

## EuroCommerce views on rules prohibiting buying from farmers below their production costs

*Legislating to stop farmers selling below production costs will not achieve its aim. The Commission must avoid interfering with price negotiations and market mechanisms to the detriment of all other operators and consumers - and focus on measures that can actually improve the position of small and medium-sized farmers in the agri-food supply chain.*

- European farmers are vital for our culture and identity and need effective solutions to thrive.
- Retailers and wholesalers need an agri-food supply chain where farmers can sell their products in all market conditions. Prices of most agricultural products (e. g. milk, wheat and meat) are determined on global markets. In the event of world price fluctuations (e.g., due to low demand or overproduction), precautionary mechanisms (e.g., risk equalisation reserves) can better help farmers to offset such volatilities and stabilise supply chains.
- It is unclear how many farmers are systematically selling their products below production costs: the Commission must first assess who has to do so, how often and why.
- Experience to date does **not** conclude that a ban on sales below production costs would improve the position of small and medium-sized farmers. Rather, it causes legal uncertainty and administrative burden, increases consumer prices and hurts farmers' competitiveness domestically and internationally.
- Any EU initiative that interferes with price setting restricts freedom of contract and the freedom to conduct a business. Such interference must be strictly limited to exceptional circumstances and to the least restrictive means. Given the lack of demonstrated causal benefits and the availability of more targeted instruments, an EU-wide prohibition to purchase below production costs should be avoided.
- Retailers and wholesalers are supporting farmers in the value chain through sustainability cooperation and long-term contracts. We call on the Commission to consider how small and medium-sized farmers could be better supported through a) joining Producer Organisations and cooperatives and encouraging their growth, b) targeted support when necessary, c) more digitalisation, d) improving production or commercialisation structures or e) capacity building, collaboration or sharing machinery.

## 1. Retailers and wholesalers need a variety of suppliers to serve their customers

- 1.1. Retailers and wholesalers serve their customers with a wide range of healthy and sustainable fresh and processed food at affordable prices. To achieve this, they work with different suppliers, including multiple farmers and a diverse and efficient food industry across the Single Market to ensure sufficient supply in all market conditions.
- 1.2. Without this, consumers will be faced with empty shelves or higher prices.
- 1.3. Free competition and the free formation of prices on the basis of market signals are critical to enable retailers and wholesalers to continue serving their customers.

## 2. Retailers and wholesalers negotiate with their suppliers on prices, but also other components

- 2.1. A competitive price is just one component of selecting a supplier. Other elements include compatibility of that supplier with the retailer's brand image, the quality of the product, their sustainability commitments and their standard on food safety and packaging.
- 2.2. Retailers and wholesalers cannot control how their intermediate suppliers (such as the food industry) organise their own sourcing and what the industry pays farmers.
- 2.3. The prices of many agricultural products (e. g. milk, wheat and meat) are determined on world markets. In the event of world market price fluctuations (e.g., due to low demand or overproduction), precautionary mechanisms (e.g., risk equalisation reserves, selling on futures markets<sup>1</sup>) can better help farmers to offset such volatilities and stabilise supply chains.
- 2.4. Every actor along the supply chain adds a certain value before a product reaches the retailers and wholesalers' shelves. The dynamics between different players and the costs incurred along the way influence the pricing along the chain up to the final price paid by consumers.
- 2.5. Retailers and wholesalers operate on small profit margins (typically 1%-3%), reflecting high costs for labour costs, logistics, energy, storage, food safety, packaging, and marketing.
- 2.6. Production costs, market demand, availability of supply, transportation, compliance costs, labour and social security, the degree of competition at different stages of the chain and the negotiations between suppliers and retailers all play a role in price formation.
- 2.7. When there have been sudden rises in production costs, retailers and wholesalers have been willing to renegotiate: this flexibility must be retained. This concept has also been considered in the context of the Common Market Organisation Regulation and 'renegotiation clauses'.

## 3. A ban on sales below production costs must be thoroughly assessed

- 3.1. The Commission must thoroughly assess the impact of banning buyers from buying below the farmers' production costs.
- 3.2. This must start by considering **who, what type and how many farmers are systematically selling below production costs**.
- 3.3. It should also thoroughly assess the impact existing measures have had on the **position of farmers and other actors in the chain**, their **competitiveness**, on **competition along the supply chain and on consumers** as part of the Impact Assessment, following the recommendation of the [Report](#) on the Strategic Dialogue for the future of EU Agriculture.

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<sup>1</sup> Some of these recommendations were formulated in the 2016 Report of the Agricultural Markets Task Force, available here: [67b22b6f-e29f-41a7-b8e0-1f727d65c75b\\_en](https://ec.europa.eu/economic-affairs/press/pr20160623_en).

3.4. Any EU-wide prohibition on purchasing below production costs would require a complex administrative regime to calculate costs, monitor compliance and sanction infringement. The resulting legal uncertainty, compliance burden and market distortions are highly likely to outweigh potential benefits.

In its Impact Assessment, the Commission should consider specifically:

- The differences in farm size and income across the EU.
- The effect on the route to market.
- The difficulties in defining production costs.
- The effect of exposure of inefficiencies/the risk of misallocations.
- The impact on legal certainty and increase in administrative burden.
- The impact on competitiveness and price formation on world markets for agricultural products.
- The effects on quantities of sale.
- The impact on consumers.
- Administrative costs arising out of or in connection with the enforcement of such a ban.
- Existing experience with it.

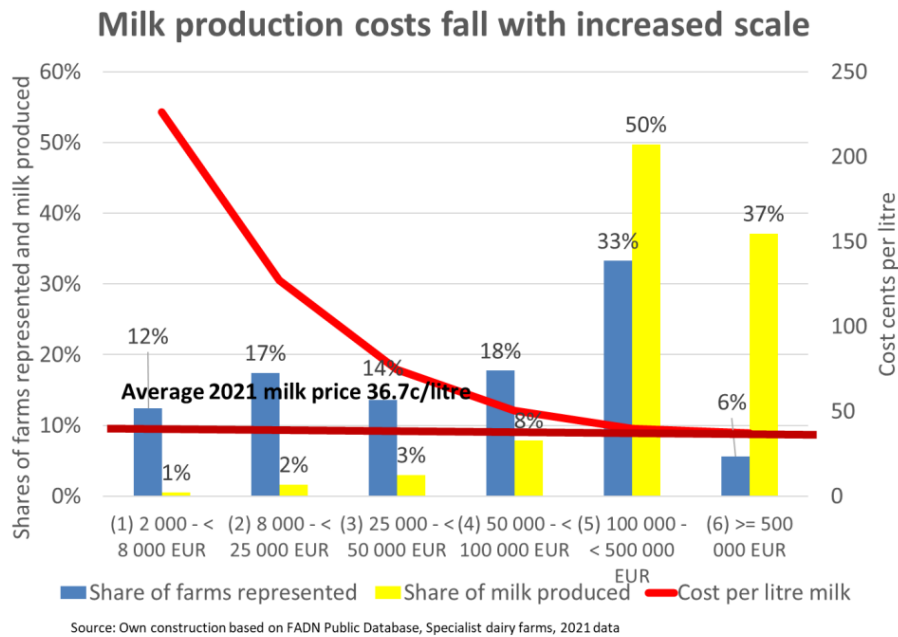
#### 4. EU farming is complex and different situations require different solutions

- 4.1. Farm income, profits and production costs depends on a number of factors, such as farm size, location, structure, the type of production and other variables.
- 4.2. Farmers' income is also heavily affected by climate change, water scarcity, soil contamination and loss of biodiversity, difficulties in accessing land and resources and lack of crop diversification.
- 4.3. Most EU farms are SMEs, and face similar difficulties as SMEs in other sectors, such as complex access to finance and know-how, lack of investments and inadequate legislation also causing heavy administrative burden.

#### EU farm income by economic size of holding, 2022

Economic Size	Farms represented (no.)	Total output (€/farm)	Agricultural income (€/AWU)	Share of farms (%)	Share of total output (%)
(1) 2 000 - < 8 000 EUR	517,666	9,500	3,484	20%	1.5%
(2) 8 000 - < 25 000 EUR	866,339	22,485	10,881	34%	6%
(3) 25 000 - < 50 000 EUR	377,410	52,832	20,531	15%	6%
(4) 50 000 - < 100 000 EUR	322,292	102,156	32,414	12%	10%
(5) 100 000 - < 500 000 EUR	412,654	308,319	57,420	16%	38%
(6) >= 500 000 EUR	82,011	1,572,961	74,959	3%	39%
Total	2,578,372				

Source: Professor A. Matthews, based on FADN 2021. There are more than 9 million farms in the EU – the statistics set out in the chart may not be fully representative.



Source: Professor A. Matthews' [presentation](#) at EU Agri-food Chain Observatory 2025.

4.4. From the example above, it appears that the farmers that sell the majority of milk to consumers in the EU are paid above their production costs.

4.5. That is why any reflections by the European Commission on production costs must start by understanding how widespread the issue is and the reasons why farmers are systemically selling below production costs, then consider the practicality of rules and their consequences and unintended effects on the agri-food supply chain (including consumers).

## 5. Banning sales below production costs will stop the route to the market for smaller farmers in good and bad times.

5.1. **Supply and demand determine the prices a supplier can get for its product in a market economy.**

5.2. If there is oversupply due to extraordinarily high harvests or due to other reasons (e.g. geopolitical reasons)<sup>2</sup>, market prices will go down as supply exceeds demand. In such cases, market prices may be below the price of production for small farms as their costs are in general higher as they do not have the benefit of economies of scale. Larger farms (or farms outside the EU with lower production costs) will be less affected, because, even with low market prices, their production costs are likely lower.

5.3. If buyers were obliged to buy above production costs by law, larger farms or non-EU farms would continue to be able to sell whereas the farms whose production costs are higher than market prices would not. This would also increase food waste as those products would likely be destroyed.

<sup>2</sup> As an example, there was oversupply of certain products in 2014 as Russia stopped buying certain European agri-food products (e.g. milk). Oversupply led to low prices and producers asked retailers to purchase additional volumes to avoid waste and recoup at least some of the costs.

### In times of oversupply

Retail and wholesale, and the food industry, would not be able to buy from the smaller farmers whose production costs were higher than the market price, leaving their goods unsold and with no route to market to redeem at least some of their production costs. Those farmers may then need to destroy their production.

Retailers and wholesalers (but also processors) could continue working with the larger suppliers to run promotions to help reduce the supply and return market prices to normal, for the benefit of the whole chain, including consumers.

### In times of undersupply or production of lower quality (e.g. due to bad weather or diseases)

Extreme weather events and diseases are becoming more frequent and widespread, making it harder to predict harvests and having devastating effects on production.

Some farmers may decide to produce for premium markets. If hit by disease or an extreme weather event, they may no longer be able to sell to their usual buyers in premium markets. Farmers in such cases may have lost their extra investment and will have higher production costs. Normally they could look for alternative markets, which accept lower quality but at a lower price. However, with a ban on sales below the cost of production, sales in those markets may be prohibited if the market price is lower than the cost of production. In a similar way, there would be no means to redeem even part of their losses.

Retail and wholesale will continue to be able to supply their customers, but they will again be more likely to be dealing with large farms or farms outside the EU.

#### 5.4. The distortions to the market this will bring mean:

- Larger farms will be the only ones able to sell on the market, smaller ones would not.
- This will artificially limit supply, make the supply of agricultural products more dependent on worldwide markets and increase prices, despite there being products available in the EU.
- Less diversity will reduce choice for consumers, but also undermine resilience, as it reduces the number of farms in the supply chain and exposes consumers to increased price volatility (already driven by climate change or geopolitics).
- Smaller processors and buyers will face higher prices which they will pass on to consumers – especially if they have low margins and are not able to absorb price increases.
- Consumers will then face higher prices for fresh and processed products.

### 6. Retailers and wholesalers need legal certainty: calculating production costs is difficult - larger farms will have an advantage and smaller ones will lose out.

6.1. Retailers and wholesalers need legal certainty to know that the contracts they enter will be honoured.

6.2. Calculating production costs is complicated (especially for smaller farmers in the case of individual calculations). This will encourage contracts only from more efficient, larger actors in the agri-food supply chain.

6.3. This is because, to enforce rules that ban farmers from selling below the cost of production, there needs to be consensus on how to define farmers' production costs.

6.4. This could be done in different ways, namely:

- (a) as part of negotiations between a specific farmer and their buyer(s); or
- (b) by defining average production costs per category (e.g. of producer or product).

#### Defining production costs in individual negotiations

6.5. One approach is to prohibit buyers from purchasing below the production costs of an individual supplier.

6.6. Should a buyer fail to pay a price above the farmer's production costs, they would be infringing the law and could be sanctioned by an authority.

6.7. There are several serious issues with this approach:

- **Difficulties in establishing production costs:** Farmers, especially smaller ones, may have difficulties defining their production costs. The level of production costs may depend on a variety of factors such as the product, type of production, size of the farm, the region where it is located, the status of the soil (which may vary from one farm to the next), uptake of technology, size of the workforce, energy and other utilities costs. National legislation (e.g. taxation) may also have a direct or indirect impact on production costs.
- **Difficulties with multi-crop farms:** A farmer who has several different crops and/or livestock may struggle to allocate individual production costs to the individual crop or livestock. For example, how should a farmer allocate costs such as **fertilisers, water, energy** or **labour** to their various products when different crops may require different inputs, more or less human intervention, and energy? The result could be that a buyer has to pay a high price for a product because of high production costs linked to issues related to another product that such buyer is not purchasing.
- **Lack of a linear relationship between production cost and market value:** Different products on the same farm may have the same production costs but different value on the market (e.g. waste or byproducts of a primary product have the same production costs, but their value is minimal or zero). For example, in livestock value chains the cost of producing the animal is joint, while market value differs dramatically across cuts. Any simple allocation (e.g., a uniform €/kg cost) would misprice products—making some cuts artificially 'too expensive' and others 'too cheap'—and would not serve as a workable legal benchmark.
- **Temporal issues:** Where farmers have long-term contracts with their buyers, agreements are often concluded even before the farmer plants his crops. How can parties define production costs in advance in such case?
- **Temporal validity of production costs:** Production costs are often linked to volatile international markets, that may determine the prices of seeds or energy. How long is a 'production cost' valid for?
- **Impossibility to access confidential information:** buyers may not (and should not) have access to the internal production costs of the suppliers, as this is commercially sensitive information. However, a buyer would not be able to know whether they complied or not with law without access to such information.
- **Higher administrative burden and costs in due diligence:** Buyers would be required to know the exact production costs for each product of each of their suppliers. If they are dealing with multiple suppliers, potentially reaching into the thousands, this creates a huge administrative burden. Cost accounting is a service that only large companies can afford. A recent investigation into the agri-

food supply chain by the German Monopolies Commission concluded that a ban is not desirable due to the *'high bureaucratic costs to implement the ban'*.<sup>3</sup>

### The example of Spain

The Spanish Ley de la Cadena obliges each operator in the agri-food chain to buy its direct supplier upstream a price equal or higher than their actual production costs.

Spanish law provides the actual cost to be determined by reference to the total marketed production for all or part of the economic or production cycle to be allocated in the way that the supplier considers best suits the quality and characteristics of the products covered by each contract. **Such formulation leaves too much room for interpretation to the detriment of buyers.**

A mere declaration by the supplier that a buyer is purchasing above their production costs has not been deemed sufficient by the Spanish authority, who has proposed penalties for retailers in such cases. This illustrates a core difficulty, i.e. : complying with the law is difficult ex ante for buyers, while enforcement may be applied retroactively based on disputed cost allocations. How can a buyer know whether they are complying with the law without the necessary data and in the presence of a guarantee by the supplier that the agreed price covers product costs?

In addition, there are cases in which the Spanish enforcement authority has proposed sanctioning certain buyers because it considered that prices paid have not covered production costs even in cases where the supplier was making a profit. Buyers are challenging these cases in court – with success.

### The use of average production costs

6.8. An alternative to the approach above consists of defining **average production costs**, for example per category of farm/farmer, product or region.

6.9. This approach also raises questions:

- How would you identify the appropriate category of farmer? Would it be per produce/product? Per size of farm? Per region in the EU?
- How would you exactly allocate certain costs (e.g. labour, energy) per product?
- Who would define the average production cost? A producer organisation? An interbranch organisation? The government? An additional point to consider would be how such approach may be intertwined with the tax and accounting rules applicable at national level and how to document and attest to the differences.

6.10. An average cost amounts to a minimum price/price floor for negotiations, posing several problems:

- **Dampening of competition among farmers:** Price floors could discourage farmers from competing with one another or seeking efficiencies in the way they operate, optimising production and innovating. This is to their detriment as well as to the detriment of the rest of

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[https://monopolkommission.de/images/PDF/SG/SG%20LLK%202025/Sondergutachten%20Lebensmittellieferkette\\_Monopolkommission.pdf](https://monopolkommission.de/images/PDF/SG/SG%20LLK%202025/Sondergutachten%20Lebensmittellieferkette_Monopolkommission.pdf).

the supply chain and especially consumers. The German Monopolies Commission confirms that a ban *'could mean that companies have less incentive to optimize their production costs.'*<sup>4</sup>

- **Fails to address the problem:** Defining production costs based on averages means that some farmers may continue to be paid below their production costs and struggle with their income.
- **Favours larger businesses:** Larger, usually more efficient farms will be favoured by the definition of average production costs, as they are likely to be more efficient and allow them to improve profits to the detriment of smaller farmers.
- **May lead to overproduction:** For larger farms, a price floor well above their production costs (in a context of dampened competition) may stimulate overproduction and hence food waste.

## 7. Legislation will increase administrative burden and complicate negotiations

- 7.1. Buyers would need to demand very detailed information from farmers about their methods of production and internal costs (e.g. the cost of labour) prior to signing contracts. This would create a significant administrative burden for farmers. Having been asked by the German government to look into the issue, the [Thuenen Institut](#) concluded that such a prohibition would *'likely cause massive bureaucratic costs'*<sup>5</sup>. The German Monopolies Commission noted there would be *'high bureaucratic costs to implement the ban'* and that *'costs would have to be recorded and allocated on a product-specific basis.'*
- 7.2. Detailed due diligence that will become crucial for buyers to comply with the law and avoid financial penalties, could increase the duration of negotiations. This may not be in the interests of farmers who want to quickly sell their products and be paid.
- 7.3. There may also be internal information which the buyer may not be able to ask of its supplier by law as it is commercially sensitive (for instance trade secrets). This may make it impossible for buyers to verify whether they complied with the prohibition of buying below the cost of production.

## 8. Such a prohibition would have a negative impact on competitiveness

- 8.1. Stringent and legally uncertain legislation could favour imports to the detriment of EU local production unless the legislator would oblige EU buyers to only source EU products. However, this is incompatible with freedom of contract in a free market economy.
- 8.2. Supply chain actors taking part in the Thuenen Institut research confirmed their fear that *'exports would collapse because products would no longer be internationally competitive at higher prices'*.<sup>6</sup> As the Draghi report has noted, the EU needs to improve its global competitiveness and policies, and market signals and competition in the Single Market need to be fostered and their value captured, not diminished by excessive interference in price-setting.

## 9. The prohibition would negatively impact consumers

- 9.1. Retail and wholesale in the food sector operate with margins of between 1-3%. Any increase in the prices they purchase from suppliers could not be sustainably absorbed by retailers and

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[https://monopolkommission.de/images/PDF/SG/SG%20LLK%202025/Sondergutachten%20Lebensmittellieferkette\\_Monopolkommission.pdf](https://monopolkommission.de/images/PDF/SG/SG%20LLK%202025/Sondergutachten%20Lebensmittellieferkette_Monopolkommission.pdf).

<sup>5</sup> <https://www.econstor.eu/bitstream/10419/277721/1/1858447828.pdf>.

<sup>6</sup> The Thuenen Institute concluded that a ban on selling below production costs *'is not an expedient when it comes to improving the income situation in agriculture'* because it *'cannot solve the root causes of the income and structural problems in agriculture'* and *'serious negative effects due to a declining competitiveness cannot be ruled out'*.

wholesalers for long and would hence be passed down to consumers in the form of high consumer prices.

- 9.2. This would increase inflation and affect consumer purchasing power, especially for lower-income consumers, as we come out of a cost-of-living crisis and food inflation is still a top concern for consumers. This would decrease demand for those products most hit by price increases, and as a result leave farmers worse off.
- 9.3. Agriculture receives taxpayers' money through the Common Agricultural Policy and related national subsidies due to its importance for food security and inherent volatility and precariousness of the sector.
- 9.4. Interference with price setting is likely to increase consumer prices by law especially if artificially set by price floors based on production costs.
- 9.5. Strong competition in the Single Market and throughout the agri-food supply chain is the best tool to achieve affordable prices, choice and innovation for consumers.

## 10. To date, experience does not conclude an EU-wide ban on sales below production costs is a tool to improve farmers' income at EU level

- 10.1. A number of Member States already provide for regulatory schemes to improve farmers' remuneration, for example Spain, Croatia, Italy, Hungary, Belgium and France.
- 10.2. **None of the countries which regulate pricing around production costs have conducted a thorough assessment as to whether these rules have worked for farmers, other actors in the chain, the competitiveness of the agri-food chain or consumers.**
- 10.3. A [study](#) commissioned by DG AGRI and published in 2025 analysed national legislation aiming at improving farmers' income, including rules linking prices to farmers' production costs, such as the French 'Egalim' laws and the Spanish Ley de la Cadena.
- 10.4. For France, the study confirms the difficulties for supply chain actors as well as authorities in calculating production costs and concludes it is unclear whether the rules have worked.
  - Dairy farmers noted an increase in prices after the entry into force of the first Egalim law, but it is unclear whether the two were linked due to favourable market conditions domestically and internationally.
  - Milk producer prices increased substantially after the second Egalim law, but this period coincided with high inflation after Ukraine war. The study concludes that it is not possible to distinguish the effects of Egalim from those of the exceptional economic context of the 2021-2023 period.
  - Farmers noted reduced price volatility in milk when compared with other countries, but milk price evolution varies across the EU also due to structural factors in each market.
  - For pigmeat, the Egalim laws had at best an indirect positive impact. No effects were recorded for beef, poultry or other products.
- 10.5. In relation to Spain the report reiterated the difficulty in defining (individual) production costs, listing among the many challenges the difficulty in attributing costs in the case of mixed production system, the treatment of costs across production cycles and the ability of farmers to access the necessary data.
- 10.6. The study reports a potential rise in farmer remuneration level but notes that there are various other factors at play and that it was too early to conclude any causal impact.

10.7. On the Spanish milk and dairy market, the report notes that legislation may have contributed to higher prices, although it cannot be confirmed to what extent this led to higher prices for farmers, and it may have contributed to undermine competitiveness of Spanish production vis à vis imports.

## 11. Smaller farmers may be better helped through other means

11.1. Given the difficulties described above, a broader view of what could address the principle that farmers should not be forced to systematically sell their products below production costs is needed.

11.2. Over time the production costs of farmers have increased, as input prices (e.g. seeds, fertilisers) and energy, labour and transport costs have increased. Costs have also risen as sustainability requirements have increased (see below). If farmers have been unable to adjust, find secondary sources of income, or seek efficiencies, they may find themselves systematically selling below their production costs. This may be also the case if they have not explored the means available to improve their bargaining position.

11.3. To improve the bargaining power of farmers, the Commission has proposed changes to the Common Markets Organisation (CMO) Regulation that will better enable farmers to organise themselves in producer organisations to improve their bargaining position.<sup>7</sup> This complements the existing initiatives that the Commission has been supporting to improve the bargaining position through producer organisations.<sup>8</sup>

11.4. Policy should prioritise direct measures that improve farm competitiveness and resource efficiency—skills, technology uptake, cooperative structures and targeted support—rather than mandating price outcomes.

11.5. A number of exemptions from competition law for the farming sector (and the agri-food chain) to improve the negotiating position of farmers and subsequently their income are already available to use or will be approved shortly (e.g. rules on producers' organisation, art. 210a of the CMO Regulation on sustainability cooperation). The Commission must ensure these tools are used to their full potential instead of further regulating commercial relations in the agri-food chain.

11.6. The Commission (and several Member States) are also working to improve transparency in the chain, i.e. by shedding light on the various cost components (and their evolution) of farmers production costs.

11.7. The Commission should continue developing these tools and provide that Member States need to ensure that financial literacy training is available and accessible to small farmers, including methodology, access to data and the use of digital tools to enable their understanding of production costs and the prices they can command.

11.8. These targeted instruments are preferable to interference with prices as they address root causes of difficulties facing small farmers without undermining competition or harming consumers.

## 12. Retailers and wholesalers are supporting farmers in the value chain through sustainability cooperation and long-term contracts.

12.1. Production costs have risen as a result of new sustainability requirements.

12.2. Sustainability involves overcoming some major challenges and retailers and wholesalers act to help farmers in the transition process.

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<sup>7</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52024PC0577>.

<sup>8</sup> [Producer and interbranch organisations - European Commission](#)

12.3. The Vision for EU's Agriculture and Food<sup>9</sup> contains the following initiatives to support the sustainability transition:

- The European Commission plans to implement a voluntary benchmarking system called the 'on-farm sustainability compass.' This tool is designed to help farmers assess and enhance their sustainability practices by providing clear metrics and guidance
- The European Commission underlines that carbon farming activities under the Carbon Removals and Carbon Farming Certification Framework, as well as nature credits, can be innovative financing tools for farmers.

12.4. EuroCommerce supports these efforts to improve the position of farmers and retailers and wholesalers are working with farmers to the extent that they can.

12.5. Retailers and wholesalers have launched a wide range of initiatives to improve sustainability - phasing out certain non-sustainable products, working with local actors in the supply chain, and improving production conditions and environmental impacts of what they buy and sell. However, retailers have only few direct dealings with farmers and sustainability needs action from all parts of the chain.

12.6. Retailers have over the years invested in supporting local farmers in offering differentiation and choice to consumers and encouraging sustainable production. Schemes such as dedicated supplier networks, tri-partite contracts, and voluntary initiatives help address emerging trends in reducing pesticide use and enhanced animal welfare and often include a direct reward to farmers investing in these changes.

## 13. Conclusion

The Commission should not propose an EU-wide prohibition on buying below production costs as part of a revision of the Directive on unfair trading practices but rather pursue targeted measures which enhance farmers' competitiveness to the benefits of the whole agri-food chain.

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<sup>9</sup> [A Vision for Agriculture and Food Shaping together an attractive farming and agri-food sector for future generations](#), European Commission.