



# *The Commission's proposal on unfair trading practices: a general overview*

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# Initiative to improve the food supply chain

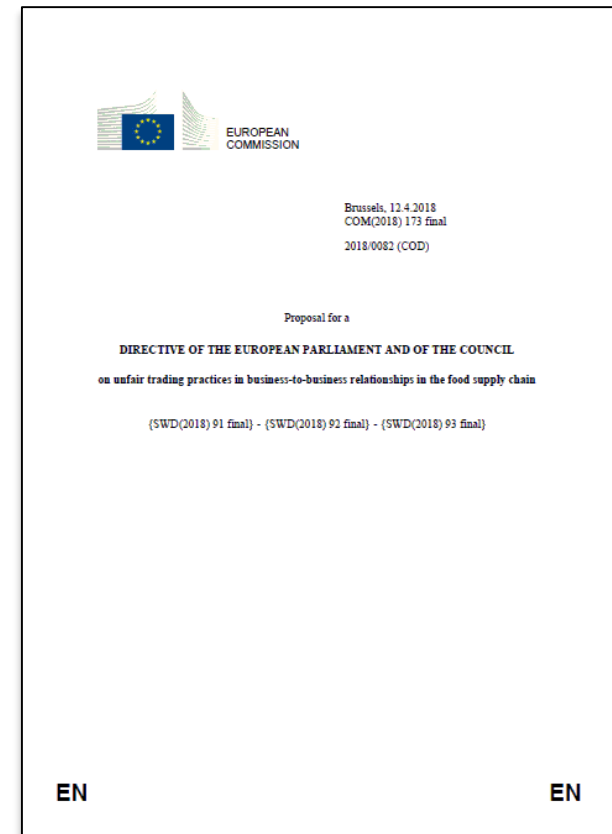
- Unfair trading practices
- Producer cooperation – omnibus regulation
- Market transparency

## Economic context

- Significant asymmetries in bargaining power
- Increased market orientation of CAP and integration into global markets
- Volatile incomes
- UTPs occurring frequently
- Farmers and SMEs more vulnerable
- “Fear factor”

# Proposal for EU Directive on unfair trading practices

- Adopted on 12 April 2018 by Commission
- Now with legislator in ordinary legislative procedure
- First time measures are proposed at EU level





# The backstory

29 January 2016	<a href="#">Report</a> from the European Commission to the European Parliament and the Council on unfair business-to-business trading practices in the food supply chain
2 March 2016	<a href="#">Opinion</a> of the Committee on Agriculture and Rural Development on unfair trading practices in the food supply chain
1 June 2015	Commission <a href="#">Decision</a> establishing the High Level Forum for a better functioning food supply chain
15 July 2014	European Commission <a href="#">Communication</a> on tackling unfair trading practices
12 November 2013	<a href="#">Opinion</a> of the European Economic and Social Committee on the 'Green Paper on unfair trading practices in the business to business food and non-food supply chain in Europe'
31 January 2013	European Commission Green <a href="#">Paper</a> on unfair trading practices in the business-to-business food and non-food supply chain in Europe
19 January 2012	European Parliament <a href="#">Resolution</a> on imbalances in the food supply chain
5 July 2010	European Commission <a href="#">report</a> , Retail market monitoring report, Towards more efficient and fairer retail services in the internal market for 2020
28 October 2009	European Commission <a href="#">Communication</a> on a better functioning food supply chain and <a href="#">Staff Working Document</a> , Competition in the food supply chain

# Political context



**EP** resolution (600 pro votes): calls upon COM to propose legislation (June 2016)



**Council Conclusions:** invite COM to submit impact assessment (December 2016)



**EESC:** recommends network of enforcement authorities (September 2016)

AMTF

**Agricultural Markets Task Force:** recommends legislation (report of November 2016)

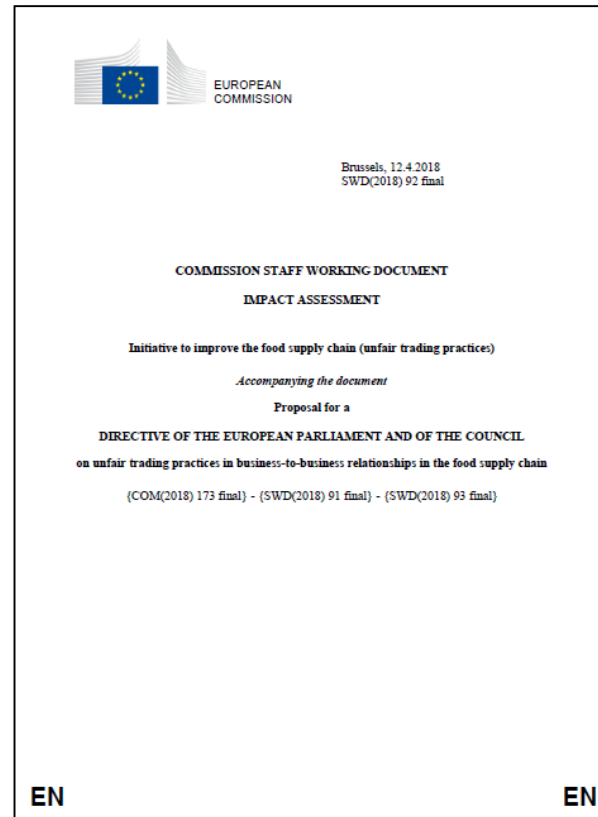


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# Impact assessment

- Problem definition
- Why should the EU act?
- Objectives
- Policy options
- Impact



# Problem definition

## Costs of UTPs

- **Undue transfer of risk**
- **Undue generation of uncertainty**



affects ability to plan; market signal distortions;  
liquidity reduced



reduced investment; innovation; business viability  
(smaller operators)



# Problem definition

## Enforcement aspects

- Problem: differences in MS enforcement = differences in treatment and in effectiveness
- Benefits of action: coordination effects (leakage), cross-border cooperation (cross-border cases), knowledge exchange (best practice)

# Preferred option

	Package 1	Package 2	Package 3	Package 4
	General coverage & enhanced enforcement and coordination	Targeted coverage all operators & enhanced enforcement and coordination	<b>Targeted coverage - protection of SMEs &amp; enhanced enforcement and coordination</b>	Targeted coverage - protection of SMEs & enforcement and coordination (recommendation)
Scope of UTP rules	General prohibition	Specific UTPs listed as prohibited	Specific UTPs listed as prohibited	Specific UTPs listed as prohibited
Coverage of products	Agricultural and processed agricultural products	Agricultural and processed agricultural products	Agricultural and processed agricultural products	Agricultural products
Coverage of operators	All operators	All operators	Protection of SMEs across the chain	Protection of SMEs across the chain
Enforcement	Minimum requirements "plus"	Minimum requirements "plus"	Minimum requirements "plus"	Minimum requirements
Coordination	Network of competent authorities	Network of competent authorities	Network of competent authorities	Baseline (High Level Forum)
Instrument	Regulation	Directive	Directive	Recommendation

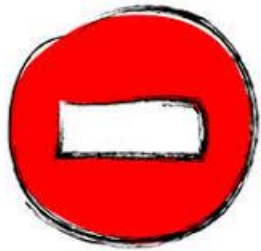


# Characteristics of the proposal

- Directive
- Legal basis – Art. 43 TFEU (agriculture)
- Protected: SME suppliers (incl. 3<sup>rd</sup> country suppliers) in the food supply chain
- EU minimum protection:
  - Short list of prohibited unfair trading practices
  - Minimum enforcement powers for Member State authorities
  - Coordination of Member State enforcement authorities
- Complementary to Member States' rules and self-regulation
- Member States may go beyond EU rules

# Unfair trading practices prohibited

1. Payments later than 30 days for perishable food products
2. Short-notice cancellations of perishable food products
3. Unilateral and retroactive contract changes
4. Wasted product risk transferred to supplier
5. Unsold product risk transferred to supplier
6. Payments for stocking, displaying and listing
7. Contributions to buyer's promotion campaign
8. Contributions to buyer's marketing campaign



Parties'  
agreement  
matters

# Enforcement requirements

- Designated competent public authority
- Investigative powers
- Confidentiality of complainant
- Own initiative investigations
- Redress through producers' organisation
- Fines
- Publication of decisions



# Cooperation between enforcement authorities:



# Market transparency

- Open public consultation (August-November 2017)
- AGRI/JRC experts workshop (May 2018)

<https://webcast.ec.europa.eu/workshop-on-market-transparency-30th-of-may-2018>

<https://webcast.ec.europa.eu/workshop-on-market-transparency-31st-of-may-2018>

[https://ec.europa.eu/info/publications/market-transparency-workshop\\_en](https://ec.europa.eu/info/publications/market-transparency-workshop_en)

# Market transparency

Next steps:

- MSs & Stakeholder workshop (11 September 2018)
- Stakeholder questionnaire (end July-end September)



# Market transparency

## Competition concerns

*REGULATION (EU) 2017/1185*

### *Article 4 - **Protection of personal data***

*"3. Where information notified to the Commission is obtained from less than three operators, or where information from a single operator accounts for more than 70 % of the quantum of such information notified, the Member State concerned shall signal this to the Commission when notifying the information."*



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**Thank you**