Unfair trading practices in the food supply chain

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The Committee on the Internal Market and Consumer Protection adopted the own-initiative report by Edward CZESAK (ECR, PL) on unfair trading practices in the food supply chain in response to the Commission's report of 29 January 2016 on unfair business-to-business trading practices in the food supply chain.

The Committee on Agriculture and Rural Development, exercising the prerogative of an associated committee in line with Article 54 of the Rules of Procedure of the European Parliament, was also consulted to give an opinion on the report.

Members recalled that unfair trading practices (UTPs) are a serious problem, occurring in many sectors of the economy. However, the **problem is particularly evident in the food supply chain**, having adverse effects on the weakest link in the chain. The problem is attested to by all entities in the food supply chain and by many national competition authorities.

UTPs principally consist of: payment delays; restricted access to the market; unilateral or retroactive changes to contract terms; refusal to conclude a written contract or exerting pressure to cut prices.

Whilst welcoming the Commission report of 29 January 2016, Members notes that its conclusions **do not pave the way for an EU-level framework to tackle unfair trading practices at EU level**.

Eliminate unfair trading practices: Members recognised that UTPs result primarily from income and power imbalances in the food supply chain and must be **urgently addressed** in order to ameliorate the situation for farmers in the food sector. These practices have serious negative consequences for farmers, such as lower profits, higher-than-estimated costs, food overproduction and wastage, and financial planning difficulties and ultimately reduce consumer choice.

Members stated that the Supply Chain Initiative (SCI) and other national and EU voluntary systems (codes of good practice, voluntary dispute settlement mechanisms) should be developed further and promoted as an addition to **effective and robust enforcement mechanisms at Member State level**, ensuring that complaints can be lodged anonymously and establishing **dissuasive penalties**, together with EU-level coordination.

Members proposed that improving the functioning of the SCI via, inter alia, **independent governance**, **confidentiality and anonymity**, and effective enforcement and deterrence, could, as a first step, increase farmer interest, support, and, thereby, participation.

Definition of unfair trading practices: Members believe strongly that the definition of UTPs outlined by the Commission and relevant stakeholders should be taken into account, along with an open list of UTPs, when submitting a **proposal for an EU-level framework**.

Anonymity and confidentiality should be incorporated into any future legislative initiative, or initiatives, in this area.

The Commission should submit a **proposal, or proposals, for an EU-level framework laying down general principles** and taking proper account of national circumstances and best practices to tackle UTPs in the entire food supply chain in order to ensure a level playing-field across Member States. Moreover, Directive 2011/7/EU should be fully and consistently enforced.

Public agencies and dedicated bodies: Member States should establish or recognise public agencies or dedicated bodies like an **adjudicator**, at national level with responsibility for enforcing action to combat unfair practices in the food supply chain.

Public agencies of this kind can facilitate enforcement, e.g. by being empowered to open and conduct **investigations** on their own initiative and on the basis of informal information or complaints dealt with on a confidential basis (thus overcoming the 'fear factor'), and can act as a **mediator** between the parties involved.

Members called on the Commission, the Member States and other relevant stakeholders to **facilitate the incorporation of farmers' organisations** (including POs and APOs) within the scope of national enforcement bodies governing the food supply chain, primarily by securing the anonymity of complaints and an effective sanctions regime.

Taking into account the specific features of each market: Members considered that any proposed regulatory efforts in this area should ensure that there is relatively broad discretion to tailor the measures to be taken to the specific features of each market, in order to avoid adopting a 'one-size-fits-all' approach.

Raising consumer awareness: the report called on all stakeholders involved in food supply chain management to step up transparency in the overall food supply chain and to **increase consumer information** through more appropriate **product labelling and certification schemes**, in order to enable consumers to make fully-informed choices about available products, and to act accordingly.

Lastly, the report called for **increased transparency and provision of information within the supply chain** and for the strengthening of bodies and market information tools such as the European Food Price Monitoring Tool and the Milk Market Observatory, with a view to supplying farmers and POs with accurate and timely market data.