



EUROPEAN PARLIAMENT

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Plenary sitting

16.1.2012

B7-0008/2012

MOTION FOR A RESOLUTION

further to Questions for Oral Answer B7-0021/2012, B7-0675/2011 and B7-0676/2011

pursuant to Rule 115(5) of the Rules of Procedure

on the imbalances in the food distribution chain (2011/2904(RSP))

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on behalf of the ALDE Group

B7-0008/2012

European Parliament resolution on the imbalances in the food distribution chain (2011/2904)(RSP)

The European Parliament,

- having regard to its resolution of 8 July 2010 on ‘the future of the Common Agricultural Policy after 2013’, its resolution of 18 January 2011 on ‘the recognition of agriculture as a strategic sector in the context of food security’ and its resolution of 23 June 2011 on ‘the CAP towards 2020: Meeting the food, natural resources and territorial challenges’,
 - having regard to the Commission Communication entitled ‘Better functioning of the food supply chain in Europe’ (COM (2009) 0591) and the various working documents attached to this communication and also its resolution of 7 September 2010 on ‘Fair Income for Farmers: better functioning of the food supply chain in Europe’,
 - having regard to the Commission Decision of 30 July 2010 establishing the High Level Forum for a Better Functioning Food Supply Chain (2010/C 210/03),
 - having regard to the final recommendations of the High Level Group on the Competitiveness of the Agro-Food of 17 March 2009, and the conclusions of the Council of 29 March 2010 on a better functioning of the supply chain food in Europe,
 - having regard to its Declaration of 19 February 2008 on the need to investigate and correct the abuses of power by large supermarkets operating in the European Union and its resolution of 26 March 2009 on ‘Food prices in Europe’,
 - having regard to Rules 115(5) and 110(2) of its Rules of Procedure,
- A. whereas the Commission's communication on a better functioning of the food supply chain (COM (2009) 0591) identified serious imbalances in the food distribution chain including: abuse of dominant purchasing power; unfair contract terms; late payments; unilateral contract modifications; restricted access to the market; lack of information on price formation; uneven distribution of profit margins throughout the food chain; and a number of problems associated with increased concentration in the retail sector;
- B. whereas the level of concentration of very large retailers in the European Union adversely affects producers because it leads to growing imbalances of power between the contracting parties, resulting in a progressive loss of bargaining power for agricultural producers in determining the price level along the value chain - from primary production, through processing to the final consumer;
- C. whereas the loss of bargaining power on the one hand, and the increase in production costs on the other hand place agricultural holdings at a disadvantage, thereby potentially weakening the long-term productive potential in Member States and exacerbating their dependence on external markets;

- D. whereas low prices paid to producers and other suppliers do not always result in lower prices for consumers, and the reduced number of distribution channels could also adversely affect the range of products available for choice to the consumer in the long term;
1. Emphasizes that the problem of imbalances in the food distribution chain has a clear European dimension, given the strategic importance of the agri-food chain to the European Union; reminds that the food supply chain, agriculture, the agri-food industry and distribution represent 7% of the total employment in the EU and is worth €1400 billion per year;
 2. Draws attention to the ongoing work of the High Level Forum for a Better Functioning Food Supply Chain, in particular its Business-to-business platform; calls for the European Parliament to be formally and regularly informed of the state of play of the work and the decisions taken;
 3. Calls on the Commission to propose legislation where necessary - without distorting the proper functioning of the markets - as well as encourage self-regulation in the sector to build fairer and more transparent relationships between producers, suppliers, processors and distributors of food products, and to ensure proper implementation of the rules already in force;
 4. Insists that the Member States should play an active role in establishing consultation fora so as to promote dialogue and establish guidelines to bring about fairer and more balanced relationships between actors along the food chain;
 5. Insists on the need to clarify the definition of abusive and unfair practices so that appropriate measures can be taken, supervision can take place and sanctions be appropriately applied where necessary;
 6. Wishes to highlight the following as a non-exhaustive list of practices about which concerns have been raised by producers:

I) Access to retailers:

- i) advance payment for accessing negotiation
- ii) listing fees
- iii) entry fees
- iv) shelf space pricing
- v) imposition of promotions
- vi) payment delays
- vii) pricing
- viii) most favoured client clause

II) Unfair contractual conditions or unilateral changes to contract terms:

- i) unilateral and retrospective changes to contractual conditions
- ii) unilateral breach of contract
- iii) exclusivity clauses/fees

- iv) imposition of a 'forced' contribution for private brands 'Forced'
- v) imposition of standard model contracts
- vi) retaliatory practices
- vii) non-written contractual agreements
- viii) margin recovery
- ix) over-riding discounts
- x) payment delays
- xi) imposition of payment for waste processing/removal
- xii) group buying/joint negotiation
- xiii) inverted auctions
- xiv) unrealistic delivery terms
- xv) imposing the use of a (specific) package supplier or packaging material
- xvi) imposition of the use of a (specific) logistic platform or operator
- xvii) payment to cover (non previously-agreed) promotions
- xviii) over-ordering of a product intended for promotion
- xix) payment for not reaching certain sales levels
- xx) imposition on suppliers of an extra discount for sales above a certain level
- xxi) unilateral withdrawal of products from store shelves
- xxii) imposing unconditional return of (unsold) merchandise
- xxiii) imposition on suppliers of costs related to product shrinkage or theft
- xxiv) imposition on suppliers for unreasonable costs related to customers complaints;

7. Calls for the establishment of a framework to effectively control these practices, first of all by launching a full sector inquiry, and through establishing a system of evaluation and monitoring operated by the Member States and coordinated by the European Commission;
8. Calls for a reinforcement of the means to ensure that payment deadlines are respected and, where necessary, for new instruments to be put in place to minimize the length of time between the delivery and the actual receipt of payment by suppliers; stresses, in this context, that solutions are urgently required to deal with the specific problems encountered by producers of perishable goods with short shelf-lives who face important cash-flow difficulties;
9. Notes the measures in the Commission's draft proposals for the reform of the CAP, designed to strengthen the position of farmers in the food supply chain, through support for producer organisations and inter-branch organisations and by promoting short chains between producers and consumers, such as markets for local production; believes that strengthening farmers' positions will help them to receive a fairer share of the added-value;
10. Insists also that independent brands should be placed alongside retailers' own brands on supermarket shelves so that the consumer is given as wider choice as possible; calls for greater transparency and fairness in pricing practices for own and independent brands; insists that there must be rules in place to prevent parasite-style copying of independent brands by large retailers to create their own brands;
11. Calls for the approximation of national interpretations of EU competition law so that anti-competitive behaviour can be identified and interpreted the same way throughout the

Union, and asks the Commission to issue guidelines for national competition authorities to take a more holistic approach of vertical concentration on the entire food supply chain;

12. Calls on the Commission to undertake an in-depth analysis of the differences in approach between the 27 national competition policies and to encourage solutions which involve all partners in the food supply chain and which prevent abuses of dominant positions, which often occur at the expense of the agricultural producer;
13. Calls on the Commission to co-ordinate the work of its various services so as to play a more effective role in price monitoring throughout the food supply chain and in monitoring retail dynamics and respective market shares throughout the EU;
14. Calls for the creation of national independent Food Trading Ombudsmen liaising with the relevant trade and competition authorities, which should share information and best practices, advise on legislation and rules in place, and recommend timely and appropriate sanctions;
15. Insists on dissuasive sanctions to be applied where abuses are found; they must be proportional to the financial and commercial damage caused to the food supply chain actors;
16. Considers that the solutions to tackling the imbalances in the food distribution chain consists of an adjusted framework combining regulation, adjustments to competition law and a more horizontal approach, in conjunction with self-regulatory agreements; insists that Member States should promote the development of best practices and/or codes of conduct in partnership with all stakeholders;
17. Believes that an EU-wide campaign informing farmers of their contractual rights as well as of the most common unfair and abusive contractual and commercial practices should be launched;
18. Instructs its President to forward this resolution to the Council and Commission.