



2018/0082(COD)

20.7.2018

AMENDMENTS

337 - 678

Draft report

Paolo De Castro

(PE623.672v01-00)

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 337
Miguel Viegas

Proposal for a directive
Article 3.º – 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 products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products;

Or. pt

Amendment 338
Angélique Delahaye

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 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 339
Anthea McIntyre

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

Amendment

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

these products;

these products;

Or. en

Amendment 340

Maria Heubuch

on behalf of the Verts/ALE Group

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 ***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 341

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 ***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;

Or. en

Amendment 342

Hilde Vautmans

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;

Or. en

Justification

This amendment intends to clarify that freedom of contract needs to be preserved. Parties must be free to negotiate also ad hoc agreements. Unilateral cancellation shall be prohibited.

Amendment 343
Marijana Petir

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 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. hr

Amendment 344
Tibor Szanyi

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 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 **unless a mutual**

arrangement can be found by the parties;

Or. en

Amendment 345

Paolo De Castro, Nicola Caputo, Ricardo Serrão Santos, Marco Zullo

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 **imposes** changes **to** 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 and** food products **or the services related to those products;**

Or. en

Amendment 346

Maria Heubuch

on behalf of the Verts/ALE Group

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 **agri-food** products, **or the terms of payments;**

Or. en

Amendment 347

Mairead McGuinness, Sofia Ribeiro, Michel Dantin, Angélique Delahaye, Peter Jahr, Herbert Dorfmann, Nuno Melo

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 348
Marijana Petir

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. hr

Amendment 349
Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jan Huitema, Jean Arthuis, Hilde Vautmans

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

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 delivery, the quality standards or the prices of the **agricultural and** food products;

Or. en

Justification

The aim of the amendment is to limit the scope to agricultural and food products.

Amendment 350

Norbert Erdős

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 **in certain cases** 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. hu

Amendment 351

Ivari Padar

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, **manner**, timing or volume of the supply or delivery, the quality standards or the prices of the food products;

Or. et

Amendment 352
Miguel Viegas

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

Text proposed by the Commission

Amendment

(ca) business-to-business trading practices whereby a supply contract is altered retroactively;

Or. pt

Amendment 353
Michel Dantin, Angélique Delahaye

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

Text proposed by the Commission

Amendment

(ca) a buyer obtains or attempts to obtain from a supplier some kind of benefit without providing any compensation or service in return, or if the benefit is clearly disproportionate to the value of the compensation or service provided;

Or. fr

Justification

The aim of this amendment is to list, as an unfair trade practice, the acquisition (or attempts to acquire) some kind of benefit when no compensation or service is provided in return, or when the benefit is clearly disproportionate to the value of the compensation or service provided.

Amendment 354
Othmar Karas

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 355

Othmar Karas

Proposal for a directive

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

Text proposed by the Commission

Amendment

(cb) a buyer demands payment without any counter performance;

Or. en

Amendment 356

Norbert Erdős

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ca) any behaviour on the part of a supplier or a buyer which contravenes the principle of a ban on selling or procuring below cost price;

Or. hu

Amendment 357

Albert Deß, Peter Jahr, Norbert Lins, Jens Gieseke

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ca) unilateral termination of supply contracts in response to falling prices.

Or. de

Amendment 358

Michel Dantin, Angélique Delahaye

Proposal for a directive

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

Text proposed by the Commission

Amendment

(cb) a buyer forces a supplier - or attempts to force a supplier - to give that buyer special conditions under the threat of partial or total destocking of the supplier's agricultural products or foodstuffs;

Or. fr

Justification

The aim of this amendment is to list, as an unfair trading practice, the practice of forcing a supplier - or attempting to force a supplier - to offer special conditions under the threat of partial or total destocking of the supplier's agricultural products or foodstuffs.

Amendment 359

Albert Deß, Peter Jahr, Norbert Lins, Jens Gieseke

Proposal for a directive

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

Text proposed by the Commission

Amendment

(cb) discount schemes and listing fees.

Or. de

Amendment 360

Albert Deß, Peter Jahr, Norbert Lins, Jens Gieseke

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

Text proposed by the Commission

Amendment

**(cc) mergers to form retail and
wholesale purchasing groups.**

Or. de

Amendment 361
Albert Deß, Peter Jahr, Norbert Lins, Jens Gieseke

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

Text proposed by the Commission

Amendment

**(cd) provisions laid down by the buyer
regarding environmental protection and
animal welfare standards which are more
stringent than the relevant legal
provisions in force.**

Or. de

Amendment 362
Michela Giuffrida

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

Text proposed by the Commission

Amendment

(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.

(d) a supplier pays for the **unsuitable storage or marketing conditions** of food products that **can endanger consumer safety and that occur** on the buyer's premises and **are** not caused by the negligence or fault of the supplier.

Or. it

Justification

The amendment seeks to better define the concept of 'wastage' when a buyer asks for payment from the supplier in relation to the conditions of agricultural products during the period of marketing or storage of those products and when the spoilage of the food does not stem from the negligence or fault of the supplier.

Amendment 363

Mairead McGuinness, Sofia Ribeiro, Michel Dantin, Angélique Delahaye, Peter Jahr, Herbert Dorfmann, Nuno Melo

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 **when the agricultural and food products are in** the buyer's **ownership** and that is not caused by the negligence or fault of the supplier.

Or. en

Amendment 364

Maria Heubuch

on behalf of the Verts/ALE Group

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 **agri-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 365

Marco Zullo, Rosa D'Amato, Ignazio Corrao

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 366
Matt Carthy

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 **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 367
Susanne Melior

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 **supplied on time and and in the quality agreed in the contract** that occurs on the buyer's premises and that is not caused by the negligence or fault of the supplier.

Justification

Clarification.

Amendment 368

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 ***that were delivered in due time and according to the agreed quality*** occurs on the buyer's premises and that is not caused by the negligence or fault of the supplier.

Or. en

Amendment 369

Marijana Petir

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 on the buyer's premises and that is not caused by the negligence or fault of the supplier.

Or. hr

Amendment 370

Matt Carthy

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) a buyer sells a product for a less than of 110% of the purchase price unless it is placing the product under promotion. Promotions must be for no more than 30 days and not reduce the product by more than one third of its non-promotion price. The supplier may only place 25% of the volume purchased on promotion.

Or. en

Amendment 371

Maria Lidia Senra Rodríguez

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) an operator makes a sale at a loss. A food or food product sale shall be considered loss making when the sale price is less than the purchase price given on the invoice, less the proportional share of any discounts appearing on the invoice, or at actual cost of production if the article was manufactured by the seller, plus the amount of any indirect taxes levied on the transaction. Changes on amended invoices issued after the timeframe indicated shall not be taken into account nor shall salaries or bonuses of any kind that constitute payment for services rendered be calculated for the purposes of deduction from the purchase price. Under no circumstances may joint offers or gifts to buyers be used to circumvent the ban on selling at a loss.

Or. es

Amendment 372

Susanne Melior, Maria Noichl

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

Text proposed by the Commission

Amendment

(da) a buyer continues selling food products below the purchase price. Exceptions shall be granted in the case of perishable food products and food products whose use-by date is a few days away.

Or. de

Justification

Food wastage should be reduced.

**Amendment 373
James Nicholson**

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

Text proposed by the Commission

Amendment

(da) a buyer sells food products below the cost of production in order to stimulate sales of other products;

Or. en

**Amendment 374
Esther Herranz García, Ramón Luis Valcárcel Siso, Gabriel Mato, Pilar Ayuso**

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

Text proposed by the Commission

Amendment

(da) a buyer sells agriculture or food products below cost;

Justification

It is the most repeated vindication of the agricultural sector, which should be covered by this Directive.

Amendment 375

Mairead McGuinness, Sofia Ribeiro, Marijana Petir, Angélique Delahaye, Peter Jahr, Herbert Dorfmann, Nuno Melo

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) A buyer sells certain products at a loss as a marketing mechanism and the loss or cost is ultimately borne by the supplier;

Or. en

Amendment 376

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

(db) a buyer sells an agri-food product below the cost at which it was purchased, to stimulate sales of other products (“loss leader”);

Or. en

Amendment 377

Maria Lidia Senra Rodríguez

Proposal for a directive

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

Text proposed by the Commission

Amendment

(db) A supplier receives a price lower than the production cost.

Or. es

Amendment 378

Maria Lidia Senra Rodríguez

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dc) A buyer sells a product on at a price lower than the purchase price.

Or. es

Amendment 379

Marc Tarabella, Clara Eugenia Aguilera García, Tibor Szanyi, Maria Gabriela Zoană, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

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 refuses to enter into a written contract with a supplier or refuses to communicate to a supplier the general conditions of sale or does not provide them with sufficiently detailed or unambiguous information on the contractual terms and conditions of the purchase of agricultural or food products;

Or. en

Amendment 380

Nicola Caputo

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 refuses to enter into a written contract with a supplier or refuses to communicate to a supplier the general conditions of sale or does not provide them with sufficiently detailed or unambiguous information on the contractual terms and conditions of the purchase of agricultural or food products;

Or. en

Amendment 381

Luke Ming Flanagan

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) A buyer engages in "below cost selling" or "predatory pricing" in order to drive out competition or to increase market share by offering products for sale at below the price agreed in the supply contract;

Or. en

Amendment 382

Maria Heubuch

on behalf of the Verts/ALE Group

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 agri-food products and the general conditions of sale;

Or. en

Amendment 383

Matt Carthy

Proposal for a directive

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

Text proposed by the Commission

Amendment

(db) a buyer fails to agree a written contract with a supplier prior to delivery of the agricultural products, unless an underlying supply agreement with the buyer exists, supplemented as required by details of an individual transaction agreement.

Or. en

Amendment 384

Michela Giuffrida

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) a buyer carries out communication or promotional activities or implements commercial policies which - also on account of their duration - damage, or are liable to damage, the image of products bearing a geographical indication pursuant to Regulation (EU) No 1151/2012, Regulation (EC) No 110/2008

Justification

Products bearing specific geographical indications are often subject to a wide range of promotional practices (such as below-cost selling, descending-price auctions or excessively long-lasting promotions), which tarnish the image of that product in economic or commercial terms. This measure would enable suppliers to take action not only against counterfeiting but also to combat these detrimental and unfair commercial practices.

Amendment 385

Mara Bizzotto, Angelo Ciocca, Jacques Colombar, Philippe Loiseau

Proposal for a directive

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

Text proposed by the Commission

Amendment

(de) a buyer carries out communication or promotional activities or implements commercial policies which risk being detrimental to the image of products bearing a geographical indication pursuant to Regulation (EU) No 1151/2012, Regulation (EC) No 110/2008 or Regulation (EU) No 251/2014;

Or. it

Amendment 386

Marco Zullo, Rosa D'Amato, Ignazio Corrao

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 his intention to adopt promotional or commercial activities which might be detrimental to the reputation of products bearing a geographical indication under Regulation (EU) 1151/201, Regulation (EU) 110/2008 or Regulation

Amendment 387

Marco Zullo, Rosa D'Amato, Ignazio Corrao

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 his intention to give a differentiated treatment to his products in relation to other competing brands owned or managed by the buyer itself, in terms of listing, store-space and commercial margins;

Amendment 388

Mara Bizzotto, Angelo Ciocca, Jacques Colombier, Philippe Loiseau

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dc) a buyer does not inform the supplier of any different treatment the buyer gives, or intends to give, to competitor brands owned or managed by that buyer. Such difference in treatment shall include at least any specific measures or conduct on the part of the buyer in relation to: (a) listings, (b) shelf space and (c) trade margins;

Amendment 389

Ricardo Serrão Santos

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

Text proposed by the Commission

Amendment

(da) a buyer proceeds to a unilateral debit which relates to or constitutes a retroactive, albeit non contractual, change in conditions laid down in supply contracts, as well as to the deduction of amounts, without the prior consent of the other party, on the invoicing values due for the supply of goods or services;

Or. en

**Amendment 390
Tom Vandenkendelaere**

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

Text proposed by the Commission

Amendment

(da) a buyer demands a full, partial or prior transfer of the direct payments of the supplier to which the latter is entitled under Regulation (EU) No 1307/2013.

Or. nl

Justification

This amendment is intended to prohibit transfers of direct payments. This is in line with the Commission's intervention in the cases of Harms, C-434/08, and Arts, C-227/16. There the Commission states that a transfer of payment entitlements circumvents the true objective of agricultural subsidies.

**Amendment 391
Miguel Viegas**

**Proposal for a directive
Article 3.^o – paragraph 1 – point d a (new)**

Text proposed by the Commission

Amendment

(da) the buyer retaliates commercially against the supplier, or threatens to do so, in order to exercise its contractual and legal rights, including complaints to, and cooperation with, the competent national authorities.

Or. pt

Amendment 392

Esther Herranz García, Ramón Luis Valcárcel Siso, Gabriel Mato, Pilar Ayuso

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dd) a buyer retaliates or threatens to retaliate commercially against the supplier, by means of practices such as delisting of products, stopping data sharing services, excessive promotions, delayed payments, unilateral deductions and/or blocking of promotions, in order to obtain better conditions under existing contracts or when negotiating a new contract;

Or. en

Amendment 393

Mairead McGuinness, Sofia Ribeiro, Marijana Petir, Michel Dantin, Angélique Delahaye, Peter Jahr, Herbert Dorfmann, Nuno Melo

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dd) The buyer threatens or executes commercial retaliation against the supplier when the supplier exercises its contractual and legal rights, including

filing a complaint and cooperating with national enforcement authorities.

Or. en

Amendment 394

Mara Bizzotto, Angelo Ciocca, Jacques Colombier, Philippe Loiseau

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) the partial or total reduction of purchases under existing contracts for the purpose of imposing a change to an existing contract or negotiating a new contract;

Or. it

Amendment 395

Marco Zullo, Rosa D'Amato, Ignazio Corrao

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 them by the supplier;

Or. en

Amendment 396

Laurențiu Rebegea

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) a buyer does not take into account the obligation to inform the supplier, fully and unambiguously, about all the contractual provisions.

Or. ro

Amendment 397

Marc Tarabella, Clara Eugenia Aguilera García, Tibor Szanyi, Karine Gloanec Maurin, Momchil Nekov

Proposal for a directive

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

Text proposed by the Commission

Amendment

(db) The resale of agricultural or food products at a loss is prohibited, except when it concerns products whose expiry date expires two days after the date of sale.

Or. en

Amendment 398

Daniel Buda

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) a buyer does not take into account the obligation to inform the supplier, fully and unambiguously, about all the contractual provisions.

Or. ro

Amendment 399

Matt Carthy

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

Text proposed by the Commission

Amendment

(dc) A buyer imposing disproportionately high contractual sanctions in comparison to the value and significance of the subject of the obligation.

Or. en

Amendment 400
Othmar Karas

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

Text proposed by the Commission

Amendment

(ca) a buyer imposes or attempts to impose an unjustified or disproportionate transfer of the buyer's economic risks onto the supplier;

Or. en

Amendment 401
Esther Herranz García, Ramón Luis Valcárcel Siso, Gabriel Mato, Pilar Ayuso

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 an unjustified or disproportionate transfer of its economic risks to the supplier;

Or. en

Amendment 402

Mairead McGuinness, Sofia Ribeiro, Marijana Petir, Michel Dantin, Angélique Delahaye, Peter Jahr, Herbert Dorfmann, Nuno Melo

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dc) A buyer shares with third parties or misuses, intentionally or otherwise, confidential information relating to the supply agreement, including sensitive trade information shared by the supplier with the buyer;

Or. en

Amendment 403

Esther Herranz García, Ramón Luis Valcárcel Siso, Gabriel Mato, Pilar Ayuso

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dc) a buyer shares with third parties, or misuses, intentionally or by negligence, confidential information related to the supply contract, including trade secrets shared with the buyer by the supplier;

Or. en

Amendment 404

Anthea McIntyre

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) a supplier is de-listed without reasonable notice, written explanation of the decision and without genuine

commercial reasons.

Or. en

Amendment 405

Ivari Padar

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) the buyer demands other expenditure of the supplier apart from that referred to in paragraph 2(b), (c), (d) and (e) of this article.

Or. et

Amendment 406

Bronis Ropė

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) a buyer does not pay the average EU cost to a supplier.

Or. lt

Amendment 407

Marijana Petir

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) a buyer unilaterally terminates the supply agreement;

Amendment 408

Mara Bizzotto, Angelo Ciocca, Jacques Colombier, Philippe Loiseau

Proposal for a directive

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

Text proposed by the Commission

Amendment

(db) a buyer shares with third parties, or uses improperly, be it intentionally or negligently, confidential information relating to a supply agreement, including trade secrets shared by the supplier with the buyer;

Or. it

Amendment 409

Mairead McGuinness

Proposal for a directive

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

Text proposed by the Commission

Amendment

(db) A buyer unilaterally imposes quality standards that are not based on current legislation, quality schemes, science or current practices, which may have a distorting effect on trade.

Or. en

Amendment 410

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 onto the supplier a significant unbalance of rights and obligations in the commercial relationship before, during or after the contract;

Or. en

**Amendment 411
Matt Carthy**

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

Text proposed by the Commission

Amendment

A buyer compelling a supplier to avail of services it, or a third-party it has a contract with, offers not requested by the supplier and/or not serving its interests.

Or. en

**Amendment 412
Laurențiu Rebegea**

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

Text proposed by the Commission

Amendment

(db) a buyer makes the conclusion of a trade agreement dependent on payment of an annual fee and applies this retroactively.

Or. ro

**Amendment 413
Marijana Petir**

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

Text proposed by the Commission

Amendment

(db) a buyer reduces, in a non-transparent manner, the quantity and/or value of agricultural or food products of a standard quality;

Or. hr

**Amendment 414
Daniel Buda**

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

Text proposed by the Commission

Amendment

(db) a buyer makes the conclusion of a trade agreement dependent on payment of an annual fee and applies this retroactively.

Or. ro

**Amendment 415
Laurențiu Rebegea**

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

Text proposed by the Commission

Amendment

(dc) a buyer obliges a supplier, in breach of Articles 101 and 102 TFEU (restriction of competition by means of price agreements), to reduce the price of agricultural and food products if it finds that the producer has reduced the price in other distribution networks.

Or. ro

Amendment 416
Daniel Buda

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

Text proposed by the Commission

Amendment

(dc) a buyer obliges a supplier to reduce the price of food products by informing it that the supplier has reduced the price in other distribution networks.

Or. ro

Amendment 417
Maria Heubuch
on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

(dc) a buyer claims, in an inconsistent manner, that products do not meet cosmetic specifications, in order to cancel or reduce the terms of the supply agreement;

Or. en

Amendment 418
Marijana Petir

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

Text proposed by the Commission

Amendment

(dc) a buyer makes business cooperation and the conclusion of a supply agreement conditional upon compensation in goods and services;

Amendment 419

Othmar Karas

Proposal for a directive

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 420

Daniel Buda

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dd) a buyer refuses to give the supplier a description of any differentiated treatment of the supplier as compared with own brands.

The description referred to in dd (new) may include at the least every instance of different treatment in the sense of specific measures or procedures in connection with

(a) access to personal or other data gathered in connection with the purchase of agricultural or food products;

(b) listing, displaying, classifying or other factors affecting consumer purchase decisions;

(c) direct or indirect remuneration for using services provided by the buyer;

(d) access to or the conditions for the use of services directly related to the supply agreement.

Amendment 421

Mara Bizzotto, Angelo Ciocca, Jacques Colombier, Philippe Loiseau

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dd) a buyer implements forms of trade reprisals against a supplier, where the latter exercises his contractual and legal rights, including the lodging of complaints and cooperation with national law-enforcement authorities;

Or. it

Amendment 422

Maria Heubuch

on behalf of the Verts/ALE Group

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, for reasons unrelated to the supplier, has not been processed quickly enough.

Or. en

Amendment 423

Marijana Petir

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dd) a buyer charges the supplier for wastage, spillage, breakage and theft of products after delivering agricultural or food products, thus transferring the business risk to the supplier;

Or. hr

Amendment 424
Laurențiu Rebegea

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

Text proposed by the Commission

Amendment

(dd) a buyer obliges the supplier to pay staff for fitting-out the premises for the sale, manipulation or sale of the agricultural and food products.

Or. ro

Amendment 425
Othmar Karas

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 426
Laurențiu Rebegea

Proposal for a directive

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

Text proposed by the Commission

Amendment

(de) a buyer obliges the supplier to assume the cost of logistics and various provisions under the following model: discount, monthly advance commission payments, 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. ro

Amendment 427

Daniel Buda

Proposal for a directive

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

Text proposed by the Commission

Amendment

(de) a buyer refuses to take commercial measures if a supplier avails itself of its contractual rights, including the submission of a complaint and cooperating with the national enforcement authorities, or threatens the supplier with corresponding measures.

Or. ro

Amendment 428

Marijana Petir

Proposal for a directive

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

Text proposed by the Commission

Amendment

(de) a buyer provides a blank promissory note for the transferred raw materials and the supplier is not obliged to issue insurance for the transferred but

as yet unpaid for agricultural or food products;

Or. hr

Amendment 429

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

(de) a buyer requires suppliers 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 430

Marijana Petir

Proposal for a directive

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

Text proposed by the Commission

Amendment

(df) a buyer, by way of a supply agreement, obliges the supplier not to sell agricultural or food products to other buyers and/or processors at lower prices than those paid by the buyer and/or processor;

Or. hr

Amendment 431

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 or want to comply with a buyer's demands for price reduction;

Or. en

Amendment 432

Marijana Petir

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dg) a buyer charges a fee for the inclusion of the supplier's agricultural or food products;

Or. hr

Amendment 433

Marijana Petir

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dh) a buyer returns the supplied but unsold products, charges for the disposal of such products, charges the supplier for unused products that have expired – except in the case of products that are first supplied to the trader – as well as for products which the supplier had specifically requested be sold and which the supplier had been warned in writing may reach their expiry date owing to poor turnover;

Amendment 434

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 suppliers costs and without payment for this unsold food products;

Or. en

Amendment 435

Marijana Petir

Proposal for a directive

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

Text proposed by the Commission

Amendment

(di) a buyer charges a fee for the delivery of the agricultural or food products outside the agreed delivery point;

Or. hr

Amendment 436

Marijana Petir

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dj) a buyer charges a fee for storage and handling after delivery of the agricultural or food product;

Amendment 437
Marijana Petir

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

Text proposed by the Commission

Amendment

(dk) a buyer charges a fee for expanding the sales network, improving (redesigning) existing sales points, expanding storage capacity or expanding the distribution network;

Or. hr

Amendment 438
Marijana Petir

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

Text proposed by the Commission

Amendment

(dl) a buyer makes the conclusion or extension of a supply agreement and receipt of delivery of agricultural or food products which are the subject of the supply agreement conditional upon a demand for the production and delivery of agricultural or food products that may be regarded as interchangeable with the contracted or delivered products (the trader's brand);

Or. hr

Amendment 439
Marijana Petir

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

Text proposed by the Commission

Amendment

(dm) a buyer charges a fee for services not provided, or for services rendered although not contracted between the contracting parties;

Or. hr

**Amendment 440
Marijana Petir**

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

Text proposed by the Commission

Amendment

(dn) a buyer charges a fee for reduced turnover, sales or supplier's margin due to lower sales of a particular agricultural or food product;

Or. hr

**Amendment 441
Marijana Petir**

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

Text proposed by the Commission

Amendment

(do) a buyer sells agricultural or food products to the final consumer at a price lower than any purchase price in the supply chain of the given product that is subject to VAT, except in cases of products that are approaching their expiry date, withdrawal of the agricultural or food product from the range or full clearance due to the closure of a sales facility;

Or. hr

Amendment 442

Marijana Petir

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dp) a buyer negotiates a market research fee;

Or. hr

Amendment 443

Marijana Petir

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dq) a buyer makes the conclusion of a supply agreement and business cooperation conditional upon imposing the obligation to participate in discounts or sales by reducing the purchase price at the expense of the supplier;

Or. hr

Amendment 444

Marijana Petir

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dr) a buyer charges a fee for conclusion of a supply agreement with the supplier which is disproportionate to the administrative costs the supplier must bear;

Amendment 445

Matt Carthy

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dd) a buyer requests compensation from the supplier for the cost of examining customer complaints related to its products.

Or. en

Amendment 446

Matt Carthy

Proposal for a directive

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

Text proposed by the Commission

Amendment

(de) a buyer terminates, or threatens to terminate, a supply contract for reasons other than those listed as reasons for termination in the supply contract.

Or. en

Amendment 447

Anthea McIntyre, James Nicholson

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 commercially confidential information provided by the

supplier to the buyer.

Or. en

Amendment 448
Anthea McIntyre

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

Text proposed by the Commission

Amendment

(dc) a buyer requires suppliers to bear any costs incurred as a result of any forecasting error, unless:

-the buyer has prepared those forecasts in good faith and with due care, and following consultation with the supplier;

-the supply agreement includes an express and unambiguous provision that full compensation is not appropriate.

Or. en

Amendment 449
Matt Carthy

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

Text proposed by the Commission

Amendment

(df) a buyer compels a supplier to manufacture the same product to be sold under the retailer's own brand at the same or a lower cost than the supplier's branded product.

Or. en

Amendment 450
Matt Carthy

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

Text proposed by the Commission

Amendment

(dg) *a buyer charges the supplier a fee which is directly or indirectly a product listing fee.*

Or. en

Amendment 451
Matt Carthy

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

Text proposed by the Commission

Amendment

(dh) *a buyer demands a supplier to change any part of its supply chain procedures during the period of supply, unless that buyer: (a) gives reasonable notice of such a change in writing or (b) fully compensates that supplier for any net resulting cost as a result of the failure to give reasonable notice.*

Or. en

Amendment 452
Matt Carthy

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

Text proposed by the Commission

Amendment

(di) *a buyer comes to an agreement with a supplier which would result in the supplier receiving less than the net cost of production per unit supplied.*

Or. en

Amendment 453

Matt Carthy

Proposal for a directive

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

Text proposed by the Commission

Amendment

(dj) a buyer charges the supplier a fee for retention of the contract;

Or. en

Amendment 454

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 455

Nicola Caputo, Marc Tarabella, Michela Giuffrida

Proposal for a directive

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that unnaturally low transfer prices are prohibited. Production costs should be used as a basis for setting prices in contracts between a supplier and a buyer so that the transfer price cannot be lower than the supplier's production costs.

Member States shall lay down the procedures for determining the production costs of agricultural products and food products. This shall also apply to private label food products.

Or. en

Amendment 456

Marc Tarabella, Tibor Szanyi, Karine Gloanec Maurin, Momchil Nekov

Proposal for a directive

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that unnaturally low transfer prices are prohibited. Production costs should be used as a basis for setting prices in contracts between a supplier and a buyer so that the transfer price cannot be lower than the supplier's production costs. Member States shall lay down the procedures for determining the production costs of agricultural products and food products.

Or. en

Justification

This amendment seeks to prohibit the sale of agricultural products and food products at an excessively low price which would deprive the most vulnerable suppliers of a decent income. The prohibition of excessively low transfer prices is complementary to the sanction of significant imbalance. The setting of an unnaturally low transfer price should thus give rise to a sanction which punishes the price paid while the sanction of the significant imbalance relates to the totality of the contract.

Amendment 457

Nicola Caputo, Marc Tarabella, Michela Giuffrida

Proposal for a directive

Article 3 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States shall ensure that the abusive exploitation by a purchaser or a group of buyers of the state of economic dependence in which a supplier finds itself is prohibited.

Or. en

Amendment 458

Anthea McIntyre, James Nicholson

Proposal for a directive

Article 3 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

1d. A supply agreement between and a supplier and a buyer must not include provisions under which a supplier makes payments to a retailer as compensation for shrinkage.

Or. en

Amendment 459

Albert Deß, Peter Jahr, Norbert Lins

Proposal for a directive

Article 3 – paragraph 2 – introductory part

Text proposed by the Commission

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.***

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

Or. de

Amendment 460

Miguel Viegas

Proposal for a directive

Article 3.º – 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:

Or. pt

Amendment 461

Philippe Loiseau, Jacques Colombier

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; ***otherwise, if the Member State wishes to authorise these practises, it must first add them to its list of contentious but authorised practices, in line with Article 1(1)(a), and ensure that*** they are agreed in clear and unambiguous terms ***by both parties*** at the conclusion of the supply agreement:

Or. fr

Amendment 462

Paolo De Castro, Clara Eugenia Aguilera García, Nicola Caputo, Mairead McGuinness, Ricardo Serrão Santos, Marc Tarabella, 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 in any subsequent agreement between the buyer and the supplier during the validity of the supply agreement, or if they are the result of the economic dependence of the supplier on the buyer, which enabled the buyer to impose these terms:*

Or. en

Amendment 463
Michel Dantin

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, *or if they are the result of an abuse of the supplier's economic dependence on the buyer, which puts the buyer in a position to force the supplier to accept those terms:*

Or. fr

Justification

The aim of this amendment is to clarify the conditions under which certain trade practices could be considered permissible: when they are agreed in clear and unambiguous terms at the conclusion of the supply agreement, and when they are not the result of an abuse of the supplier's economic dependence on the buyer, which would put the buyer in a position to force the supplier to accept those terms.

Amendment 464
Marijana Petir

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 ***or if they are the outcome of conditions being imposed as a result of the supplier's economic dependence on the buyer:***

Or. hr

Amendment 465

Marco Zullo, Rosa D'Amato, Ignazio Corrao

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 ***or the ensuing payments are not strictly related to relevant costs incurred by the buyer :***

Or. en

Amendment 466

Susanne Melior, Maria Noichl

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***

Amendment

2. Member States shall ensure that the following trading practices are prohibited, if they are not agreed in clear and unambiguous terms ***in simple written form***

the supply agreement:

between the trading parties:

Or. de

Justification

Supply agreements sometimes cover a period of several years. It must also be possible, however, to make changes at short notice, which must be confirmed in writing (e.g. by email).

Amendment 467
Hilde Vautmans

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 parties:**

Or. en

Justification

In practice, parties agree on a framework agreement. Market conditions and consumer decisions might require some adjustments during the contract period. Thus, it is impossible to cover all details at the beginning of an agreement, which may be valid for several years. Therefore, the parties often agree on a number of additional elements during the course of the year or during the contract period. It is essential that this particular commercial practice is founded on a mutual agreement of both parties.

Amendment 468

Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jasenko Selimovic, Jan Huitema, Jean Arthuis, Hilde Vautmans

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

Amendment

2. Member States shall ensure that the following trading practices **constitute** prohibited **trading arrangements**, if they

unambiguous terms at the conclusion of the supply agreement:

are not agreed in clear and unambiguous terms at the conclusion of the supply agreement:

Or. en

Justification

This Directive should ensure that national laws and practices concerning contracts should be respected. Therefore it is important to specify that it is certain unfair trading arrangements that should be targeted.

Amendment 469
Luke Ming Flanagan

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 **contract**:

Or. en

Amendment 470
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 471

Miguel Viegas

Proposal for a directive

Article 3.^o – 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 products to a supplier;

Or. pt

Amendment 472

Philippe Loiseau, Jacques Colombier

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 food products to a supplier, ***in particular if they are perishables***;

Or. fr

Amendment 473

Marijana Petir

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 and*** food products to a supplier;

Or. hr

Amendment 474

Maria Heubuch

on behalf of the Verts/ALE Group

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 475
Marijana Petir

Proposal for a directive
Article 3 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) a buyer refuses to accept or take over the contracted quantity of agricultural or food products in accordance with the agreed purchase schedule, i.e. at the maturity of the obligation for the supplier to deliver, except in justified cases stipulated in the supply agreement;

Or. hr

Amendment 476
Marijana Petir

Proposal for a directive
Article 3 – paragraph 2 – point a b (new)

Text proposed by the Commission

Amendment

(ab) a buyer does not want to take over the contracted and produced quantities of agricultural or food products of the brands, except in justified cases stipulated by the supply agreement;

Or. hr

Amendment 477
Marijana Petir

Proposal for a directive
Article 3 – paragraph 2 – point a c (new)

Text proposed by the Commission

Amendment

(ac) a buyer charges a fee for data on the sale of the supplier's products collected at cash registers at the point of sale, unless the supplier expressly requests that information;

Or. hr

Amendment 478
Marijana Petir

Proposal for a directive
Article 3 – paragraph 2 – point a d (new)

Text proposed by the Commission

Amendment

(ad) the buyer removes products from the list of contracted products that the supplier delivers to the customer or significantly reduces an order of a particular agricultural or food product without prior written notice provided within the time period specified in the contract, or within a time limit which may not be shorter than 30 days in cases where the deadline is not stipulated in the contract;

Or. hr

Amendment 479
Marijana Petir

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 **a fee** as a condition for stocking, displaying **and/or accommodating a supplier's agricultural or** food products **on the shelves** of the **buyer's premises, unless the** supplier **explicitly requires the purchaser to stock, display and/or accommodate its product on a specific shelf at the buyer's point of sale;**

Or. hr

Amendment 480

Miguel Viegas

Proposal for a directive

Article 3.^o – 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 of the **supplier's products**;

Or. pt

Amendment 481

Maria Heubuch

on behalf of the Verts/ALE Group

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 482

Nicola Caputo

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 food products of the supplier.
However, this practice may be allowed if the buyer can ensure that the supplier gets a return on investment;

Or. en

Amendment 483

Miguel Viegas

Proposal for a directive

Article 3.º – 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 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 products to be ordered;

Or. pt

Amendment 484

Philippe Loiseau, Jacques Colombier

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

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 ***with the explicit agreement of***

period of the promotion and the expected quantity of the food products to be ordered;

the supplier, the buyer shall specify the period of the promotion and the expected quantity of the food products to be ordered;

Or. fr

Amendment 485

Maria Heubuch

on behalf of the Verts/ALE Group

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 486

Marijana Petir

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 food products to be ordered;

Or. hr

Amendment 487

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 **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** 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 488

Luke Ming Flanagan

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 **or advertising** 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;

Or. en

Amendment 489

Michel Dantin

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ca) a supplier pays for the buyer's trade activities, when foodstuffs are sold

for a lower price than the effective purchase price, including tax and transport costs;

Or. fr

Justification

The aim of this amendment is to introduce and regulate under EU law the concept of 'resale at a loss', which is the practice of offering consumers products at a price below the effective purchase price paid by the buyer to the supplier, and then charging the resulting costs to the supplier. There will have to be a debate on whether this practice should be strictly forbidden or whether freedom of contract should apply. In either case, this amendment should not prevent Member States, under Article 8 of this Directive, to set out stricter national laws on the practice (banning it altogether).

Amendment 490

Norbert Erdős

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ca) deceives the business parties in the economic competition.

Or. hu

Amendment 491

Miguel Viegas

Proposal for a directive

Article 3.º – 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 products by the buyer.

Or. pt

Amendment 492

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 the risk of losses arising from the marketing of agricultural or food products is transferred to the supplier.***

Or. en

Amendment 493

Marijana Petir

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. hr

Amendment 494

Maria Heubuch

on behalf of the Verts/ALE Group

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 and*** food products by the buyer.

Or. en

Amendment 495

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 496

Maria Gabriela Zoană

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) a buyer obliges a supplier, in breach of Articles 101 and 102 TFEU (anti-competitive price agreements), to reduce the price of food products already supplied if it finds that the producer has reduced the price for another distribution network, even if the reduction was effected at a later date;

a buyer obliges a supplier to pay staff responsible for arranging sales areas or manipulating or selling products;

a buyer obliges a supplier to assume the cost of logistics and various provisions under the following model: discount, monthly advance commission payments, discount for efficiency in acquisition, subsequent discount and new discount, which are transferred in the credit procedure (self-invoicing process) at the end of each month.

a buyer requires a supplier to pay for the agreement to continue and keep the latter's products in its range;

a buyer does not take into account the obligation to inform the supplier,

thoroughly and unambiguously, about all the contractual provisions;

a buyer makes the conclusion of a trade agreement dependent on payment of an annual fee and applies this retroactively;

a supplier is obliged to supply the products only to the supplier's platforms.

Or. ro

Amendment 497

Ivari Padar

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) the buyer imposes on, and demands from, the supplier penalty payments exceeding three times the value of the transaction.

Or. et

Amendment 498

Laurențiu Rebega

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) a buyer passes the costs incurred in transporting and storing the products on to the supplier;

Or. ro

Amendment 499

Bronis Ropè

Proposal for a directive
Article 3 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) a buyer does not pay the average EU cost to a supplier.

Or. It

Amendment 500
Laurențiu Rebegea

Proposal for a directive
Article 3 – paragraph 2 – point d b (new)

Text proposed by the Commission

Amendment

(db) a buyer obliges the supplier to deliver the products only to the supplier's platforms;

Or. ro

Amendment 501
Marco Zullo, Rosa D'Amato, Ignazio Corrao

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 all practices which:

1) impose or attempt to impose an unjustified or disproportionate transfer of buyer's economic risks to the supplier; or

2) impose or attempt to impose to the supplier a significant unbalance of rights and obligations before or during the contract;

are prohibited.

Amendment 502

Czesław Adam Siekierski, Jarosław Kalinowski

Proposal for a directive

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where a complaint relating to a practice referred to in paragraph 2 is submitted to an enforcement authority, the burden of proof that the supply agreement covers the trading practice at issue in clear and unambiguous terms shall be on the buyer.

Or. en

Amendment 503

Beata Gosiewska

Proposal for a directive

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where a complaint relating to a practice referred to in paragraph 2 is submitted to an enforcement authority, the burden of proof that the supply agreement covers the trading practice at issue in clear and unambiguous terms shall be on the buyer;

Or. en

Amendment 504

Zbigniew Kuźmiuk, Stanisław Ożóg

Proposal for a directive

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *Where a complaint relating to a practice referred to in paragraph 2 is submitted to an enforcement authority, the burden of proof that the supply agreement covers the trading practice at issue in clear and unambiguous terms shall be on the buyer.*

Or. en

Amendment 505

Elsi Katainen, Ulrike Müller, Pavel Telička, Hilde Vautmans

Proposal for a directive

Article 3 – paragraph 2 – point d – indent 1 (new)

Text proposed by the Commission

Amendment

- *Where a complaint relating to a practice referred in paragraph 2 is submitted to an enforcement authority, the burden of proof that the supply or trading arrangement covers the trading practise at issue in clear and unambiguous terms shall be on the buyer.*

Or. en

Justification

The aim of the amendment is to clarify that the burden of proof that the supply or trading arrangement covers the trading practise is on the side of buyer, who has sufficient resources and information for that compared to individual farmer.

Amendment 506

Michel Dantin

Proposal for a directive

Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *Where a complaint relating to a practice referred to in paragraph 2 of this*

Article is submitted to an enforcement authority, the burden of proof that the supply agreement clearly and unambiguously covers the trade practices in question falls on the buyer.

Or. fr

Justification

The aim of this amendment is to clarify that when a complaint is submitted, the burden of proof falls on the buyer if that burden of proof involves showing that the contested trade practices are clearly and unambiguously covered in the supply agreement.

Amendment 507

Philippe Loiseau, Jacques Colombier

Proposal for a directive

Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

Rules of evidence

The buyer must establish that it has not committed one of the unfair trading practices listed under Article 3 of this directive.

Or. fr

Amendment 508

Paolo De Castro, Nicola Caputo, Michel Dantin, Mairead McGuinness, Ricardo Serrão Santos, Marc Tarabella, Marco Zullo

Proposal for a directive

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that the trading practices referred to in paragraph 2 points (b), (c) and (d) are prohibited if the ensuing payments from the supplier to the buyer are not related to

the costs incurred by the buyer.

Or. en

Amendment 509

Norbert Erdős

Proposal for a directive

Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. the Member States adopt, in any cases which arise, the definitions of 'buyer', 'complainant', 'injured party', 'supplier' and 'infringing party' on the basis of terms set out in their civil codes or in other relevant legislation.

Or. hu

Amendment 510

Michel Dantin, Angélique Delahaye

Proposal for a directive

Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. If a payment is requested by the buyer for the situations described in points (b), (c) and (d) of paragraph 2, **the buyer shall, if requested by the supplier**, provide the supplier with an estimate of the payments per unit or overall, whichever is appropriate, and insofar as the situations described in points (b) and (d) of paragraph 2 are concerned also an estimate of the costs and the basis for such estimate.

3. If a payment is requested by the buyer for the situations described in points (b), (c) and (d) of paragraph 2:
(i) this payment must strictly be linked to the service provided and the costs incurred by the buyer;
(ii) the buyer shall provide the supplier with an estimate of the payments per unit or overall, whichever is appropriate, and insofar as the situations described in points (b) and (d) of paragraph 2 are concerned also an estimate of the costs and the basis for such estimate.

Or. fr

Justification

The aim of this amendment is to clarify that payments made in the situations listed under points (b), (c) and (d) of paragraph 2 must strictly be connected with the service provided and the costs incurred by the buyer.

Amendment 511

Tibor Szanyi

Proposal for a directive

Article 3 – paragraph 3

Text proposed by the Commission

3. If a payment is requested by the buyer for the situations described in points (b), (c) and (d) of paragraph 2, the buyer shall, if requested by the supplier, provide the supplier with an estimate of the **payments per unit or overall, whichever is appropriate, and insofar as the situations described in points (b) and (d) of paragraph 2 are concerned also an estimate of the costs and the basis for such estimate.**

Amendment

3. If a payment is requested by the buyer for the situations described in points (b), (c) and (d) of paragraph 2, the buyer shall, if requested by the supplier, provide the supplier with an estimate of the overall **payment through a general set of parameters, such as the price and the services provided.**

Or. en

Justification

Competition issues may arise in case the calculation of the promotion or marketing costs are revealed, while the definition of unit payments is sometimes impossible in practice.

Amendment 512

Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jasenko Selimovic, Jan Huitema, Jean Arthuis, Hilde Vautmans

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

Amendment

4. Member States shall ensure that the prohibitions laid down in paragraphs 1 and 2 constitute overriding mandatory provisions **of trading arrangements** which

situation falling within their scope,
***irrespective of the law otherwise
applicable to the supply agreement
between the parties.***

are applicable to any situation falling
within their scope.

Or. en

Amendment 513
Miguel Viegas

Proposal for a directive
Article 3.º – 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 than the prohibitions under paragraphs 1 and 2.***

Or. pt

Amendment 514
Miguel Viegas

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

Text proposed by the Commission

Amendment

4a. A buyer must ensure that contracts are drafted in clear and unambiguous language. Contracts shall specify at least (a) the parties, (b) the subject, (c) the volume, price (fixed or to be determined on the basis of transparent, objective criteria), and quality, (d) the time-frame for payment, (e) penalties related to performance of the contract, (f) the

duration and, if applicable, renewal, (g) the grounds for termination, allowing for reasonable notice, and (h) the law and jurisdiction applicable.

Or. pt

Amendment 515

Mara Bizzotto, Angelo Ciocca, Jacques Colombier, Philippe Loiseau

Proposal for a directive

Article 3 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The costs of the services that derive from the performance of the supply agreement by the buyer shall be clearly set out within that agreement and determined strictly in accordance with the service provided; they may not, furthermore, under any circumstances, reflect a state of economic dependence of the supplier on the buyer, which would enable the latter to impose such terms unilaterally.

Or. it

Amendment 516

Marijana Petir

Proposal for a directive

Article 3 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall ensure that contractual terms or practices that rule out interest for late payment are prohibited under the provisions of Article 7 of Directive 2011/7/EU.

Or. hr

Amendment 517
Laurențiu Rebegea

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

Text proposed by the Commission

Amendment

4a. The Member States retain the right to prohibit other practices which they deem to be unfair.

Or. ro

Amendment 518
Annie Schreijer-Pierik

Proposal for a directive
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Contractual relations

- 1. A supplier may require that any delivery of its agricultural and food products to a buyer be the subject of a written contract between the parties and/or the subject of a written offer for a contract from the first purchaser.**
- 2. Any contract or offer for a contract referred to in paragraph 1 shall:**
 - (a) be made in advance of the delivery;**
 - (b) be made in writing; and**
 - (c) include, in particular, the following elements:**
 - (i) the price payable for the delivery, which shall: — be static and be set out in the contract, and/or — be calculated by combining various factors set out in the contract, which may include market indicators reflecting changes in market conditions, the quantities delivered and the quality or composition of the**

- agricultural products delivered,*
- (ii) the quantity and quality of the products concerned which may or must be delivered and the timing of such deliveries,*
- (iii) the duration of the contract, which may include either a definite duration or an indefinite duration with termination clauses,*
- (iv) details regarding payment periods and procedures,*
- (v) arrangements for collecting or delivering the agricultural products, and*
- (vi) rules applicable in the event of force majeure.*

3. Paragraphs 1 and 2 shall be without prejudice to Articles 148 and 168 of Regulation (EU) No 1308/2013.

4. Member States may identify, share and promote best practices concerning long-term contractualisation, aimed at strengthening the bargaining position of producers within the agricultural and food supply chain.

5. In order to guarantee a level playing field within the Union, individual Member States may not decide that the use of written contracts as referred to in paragraph 1 shall be mandatory.

Or. en

Amendment 519
Michel Dantin

Proposal for a directive
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Contractual relations

1. A supplier may require that any delivery of its agricultural and food products to a buyer be the subject of a written contract between the parties and/or the subject of a written offer for a contract from the first purchaser.

2. Any contract or offer for a contract referred to in paragraph 1 shall:

be made in advance of the delivery;

b) be made in writing; and

(c) include, in particular, the following elements:

(i) the price payable for the delivery, which shall:

— be static and be set out in the contract, and/or

— be calculated by combining various factors set out in the contract, which may include market indicators reflecting changes in market conditions, the quantities delivered and the quality or composition of the agricultural products delivered,

(ii) the quantity and quality of the products concerned which may or must be delivered and the timing of such deliveries,

(iii) the duration of the contract, which may include either a definite duration or an indefinite duration with termination clauses,

(iv) details regarding payment periods and procedures,

(v) arrangements for collecting or delivering the agricultural products, and

(vi) rules applicable in the event of force majeure.

3. Paragraphs 1 and 2 shall be without prejudice to Articles 125, 148 and 168 of Regulation (EU) No 1308/2013.

4. Member States may identify, share and promote best practices concerning long-term contractualisation, aimed at

strengthening the bargaining position of producers within the agricultural and food supply chain.

Or. fr

Justification

The aim of this amendment is to support Amendment 44 by clarifying that the sugar sector has its own contract rules as set out under Article 125 of Regulation 1308/2013.

Amendment 520

Paolo De Castro, Nicola Caputo, Michel Dantin, Mairead McGuinness, Ricardo Serrão Santos, Marc Tarabella, Marco Zullo

**Proposal for a directive
Article 3 a (new)**

Text proposed by the Commission

Amendment

Article 3a

Contractual relations

1. Without prejudice to Articles 125 and 148 of Regulation (EU) No 1308/2013, Article 168 of that Regulation applies to agricultural and food products as defined in Article 2 point (d) of this Directive.

2. Member States may identify, share and promote best practices concerning long-term contractualisation, aimed at strengthening the bargaining position of producers within the agricultural and food supply chain.

Or. en

**Amendment 521
Norbert Erdős**

**Proposal for a directive
Article 3 a (new)**

Text proposed by the Commission

Amendment

Article 3a

The Member States should draw up model contracts, which would help market operators to determine the requisite contractual frameworks.

If it can be substantiated that a contracting party is in a critical situation for external market reasons, deviation from the terms of the contract shall be permissible by mutual written agreement. The parameters and conditions governing any deviation from the terms of the contract must be recorded in the contract. Because of sudden, unforeseeable changes in the market, the parties must also determine the procedure for dealing with instances of vis major in the contract.

Or. hu

Amendment 522

Maria Lidia Senra Rodríguez

Proposal for a directive

Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Contractual relations

The Member States shall set a stable framework for buyer-producer relations that establishes the mechanisms for collective bargaining over the minimum prices for farming products, ensuring that those prices cover costs and wages along with all sales of goods rules. The arbitration figure shall also be set.

Or. es

Amendment 523

**Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jasenko Selimovic,
Hilde Vautmans**

**Proposal for a directive
Article 3 – paragraph 4 – subparagraph 1 (new)**

Text proposed by the Commission

Amendment

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

Or. en

Justification

To secure fair functioning of the food chain it is important to ensure that a supplier may require a written contract based on already adopted regulation, but also to maintain the flexibility for Member States to allow contracts according to their national law.

**Amendment 524
Maria Lidia Senra Rodríguez**

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

Text proposed by the Commission

Amendment

(-1) Through the competent public authorities, the European Union shall check and ensure compliance with the provisions laid down in this Directive on supranational transactions and simultaneous transactions in a number of Member States, and it shall do so within short periods of time.

Or. es

**Amendment 525
Ivari Padar**

**Proposal for a directive
Article 4 – paragraph 1**

Text proposed by the Commission

Each Member State shall designate a **public** authority to **enforce** the prohibitions laid down in Article 3 at national level ("enforcement authority").

Amendment

Each Member State shall designate a **national competent** authority to **supervise compliance with** the prohibitions laid down in Article 3 at national level ("enforcement authority").

Or. et

Amendment 526
Luke Ming Flanagan

Proposal for a directive
Article 4 – paragraph 1

Text proposed by the Commission

Each Member State shall designate **a** public authority to enforce the prohibitions laid down in Article 3 at national level ("enforcement authority").

Amendment

Each Member State shall designate **an independently funded, transparent** public authority to enforce the prohibitions laid down in Article 3 at national level ("enforcement authority").

Or. en

Amendment 527
Esther Herranz García, Ramón Luis Valcárcel Siso, Gabriel Mato, Pilar Ayuso

Proposal for a directive
Article 4 – paragraph 1

Text proposed by the Commission

Each Member State shall designate a public authority to enforce the prohibitions laid down in Article 3 at national level ("enforcement authority").

Amendment

Each Member State shall designate a **single** public authority to enforce the prohibitions laid down in Article 3 at national level ("enforcement authority").

Or. en

Justification

It is necessary to establish a single public control authority as the multiplication of enforcement authorities in Member States could cause a lack of homogeneity and reduce the effectiveness of controls.

Amendment 528

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 4 – paragraph 1

Text proposed by the Commission

Each Member State shall designate a public authority to enforce the prohibitions laid down in Article 3 at national level ("enforcement authority").

Amendment

Each Member State shall designate a public authority to enforce the prohibitions laid down in Article 3 at national level ("enforcement authority"), ***and inform the Commission of the designation.***

Or. en

Amendment 529

Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jean Arthuis, Hilde Vautmans

Proposal for a directive

Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The designated authorities shall have the necessary resources to ensure an effective enforcement of the prohibitions of unfair trading practices, in terms of qualified staff able to conduct proficient legal and economic assessments, financial means, technical and technological expertise and equipment including adequate information technology tools.

Or. en

Amendment 530
Maria Heubuch
on behalf of the Verts/ALE Group

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 budget and expertise, to fulfil their obligations.

Or. en

Amendment 531
Laurențiu Rebeca

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

Text proposed by the Commission

Amendment

The authority shall be responsible for identifying all unfair practices committed by the buyer.

Or. ro

Amendment 532
Paolo De Castro, Nicola Caputo, Michel Dantin, Ricardo Serrão Santos, Marc Tarabella, Marco Zullo

Proposal for a directive
Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4a

Competent enforcement 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 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 enforcement authority shall also be competent to investigate unfair trading practices as regards the provision of services related to the supply agreement. The buyer shall be considered as jointly liable for any infringements committed by a third-party provider of the related services.

Or. en

Amendment 533
Norbert Erdős

Proposal for a directive
Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4a

The legislation of that country in which the harmful act was committed, i.e. the country where the injured party has its registered office, shall apply to a market

player who has engaged in unfair trading practices.

Or. hu

Amendment 534

Mairead McGuinness, Sofia Ribeiro, Michel Dantin, Angélique Delahaye, Herbert Dorfmann, Nuno Melo, Annie Schreijer-Pierik

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. *Complaints shall be addressed to the enforcement authority of the Member State in which the supplier is located. The enforcement authority which receives the complaint shall forward it for investigation to the competent enforcement authority of the Member State in which the buyer suspected of engaging in a prohibited practice is established. When the buyer is established outside the Union, the competent enforcement authority that receives the complaint must take action.*

Or. en

Amendment 535

Norbert Erdős

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) *The legislation of that country in which the harmful act was committed, i.e. the country where the injured party has its registered office, shall apply to a market player who has engaged in unfair trading practices. The complaint must be submitted to the enforcement authority*

operating in the injured party's country.

Or. hu

Amendment 536

Marc Tarabella, Tibor Szanyi, Maria Gabriela Zoană, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

**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. *Complaints* shall *be addressed* to the enforcement authority of the Member State in which the *supplier* is established.

Or. en

Justification

The Commission's proposal does not offer sufficient protection for the supplier, who will have to draft their complaint in a language other than their own and in a manner that they will not be able to understand. It is better for them to be able to address the authority of the Member State in which they are located and this authority transfers the complaint to the competent authority of the Member State where the buyer is located. The amendment aims also to provide for the competent enforcement authority when the suspected buyer or the complainant is not established in the European Union.

Amendment 537

Clara Eugenia Aguilera García, Sergio Gutiérrez Prieto, Tibor Szanyi, Ricardo Serrão Santos, Nikos Androulakis

**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. *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.

Amendment 538

Miguel Viegas

Proposal for a directive

Article 5.^o – 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 ***unfair trading practice produces the effects sought. The effects shall be presumed to occur in the Member State where the buyer of the product processes or distributes it. If the effects are felt in more than one Member State, the law enforcement authorities may coordinate their investigations.***

Or. pt

Amendment 539

Maria Heubuch

on behalf of the Verts/ALE Group

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 540
Michela Giuffrida

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. ***Complaints shall be addressed to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established. If a supplier, or the supplier's representative, is unable to submit a complaint to the enforcement authority of the Member State where the buyer is established, he or she may submit a complaint to the enforcement authority of the Member State where he or she is established. The latter authority shall forward the*** 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. it

Justification

The amendment seeks to give suppliers or their representatives, who are unable to submit a complaint to foreign authorities, the option of doing so through the competent authorities in their own Member States.

Amendment 541
Philippe Loiseau, Jacques Colombier

Proposal for a directive
Article 5 – paragraph 1

Text proposed by the Commission

1. A supplier shall address a

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Amendment

1. A supplier shall address a

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

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 of the Member State where it conducts its business.***

Or. fr

Amendment 542

Matt Carthy

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.
Where a buyer established inside the Union uses a buyer established outside of the Union to purchase products for retail inside the Union, it shall assume the obligations of its non Union purchaser in the event of a dispute. Complaints shall be addressed to the enforcement authority of the Member State in which the buyer is established.

Or. en

Amendment 543

Laurențiu Rebega

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) A supplier ***may*** 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.

suspected to have ***committed*** 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 supplier's complaint to the enforcement authority of the Member State in which the buyer is established.***

Or. ro

Amendment 544
Bronis Ropè

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 ***or information regarding itself or the buyer*** to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established.

Or. lt

Amendment 545
Susanne Melior, Maria Noichl

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 a complaint is submitted, the parties must first engage in dialogue and conduct a mediation procedure. If this fails to resolve the dispute, the supplier may then lodge a complaint.***

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. de

Justification

The article should also make it possible to provide for mediation and alternative dispute resolution mechanisms, as under the Supply Chain initiative. These can be effective alternatives to state enforcement mechanisms, which damage existing business relationships and can take several years to complete.

Amendment 546
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 547
Hilde Vautmans

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. ***The parties are required to implement an existing dialog and mediation procedure. If this does not resolve the issue, a 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

Justification

The article should provide for mediation and other alternative dispute resolution mechanisms, similar to the existing Supply Chain Initiative and national dialogue platforms, as an effective alternative to public enforcement action, which can rupture existing business relationships and take many years.

Amendment 548

Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jean Arthuis, Hilde Vautmans

Proposal for a directive

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. A supplier may submit a complaint to the enforcement authority of the Member State in which the supplier is established. The enforcement authority of that Member State shall forward the complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established. The enforcement authorities shall facilitate the dialogue and play an active role in the dispute resolution.

Or. en

Justification

It is important that enforcement authorities play an active role in the complaint resolution and provide suppliers with the necessary advice and administrative assistance, as the burden can be enormous, especially for small suppliers such as individual farmers.

Amendment 549

Esther Herranz García, Ramón Luis Valcárcel Siso, Gabriel Mato, Pilar Ayuso

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

Text proposed by the Commission

Amendment

A supplier may submit a complaint to the enforcement authority of the Member State in which the supplier is established. The enforcement authority of that Member State shall forward the 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

Justification

Some SMEs could not have the capacity to address their complaints in countries different from the one in which they are established. Therefore, they should have the possibility to ask for the intervention of the enforcement authority of their own country, as interlocutor in the procurement process.

Amendment 550

Clara Eugenia Aguilera García, Sergio Gutiérrez Prieto, Tibor Szanyi, Marc Tarabella, Ricardo Serrão Santos, Nikos Androulakis

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

Text proposed by the Commission

Amendment

1a. The 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 551

Czesław Adam Siekierski, Jarosław Kalinowski

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

Text proposed by the Commission

Amendment

1a. The supplier may also submit such a complaint to the enforcement authority of its own Member State, which shall forward that complaint to the competent enforcement authority of the Member State in which the buyer is established.

Or. en

Amendment 552
Beata Gosiewska

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

Text proposed by the Commission

Amendment

a. The supplier may also submit such a complaint to the enforcement authority of its own Member State, which shall forward that complaint to the competent enforcement authority of the Member State in which the buyer is established;

Or. en

Amendment 553
Zbigniew Kuźmiuk, Stanisław Ożóg

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

Text proposed by the Commission

Amendment

1a. The supplier may also submit such a complaint to the enforcement authority of its own Member State, which shall forward that complaint to the competent enforcement authority of the Member State in which the buyer is established.

Amendment 554

Marc Tarabella, Clara Eugenia Aguilera García, Tibor Szanyi, Maria Gabriela Zoană, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

Proposal for a directive

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The enforcement authority, which receives the complaint, shall forward it to the competent enforcement authority of the State in which the buyer suspected of engaging in a prohibited business practice is established.

Or. en

Amendment 555

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. A supplier established outside the EU shall address a complaint to the enforcement authority of any Member State. Upon receipt of the complaint, the enforcement authority shall forward it to the enforcement authority (if different) of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established

Or. en

Justification

The directive also applies to suppliers outside the EU, and so this amendment provides them with their mechanism to lodge a complaint. This is essential to avoid discrimination between EU- and non-EU suppliers and to avoid distortion of competition and trade diversion. This is

important in contributing to the treaty obligation of Policy Coherence for Development and EU commitments under the Sustainable Development Goals.

Amendment 556

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Where the buyer is established outside of the Union, the supplier shall address a complaint to the enforcement authority of the Member State in which it is established. For cases where the supplier is established outside of the Union, the supplier can address a complaint to any designated enforcement authority.

Or. en

Amendment 557

Marc Tarabella, Clara Eugenia Aguilera García, Tibor Szanyi, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

Proposal for a directive

Article 5 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. When the buyer is not established in the Union, the competent authority shall have special powers to deal with the complaint and to penalize any infringements found.

Or. en

Amendment 558

Marc Tarabella, Tibor Szanyi, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

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

Text proposed by the Commission

Amendment

1c. If the complainant is not established in the Union, they shall submit their complaint to the authority of the Member State in which the buyer is established.

Or. en

Amendment 559
Anthea McIntyre, James Nicholson

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, ***direct and indirect suppliers, trade associations and any organisations with knowledge of trading practices in supply chains may submit evidence of a suspected breach of the prohibitions laid down in Article 3.***

Or. en

Amendment 560
Matt Carthy

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

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 ***or organisations with knowledge of trading***

the right to submit a complaint.

practices in food supply chains shall have the right to submit a complaint.

Or. en

Amendment 561

Maria Heubuch

on behalf of the Verts/ALE Group

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 on trading practices in food supply chains, including non-governmental organisations and civil society organisations*, shall have the right to submit a complaint.

Or. en

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 562

Marco Zullo, Rosa D'Amato, Ignazio Corrao

Proposal for a directive

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Any other organization with knowledge of unfair trading practices in

supply chains shall have the right to submit a complaint, provided there is no conflict of interest.

Or. en

Amendment 563

Othmar Karas

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 ***according to Regulation 1308/2013/EU*** 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 bring into application the provisions of Article 6.***

Or. en

Amendment 564

Marc Tarabella, Tibor Szanyi, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

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, 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, ***non-governmental and civil society organisations*** shall have the right to submit a complaint ***and may be a party in the proceedings.***

Amendment 565

Paolo De Castro, Nicola Caputo, Michel Dantin, Mairead McGuinness, Ricardo Serrão Santos, Marc Tarabella, Marco Zullo

**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. Organisations **of producers or of suppliers** or associations of organisations **of producers or of suppliers, including representative organizations**, 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 566

Maria Lidia Senra Rodríguez

**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 or farmers'** 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. es

Amendment 567

Clara Eugenia Aguilera García, Sergio Gutiérrez Prieto, Tibor Szanyi, Marc Tarabella, Ricardo Serrão Santos, Nikos Androulakis

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 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 568

Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jasenko Selimovic, Jean Arthuis, Hilde Vautmans

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

Justification

It is important to stress, that producer organisations or associations of producer organisations have the possibility to represent their members in accordance with national law; for example by representing one of the parties of a proceeding.

Amendment 569

Tom Vandenkendelaere

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 *or to intervene in a conciliation procedure as referred to in Article 2(ea)*.

Or. nl

Amendment 570

Esther Herranz García, Ramón Luis Valcárcel Siso, Gabriel Mato, Pilar Ayuso

**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 the confidentiality of the identity of the complainant, *as well as* other information in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information.

Or. en

Justification

This amendment ensures that complaints are anonymous in order to eliminate the "fear factor".

Amendment 571

Paul Brannen

**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 *the automatic application of* confidentiality *as regards* 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 *without the need for a* confidentiality *request*.

Or. en

Amendment 572

Michel Dantin

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 *during the investigation*, 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.

Or. fr

Justification

The objective of this amendment is to clarify that the enforcement authority must guarantee the confidentiality of the complainant's identity during the investigation, but also to guarantee the rights of the defence.

Amendment 573

Clara Eugenia Aguilera García, Sergio Gutiérrez Prieto, Tibor Szanyi, Marc Tarabella, Ricardo Serrão Santos, Nikos Androulakis

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 anonymity of all the parties concerned, as well as the 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 574
Hilde Vautmans

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 both***

parties.

Or. en

Amendment 575

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 also ensure the confidentiality of the procedure in the interest of the opponent.***

Or. en

Amendment 576

Marco Zullo, Rosa D'Amato, Ignazio Corrao

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 also guarantee the confidentiality of the process and of the investigation***

themselves.

Or. en

Amendment 577
Tom Vandenkendelaere

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

Text proposed by the Commission

Amendment

3a. Where such information is nevertheless made public, the buyer shall not, on the basis of that information, perform any detrimental acts vis-à-vis the supplier. If the buyer breaches this prohibition, he or she shall be liable for compensation for the damage caused to the supplier, including loss, loss of profit and reputational damage.

Or. nl

Amendment 578
Maria Heubuch
on behalf of the Verts/ALE Group

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. Within one month of receiving the complaint, the enforcement authority shall inform the complainant of its decision on whether to act on a complaint. 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

Justification

Enforcement authorities should act promptly on any complaint, and provide complainants with reasoning for the actions taken or not taken

Amendment 579

Philippe Loiseau, Jacques Colombier, Angelo Ciocca, Mara Bizzotto

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. Where the enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall inform **only** the complainant about the reasons. ***The complainant shall be notified of the rejection in line with the laws of the Member State in which the enforcement authority is established. This notification should mention that the complainant can appeal the decision within a suitable time limit, under the laws of the Member State in which the enforcement authority is established.***

Or. fr

Amendment 580

Luke Ming Flanagan

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. Where the enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall **set out in writing, and forward to** the complainant the reasons **for arriving at its decision;**

Or. en

Amendment 581

Marijana Petir

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. Where the enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall inform the complainant ***without delay*** about the reasons.

Or. hr

Amendment 582

Esther Herranz García, Ramón Luis Valcárcel Siso, Gabriel Mato, Pilar Ayuso

Proposal for a directive

Article 5 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The enforcement authority shall establish a reasonable time period to initiate and conduct investigations and, upon completion, take a reasoned decision and inform the parties of its decision.

Or. en

Justification

This amendment ensures a timely period for initiating, conducting, completing investigations and communicating the parties about the decision taken by the enforcement authority.

Amendment 583

Mara Bizzotto, Angelo Ciocca, Jacques Colombier, Philippe Loiseau

Proposal for a directive

Article 5 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. *The competent authority referred to in the previous paragraphs shall also be competent to investigate unfair trading practices relating to the supply of services connected to the supply agreement. The buyer and, where appropriate, the third-party recipient of the goods, shall be held jointly liable for any infringements committed by a third-party supplier of the relevant services.*

Or. it

Amendment 584

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. *Where the enforcement authority extends the investigation for an additional six months, as per Article 6 (1) a, it shall inform the complainant of this extension and its reasons for it.*

Or. en

Justification

Enforcement authorities shall keep complainants up to date on the cases in which they are involved

Amendment 585

Marc Tarabella, Tibor Szanyi, Maria Gabriela Zoană, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

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 *their* enforcement *authorities have the necessary resources, including sufficient budgetary and other resources, expertise, procedures and other arrangements as well as a sufficient number of competent personnel at their disposal for the proper performance of their duties* and shall confer on *them* the following powers:

Or. en

Amendment 586
Anthea McIntyre, James Nicholson

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 *to encourage the proper and fair functioning of the agricultural and food supply chain. They* shall confer on it the following powers:

Or. en

Amendment 587
Tom Vandenkendelaere

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 *authorities are* properly equipped and shall confer on *them* the following powers:

Or. nl

Amendment 588
Philippe Loiseau, Jacques Colmbier

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 a complaint;

Or. fr

Amendment 589
Maria Heubuch
on behalf of the Verts/ALE Group

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 a complaint, ***within a period of maximum six months, with an extension of an additional six months in complex and duly justified cases;***

Or. en

Amendment 590
Anthea McIntyre

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 ***where there are reasonable grounds to suspect there has been a breach of the prohibitions laid down in Article 3.***

Amendment 591

Mairead McGuinness, Sofia Ribeiro, Michel Dantin, Peter Jahr, Herbert Dorfmann, Nuno Melo, Annie Schreijer-Pierik

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 a complaint, ***including anonymous complaints or complaints from whistleblowers***;

Or. en

Amendment 592

Bronis Ropè

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 a complaint ***or on information obtained by the supplier***;

Or. It

Amendment 593

Susanne Melior, Maria Noichl

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***

Amendment

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

based on a complaint;

on reasonable suspicion or on a complaint;

Or. de

Justification

Clarification.

Amendment 594

Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jan Huitema, Jean Arthuis

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 ***proactively*** initiate and conduct investigations on its own initiative or based on a complaint;

Or. en

Amendment 595

Marijana Petir

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 to carry out investigations on the prohibited trading practices;

Amendment

(b) to require buyers and suppliers to provide all necessary information in order to carry out investigations on the prohibited ***trading practices that occurred in the commercial relationship and to assess whether they are prohibited or deviate from good*** trading practices;

Or. hr

Amendment 596

Peter Jahr, Albert Deß, Norbert Lins

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ba) With a view to improving the functioning of the agri-food supply chain, in the event of a dispute between a supplier and a buyer stemming from the employment of an unfair trading practice within the meaning of Article 2(a) Member States must offer all parties a mediation procedure or an alternative dispute resolution mechanism and the Commission should facilitate dialogue and exchanges of proven practice among all parties at Union level.

Or. de

Amendment 597

Tom Vandenkendelaere

Proposal for a directive

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

Text proposed by the Commission

Amendment

(ba) to propose that buyers and suppliers launch a conciliation procedure as referred to in Article 2(ea) in order, within two months of the launch of the procedure, to reach a mediated agreement concerning the complaint submitted, an agreement which shall be dated and signed by the parties and shall contain a precise description of the undertakings given by each of them;

Or. nl

Amendment 598

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

(bb) to undertake, upon request of a supplier, mediation or dispute resolution functions, and to ensure the proceedings are held privately where the supplier so requests;

Or. en

Amendment 599

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 600

Marc Tarabella, Clara Eugenia Aguilera García, Tibor Szanyi, Maria Gabriela Zoană, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

Proposal for a directive

Article 6 – paragraph 1 – point c

Text proposed by the Commission

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 or

(c) to take a decision **granting the supplier interim relief to put an end to the forbidden commercial practice**, establishing an infringement of the prohibitions laid down in Article 3 and require the buyer to terminate the prohibited trading practice, **and to annul**

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);

the relevant clauses or illegal contracts.
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 601

Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jasenko Selimovic, Jan Huitema

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 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 602

Philippe Loiseau, Jacques Colombier

Proposal for a directive

Article 6 – paragraph 1 – point c

Text proposed by the Commission

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 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);

(c) to take a decision establishing an infringement of the prohibitions laid down in Article 3 and require the buyer to ***immediately*** 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. fr

Amendment 603

Mairead McGuinness, Sofia Ribeiro, Michel Dantin, Angélique Delahaye, Peter Jahr, Herbert Dorfmann, Nuno Melo, Annie Schreijer-Pierik

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 ***and if necessary other dissuasive sanctions*** on the ***natural or legal person found to have made an*** infringement ***of this Directive, in accordance with national law***. The fine ***and, if necessary, the sanction*** shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement ***as well as any previous and repeated infringements of this Directive***;

Or. en

Amendment 604

Philippe Loiseau, Jacques Colombier, Angelo Ciocca, Mara Bizzotto

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 **substantial** 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 fine should make it possible for the complainant to return its finances to what they were before the offence was committed. The complainant can also claim moral damages if the offence has undermined the complainant's interests, harmed its brand image or caused damage other than commercial damage alone.***

Or. fr

Amendment 605

Nicola Caputo, Clara Eugenia Aguilera García, Ricardo Serrão Santos

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 **or other sanctions** on the author of the infringement, ***in accordance with national law***. The fine **and the other sanctions** shall be effective, proportionate ***to the harm caused*** and dissuasive taking into account the nature, duration and gravity of the infringement. ***Repeated infringements by the same operator shall be taken into account when determining the sanction to be applied;***

Or. en

Amendment 606

Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jasenko Selimovic, Jan Huitema

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 **or other sanctions** on the author of the infringement **in accordance with the national law**. The fine **and the other sanctions** shall be effective, proportionate **to the harm caused** and dissuasive taking into account the nature, duration and gravity **and possible repetition** of the infringement;

Or. en

Justification

It is important to guarantee enough flexibility at the Member State level because the sanction should be proportionate in the context of national sanction system. Fine is rather specific as there might be reason to give other form of sanctions that could be more efficient. It is necessary also to take account the possible repetition of infringements.

Amendment 607

Hilde Vautmans

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 **or other sanction** on the author of the infringement, **in accordance with national law**. The fine **and the other sanctions** shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement;

Or. en

Justification

In line with the principle of subsidiarity we best leave it up to the Member States to define the nature of sanctions.

Amendment 608

Marc Tarabella, Clara Eugenia Aguilera García, Tibor Szanyi, Maria Gabriela Zoană, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

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; ***repeated infringements by the same operator shall be taken into account when determining the sanction to be applied;***

Or. en

Amendment 609

Marijana Petir

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; ***repetition of the infringement by the same buyer shall be considered for the purpose of determining the penalty;***

Or. hr

Amendment 610

Anthea McIntyre, James Nicholson

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 also take into account any previous infringements.***

Or. en

Amendment 611 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 612 Laurențiu Rebegea

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

Amendment 613

Norbert Erdős

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 Member States should create a risk-analysis model to assess the extent of the damage caused and determine the extent of the penalty to be imposed. Repeated unfair market practices shall be considered as an aggravating factor in determining the penalty.***

Or. hu

Amendment 614

Bas Belder

Proposal for a directive

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

Text proposed by the Commission

Amendment

(da) to arrange for compensation of damages by the author of an infringement in cases where confidentiality has been requested by the complainant;

Or. en

Amendment 615

Marc Tarabella, Tibor Szanyi, Maria Gabriela Zoană, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

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

Text proposed by the Commission

(e) to publish its decisions relating to points (c) and (d);

Amendment

(e) to publish **systematically** its decisions relating to points (c) and (d);

Or. en

Justification

This amendment allows the systematic publication of decisions issued by the enforcement authorities. Thus companies guilty of unfair commercial practices are subject to a name and shame.

Amendment 616
Marijana Petir

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

Text proposed by the Commission

(e) to publish its decisions relating to points (c) and (d);

Amendment

(e) to publish its decisions relating to points (c) and (d), **including the value of the fine and, where possible, to protect the confidentiality of the complainant if it so requests;**

Or. hr

Amendment 617
Michel Dantin

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

Text proposed by the Commission

(f) to **inform buyers and suppliers about its** activities, by way of annual reports, which shall inter alia describe the number of complaints received and the investigations initiated and closed by it. For each investigation, the report shall

Amendment

(f) to **publish a review of its enforcement actions and** activities, by way of annual reports, which shall inter alia describe the number of complaints received and the investigations initiated and closed by it, **and those still underway.** For each

contain a summary description of the matter and the outcome of the investigation.

investigation, the report shall contain a summary description of the matter and the outcome of the investigation, ***in line with the confidentiality rules established under national law.***

Or. fr

Justification

The purpose of the present amendment is to ensure the confidentiality of the work of the enforcement authorities and of ongoing investigations, in line with national confidentiality rules.

Amendment 618 **Matt Carthy**

Proposal for a directive **Article 6 – paragraph 1 – point f**

Text proposed by the Commission

(f) to inform buyers and suppliers about its activities, by way of annual reports, which shall inter alia describe the number of complaints received ***and*** the investigations initiated and closed by it. For each investigation, the report shall contain a summary description of the matter and the outcome of the investigation.

Amendment

(f) to inform buyers and suppliers about its activities, by way of annual reports, which shall inter alia describe the number of complaints received, the investigations initiated and closed by it ***and a list of the enterprises who have had findings made against them.*** For each investigation, the report shall contain a summary description of the matter and the outcome of the investigation.

Or. en

Amendment 619 **Marijana Petir**

Proposal for a directive **Article 6 – paragraph 1 – point f**

Text proposed by the Commission

(f) to inform buyers and suppliers about its activities, by way of annual reports, which shall inter alia describe the

Amendment

(f) to inform buyers and suppliers about its activities, by way of annual reports, which shall inter alia describe the

number of complaints received and the investigations initiated and closed by it. For each investigation, the report shall contain a summary description of the matter **and** the outcome of the **investigation**.

number of complaints received and the investigations initiated and closed by it. For each investigation, the report shall contain a summary description of the matter, **the conclusions of the investigation and information on** the outcome of the **procedure as well as the decision taken**.

Or. hr

Amendment 620
Daniel Buda

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

Text proposed by the Commission

(f) to inform buyers and suppliers about its activities, by way of annual reports, which shall inter alia describe the number of complaints received and the investigations initiated and closed by it. For each investigation, the report shall contain a summary description of the matter and the outcome of the investigation.

Amendment

(f) to inform buyers and suppliers about its activities, by way of annual reports, which shall inter alia describe the **characteristics of the unfair trading practices identified and the** number of complaints received and the investigations initiated and closed by it. For each investigation, the report shall contain a summary description of the matter and the outcome of the investigation.

Or. ro

Amendment 621
Maria Gabriela Zoană

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

Text proposed by the Commission

(f) to inform buyers and suppliers about its activities, by way of annual reports, which shall inter alia describe the number of complaints received and the investigations initiated and closed by it.

Amendment

(Does not affect the English version.)

For each investigation, the report shall contain a summary description of the matter and the outcome of the investigation.

Or. ro

Amendment 622

Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jasenko Selimovic, Jan Huitema, Jean Arthuis, Hilde Vautmans

Proposal for a directive

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

Text proposed by the Commission

Amendment

(fa) Member states shall ensure that the exercise of those powers is subject to appropriate safeguards in respect of rights of defence, in accordance with the general principles of Union law and the Charter of Fundamental Rights of the European Union, including where the complainant requests confidential treatment of information pursuant to Article 5(3).

Or. en

Justification

As regards the anonymous complaints, the national rules concerning transparency of trials and legal proceedings need to take into account. The confidentiality of the identity of complainant is important. However, it is necessary also to make sure that there is no contradiction with the article 6 of European Convention on Human rights.

Amendment 623

Sandra Kalniete

Proposal for a directive

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

Text proposed by the Commission

Amendment

(fa) to inspect business and other premises as well as take interviews.

Amendment 624
Luke Ming Flanagan

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

Text proposed by the Commission

Amendment

(fa) to put in place a system of independent appeal where complainants can ask for a review of their case in a timely manner;

Or. en

Amendment 625
Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jasenko Selimovic, Jan Huitema

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

Text proposed by the Commission

Amendment

(fb) The Member States may decide that the fines or other sanction are initiated by the enforcement authority and imposed by competent national courts, while ensuring that those fines are effective and have an equivalent effect to administrative fines imposed by enforcement authorities. In any event, other sanctions imposed shall be effective, proportionate and dissuasive taking into account the nature, duration, gravity and possible repetition of the infringement.

Or. en

Justification

In some Member States sanctions are indicated by the enforcement authorities and imposed by competent national courts as a main rule. This is the case also for example, when Competition authorities apply the rules concerning fiscal sanctions. The competition

authorities propose for a national court to impose a fine. To have regulation effectively implemented, Member State should be allowed to decide on most feasible way to handle the national proceedings.

Amendment 626

Paolo De Castro, Nicola Caputo, Michel Dantin, Mairead McGuinness, Ricardo Serrão Santos, Marc Tarabella, Marco Zullo

Proposal for a directive

Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6 a

Obligations of the enforcement authority

- 1. Enforcement authorities shall control and ensure the proper and fair functioning of the agricultural and food supply chain in the Union.***
- 2. Within 60 days from the receipt of a complaint, the enforcement authority shall inform the complainant about its decision to act or not to act on the complaint.***
- 3. Where the enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall adopt a formal motivated decision rejecting the complaint and inform the complainant about that decision. The decision shall be subject to judicial review.***
- 4. Where the enforcement authority considers that there are sufficient grounds for acting on a complaint, it shall initiate and conduct an investigation, which shall be concluded within six months from the initiation of the investigation. In duly justified cases, the period of six months may be extended by an additional period of six months.***
- 5. Where, as a result of the investigation, an infringement of the prohibitions laid down in Article 3 is established, the enforcement authority shall require the***

buyer to terminate the prohibited trading practice and impose a pecuniary fine or other equally effective sanctions on the author of the infringement, in accordance with national legislation. The fine and the other sanctions shall be effective, proportionate to the harm caused and dissuasive taking into account the nature, duration and gravity of the infringement. Repeated infringements by the same buyer shall be taken into account when determining the pecuniary fine and the other sanctions to be applied.

6. The enforcement authority may abstain from taking any measure referred to in paragraph 5 of this Article, 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).

7. The enforcement authority may decide to publish its decisions relating to paragraph 5 of this Article.

Or. en

Amendment 627
Maria Heubuch
on behalf of the Verts/ALE Group

Proposal for a directive
Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Delegated Acts

The Commission shall be 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, the repeated use of unfair trading practices by a buyer.

Or. en

Amendment 628

Esther Herranz García, Ramón Luis Valcárcel Siso, Gabriel Mato, Pilar Ayuso

Proposal for a directive

Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Penalties

1. Member States shall impose penalties for the infringements of this Directive. The minimum amount of the penalty imposed shall be at least 2% of the global buyer's turnover according to their last financial statement report.

2. In case a buyer repeats the same unfair trading practice, the amount of the penalty imposed shall be equivalent to the one referred to in paragraph 1 increased by 20% for every repeated infringement.

Or. en

Justification

The aim of this new article is the standardization of the criteria to define penalties at the EU level, following the example of other EU provisions, without prejudice of national prerogatives regarding the decision of the value of the sanction.

Amendment 629

Marc Tarabella, Clara Eugenia Aguilera García, Tibor Szanyi, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

Proposal for a directive
Article 7 – title

Text proposed by the Commission

Amendment

7 **Cooperation between enforcement authorities**

7 **Union Enforcement Network**

Or. en

Amendment 630

Marc Tarabella, Clara Eugenia Aguilera García, Tibor Szanyi, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

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.**

1. **1. A Union Enforcement Network ('the Network') is hereby established.**

Or. en

Amendment 631

Maria Heubuch

on behalf of the Verts/ALE Group

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 to establish whether an UTP has occurred or is occurring. The requested authority shall undertake the appropriate and necessary investigations to fulfil this request;

(b) at the request of an applicant enforcement authority, the 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 of the measures it undertakes or foresees.

Or. en

Amendment 632
Marijana Petir

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

Text proposed by the Commission

Amendment

1a. Procedures with a cross-border dimension shall be carried out by the competent authority of the Member State in which the supplier is established.

Or. hr

Amendment 633

Marc Tarabella, Clara Eugenia Aguilera García, Tibor Szanyi, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

Proposal for a directive
Article 7 – paragraph 2

Text proposed by the Commission

Amendment

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*

2. The *purpose of the Network is to serve as a platform for structured cooperation between* enforcement authorities of the *Member States and* the

9(1) and best practices in the area it covers. The Commission **shall facilitate those meetings.**

Commission **and to streamline the practices of enforcement authorities within the Union.**

Or. en

Amendment 634

Maria Heubuch

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 635

Paul Brannen

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 ***a minimum of*** once per year ***but with the freedom to meet on a more frequent basis if required*** 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.

Or. en

Amendment 636
Marijana Petir

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 once per year, **and if necessary more often**, 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 share the facts established**.

Or. hr

Amendment 637
Maria Lidia Senra Rodríguez

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 once per year, **or less often if necessary**, 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.

Or. es

Amendment 638
Laurențiu Rebeca

Proposal for a directive
Article 7 – paragraph 2

Text proposed by the Commission

2. The enforcement authorities shall

PE623.674v01-00

Amendment

(2) The enforcement authorities shall

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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.

meet **at least once a** 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.

Or. ro

Amendment 639
Laurențiu Rebegea

Proposal for a directive
Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) The Commission may call ad-hoc meetings if unfair trading practices are cross-border in nature and have particularly serious consequences.

Or. ro

Amendment 640

Marc Tarabella, Clara Eugenia Aguilera García, Tibor Szanyi, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

Proposal for a directive
Article 7 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall establish and manage a website that provides for the possibility of information exchange between the enforcement authorities and the Commission, in particular in relation to the annual meetings.

deleted

Or. en

Amendment 641

Philippe Loiseau, Jacques Colombier

**Proposal for a directive
Article 7 – paragraph 3**

Text proposed by the Commission

3. The Commission shall establish **and manage** a website that provides for the possibility of information exchange between the enforcement authorities and the Commission, in particular in relation to the annual meetings.

Amendment

3. The Commission shall establish a website that provides for the possibility of information exchange between the enforcement authorities and the Commission, in particular in relation to the annual meetings.

Or. fr

Amendment 642

Marc Tarabella, Clara Eugenia Aguilera García, Tibor Szanyi, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

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

Text proposed by the Commission

Amendment

Article 7a

Composition of the Union Enforcement Network

- 1. The Network shall be composed of one representative from each enforcement authority referred to in Article 4, two representatives from the Commission and their respective alternates.**
- 2. The Network shall meet at regular intervals and, where necessary, at the duly justified request of the Commission or a Member State.**
- 3. The Network shall involve all relevant stakeholders in a discussion of the application of the directive, with a view to facilitating dialogue and exchange of good practices and promoting a common approach.**

Or. en

Amendment 643
Maria Heubuch
on behalf of the Verts/ALE Group

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 a year and enable enforcement authorities:

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

- to exchange best practices, especially as concerns cases with a cross-border dimension;

- to consider and analyse new forms of UTPs;

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

Or. en

Amendment 644
Esther Herranz García, Ramón Luis Valcárcel Siso, Gabriel Mato, Pilar Ayuso

Proposal for a directive
Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

National Observatories

1. Member States shall create national observatories for the monitoring of the functioning of the agri-food chain.

2. National observatories shall at least:

(a) monitor and evaluate unfair commercial practices, through the realisation of surveys and market analysis;

(b) report any infringement detected to the enforcement authority;

(c) elaborate reports and recommendations; and

(d) assist the enforcement authorities in providing information in order to comply with Articles 7 and 9.

Or. en

Justification

Market transparency is a key element to guarantee a good functioning of the value chain. This tool would also be very useful to assess the implementation of the legislation in view of future revisions of the EU legislation and to facilitate the exchange of national data.

Amendment 645

Marc Tarabella, Clara Eugenia Aguilera García, Tibor Szanyi, Maria Gabriela Zoană, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

Proposal for a directive Article 7 b (new)

Text proposed by the Commission

Amendment

Article 7b

Coordinated enforcement tasks

1. The Network shall have the following tasks:

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

(b) to facilitate the exchange of information on relevant topics including

on the results of investigations referred to in Article 6(1)(a) and new cases of unfair trading practices;

(c) to coordinate and facilitate the exchange information and best practices concerning Member States national legislation and experience of enforcement in a coordinated and systematic way in order to improve the common understanding on which specific types of business practice should be considered UTPs and to better address potential cross-border UTPs;

(d) to examine any question as regards the application of this Directive and adopt guidelines and recommendations in order to encourage consistent application, including by creating a common methodology for defining and setting penalties;

(e) to promote and facilitate collaboration with other relevant networks and groups, notably the Supply Chain Initiative.

2. The Commission shall have the following tasks:

(a) to establish and manage a website that provides for the possibility of information exchange between the enforcement authorities and the Commission, in particular in relation to the annual meetings;

(b) to facilitate the organisation of common training programmes and exchanges of personnel between enforcement authorities, and where appropriate, with the enforcement authorities of third countries;

(c) to organise the meetings of the Network referred to in Article 7a(2);

(d) to facilitate technical or scientific expertise for the purpose of implementing enforcement administrative cooperation.

Or. en

Amendment 646

Nicola Caputo, Marc Tarabella, Clara Eugenia Aguilera García, Ricardo Serrão Santos, Michela Giuffrida

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 *shall not under this Directive be precluded from adopting and applying in their territory stricter national laws, which prohibit or sanction trading practices by undertakings.*

Or. en

Justification

The amendment aims at providing Member States with the possibility of applying stricter national rules.

Amendment 647

Franc Bogovič

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

1. With a view to ensuring a higher level of protection, Member States may maintain or introduce rules designed to combat unfair trading practices which are stricter than those set out in this Directive, provided that such national rules are compatible with the rules on the functioning of the internal market.
2. This Directive shall be without prejudice to national rules aimed at combating unfair trading practices that are not within the scope of this Directive, provided that such rules are compatible with the rules on the functioning of the

internal market.

Or. en

Justification

The Directive must take into account the situation in those Member States which have more stringent regulations in the field of unfair practices. Those Member States should therefore be allowed to continue with the implementation of such regulations.

Amendment 648

Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jasenko Selimovic, Jan Huitema, Jean Arthuis, Hilde Vautmans

**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

To ensure a higher level of protection, Member States may provide for rules designed to combat unfair trading practices, **which are stricter than** those set out in **this Directive**, provided that such national rules are compatible with the rules on the functioning of the internal market.

Or. en

Justification

The aim of the amendment is to secure farmers position in the food chain, to respect subsidiarity in the implementation and give Member States possibility to go beyond in all the parts of the directive.

Amendment 649

Miguel Viegas

**Proposal for a directive
Article 8.º – 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,

Amendment

Member States may provide for **stricter rules on the trading practices covered by this Directive and for other** rules designed

6 and 7, provided that such national rules are compatible with the rules on the functioning of the internal market.

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.

Or. pt

Amendment 650

Esther Herranz García, Ramón Luis Valcárcel Siso, Gabriel Mato, Pilar Ayuso

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 *this Directive* provided that national rules are compatible with the rules on the functioning of the internal market.

Or. en

Justification

This amendment clarifies the possibility for Member States to maintain or introduce national rules designed to combat unfair trading practices which are stricter than those laid down by this Directive.

Amendment 651

Clara Eugenia Aguilera García, Sergio Gutiérrez Prieto, Tibor Szanyi, Marc Tarabella, Ricardo Serrão Santos, Nikos Androulakis

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

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.

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 652

Maria Lidia Senra Rodríguez

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 **1**, 3, 5, 6 and 7, provided that such national rules are compatible with the rules on the functioning of the internal market.

Or. es

Amendment 653

Michel Dantin

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 circulation of goods and services, the freedom of establishment, the principle of non-discrimination, and the right to access to an impartial and independent judicial***

review.

Or. fr

Justification

The aim of this amendment is to make it clear that the directive is without prejudice to more ambitious national rules, current or future, insofar as they are compatible with the principles of the functioning of the internal market and EU law, such as the free circulation of goods and services, the freedom of establishment, the principle of non-discrimination, and the right to access to an impartial and independent judicial review.

Amendment 654

Michel Dantin

Proposal for a directive

Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States must inform the Commission of any new national rules that go beyond the provisions of this directive within three months of their adoption.

Or. fr

Justification

The aim of this amendment is to specify that Member States must inform the Commission of any new national rules that go beyond the provisions of this directive within three months of their adoption.

Amendment 655

Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jasenko Selimovic, Jan Huitema, Jean Arthuis, Hilde Vautmans

Proposal for a directive

Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Proceedings in relation to Article 6 (c-e) shall respect the administrative and legal proceedings and principles in the specific

Member State.

Or. en

Justification

As regards the anonymous complaints, the national rules concerning transparency of trials and legal proceedings need to be taken into account.

Amendment 656

Elsi Katainen, Ulrike Müller, Pavel Telička, Fredrick Federley, Jan Huitema, Jean Arthuis, Hilde Vautmans

Proposal for a directive

Article 8 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

This Directive shall be without prejudice to national rules aimed at combating unfair trading practices that are not within the scope of this Directive, provided that such rules are compatible with the rules on the functioning of the internal market.

Or. en

Justification

The aim of the amendment is to secure farmers position in the food chain, to respect subsidiarity in the implementation and give Member States possibility to go beyond in all the parts of the directive.

Amendment 657

Michel Dantin

Proposal for a directive

Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8 a

National observatories on the functioning of the agro-food supply chain

1. In order to keep economic actors and the Member States' enforcing authorities informed, the Member States may set up national observatories on the functioning of the agro-food supply chain.

2. Member States shall ensure that their national observatories are properly equipped and shall confer on them the following powers:

(a) the collection of all the available statistical data necessary for the analysis of price formation mechanisms and margins in the food chain and the existence of unfair commercial practices;

(b) analysis of the information collected and the undertaking or commissioning of research necessary for its activity;

(c) the production of summary reports on the sectors studied and the regular dissemination of its work;

(d) contributing to, and/or assisting the implementing authority in, the drafting of the report on unfair trade practices in inter-company relations within the agro-food supply chain, as set out under Article 9.

Or. fr

Justification

The aim of this amendment is to make it possible for Member States to set up national observatories on the functioning of the agri-food supply chain, for the purpose of keeping economic actors and the Member States' enforcement informed on the functioning of the agro-food supply chain.

Amendment 658 Marijana Petir

Proposal for a directive Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. By 15 March of each year, Member

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.

States shall send to the Commission a report on ***the application of the Directive, with particular emphasis 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.

Or. hr

Amendment 659

Marc Tarabella, Tibor Szanyi, Nicola Caputo, Karine Gloanec Maurin, Momchil Nekov

Proposal for a directive Article 9 – paragraph 1

Text proposed by the Commission

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.

Amendment

1. By 15 March of each year, Member States shall send to the Commission a report on ***the implementation of the Directive focusing in particular on*** unfair trading practices in business-to-business relationships in the ***agricultural and*** 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. ***Member State authorities shall ensure dialogue with all relevant stakeholders, including consumers' organisations, on the functioning of the supply chain in their territory and the effectiveness of their actions in meeting the objectives of this Directive.***

Or. en

Amendment 660

Maria Gabriela Zoană

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

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.

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 all relevant data on the application *of the Directive and its provisions and on the effectiveness of the measures taken by the enforcement authority* in the Member *States* in the previous year.

Or. ro

Amendment 661
Miguel Viegas

Proposal for a directive
Article 9.º – paragraph 1

Text proposed by the Commission

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.

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 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. pt

Amendment 662
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 products'* 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 663

Maria Heubuch

on behalf of the Verts/ALE Group

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 *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 pay particular attention to the effectiveness of the Directive in protecting the most vulnerable actors against unfair trading practices throughout the food supply chain, both inside and outside the Union. It shall also evaluate the contribution of the Directive to reducing food waste, increasing food quality and promoting sustainable practices in the food supply chain.

The report shall consider the need to review the Directive, in particular to include new forms of UTPs, and to make use of data on input costs and price transmission through the agricultural

food supply chain, 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 664

Anthea McIntyre

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 five* 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. ***Based on the outcome of this evaluation, the Commission shall propose, where appropriate, necessary amendments and modifications to the scope of this directive.***

Or. en

Amendment 665

Miguel Viegas

Proposal for a directive

Article 11.º – 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,

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.

the Council and the European Economic and Social Committee and the Committee of the Regions.

Or. pt

Amendment 666

Esther Herranz García, Ramón Luis Valcárcel Siso, Gabriel Mato, Pilar Ayuso

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.

Or. en

Amendment 667

Mairead McGuinness, Annie Schreijer-Pierik, Sofia Ribeiro, Michel Dantin, Angélique Delahaye, Peter Jahr, Herbert Dorfmann, Nuno Melo

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.

Or. en

Amendment 668

Marco Zullo, Rosa D'Amato, Ignazio Corrao

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 in protecting the most vulnerable actors in the food supply chain against unfair trading practices. The report shall also evaluate the contribution of the Directive in increasing food safety, promoting sustainable practices in the food supply chain and reducing food waste.***

Or. en

Amendment 669

Mairead McGuinness, Sofia Ribeiro, Michel Dantin, Angélique Delahaye, Peter Jahr, Herbert Dorfmann, Nuno Melo

Proposal for a directive

Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. This evaluation should assess but not be limited to:

(a) the effectiveness in protecting the weakest actors in the agricultural and food supply chain against unfair trading practices;

(b) the effectiveness of cooperation between competent enforcement

authorities;

(c) evaluate whether the appointment of a European regulator is required to enforce and monitor EU legislation in the food supply chain.

Or. en

Amendment 670

Paolo De Castro, Nicola Caputo, Mairead McGuinness, Ricardo Serrão Santos, Marc Tarabella, Marco Zullo

**Proposal for a directive
Article 11 a (new)**

Text proposed by the Commission

Amendment

Article 11a

Reporting on effects on consumers

1. The Commission shall carry out an evaluation to establish whether specific trading practices which are unfair have negative effects on consumers, and shall 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.

2. On the basis of the findings of its report, the Commission may present appropriate legislative proposals.

Or. en

**Amendment 671
Ivari Padar**

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

Text proposed by the Commission

Amendment

Member States shall adopt and publish, *by six months after the entry into force of the*

Member States shall adopt and publish *by [date 12 months from the date of entry*

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.***

into force] the laws, regulations and administrative provisions necessary to comply with this Directive, ***and shall begin to apply those provisions on that date.***

Or. et

Amendment 672
Anthea McIntyre

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 ***bring*** into force ***within 24 months*** 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 673
Sandra Kalniete

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 ***twenty-four*** 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 674

Daniel Buda

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. ro

Amendment 675

Anthea McIntyre

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

deleted

Or. en

Amendment 676

Ivari Padar

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 **forthwith communicate to the Commission the text of those provisions.**

Or. et

Amendment 677

Daniel Buda

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. ro

Amendment 678

Ivari Padar

Proposal for a directive

Article 12 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

For existing supply contracts concluded before the date of entry into force of this Directive, Member States may provide for a transitional period of not more than 6 months beyond the date of entry into force of this Directive for compliance with the rules laid down in the Directive.

Or. et