

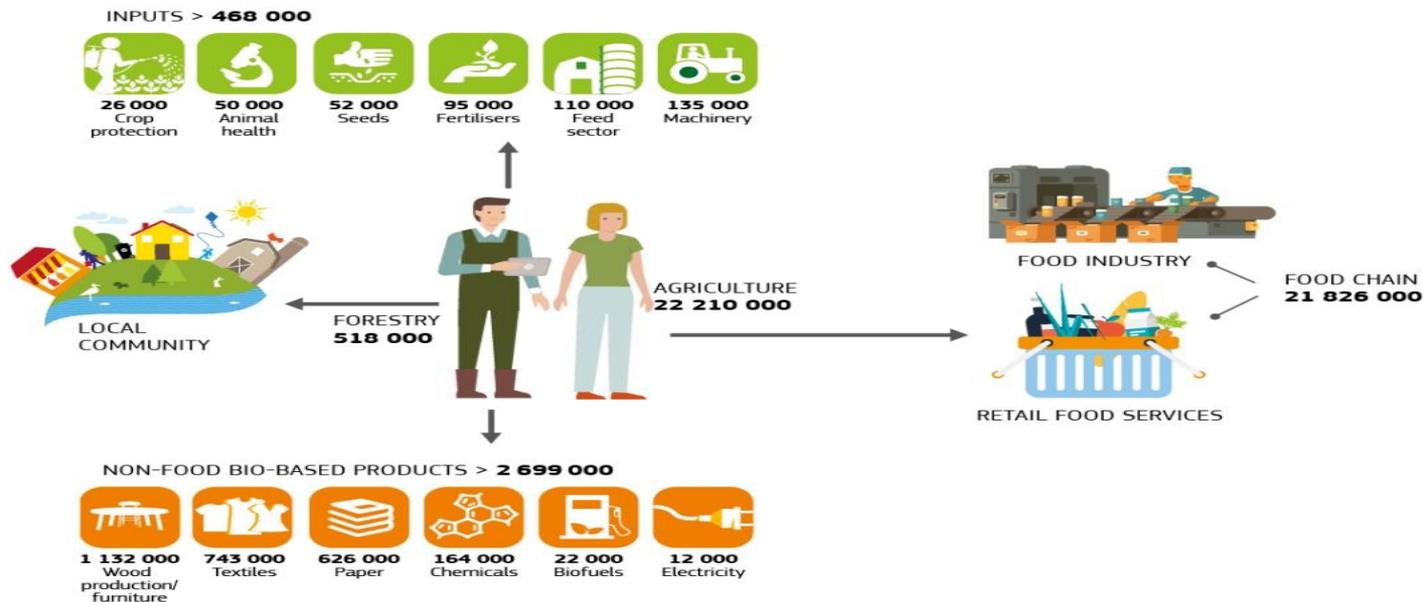


EU Directive on unfair trading practices in the agricultural and food supply chain

An overview

Agricultural and food supply chain, value chain

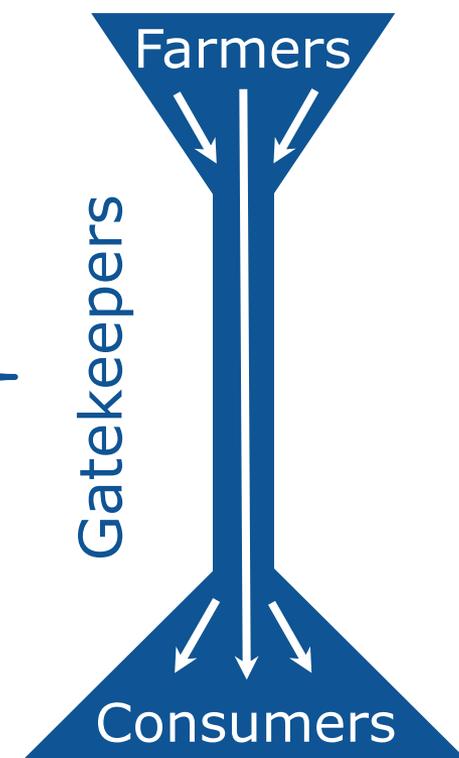
44 MILLION JOBS IN THE AGRI-FOOD SECTOR



Figures provided indicate the number of jobs in the corresponding sector
Source: Based on DataM – Bioeconomics, European Commission / Joint Research Centre IPTS and nova Institut

Structure of the EU food supply chain

- *10 million small and fragmented agricultural holdings*
- *A few large manufacturers generate 90 percent of the turnover*
- *A few large food & drink retailers dominate the market*
- *500 million individual consumers dispersed across 28 MSs*





How did we get here - the political process

- ❑ **12 April 2018: European Commission's proposal**
- ❑ 24 October to 19 December 2018: 6 trilogues
- ❑ **19 December 2018: Political agreement**
- ❑ 12 March 2019: Adoption by European Parliament in first reading
- ❑ 9 April 2019 : Adoption by the Council
- ❑ **17 April 2019: Signature and adoption of the Directive by the co-legislator**

Status quo and steps ahead

Publication in OJ L 111 of 25 April 2019

Entry into force 30 April 2019

Transposition into national law, including designation of enforcement authorities: 1 May 2021

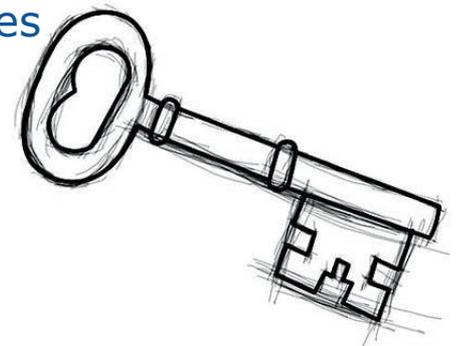
Application under national law: **1 November 2021**

Compliance of existing contracts: **1 May 2022**

Evaluation **in 2025**

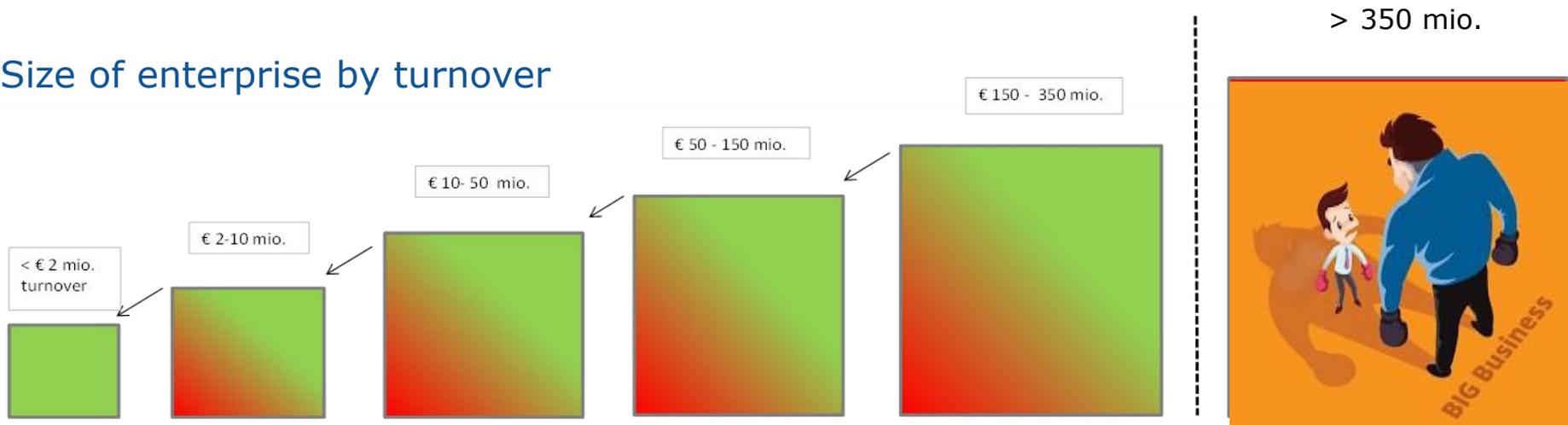
The key elements

- Legal basis: Article 43 TFEU
- The Directive:
 - protects weaker suppliers against stronger buyers against UTPs occurring in the food supply chain
 - covers UTPs in relation to the sales of agricultural and food products
 - follows minimum harmonisation approach
 - protects against **16 specific** unfair trading practices
 - provides for minimum enforcement power
 - foresees coordination between MS authorities



Protecting the weak against the strong – Article 1

Size of enterprise by turnover

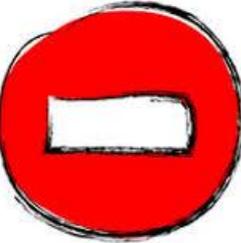


- Turnover calculation according to Commission SME Recommendation
- Foreign suppliers / foreign buyers (territorial competence)

Distinction between black and grey UTPs – Article 3

- Distinction between black and grey practices
- Article 3 (1) : **Black UTPs.** Prohibited, whatever the circumstances.
- Article 3 (2): **Grey UTPs.** Prohibited, if the parties do not clearly and unambiguously agree beforehand.

Unfair trading practices prohibited – black

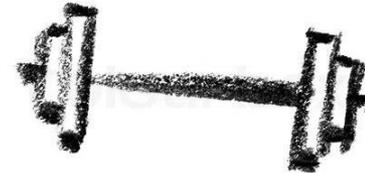
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1. Payments later than 30 days for *perishable* agricultural and food products
 2. Payment later than 60 days for other agri-food products
 3. Short-notice cancellations of perishable agri-food products
 4. Unilateral contract changes by the buyer
 5. Money not related to a specific transaction
 6. Risk of loss and deterioration transferred to the supplier
 7. Refusal of a written confirmation of a supply agreement by the buyer, despite request of the supplier
 8. Misuse of trade secrets by the buyer
 9. Commercial retaliation by the buyer
 10. Transferring the costs of examining customer complaints to the supplier

Unfair trading practices prohibited – grey

- 11. Unsold products
- 12. Payment of the supplier for stocking, display and listing
- 13. Payment of the supplier for promotion
- 14. Payment of the supplier for marketing
- 15. Payment of the supplier for advertising
- 16. Payment of the supplier for staff of the buyer, fitting out premises



Powers of the enforcement authority –



- **MS have to designate an enforcement authority**
 - Can be an existing authority
- **Vested with powers:**
 - Power to act upon a complaint or act ex officio
 - **DEAL WITH THE FEAR FACTOR: MS shall take appropriate measures to ensure confidentiality, but also rights of defense.**
 - Power to investigate
 - Power to terminate an infringement
 - Power to levy fines and impose other penalties
 - Power to publish decisions



Cooperation - Article 8

- **Cooperation**
 - MS to ensure that the enforcement authorities cooperate effectively with each other and with the Commission
 - And to provide each other mutual assistance in cases with cross-border dimension
- **Regular meetings**, facilitated by the Commission
- **Website by the COM**, internally for EAs and public website with links to designated authorities and information about acts of transposition