

Unfair trading practices: focus on facts, not haste!

The European Commission published its [implementation report](#) on the [Directive on Unfair Trading Practices in the agri-food supply chain](#), where it mapped out how member states transposed unfair trading practice (UTP) rules and announced new rules on cross-border enforcement.

Christel Delberghe, Director General of EuroCommerce, the association representing small, medium and large European retailers and wholesalers, commented: *“The report provides an initial overview of national implementation of the Unfair Trading Practices Directive. We urge the Commission to take the time to examine whether the rules meet their objective of improving farmers’ position in the supply chain. It also must follow due process, be transparent and ask for the views of all supply chain stakeholders, including retail, wholesale and consumers. An implementation report is not the place to announce new initiatives without even a call for evidence.”*

As a measure based on the agriculture provisions of the Treaty, the Commission must evaluate whether the Directive achieved the intended effect to improve farmers’ position in the food supply chain.

Through the transposition process, member states added many provisions that have little relationship to the objective of protecting farmers e.g. by unilaterally protecting large suppliers. This is in contradiction to the warning the [Commission’s competition chief economist](#) gave at the time of the original proposal that granting power to large suppliers, who already have considerable market power, could be detrimental to consumer prices.

Questions remain on the compatibility of the [additional rules](#) introduced by member states with the Single Market, while the [Letta Report](#) warns against the re-nationalisation of sourcing, which is often underlying these rules.

Emotions have been running high amidst farmers’ protests since early 2024. New rules on cross-border enforcement of UTPs are being announced without prior publication on the Commission’s Have Your Say portal, well ahead of the Directive’s review date of 2025. There remains a lack of transparency on what these new rules will address that basic EU legal principles or private international law do not cover. Given the implementation report admits, *‘the conformity check assessing the compatibility of national implementing measures with the Directive, is still not finalised’*, it is difficult to understand how the Commission is already ready to correct ‘problems’ and do so without an impact assessment, finds EuroCommerce.

In a similar vein, the implementation report notes that the rules were only transposed by all the Member States in December 2022. Others, adopted earlier, came before the series of crisis that have hit agricultural production in the EU including the Covid pandemic, energy crisis and high inflation. This underlines the need to spend time evaluating the existing rules in consultation with all stakeholders so an assessment is made based on a proper understanding of relationships in the food supply chain.

EuroCommerce stands ready to engage with the Commission in its evaluation of the Directive to improve the position of small primary producers to ensure the EU agri-food ecosystem remains competitive and able to invest in the sustainability transition for the benefit of all supply chain actors and consumers.

Retailers and wholesalers only play a small role in distributing agricultural products, with a large part of agricultural production being exported, going to processing, hospitality or is non-edible. Many retailers and wholesalers are using their relationship with farmers and supply chains [to support the transition to more sustainable practices](#) and EuroCommerce is participating in the [Strategic Dialogue in Agriculture](#) to find a common ground for the future of the EU's agri-food sector.

The transformation of the agri-food ecosystem will require collaboration in the supply chain. Over-reliance on unfair trading practices rules will not resolve the problems farmers face. More needs to be done alongside this evaluation to enhance farmers' cooperation or scale, differentiation or investment in the sustainability transition.

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EuroCommerce is the principal European organisation representing the retail and wholesale sector. It embraces national associations in 27 countries and 5 million companies, including leading global players and many small businesses. Over a billion times a day, retailers and wholesalers distribute goods and provide an essential service to millions of business and individual customers. The sector generates 1 in 7 jobs, offering a varied career to 26 million Europeans, many of them young people. It also supports millions of further jobs throughout the supply chain, from small local suppliers to international businesses. EuroCommerce is the recognised European social partner for the retail and wholesale sector.