producer organisations;

Or. en

Amendment 121

Robert Jarosław Iwaszkiewicz

Proposal for a directive **Article 2 – paragraph 1 – point b**

Text proposed by the Commission

(b) “supplier” means any agricultural producer or any natural or legal person, ***irrespective of their place of establishment***, who sells food products. The term “supplier” may include a group of such agricultural producers or such

Amendment

(b) “supplier” means any agricultural producer or any natural or legal person who sells food products. The term “supplier” may include a group of such agricultural producers or such natural and legal persons, including producer

natural and legal persons, including producer organisations and associations of producer organisations;

organisations and associations of producer organisations;

Or. en

Amendment 122

Othmar Karas

Proposal for a directive

Article 2 – paragraph 1 – point b

Text proposed by the Commission

(b) “supplier” means any agricultural producer or any natural or legal person, *irrespective of their place of establishment*, who sells *food* products. The term “supplier” may include a group of such agricultural producers or such natural and legal persons, including producer organisations and associations of producer organisations;

Amendment

(b) “supplier” means any agricultural producer or any natural or legal person, *established in the Union market*, who sells *agricultural* products. The term “supplier” may include a group of such agricultural producers or such natural and legal persons, including producer organisations and associations of producer organisations;

Or. en

Amendment 123

Sergio Gutiérrez Prieto, Clara Eugenia Aguilera García

Proposal for a directive

Article 2 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) “food procurement contract” means a contract in which one party commits to provide the other party with food or food products and the aforementioned food inputs, for a certain price, whether this be an isolated sale or on-going supply;

Or. en

Amendment 124

Sergio Gutiérrez Prieto, Clara Eugenia Aguilera García

Proposal for a directive

Article 2 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(bb) "economic dependence" occurs when, in a relationship between supplier and buyer, the total sum for which the supplier invoiced the buyer accounts for at least 30% of supplier turnover during the previous year;

Or. en

Amendment 125

Robert Jarosław Iwaszkiewicz

Proposal for a directive

Article 2 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) "small and medium-sized enterprise" means an enterprise within the meaning of the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹⁴ ;

deleted

¹⁴ ***Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5/2003, p. 36).***

Or. en

Amendment 126

Edward Czesak

Proposal for a directive
Article 2 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) “*small and medium-sized enterprise*” means an enterprise within the meaning of the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹⁴ ;

deleted

¹⁴ *Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5/2003, p. 36).*

Or. en

Amendment 127
Igor Šoltes

Proposal for a directive
Article 2 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) “*small and medium-sized enterprise*” means an enterprise within the meaning of the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹⁴ ;

deleted

¹⁴ *Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5/2003, p. 36).*

Or. en

Amendment 128

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz, Andreas Schwab, Markus Pieper

Proposal for a directive

Article 2 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) "mid-cap enterprise" means an enterprise or a Producer Organisation, cooperative or Association of Producer Organisations with a medium-sized structure, a high capital ratio and a staff headcount of up to 3000 employees;

Or. en

Justification

This definition is important for the enlargement of the scope in Article 1 Par 2.

Amendment 129

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive

Article 2 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) “food products” means products listed in Annex I to the Treaty intended for use as food *as well as* products not listed in that Annex, but processed from those products for use as food;

(d) “**agricultural or** food products” means products listed in Annex I to the Treaty intended for use as food, products not listed in that Annex, but processed from those products for use as food, **and agricultural products**;

Or. en

Amendment 130

Igor Šoltes

Proposal for a directive

Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) “food products” means products listed in Annex I to the Treaty intended for use as food as well as products not listed in that Annex, but processed from those products for use as food;

Amendment

(d) “**agricultural and** food products” means products listed in Annex I to the Treaty intended for use as food as well as products not listed in that Annex, but processed from those products for use as food;

Or. en

Amendment 131

Robert Jarosław Iwaszkiewicz

Proposal for a directive

Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) “food products” means *products listed in Annex I to the Treaty intended for use as food as well as* products *not listed in that Annex, but processed from those products for use as food*;

Amendment

(d) “food products” means *food* products *within the meaning of Article 2 of Regulation (EC) No 178/2002*;

Or. en

Amendment 132

Othmar Karas

Proposal for a directive

Article 2 – paragraph 1 – point d a (new)

Text proposed by the Commission

(da) “agricultural products” means products listed in Annex I to the Treaty and their processing products as well as products not listed in that Annex, but processed from those products for use as food;

Amendment

Or. en

Amendment 133

Igor Šoltes

Proposal for a directive

Article 2 – paragraph 1 – point e

Text proposed by the Commission

(e) “perishable food products” means food products that will become unfit for human consumption unless they are stored, treated, packaged or otherwise conserved to prevent them from becoming unfit.

Amendment

(e) “perishable **agricultural and** food products” means **fresh agricultural and** food products that will become unfit for **proper use or** human consumption, **in particular as a result of the product’s microbiological instability**, unless they are stored, treated, packaged or otherwise conserved to prevent them from becoming unfit.

Or. en

Amendment 134

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz, Markus Pieper

Proposal for a directive

Article 2 – paragraph 1 – point e

Text proposed by the Commission

(e) “perishable food products” means food products that will become unfit for human consumption unless they are stored, treated, packaged or otherwise conserved to prevent them from becoming unfit.

Amendment

(e) “perishable **agricultural or** food products” means **fresh agricultural or** food products that will become unfit for human consumption **or intended use** unless they are stored, treated, packaged or otherwise conserved to prevent them from becoming unfit.

Or. en

Amendment 135

Edward Czesak

Proposal for a directive

Article 2 – paragraph 1 – point e

Text proposed by the Commission

(e) “perishable food products” means *food products that will become unfit for human consumption unless they are stored, treated, packaged or otherwise conserved to prevent them from becoming unfit.*

Amendment

(e) “perishable *agricultural and* food products” means *goods that rapidly decay due to their natural characteristics; in particular in the absence of appropriate storage conditions.*

Or. en

Amendment 136

Nicola Danti, Marc Tarabella, Olga Sehnalová

Proposal for a directive

Article 2 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) “*unfair trading practice*” means *any practice which grossly deviates from good commercial conduct, is contrary to good faith and fair practice and is unilaterally imposed by one trading partner upon another, occurring when an enterprise:*

- *unfairly shifts its own costs or entrepreneurial risks to the other party;*
- *submits or attempts to subject a trading partner to obligations that create a significant imbalance in the rights and obligations of the parties before, during or after the performance of the contract;*
- *obtains or attempts to obtain, under threat of total or partial termination of contractual relations, manifestly unreasonable conditions concerning prices, payment terms, terms of sale or services not covered by the purchase obligations and sales.*

Or. en

Justification

This definition of "unfair trading practice" derives from the Explanatory Memorandum of the EC proposal, the 2013 Commission's Green Paper on UTPs in the B2B food and non food chain (see point 5.4 on Unfair Transfer of Commercial Risk) and the 2011 "Vertical relationships in the Food Supply Chain: Principles of Good Practice".

Amendment 137 **Igor Šoltes**

Proposal for a directive **Article 2 – paragraph 1 – point e a (new)**

Text proposed by the Commission

Amendment

(ea) "unfair trading practices" means practices that:

- **grossly deviate from good and fair commercial conduct, are in contrary to good faith and fair dealing and are unilaterally imposed by a buyer on a supplier;**
- **impose or attempt to impose an unjustified and disproportionate transfer of a buyer's economic risk to the supplier;**
or
- **impose or attempt to impose a significant imbalance of rights and obligations on the supplier in the commercial relationship before, during or after the contract.**

Or. en

Amendment 138 **Edward Czesak**

Proposal for a directive **Article 2 – paragraph 1 – point e a (new)**

Text proposed by the Commission

Amendment

(ea) "unfair trading practice" means any practice that:

- *is not conducted in good faith and fair dealing, in formal and informal arrangements;*
- *is unilaterally imposed by one trading partner on another under duress;*
- *imposes or attempts to impose a significant imbalance of rights and obligations on the supplier in the commercial relationship.*

Or. en

Amendment 139
Jasenko Selimovic

Proposal for a directive
Article 2 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) "widespread unfair trading practices" mean practices that grossly deviate from good commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner on its counterparty, and that are widely recognized as such in at least ten Member States.

Or. en

Amendment 140
Othmar Karas

Proposal for a directive
Article 2 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) “perishable agricultural products” means agricultural products listed in Annex I to the Treaty that will become unfit for human consumption unless they are stored, treated, packaged or otherwise

conserved to prevent them from becoming unfit.

Or. en

Amendment 141
Marco Zullo

Proposal for a directive
Article 2 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) "unfair trading practice" means any commercial practice that is contrary to good faith and good commercial conduct, and which is unilaterally imposed by one trading partner on another.

Or. en

Amendment 142
Andreas Schwab

Proposal for a directive
Article 2 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) "mid-cap enterprise" means an enterprise with a medium-sized structure and a staff headcount of no more than 3000 employees;

Or. en

Amendment 143
Igor Šoltes

Proposal for a directive
Article 2 – paragraph 1 – point e b (new)

(eb) “supply agreement” means a written agreement between a supplier and a buyer that clearly and transparently covers the relevant elements of the commercial agreement, including the names of the parties, their rights and obligations, price, duration, terms of delivery, terms of payment, as well as the cause, the execution of the contract and the effect of terminating the contract.

Or. en

Justification

This definition serves to correctly develop and monitor the other elements proposed in the directive. For the sake of transparency, it is necessary to have a written contract that allows to resolve and monitor abusive practices that are regulated and forbidden in the directive itself.

Amendment 144
Lara Comi

Proposal for a directive
Article 2 a (new)

Article 2a

Overarching unfair trading practices

Member States shall ensure that the following overarching unfair trading practices are prohibited:

(a) imposing or attempting to impose an unjustified or disproportionate transfer of the buyer's economic risks to the supplier;

(b) imposing or attempting to impose on the supplier a significant imbalance of rights and obligations in the commercial relationship before, during or after the

contract.

Or. en

Justification

The first overarching UTP draws from the definition of UTP in the Explanatory Memorandum and Commission's Green paper COM(2013)37 (section 5.4) and the SCI. The second UTP draws from article L442-6 of the French Code de Commerce.

Amendment 145
Jasenko Selimovic

Proposal for a directive
Article 3 – title

Text proposed by the Commission

Amendment

Prohibition of unfair trading practices

Prohibition of **widespread** unfair trading practices

Or. en

Amendment 146
Igor Šoltes

Proposal for a directive
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall ensure that **the following** trading practices are prohibited:

1. Member States shall ensure that **all unfair** trading practices are prohibited, **including at least the following trading practices:**

Or. en

Amendment 147
Birgit Collin-Langen, Karl-Heinz Florenz, Sabine Verheyen

Proposal for a directive
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that the following trading practices are prohibited:

Amendment

1. Member States shall ensure that the following trading practices ***for perishable agricultural or food products*** are prohibited:

Or. en

Amendment 148
Jasenko Selimovic, Elsi Katainen, Fredrick Federley

Proposal for a directive
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that the following trading practices ***are*** prohibited:

Amendment

1. Member States shall ensure that the following trading practices ***constitute*** prohibited ***trading arrangements***:

Or. en

Amendment 149
Othmar Karas

Proposal for a directive
Article 3 – paragraph 1 – point a – introductory part

Text proposed by the Commission

(a) a buyer pays a supplier for perishable food products later than 30 calendar days after the receipt of the supplier's invoice or later than 30 calendar days after the date of delivery of the perishable food products, whichever is the later. This prohibition shall be without prejudice:

Amendment

(a) a buyer pays a supplier for perishable food products later than 30 calendar days after the receipt of the supplier's invoice or later than 30 calendar days after the date of ***the contractually-agreed*** delivery of the perishable food products, whichever is the later. This prohibition shall be without prejudice:

Or. en

Amendment 150

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive

Article 3 – paragraph 1 – point a – introductory part

Text proposed by the Commission

(a) a buyer pays a supplier for perishable food products later than 30 calendar days after the receipt of the supplier's invoice or later than 30 calendar days after the date of delivery of the perishable food products, whichever is the later. This prohibition shall be without prejudice:

Amendment

(a) a buyer pays a supplier for perishable ***agricultural or*** food products later than 30 calendar days after the receipt of the supplier's invoice or later than 30 calendar days after the date of delivery of the perishable food products, whichever is the later. This prohibition shall be without prejudice:

Or. en

Amendment 151

Igor Šoltes

Proposal for a directive

Article 3 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) a buyer pays a supplier for non-perishable food products more than 60 calendar days after the receipt of the supplier's invoice or more than 60 calendar days after the date of the delivery of the non-perishable food products, if this date is later. This prohibition shall be without prejudice:

- to the consequences of late payments and remedies as laid down in Directive 2011/7/EU;

- to the option of a buyer and a supplier to agree on a value sharing clause within the meaning of Article 172 of Regulation (EU) No 1308/2013;

Or. en

Amendment 152

Sergio Gutiérrez Prieto, Clara Eugenia Aguilera García

Proposal for a directive

Article 3 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) an operator sells food or food products below cost. This practice exists when the price applied to a food product is lower than the purchase price as per the invoice, less the proportional part of the discounts included in the invoice, or the actual cost of production if the good was produced by the seller itself, plus the indirect taxes charged on the transaction;

Or. en

Justification

It is necessary to expressly introduce a prohibition on the sale below costs (often as "loss leader" products) as one of the most common unfair and abusive trading practices affecting the farming sector.

Amendment 153

Igor Šoltes

Proposal for a directive

Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) a buyer cancels orders of perishable food products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products;

(b) a buyer **unilaterally** cancels orders of perishable food products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products **at the same value**;

Or. en

Amendment 154

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive

Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) a buyer cancels orders of perishable food products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products;

Amendment

(b) a buyer cancels orders of perishable **agricultural or** food products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products;

Or. en

Amendment 155

Othmar Karas

Proposal for a directive

Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) a buyer cancels orders of perishable food products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products;

Amendment

(b) a buyer cancels **unilaterally** orders of perishable food products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products;

Or. en

Amendment 156

Eva Maydell, Lambert van Nistelrooij

Proposal for a directive

Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) a buyer cancels orders of perishable food products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products;

Amendment

(b) a buyer cancels **unilaterally** orders of perishable food products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products;

Amendment 157

Andreas Schwab

Proposal for a directive

Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) a buyer cancels orders of perishable food products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products;

Amendment

(b) a buyer cancels *unilaterally* orders of perishable food products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products;

Or. en

Amendment 158

Lucy Anderson

Proposal for a directive

Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) a buyer unilaterally and retroactively changes the terms of the supply agreement concerning the frequency, timing or volume of the supply or delivery, the quality standards or the prices of the food products;

Amendment

(c) a buyer unilaterally and retroactively changes the terms of the supply agreement concerning the frequency, timing or volume of the supply or delivery, the quality standards or the prices of the food products *or the terms of payment*;

Or. en

Amendment 159

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive

Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) a buyer unilaterally and retroactively changes the terms of the supply agreement concerning the frequency, timing or volume of the supply or delivery, the quality standards or the prices of the food products;

Amendment

(c) a buyer unilaterally and retroactively changes the terms of the supply agreement concerning the frequency, timing or volume of the supply or delivery, the quality standards or the prices of the ***agricultural or*** food products;

Or. en

Amendment 160
Igor Šoltes

Proposal for a directive
Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) a buyer unilaterally ***and retroactively*** changes the terms of the supply agreement concerning the frequency, timing or volume of the supply or delivery, the quality standards or the prices of the food products;

Amendment

(c) a buyer unilaterally changes the terms of the supply agreement concerning the frequency, timing or volume of the supply or delivery, the quality standards or the prices of the ***agricultural or*** food products, ***or the terms of payment***;

Or. en

Amendment 161
Anna Maria Corazza Bildt

Proposal for a directive
Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) a supplier pays for the wastage of food products that occurs on the buyer's premises and that is not caused by the negligence or fault of the supplier.

Amendment

deleted

Or. en

Amendment 162
Igor Šoltes

Proposal for a directive
Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) a supplier pays for the wastage of food products that occurs **on** the buyer's **premises** and that is not caused by the negligence or fault of the supplier.

Amendment

(d) a supplier pays for the wastage of **agricultural or** food products that occurs **once the product has passed into** the buyer's **ownership** and that is not caused by the negligence or fault of the supplier;

Or. en

Amendment 163
Othmar Karas

Proposal for a directive
Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) a supplier pays for the wastage of food products that occurs on the buyer's premises and that is not caused by the negligence or fault of the supplier.

Amendment

(d) a supplier pays for the wastage of food products **that were delivered in due time and at the agreed quality** that occurs on the buyer's premises and that is not caused by the negligence or fault of the supplier;

Or. en

Amendment 164
Marco Zullo

Proposal for a directive
Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) a supplier pays for the wastage of food products that occurs **on** the buyer's **premises** and that is not caused by the negligence or fault of the supplier.

Amendment

(d) a supplier pays for the wastage of food products that occurs **after the product has passed into** the buyer's **ownership** and that is not caused by the negligence or fault

of the supplier;

Or. en

Amendment 165

Maria Grapini

Proposal for a directive

Article 3 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) failure by the buyer to provide detailed and unambiguous information to the supplier on all contractual provisions;

Or. en

Amendment 166

Igor Šoltes

Proposal for a directive

Article 3 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) a buyer of agricultural products or food products fails to provide the supplier with the supply agreement in written form, including sufficiently detailed and unambiguous information on the contractual terms and conditions of the purchase of agricultural or food products and the general conditions of sale;

Or. en

Amendment 167

Lara Comi

Proposal for a directive

Article 3 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) partial or total reduction of purchases under existing contracts in order to impose an amendment to an existing contract or to negotiate a new contract.

Or. en

Justification

This UTP draws from the Commission's Green paper on unfair trading practices in the business-to-business food and non-food supply chain in Europe (Sections 5.6) and the SCI. Often buyers do not even have to terminate the supply agreement to obtain unfair advantages, it suffices to reduce the volume procured. This is why the Commission Communication "Tackling unfair trading practices in the business-to-business food supply chain" refers to "the unfair termination or disruption of a commercial relationship";

Amendment 168
Marco Zullo

Proposal for a directive
Article 3 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) the buyer discloses to a third party the content of the supply contract or trade secrets which have been shared with it by the supplier;

Or. en

Amendment 169
Othmar Karas

Proposal for a directive
Article 3 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) a buyer imposes or attempts to impose an unjustified or disproportionate

transfer of the buyer's economic risks to the supplier;

Or. en

Amendment 170

Robert Jarosław Iwaszkiewicz

Proposal for a directive

Article 3 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) granting only to one party to the contract the right to terminate the contract or the right to withdraw from it;

Or. en

Amendment 171

Edward Czesak

Proposal for a directive

Article 3 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) a supplier signs a supply agreement under duress or accepts a change to it under duress;

Or. en

Amendment 172

Robert Jarosław Iwaszkiewicz

Proposal for a directive

Article 3 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) unjustified termination of the contract, or threatening to terminate the

contract.

Or. en

Amendment 173

Maria Grapini

Proposal for a directive

Article 3 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) the buyer's conditioning of the signing of the commercial agreement on the payment of annual fees, and their retroactive application;

Or. en

Amendment 174

Marco Zullo

Proposal for a directive

Article 3 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) the buyer does not inform the supplier of its intention to give a differentiated treatment to the supplier's products in relation to other competing brands owned or managed by the buyer itself, in terms of listing, store-space and commercial margins;

Or. en

Amendment 175

Edward Czesak

Proposal for a directive

Article 3 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) sharing or misuse, intentionally or by negligence, of confidential information provided by the supplier to the buyer, such as the content of the agreement or trade secrets shared by the supplier with the buyer.

Or. en

Amendment 176

Othmar Karas

Proposal for a directive

Article 3 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) a buyer imposes or attempts to impose on the supplier a significant imbalance of rights and obligations in the commercial relationship before, during or after the contract;

Or. en

Amendment 177

Igor Šoltes

Proposal for a directive

Article 3 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) a buyer sells certain products below purchase cost to stimulate the sales of other products (“loss leader”);

Or. en

Amendment 178

Maria Grapini

Proposal for a directive

Article 3 – paragraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(dc) transferring transportation and storage costs to the supplier;

Or. en

Amendment 179

Marco Zullo

Proposal for a directive

Article 3 – paragraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(dc) the buyer fails to inform the seller about its intention to undertake promotional or commercial activities which might be detrimental to the reputation of products bearing a geographical indication under Regulation (EU) 1151/2012, Regulation (EU) 110/2008 or Regulation (EU) 251/2014.

Or. en

Amendment 180

Igor Šoltes

Proposal for a directive

Article 3 – paragraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(dc) a buyer uses the argument of products not meeting cosmetic specifications inconsistently as a reason to cancel or reduce the terms of the supply

agreement;

Or. en

Amendment 181

Othmar Karas

Proposal for a directive

Article 3 – paragraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(dc) a buyer unilaterally transfers sales risk to the supplier;

Or. en

Amendment 182

Maria Grapini

Proposal for a directive

Article 3 – paragraph 1 – point d d (new)

Text proposed by the Commission

Amendment

(dd) the obligation established by the buyer for the supplier to deliver the products only to the supplier's platforms;

Or. en

Amendment 183

Igor Šoltes

Proposal for a directive

Article 3 – paragraph 1 – point d d (new)

Text proposed by the Commission

Amendment

(dd) a buyer uses overly strict 'minimum life on receipt criteria' in order to reject a previously agreed order, or to reject an order that was previously

accepted but for reasons unrelated to the supplier has not been processed quickly enough;

Or. en

Amendment 184
Othmar Karas

Proposal for a directive
Article 3 – paragraph 1 – point d d (new)

Text proposed by the Commission

Amendment

(dd) a buyer demands payment from a supplier for offering the supplier's products;

Or. en

Amendment 185
Maria Grapini

Proposal for a directive
Article 3 – paragraph 1 – point d e (new)

Text proposed by the Commission

Amendment

(de) the obligation established by the buyer for the supplier to reduce the price of agricultural or food products, if the buyer suspects that the producer has reduced the price to another distribution network, in contravention of Article 101 TFEU;

Or. en

Amendment 186
Igor Šoltes

Proposal for a directive
Article 3 – paragraph 1 – point d e (new)

Text proposed by the Commission

Amendment

(de) a buyer requires a supplier to bear the financial costs of inaccurate forecasting provided by the buyer in order for the supplier to plan their production to meet forecasted orders.

Or. en

Amendment 187
Othmar Karas

Proposal for a directive
Article 3 – paragraph 1 – point d e (new)

Text proposed by the Commission

Amendment

(de) a buyer subsequently demands payments without any return services;

Or. en

Amendment 188
Maria Grapini

Proposal for a directive
Article 3 – paragraph 1 – point d f (new)

Text proposed by the Commission

Amendment

(df) the obligation established by the buyer for the supplier to pay personnel with attributions in arranging sales areas, manipulating or selling agricultural or food products;

Or. en

Amendment 189
Othmar Karas

Proposal for a directive
Article 3 – paragraph 1 – point d f (new)

Text proposed by the Commission

Amendment

(df) a buyer threatens, directly or indirectly, to cancel a supplier's products from listing if the supplier does not comply with the buyer's demands for price reduction;

Or. en

Amendment 190
Maria Grapini

Proposal for a directive
Article 3 – paragraph 1 – point d g (new)

Text proposed by the Commission

Amendment

(dg) establishing an obligation from the buyer to the supplier to cover logistical fees and various commissions through the following terms: risturns, monthly draw, discount for efficiency in acquisition, subsequent discount and new discount, which is transposed in the self-invoicing process at the end of each month.

Or. en

Amendment 191
Othmar Karas

Proposal for a directive
Article 3 – paragraph 1 – point d g (new)

Text proposed by the Commission

Amendment

(dg) a buyer demands payment without any counter-performance;

Amendment 192

Othmar Karas

Proposal for a directive

Article 3 – paragraph 1 – point d h (new)

Text proposed by the Commission

Amendment

(dh) a buyer returns unsold food products to a supplier at the supplier's expense and without payment.

Or. en

Amendment 193

Othmar Karas

Proposal for a directive

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. These practices shall be prohibited without prejudice to the possibility for a supplier to offer proactively a longer payment deadline in accordance with Directive 2011/7/EU.

Or. en

Amendment 194

Lara Comi

Proposal for a directive

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. A buyer shall not misuse or share with any third party to the commercial relationship the content of the supply

contract and the trade secrets shared by the supplier with the buyer. The buyer shall inform the supplier in written form about internal measures put in place to comply with this obligation, and shall set them out in the contract.

Or. en

Justification

This UTP draws from the Commission's Green paper COM(2013)37(section 5.5), article 13 of the Spanish Food Chain Law and the SCI. Buyers should not be allowed to share contractual information or suppliers' trades secrets with third parties (e.g., alliance partners or suppliers of buyer's own brands). Nowadays, food retailers also compete with suppliers with their own brands and it is critical to ensure that they put in place firewalls to ensure that suppliers' trade secrets are not misused in favour of their own brands, thereby killing suppliers' incentives to innovate.

Amendment 195

Lara Comi

Proposal for a directive

Article 3 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The buyer shall inform the supplier of any differentiated treatment which the buyer gives, or intends to give, in relation to competing brands owned or managed by it. Such differentiated treatment shall include at least any specific measures or behaviour on the part of the buyer relating to listing, store-space or commercial margins.

Or. en

Justification

This UTP draws from article 6 of the proposed Regulation on online intermediaries. As explained before, fair competition between independent brands and retailers' own brands is critical to foster innovation and competition on the merits. If vertically integrated retailers are to grant trading advantages to their own brands, at least suppliers of independent brands

should be aware of their existence and scope in order to adapt their competitive strategies to this uneven playing field;

Amendment 196
Lara Comi

Proposal for a directive
Article 3 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. A buyer shall not threaten to, or actually, execute commercial retaliation against the supplier if the latter exercises its contractual and legal rights, including the filing of complaints and cooperation with national enforcement authorities.

Or. en

Justification

This UTP is necessary to protect suppliers from commercial retaliation (e.g., partial reduction of quantities ordered or termination of the supply contract) when they take legal action to enforce their contractual rights and the rights upheld in this Directive;

Amendment 197
Lara Comi

Proposal for a directive
Article 3 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

1d. A buyer shall not undertake communication or promotional activities or commercial policies which are, or which risk being, detrimental to the image of products bearing a geographical indication under Regulation (EU) No 1151/2012, Regulation (EC) No 110/2008 or Regulation (EU) No 251/2014.

Or. en

Justification

Geographical Indications often undergo a wide range of practices which have the effect of devaluating their image such as below cost sells, auctions in which the lowest bidder wins, reckless promotions, etc.

Amendment 198

Lara Comi

Proposal for a directive

Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that the following trading practices are prohibited, if they are not agreed in clear and unambiguous terms at the conclusion of the supply agreement:

Amendment

2. Member States shall ensure that the following trading practices are prohibited, if they are not agreed in clear and unambiguous terms at the conclusion of the supply agreement ***and the ensuing payments from the supplier to the buyer are not strictly related to the cost incurred by the buyer, or if they are the result of the economic dependence of the supplier on the buyer, which enabled the buyer to impose those terms:***

Or. en

Justification

It should be clarified that the “grey” UTPs listed in Article 3 should in any event be cost related, as suggested in the Commission's explanatory memorandum and in the paragraph 3 of that article. Moreover the economic dependence should be another negative alternative. In this way such practices are only acceptable if there is an agreement between the parties OR if there is no economic dependence with the buyer.

Amendment 199

Marco Zullo

Proposal for a directive

Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that the

Amendment

2. Member States shall ensure that the

following trading practices are prohibited, if they are not agreed in clear and unambiguous terms at the conclusion of the supply agreement:

following trading practices are prohibited, if they are not agreed in clear and unambiguous terms at the conclusion of the supply agreement ***or the ensuing payments are not strictly related to relevant costs incurred by the buyer:***

Or. en

Amendment 200

Jasenko Selimovic, Elsi Katainen, Fredrick Federley

Proposal for a directive

Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that the following trading practices ***are*** prohibited, if they are not agreed in clear and unambiguous terms at the conclusion of the supply agreement:

Amendment

2. Member States shall ensure that the following trading practices ***constitute*** prohibited ***trading arrangements***, if they are not agreed in clear and unambiguous terms at the conclusion of the supply agreement:

Or. en

Amendment 201

Andreas Schwab

Proposal for a directive

Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that the following trading practices are prohibited, if they are not agreed in clear and unambiguous terms at the conclusion of the supply agreement:

Amendment

2. Member States shall ensure that the following trading practices are prohibited, if they are not agreed in clear and unambiguous terms ***by the contracting parties*** at the conclusion of the supply agreement:

Or. en

Amendment 202

Dennis de Jong

Proposal for a directive

Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that the following trading practices are prohibited, if they are not agreed in clear **and** unambiguous terms at the conclusion of the supply agreement:

Amendment

2. Member States shall ensure that the following trading practices are prohibited, if they are not agreed in clear, unambiguous **and easy to understand** terms at the conclusion of the supply agreement:

Or. en

Amendment 203

Anna Maria Corazza Bildt

Proposal for a directive

Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that the following trading practices are prohibited, if they are not agreed **in clear and unambiguous terms at the conclusion of the supply agreement:**

Amendment

2. Member States shall ensure that the following trading practices are prohibited, if they are not agreed **by the parties:**

Or. en

Amendment 204

Othmar Karas

Proposal for a directive

Article 3 – paragraph 2 – point a

Text proposed by the Commission

(a) **a buyer returns unsold food products to a supplier;**

Amendment

deleted

Or. en

Justification

Transferred to 3(1)

Amendment 205

Igor Šoltes

Proposal for a directive

Article 3 – paragraph 2 – point a

Text proposed by the Commission

(a) a buyer returns unsold food products to a supplier;

Amendment

(a) a buyer returns unsold **agricultural or** food products to a supplier;

Or. en

Amendment 206

Robert Jarosław Iwaszkiewicz

Proposal for a directive

Article 3 – paragraph 2 – point b

Text proposed by the Commission

(b) *a buyer charges a supplier payment as a condition for the stocking, displaying or listing food products of the supplier;*

Amendment

deleted

Or. en

Amendment 207

Igor Šoltes

Proposal for a directive

Article 3 – paragraph 2 – point b

Text proposed by the Commission

(b) a buyer charges a supplier payment as a condition for the stocking, displaying or listing food products of the supplier;

Amendment

(b) a buyer charges a supplier payment as a condition for the stocking, displaying or listing **agricultural or** food products of

the supplier;

Or. en

Amendment 208
Robert Jarosław Iwaszkiewicz

Proposal for a directive
Article 3 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) a supplier pays for the promotion of food products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion and the expected quantity of the food products to be ordered;

deleted

Or. en

Amendment 209
Dennis de Jong

Proposal for a directive
Article 3 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) a supplier pays for the promotion of food products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion and the expected quantity of the food products to be ordered;

(c) a supplier pays for the promotion of food products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion, ***the type of promotion, the frequency of the promotion*** and the expected quantity of the food products to be ordered;

Or. en

Amendment 210
Igor Šoltes

Proposal for a directive
Article 3 – paragraph 2 – point c

Text proposed by the Commission

(c) a supplier pays for the promotion of food products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion and the expected quantity of the food products to be ordered;

Amendment

(c) a supplier pays for the promotion of **agricultural or** food products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion and the expected quantity of the **agricultural or** food products to be ordered;

Or. en

Amendment 211
Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive
Article 3 – paragraph 2 – point c

Text proposed by the Commission

(c) a supplier pays for the promotion of food products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion and the expected quantity of the food products to be ordered;

Amendment

(c) a supplier pays for the promotion of **agricultural or** food products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion and the expected quantity of the **agricultural or** food products to be ordered;

Or. en

Amendment 212
Othmar Karas

Proposal for a directive
Article 3 – paragraph 2 – point c

Text proposed by the Commission

(c) a supplier pays for the promotion of

Amendment

(c) a supplier pays for the promotion of

food products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion and the expected quantity of the food products to be ordered;

agricultural products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion and the expected quantity of the food products to be ordered;

Or. en

Amendment 213

Robert Jarosław Iwaszkiewicz

Proposal for a directive

Article 3 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) *a supplier pays for the marketing of food products by the buyer.*

deleted

Or. en

Amendment 214

Igor Šoltes

Proposal for a directive

Article 3 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) a supplier pays for the marketing of food products by the buyer.

(d) a supplier pays for the marketing of *agricultural or* food products by the buyer.

Or. en

Amendment 215

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive

Article 3 – paragraph 2 – point d

Text proposed by the Commission

(d) a supplier pays for the marketing of food products by the buyer.

Amendment

(d) a supplier pays for the marketing of ***agricultural or*** food products by the buyer.

Or. en

Amendment 216

Othmar Karas

Proposal for a directive

Article 3 – paragraph 2 – point d

Text proposed by the Commission

(d) a supplier pays for the marketing of ***food*** products by the buyer.

Amendment

(d) a supplier pays for the marketing of ***agricultural*** products by the buyer.

Or. en

Amendment 217

Anna Maria Corazza Bildt

Proposal for a directive

Article 3 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) a supplier pays for the wastage of food products that occur on the buyer's premises and that is not caused by the negligence or fault of the supplier.

Or. en

Amendment 218

Andreas Schwab

Proposal for a directive

Article 3 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) a buyer shares with third parties confidential information related to the supply contract, including trade secrets shared by the supplier with the buyer.

Or. en

Amendment 219

Nicola Danti, Marc Tarabella, Olga Sehnalová

Proposal for a directive

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. A buyer shall inform the supplier of any differentiated treatment which it gives in relation to brands owned or managed by it ("private labels"), in particular which concerns specific measures by the buyer relating to listing or store-place.

Or. en

Amendment 220

Marco Zullo

Proposal for a directive

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In addition to those specified in paragraphs 1 and 2, Member States shall ensure that the following practices are prohibited:

(a) any practice which imposes or attempts to impose an unjustified or disproportionate transfer of the buyer's

economic risks to the supplier;

(b) any practice which imposes or attempts to impose on the supplier a significant imbalance of rights and obligations before or during the contract.

Or. en

Amendment 221

Dennis de Jong

Proposal for a directive

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. If an agreement is reached as described in points (b), (c) and (d) of paragraph 2, the buyer shall provide evidence of the actual marketing activities to the supplier, regarding the stocking, displaying, listing, promoting and marketing of food products.

Or. en

Amendment 222

Nicola Danti, Marc Tarabella, Olga Sehnalová

Proposal for a directive

Article 3 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. A buyer shall not share details or specific information about products received from a supplier with any third party and shall not use this information to develop its own competing product, which would deprive the weaker party of the results of its innovation.

Or. en

Justification

This UTP is stated in the 2013 Commission's Green Paper on UTPs in the B2B food and non food chain and clearly specifies that the elements of a good and fair practice could be that details and information provided to a contracting party within a commercial relationship must be used fairly and not give a competitive advantage to the buyer (notably in situations where the business partners are also partially competitors).

Amendment 223

Robert Jarosław Iwaszkiewicz

Proposal for a directive

Article 3 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that the prohibitions laid down in paragraphs 1 and 2 constitute overriding mandatory provisions which are applicable to any situation falling within their scope, irrespective of the law otherwise applicable to the supply agreement between the parties.

Amendment

4. Member States shall ensure that the prohibitions laid down in paragraphs 1 and 2 constitute overriding mandatory provisions which are applicable to any situation falling within their scope, irrespective of the law otherwise applicable to the supply agreement between the parties. ***Member States may apply stricter rules regarding the prohibitions laid down in paragraphs 1 and 2.***

Or. en

Amendment 224

Edward Czesak

Proposal for a directive

Article 3 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that the prohibitions laid down in paragraphs 1 and 2 constitute overriding mandatory provisions which are applicable to any situation falling within their scope, irrespective of the law otherwise applicable to the supply agreement between the parties.

Amendment

4. Member States shall ensure that the prohibitions laid down in paragraphs 1 and 2 constitute overriding mandatory provisions which are applicable to any situation falling within their scope, irrespective of the law otherwise applicable to the supply agreement between the parties. ***Member States may adopt stricter***

rules regarding the prohibitions laid down in paragraphs 1 and 2.

Or. en

Amendment 225

Jasenko Selimovic, Dita Charanzová, Elsi Katainen, Fredrick Federley

Proposal for a directive

Article 3 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that the prohibitions laid down in paragraphs 1 and 2 constitute overriding mandatory provisions which are applicable to any situation falling within their scope, *irrespective of the law otherwise applicable to the supply agreement between the parties.*

Amendment

4. Member States shall ensure that the prohibitions laid down in paragraphs 1 and 2 constitute overriding mandatory provisions *of trading arrangements* which are applicable to any situation falling within their scope.

Or. en

Amendment 226

Jasenko Selimovic, Dita Charanzová, Elsi Katainen, Fredrick Federley

Proposal for a directive

Article 3 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. A supplier may require that their trading arrangement is subject to a written contract including all relevant aspects of the trading arrangement.

Or. en

Amendment 227

Jasenko Selimovic, Dita Charanzová

Proposal for a directive
Article 3 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. Member States may, in accordance with Article 8, provide for rules that go beyond the provisions of this Article.

Or. en

Amendment 228
Andreas Schwab

Proposal for a directive
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Contracts between suppliers and buyers

A supplier may require that any supply of goods or services is subject to a written contract with clear and unambiguous language and which specifies at least the following terms: the parties to the contract; the object of the contract; the volume, price and quality of the products or services provided; payment; penalties in case of non-execution of the contract; duration and, if applicable, renewal of the contract; termination causes, including a reasonable notice period; the applicable law.

Or. en

Amendment 229
Igor Šoltes

Proposal for a directive
Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall ensure that the designated enforcement authority has the necessary resources, including sufficient budgetary and expertise resources, to fulfil its obligations.

Or. en

Amendment 230

Igor Šoltes

Proposal for a directive

Article 4 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Member States shall inform the Commission of the designated enforcement authority.

Or. en

Amendment 231

Lara Comi

Proposal for a directive

Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4 a

Competent authority

1. The enforcement authority of the Member State in which a buyer suspected to have engaged in a prohibited trading practice is established, shall be competent to investigate unfair trading practices committed by the buyer.

2. If a supplier delivers its products to a recipient related to the buyer but established in a Member State which does

not correspond to the place of establishment of the buyer suspected to have engaged in a prohibited trading practice, the enforcement authority of that Member State shall be competent to investigate unfair trading practices committed by the buyer. The recipient of the products shall be considered as jointly liable for any infringements committed.

3. Where the buyer is established outside the Union, the enforcement authority of the Member State where the supplier is established shall be competent to investigate unfair trading practices committed against the supplier.

4. The competent authority pursuant to paragraphs 1 to 3 shall also be competent to investigate unfair trading practices related to the provision of services linked to the supply agreement. The buyer and, as the case may be, the third-party recipient of the goods shall be considered as jointly liable for any infringements committed by a third-party provider of related services.

Or. en

Justification

This is about jurisdictional rules and makes sure that service agreements fall under control of the authorities and non-EU operators do not de facto avoid EU jurisdiction by refusing to submit to decisions adopted by the competent authorities. Paragraph 4 makes sure that services follow the supply contract in terms of jurisdiction and joint liability, therefore, the service agreements of international alliances will be investigated by the national authorities of the EU alliance members and the latter will be held liable together with the alliance itself.

Amendment 232
Igor Šoltes

Proposal for a directive
Article 5 – paragraph 1

Text proposed by the Commission

1. A supplier shall address a complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established.

Amendment

1. A supplier shall address a complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established ***or to the enforcement authority of the Member State in which the supplier is established. In the latter case, the enforcement authority shall forward the complaint to the enforcement authority of the Member State where the buyer suspected to have engaged in a prohibited trading practice is established.***

Or. en

Amendment 233

Othmar Karas

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

1. A supplier ***shall address*** a complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established.

Amendment

1. ***In case of conflict, the parties shall first conduct a mediation procedure. Should this mediation procedure not result in a solution of the conflict, the supplier is entitled to issue*** a complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established.

Or. en

Amendment 234

Arndt Kohn

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

1. A supplier shall address a complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established.

Amendment

1. ***Before addressing a complaint, the parties shall implement a dialogue and mediation procedure. If this procedure does not lead to a solution, the*** supplier shall ***be entitled to*** address a complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established.

Or. en

Amendment 235

Anna Maria Corazza Bildt

**Proposal for a directive
Article 5 – paragraph 1**

Text proposed by the Commission

1. A supplier shall address a complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established.

Amendment

1. ***A supplier shall make use of established mediation services where available. If this is inappropriate or does not resolve the issue, the*** supplier shall address a complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established.

Or. en

Amendment 236

Sergio Gutiérrez Prieto, Clara Eugenia Aguilera García

**Proposal for a directive
Article 5 – paragraph 1**

Text proposed by the Commission

1. ***A supplier*** shall address a complaint to the enforcement authority of the Member State in which the ***buyer***

Amendment

1. ***An operator*** shall address a complaint to the enforcement authority of the Member State in which the ***operator***

suspected to have engaged in a prohibited trading practice is established.

suspected to have engaged in a prohibited trading practice is established.

Or. en

Amendment 237
Edward Czesak

Proposal for a directive
Article 5 – paragraph 1

Text proposed by the Commission

1. A supplier shall address a complaint to the enforcement authority of the Member State in which the *buyer suspected to have engaged in a prohibited trading practice* is established.

Amendment

1. A supplier shall address a complaint to the enforcement authority of the Member State in which the *supplier* is established. *The authority thus addressed shall conduct proceedings.*

Or. en

Amendment 238
Igor Šoltes

Proposal for a directive
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In cases where the buyer is established outside the Union, the supplier shall address a complaint to the enforcement authority of the Member State in which it is established.

In cases where the supplier is established outside the Union, the supplier may address a complaint to any designated enforcement authority. Upon receipt of the complaint, the enforcement authority shall forward it to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established.

Justification

Since the directive also applies to suppliers outside the EU, this amendment aims at providing them with the possibility to lodge a complaint. This is essential to avoid discrimination between EU- and non-EU suppliers and to avoid competitive distortion and trade diversion. Moreover, this is important to ensure the EU meets its treaty obligation of Policy Coherence for Development and its commitments under the Sustainable Development Goals.

Amendment 239

Sergio Gutiérrez Prieto, Clara Eugenia Aguilera García

Proposal for a directive**Article 5 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. An affected operator may also request the enforcement authority of its Member State to address the complaint to the enforcement authority of the Member State where the operator suspected of carrying out a prohibited commercial practice is established.

Or. en

Amendment 240

Othmar Karas

Proposal for a directive**Article 5 – paragraph 2**

Text proposed by the Commission

Amendment

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint.

2. Producer organisations or associations of producer organisations ***under Regulation (EU) 1308/2013*** whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint ***in view of the objective to ascertain an infringement and in accordance with the provisions of***

Amendment 241

Igor Šoltes

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint.

Amendment

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice, ***as well as organisations working with producers or with a proven expertise in trading practices in food supply chains***, shall have the right to submit a complaint.

Justification

To overcome the fear factor and ensure effective access of vulnerable actors, it is essential to extend the right to submit a complaint to organisations that work to promote fairness in supply chains and support vulnerable actors such as small-scale food producers and women. This is particularly the case in countries with a low level of governance and a high level of inequality.

Amendment 242

Dennis de Jong

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected

Amendment

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected

by a prohibited trading practice shall have the right to submit a complaint.

by a prohibited trading practice, ***not-for-profit non-governmental and civil society organisations*** shall have the right to submit a complaint.

Or. en

Amendment 243
Maria Grapini

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint.

Amendment

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint ***in the name of the members of the organization or association.***

Or. en

Amendment 244
Andreas Schwab

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint.

Amendment

2. Producer ***or supplier*** organisations or associations of producer ***or supplier*** organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint ***and to be a party to the proceedings.***

Or. en

Amendment 245

Jasenko Selimovic, Dita Charanzová, Elsi Katainen, Fredrick Federley

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint.

Amendment

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint ***and to be properly involved in the procedures.***

Or. en

Amendment 246

Sergio Gutiérrez Prieto, Clara Eugenia Aguilera García

Proposal for a directive

Article 5 – paragraph 2

Text proposed by the Commission

2. Producer organisations ***or*** associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint.

Amendment

2. Producer organisations, associations of producer ***organisations and professional agricultural*** organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint.

Or. en

Amendment 247

Marco Zullo

Proposal for a directive

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Any other organisation with knowledge of unfair trading practices in supply chains shall have the right to submit a complaint, provided that there is no conflict of interest.

Or. en

Amendment 248

Sergio Gutiérrez Prieto, Clara Eugenia Aguilera García

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality.

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality. ***Throughout the procedure, the authorities shall guarantee the anonymity of all the parties concerned, as well as confidentiality of the process and of any sensitive information, while protecting the procedural rights of the defendant.***

Or. en

Justification

Confidentiality of investigations should be ensured for all parties when the judgment is reached.

Amendment 249

Anna Maria Corazza Bildt

Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality.

Amendment

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality. ***Throughout the procedure, the authorities shall guarantee the confidentiality of the process and of any sensitive information, while protecting the procedural rights of the defendant.***

Or. en

Amendment 250
Eva Maydell, Lambert van Nistelrooij

Proposal for a directive
Article 5 – paragraph 3

Text proposed by the Commission

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality.

Amendment

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality. ***The authority shall guarantee the confidentiality of the procedure for the benefit of the defendant. This is without prejudice to the procedural rights of the defendant.***

Or. en

Amendment 251

Othmar Karas

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality.

Amendment

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality. ***The enforcement authority shall ensure the confidentiality of the procedure in the interests of the opponent.***

Or. en

Amendment 252

Marco Zullo

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality.

Amendment

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality. ***The authority shall guarantee the confidentiality of the process and of the investigations themselves.***

Or. en

Amendment 253

Nicola Danti, Marc Tarabella, Olga Sehnalová

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality.

Amendment

3. The enforcement authority shall ensure, if so requested by the complainant, the ***anonymity or*** confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for ***anonymity or*** confidentiality.

Or. en

Amendment 254

Maria Grapini

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in ***a possible*** request for confidentiality.

Amendment

3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in ***the*** request for confidentiality.

Or. en

Amendment 255

Edward Czesak

Proposal for a directive
Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In its decision terminating proceedings, the enforcement authority responsible shall, at its own discretion, adopt the conduct best tailored to guarantee the rights of the parties to the proceedings. This could include, inter alia: an indication of exemplary victims, or of all victims; a presentation of an abstract model or a description only of the relation to a single supplier, while keeping its data confidential.

Or. en

Justification

The protection of the supplier (complainant) should be balanced by the rights of the parties to the proceedings being properly secured.

Amendment 256
Anna Maria Corazza Bildt

Proposal for a directive
Article 5 – paragraph 4

Text proposed by the Commission

Amendment

4. Where the enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall inform the complainant about the reasons.

4. The enforcement authority shall ensure that the complaint has substance and merit and that the complainant has provided concrete and demonstrable evidence; where the enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall inform the complainant about the reasons.

Or. en

Amendment 257

Igor Šoltes

Proposal for a directive

Article 5 – paragraph 4

Text proposed by the Commission

4. Where the enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall inform the complainant about the reasons.

Amendment

4. ***Within one month of receiving the complaint, the enforcement authority shall inform the complainant about its decision to start an investigation.*** Where the enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall inform the complainant about the reasons.

Or. en

Amendment 258

Igor Šoltes

Proposal for a directive

Article 5 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where the enforcement authority considers that there are sufficient grounds for acting on a complaint, it shall conduct the investigation within a maximum period of six months. In complex and duly justified cases, this period can be extended by up to six months. The enforcement authority shall inform the complainant of this extension and its reasons for it.

Or. en

Amendment 259

Jasenko Selimovic, Dita Charanzová

Proposal for a directive

Article 5 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. *Member States may, in accordance with Article 8, provide for rules that go beyond the provisions of this Article.*

Or. en

Amendment 260
Dennis de Jong

Proposal for a directive
Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5 a
Agreements

Member States shall encourage the signing of agreements between suppliers and buyers. In order to help suppliers sign fair agreements, Member States, supplier organizations or associations of such organizations shall be able to assist individual suppliers with drafting and negotiating agreements, as suppliers often lack negotiation power and experience in negotiating.

Or. en

Amendment 261
Edward Czesak

Proposal for a directive
Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

Member States shall ensure that the enforcement authority is properly equipped and shall confer on it the following powers:

Member States shall ensure that the enforcement authority is properly equipped and shall *encourage the proper and fair functioning of the agricultural and food*

supply chain in the Union. It shall confer on it the following powers:

Or. en

Amendment 262

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive

Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) to initiate and conduct investigations on its own initiative or based on *a* complaint;

Amendment

(a) to initiate and conduct investigations on its own initiative or based on *an anonymous* complaint;

Or. en

Amendment 263

Andreas Schwab

Proposal for a directive

Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) to initiate and conduct investigations *on its own initiative or* based on *a complaint*;

Amendment

(a) to initiate and conduct investigations based on *an initial suspicion*;

Or. en

Amendment 264

Maria Grapini

Proposal for a directive

Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) to require buyers and suppliers to provide all necessary information in order

Amendment

(b) to require buyers and suppliers to provide all necessary information in order

to carry out investigations on the prohibited trading practices;

to carry out investigations on the prohibited trading practices, *with respect for data confidentiality*;

Or. en

Amendment 265

Igor Šoltes

Proposal for a directive

Article 6 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) to perform unannounced site inspections within the framework of its investigations;

Or. en

Amendment 266

Igor Šoltes

Proposal for a directive

Article 6 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(bb) to undertake mediation or dispute resolution functions, where the supplier has agreed, and in private where the supplier so requests;

Or. en

Amendment 267

Jasenko Selimovic, Elsi Katainen, Fredrick Federley

Proposal for a directive

Article 6 – paragraph 1 – point c

Text proposed by the Commission

(c) to take a decision establishing an infringement of the prohibitions laid down in Article 3 and require the buyer to terminate the prohibited trading practice. The authority may abstain from taking any such decision, if such decision would risk revealing the identity of a complainant or disclosing any other information in respect of which the complainant considers disclosure harmful to his interests, provided that the complainant has identified that information in accordance with Article 5(3);

Amendment

(c) to take a decision, ***within the framework of the applicable national law***, establishing an infringement of the prohibitions laid down in Article 3 and require the buyer to terminate the prohibited trading practice. The authority may abstain from taking any such decision, if such decision would risk revealing the identity of a complainant or disclosing any other information in respect of which the complainant considers disclosure harmful to his interests, provided that the complainant has identified that information in accordance with Article 5(3);

Or. en

Amendment 268
Dennis de Jong

Proposal for a directive
Article 6 – paragraph 1 – point c

Text proposed by the Commission

(c) to take a decision establishing an infringement of the prohibitions laid down in Article 3 and require the buyer to terminate the prohibited trading practice. The authority may abstain from taking any such decision, if such decision would risk revealing the identity of a complainant or disclosing any other information in respect of which the complainant considers disclosure harmful to his interests, provided that the complainant has identified that information in accordance with Article 5(3);

Amendment

(c) to take a decision establishing an infringement of the prohibitions laid down in Article 3 and require the buyer to terminate the prohibited trading practice. The authority may abstain from taking any such decision, if such decision would risk revealing the identity of a complainant ***against its will*** or disclosing any other information in respect of which the complainant considers disclosure harmful to his interests, provided that the complainant has identified that information in accordance with Article 5(3);

Or. en

Amendment 269
Edward Czesak

Proposal for a directive
Article 6 – paragraph 1 – point d

Text proposed by the Commission

(d) to impose a pecuniary fine on the author of the infringement. The fine shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement;

Amendment

(d) to impose a pecuniary fine on the author of the infringement. The fine shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement. ***The enforcement authority shall take into account any previous infringements relating to this Directive and administer more weighty punishments for repeat offenders;***

Or. en

Amendment 270
Andreas Schwab

Proposal for a directive
Article 6 – paragraph 1 – point d

Text proposed by the Commission

(d) to impose ***a pecuniary fine*** on the author of the infringement. The ***fine*** shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement;

Amendment

(d) to impose ***penalties*** on the author of the infringement. The ***penalties*** shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement; ***pecuniary fines shall be issued only in cases of intentional non-compliance or repeated non-compliance;***

Or. en

Amendment 271
Jasenko Selimovic

Proposal for a directive
Article 6 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) to impose a pecuniary fine on the author of the infringement. ***The fine shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement;***

(d) to impose a pecuniary fine on the author of the infringement;

Or. en

Justification

A new article on how enforcement authorities are supposed to exercise their powers have been added.

Amendment 272

Anna Maria Corazza Bildt

Proposal for a directive

Article 6 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) to impose a ***pecuniary fine*** on the author of the infringement. The ***fine*** shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement;

(d) to impose a ***penalty*** on the author of the infringement. The ***penalty*** shall be effective, proportionate ***to the harm caused*** and dissuasive taking into account the nature, duration and gravity of the infringement. ***Enforcement authorities shall seek the termination of the practice;***

Or. en

Amendment 273

Lucy Anderson

Proposal for a directive

Article 6 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) to impose a pecuniary fine on the author of the infringement. The fine shall be effective, proportionate and dissuasive

(d) to impose a pecuniary fine ***or any other dissuasive penalty*** on the author of the infringement. The fine shall be

taking into account the nature, duration and gravity of the infringement;

effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement;

Or. en

Amendment 274

Othmar Karas

Proposal for a directive

Article 6 – paragraph 1 – point d

Text proposed by the Commission

(d) to impose a pecuniary fine on the author of the infringement. The fine shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement;

Amendment

(d) to impose a pecuniary fine on the author of the infringement. The fine shall be effective, proportionate ***with regard to the damage caused*** and dissuasive taking into account the nature, duration and gravity of the infringement;

Or. en

Amendment 275

Eva Maydell, Lambert van Nistelrooij

Proposal for a directive

Article 6 – paragraph 1 – point d

Text proposed by the Commission

(d) to impose a ***pecuniary fine*** on the author of the infringement. The ***fine*** shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement;

Amendment

(d) to impose a ***penalty*** on the author of the infringement. The ***penalty*** shall be effective, proportionate ***to the harm caused*** and dissuasive taking into account the nature, duration and gravity of the infringement;

Or. en

Amendment 276

Igor Šoltes

Proposal for a directive
Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission is empowered to adopt delegated acts setting out criteria and a common methodology for use by enforcement authorities when determining the amount of pecuniary fines, having regard to at least the following elements: the turnover of the infringer, the benefits accrued by the infringer from the unfair trading practice, the number and status of the victims of the infringement, and the repeated use of unfair trading practices by a buyer.

Or. en

Amendment 277
Jasenko Selimovic, Dita Charanzová

Proposal for a directive
Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States may, in accordance with Article 8, provide for rules that go beyond the provisions of this Article.

Or. en

Amendment 278
Jasenko Selimovic

Proposal for a directive
Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a
Exercise of powers of enforcement

authorities

1. Enforcement authorities shall exercise powers set out in this Article proportionately, efficiently and effectively in accordance with Union law, including the principles of the Charter of Fundamental Rights of the European Union, applicable procedural safeguards and Union rules on data protection, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council^{1a}, and national law.

2. Investigation and enforcement measures adopted when applying this Regulation shall adequately reflect the nature and degree of the unfair trading practice and the overall actual and potential harm caused by it.

3. Fines that are decided by enforcement authorities shall be effective, proportionate and dissuasive.

4. When a decision as to whether to impose a fine and on the amount of such penalty to be imposed in each individual case is being made, due regard shall be given to the following:

(a) the nature, gravity and duration of the unfair trading practice, taking into account the number of suppliers affected and the level of damage suffered by them;

(b) the intentional and negligent character of the unfair trading practice;

(c) any action taken by the buyer to mitigate the damage suffered;

(d) any relevant previous unfair trading practice committed by the buyer;

(e) the degree to which the buyer has cooperated with enforcement authorities in order to remedy the unfair trading practice and mitigate its potential adverse effects.

^{1a} Regulation (EU) 2016/679 of the European Parliament and of the Council

of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Or. en

Amendment 279

Birgit Collin-Langen, Andreas Schwab, Sabine Verheyen

Proposal for a directive

Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Mediation or alternative dispute resolution mechanism

- 1. Without prejudice to the powers and obligations of the enforcement authority laid down in Article 6, Member States may encourage the use of mediation or of an alternative dispute resolution mechanism in case of a dispute between a supplier and a buyer due to an unfair trading practices as defined in Article 2.***
- 2. The use of mediation or of an alternative dispute resolution mechanism shall be without prejudice to the right of the supplier to submit a complaint, as set out in Article 5.***

Or. en

Amendment 280

Maria Grapini

Proposal for a directive

Article 7 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that enforcement authorities cooperate effectively with each other and provide each other mutual assistance in investigations that have a cross-border dimension.

Amendment

1. Member States shall ensure that enforcement authorities cooperate effectively with each other and provide each other mutual assistance in investigations that have a cross-border dimension ***in order to shorten the investigation time.***

Or. en

Amendment 281
Igor Šoltes

Proposal for a directive
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The following mechanisms for cooperation between enforcement authorities shall be established:

(a) at the request of an applicant enforcement authority, the requested authority shall, without delay, provide to the applicant authority any relevant information necessary to establish whether an unfair trading practice has occurred or is occurring. The requested authority shall undertake the appropriate and necessary investigations to fulfil this request for information.

(b) at the request of an applicant enforcement authority, a requested authority shall take all necessary and proportionate enforcement measures to terminate the prohibited trading practice within a maximum period of six months. The requested authority shall regularly inform the applicant authority about the steps and measures taken, or that it intends to take.

Or. en

Amendment 282
Edward Czesak

Proposal for a directive
Article 7 – paragraph 2

Text proposed by the Commission

2. The enforcement authorities shall meet once per year to discuss the application of this Directive on the basis of the annual reports referred to in Article 9(1) and best practices in the area it covers. The Commission shall facilitate those meetings.

Amendment

2. The enforcement authorities shall meet ***at least*** once per year to discuss the application of this Directive on the basis of the annual reports referred to in Article 9(1) and best practices in the area it covers. The Commission shall facilitate those meetings ***and shall issue, within 12 months of the date of entry into force of this Directive, binding guidelines on this cooperation as regards the obligation for bilateral or multilateral exchange of information for the purposes of market research and proceedings.***

Or. en

Amendment 283
Igor Šoltes
on behalf of the Verts/ALE Group

Proposal for a directive
Article 7 – paragraph 2

Text proposed by the Commission

2. The enforcement authorities shall meet once per year to discuss the application of this Directive ***on the basis of the annual reports referred to in Article 9(1) and best practices in the area it covers.*** The Commission ***shall facilitate those meetings.***

Amendment

2. The enforcement authorities shall meet ***at least*** once per year to discuss the application of this Directive ***within the framework of a Coordination Forum under the supervision of*** the Commission.

Or. en

Amendment 284
Anna Maria Corazza Bildt

Proposal for a directive
Article 7 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall involve all relevant stakeholders in discussions of the application of this Directive, with a view to facilitating dialogue and exchange of good practice.

Or. en

Amendment 285
Jasenko Selimovic, Dita Charanzová

Proposal for a directive
Article 7 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States may, in accordance with Article 8, provide for rules that go beyond the provisions of this Article.

Or. en

Amendment 286
Igor Šoltes

Proposal for a directive
Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Coordination Forum

1. The Commission shall establish, chair and manage a Coordination Forum composed of representatives appointed by each enforcement authority.

2. The Coordination Forum shall meet at least once per year, and shall enable enforcement authorities:

(a) to discuss and monitor the application of this Directive based on the annual reports referred to in Article 9(1);

(b) to facilitate the exchange of information and best practices, especially on enforcement cooperation in cases involving operators from more than one Member State;

(c) to consider and analyse new forms of unfair trading practice;

(d) to cooperate in setting and imposing penalties, including pecuniary fines, in cases involving operators from more than one Member State.

Or. en

Amendment 287

Anna Maria Corazza Bildt

Proposal for a directive

Article 8 – paragraph 1

Text proposed by the Commission

Member States may provide for rules designed to combat unfair trading practices going beyond those set out in Articles 3, 5, 6 and 7, provided that such national rules are compatible with the rules on the functioning of the internal market.

Amendment

Member States may provide for rules designed to combat unfair trading practices going beyond those set out in Articles 3, 5, 6 and 7, provided that such national rules are compatible with the rules on the functioning of the internal market, ***including the free movement of goods and services and the freedom of establishment, non-discrimination and access to impartial and independent judicial review.***

Or. en

Amendment 288

Sergio Gutiérrez Prieto, Clara Eugenia Aguilera García

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

Member States may provide for rules designed to combat unfair trading practices going beyond those set out in Articles 3, 5, 6 and 7, provided that such national rules are compatible with the rules on the functioning of the internal market.

Amendment

Member States may provide for rules designed to combat unfair trading practices going beyond those set out in Articles *I*, 3, 5, 6 and 7, provided that such national rules are compatible with the rules on the functioning of the internal market.

Or. en

Justification

In order to avoid collisions between Member States' existing legislation, which go beyond the scope of the Directive, it is necessary to include Article 1 on object and scope in the list by which Member States can go further in the combat against UTP in the food supply chain.

Amendment 289
Jasenko Selimovic, Fredrick Federley

Proposal for a directive
Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Proceedings in relation to points (c), (d) and (e) of Article 6 shall respect the administrative and legal proceedings and principles in the specific Member State considering the assessment. The enforcement authority shall abstain from actions arising from a request of confidentiality by the supplier in accordance with Article 5(3).

Or. en

Amendment 290
Anna Maria Corazza Bildt

Proposal for a directive
Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Any new national rules going beyond the provisions of this Directive shall be notified to the Commission three months ahead of their application pending consideration by the Commission under the procedure set out in Articles 5 and 6 of Directive (EU) 2015/1535.

Or. en

Amendment 291
Othmar Karas

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. By 15 March of each year, Member States shall send to the Commission a report on unfair trading practices in business-to-business relationships in the ***food*** supply chain. That report shall contain, in particular, all relevant data on the application and enforcement of the rules under this Directive in the Member State concerned in the previous year.

1. By 15 March of each year, Member States shall send to the Commission a report on unfair trading practices in business-to-business relationships in the ***agricultural*** supply chain. That report shall contain, in particular, all relevant data on the application and enforcement of the rules under this Directive in the Member State concerned in the previous year.

Or. en

Amendment 292
Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. By 15 March of each year, Member States shall send to the Commission a

1. By 15 March of each year, Member States shall send to the Commission a

report on unfair trading practices in business-to-business relationships in the food supply chain. That report shall contain, in particular, all relevant data on the application and enforcement of the rules under this Directive in the Member State concerned in the previous year.

report on unfair trading practices in business-to-business relationships in the ***agricultural or*** food supply chain. That report shall contain, in particular, all relevant data on the application and enforcement of the rules under this Directive in the Member State concerned in the previous year.

Or. en

Amendment 293

Anna Maria Corazza Bildt

Proposal for a directive

Article 9 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member State authorities shall engage in discussion with all relevant stakeholders, including consumer organisations, on the functioning of the supply chain in their Member State and the effectiveness of their actions in meeting the objectives of this Directive.

Or. en

Amendment 294

Igor Šoltes

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

Amendment

1. No ***sooner*** than three years after the date of application of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions.

1. No ***later*** than three years after the date of application of this Directive ***and every two years thereafter***, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee and the Committee

of the Regions. *The report shall consider the need to review this Directive, in particular to include new forms of unfair trading practice, and to make use of data on input costs and price transmission through the agricultural or food supply chain in order to establish criteria for determining fair prices within a supply agreement. On the basis of this report, the Commission may present appropriate legislative proposals.*

Or. en

Amendment 295

Marco Zullo

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

1. No sooner than three years after the date of application of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions.

Amendment

1. No sooner than three years after the date of application of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions. *The report shall evaluate the effectiveness of this Directive in protecting the most vulnerable actors in the food supply chain against unfair trading practices. The report shall also evaluate the contribution of this Directive to increasing food safety, promoting sustainable practices in the food supply chain and reducing food waste.*

Or. en

Amendment 296

Birgit Collin-Langen, Sabine Verheyen, Karl-Heinz Florenz

Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. No *sooner* than three years after the date of application of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions.

Amendment

1. No *later* than three years after the date of application of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions. ***In the framework of the evaluation, the need for additional unfair trading practices should be examined.***

Or. en

Amendment 297
Maria Grapini

Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. No sooner than ***three*** years after the date of application of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions.

Amendment

1. No sooner than ***two*** years after the date of application of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions.

Or. en

Amendment 298
Anna Maria Corazza Bildt

Proposal for a directive
Article 11 – paragraph 3

Text proposed by the Commission

3. **Six** months after the date of transposition of this Directive, the Commission shall present an intermediary report on the state of its transposition and implementation to the European Parliament and to the Council as well as to the European Economic and Social Committee and the Committee of the Regions.

Amendment

3. **18** months after the date of transposition of this Directive, the Commission shall present an intermediary report on the state of its transposition and implementation to the European Parliament and to the Council as well as to the European Economic and Social Committee and the Committee of the Regions.

Or. en

Amendment 299
Edward Czesak

Proposal for a directive
Article 12 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall adopt and publish, by **six** months after the entry into force of the Directive at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

Member States shall adopt and publish, by **12** months after the entry into force of the Directive at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

Amendment 300
Edward Czesak

Proposal for a directive
Article 12 – paragraph 1 – subparagraph 2

Text proposed by the Commission

They shall apply those provisions from **12** months after entry into force of this Directive.

Amendment

They shall apply those provisions from **18** months after entry into force of this Directive.

Or. en

