

UTP Directive implementation must avoid undermining the single market and harming consumers

Speaking today on the publication of the Commission report on implementation of the Unfair Trading Practices (UTP) directive, EuroCommerce Director-General Christian Verschuereen said:

“The Commission reports a good result on implementation of the UTP directive, with most member states having already transposed it and those remaining likely to do shortly. The directive left national authorities a lot of leeway in how they implemented the legislation, with a number of member states going far beyond the requirements in the directive, with a real risk of creating further fragmentation in the single market and regulating practices with very little impact on farmers. We ask the Commission to look at member states who have used this to include measures which are directly incompatible with single market rules and require a notification under TRIS. We further ask the Commission to measure, in line with the objective of the directive, whether these benefit farmers. Finally, we would ask the Commission urgently to reconsider their decision to exclude buyers from the further feedback exercise they are now conducting.”

The UTP directive, was part of a package to help farmers, including easing the scope for cooperation in producer organisations under the CMO regulation, and a measure on market transparency requirements. It is a minimum harmonisation instrument allowing member states to choose to extend its provisions. The majority of countries have done so, widening the directive’s scope and the practices covered, in some countries prohibiting up to over 40 different practices and some introducing national sourcing obligations that are a clear infringement to the single market. We note the report’s helpful comment that measures beyond the minimum laid down in the directive are compatible with it *“provided they respect the EU’s internal market rules”*.

As a measure based on the agriculture provisions of the Treaty, the directive needs to be assessed against its impact on farmers. Many of the provisions adopted by member states have little relationship to that objective. The directive only provides for protection of suppliers, but none for buyers, and a number of member states have decided to protect larger suppliers with considerable market power. This was an approach which the DG Competition chief economist specifically warned against as part of the impact assessment of the Directive.

Retailers buy very little direct from farmers, but where they do, they work closely with farmers to help them reap the benefit from innovation and premium quality and animal welfare products. They have introduced a wide range of initiatives in this area, including in supporting farmers’ transition to organic, promoting locally-grown products, and helping producer groups. Numerous examples of these initiatives can be seen on our dedicated website www.sustainablecommerce.eu

While some countries have retained existing national provisions to allow buyers to complain about abuses by suppliers – of which there are numerous examples, many member states have given unilateral protection to suppliers, including large international suppliers. This one-sided approach has been reinforced in the Commission’s second UTP survey of stakeholders, which excludes any feedback from buyers.

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EuroCommerce is the principal European organisation representing the retail and wholesale sector. It embraces national associations in 28 countries and 5 million companies, both leading global players such as Carrefour, Ikea, Metro and Tesco, and many small businesses. Retail and wholesale is the link between producers and consumers. 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.