Unfair trading practices in the food supply chain

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The European Parliament adopted by 600 votes to 48, with 24 abstentions, a resolution 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.

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 noted 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: Parliament 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.

Limits to the Supply Chain Initiative (SCI): Parliament noted that the setting up of SCI national platforms of organisations and businesses in the food supply chain to encourage dialogue between the parties, promote the introduction and exchange of fair trading practices and seek to put an end to UTPs, but wonders whether they are really effective. It pointed out, however, that some national platforms have not delivered on these objectives.

Parliament questions the **unwavering support expressed in the Commission’s report for the SCI**, given its limitations. It reiterated farmers’ reluctance to participate on account of : (i) the lack of trust, (ii) the restrictions on anonymous complaints, (iii) the lack of statutory power, (iv) the inability to apply meaningful sanctions, (v) the absence of adequate mechanisms to combat well-documented UTPs, and (vi) concerns about imbalances in the nature of enforcement mechanisms that have not been taken adequately into account.

Setting up effective and robust enforcement mechanisms: Parliament 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.

It 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.

EU Framework proposals: Members strongly 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.

In general, Parliament is of the opinion that **framework legislation at EU level** is necessary in order to tackle UTPs and to ensure that European farmers and consumers have the opportunity to benefit from fair selling and buying conditions. This European framework legislation **must not lower the level of protection** in countries that have adopted national legislation to combat business-to-business UTPs.

Moreover, Directive 2011/7/EU on combating late payments in commercial transactions should be fully and consistently enforced in order that creditors be paid within 60 days by businesses, or otherwise face interest payments and payment of reasonable recovery costs of the creditor.

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: Parliament 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 resolution 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, Parliament 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.