

The Directive on **UNFAIR TRADING PRACTICES** in the agricultural and food supply chain



The protection of farmers is at the heart of the Common Agricultural Policy. Farmers should be treated fairly and get a fair share of the price paid by European citizens for food.

The European Union decided to improve the protection of farmers, as well as of small and medium suppliers

and provide mandatory rules that outlaw certain unfair trading practices.

For this reason, the Directive on unfair trading practices in business-to-business relations in the agricultural and food supply was adopted in April 2019. Member States have to transpose the Directive by 1 May 2021 and apply it 6 months later.

KEY PRINCIPLES OF THE DIRECTIVE

- ▶ Protect farmers, farmers organisations and other weaker suppliers of agricultural and food products against stronger buyers
- ▶ Prohibit 16 unfair trading practices
- ▶ Enforcement of the Directive countering unfair trading practices by authorities in each Member State and coordination among the authorities
- ▶ Minimum harmonisation: Member States can provide for stricter rules than the Directive

THE PROHIBITED UNFAIR TRADING PRACTICES

BLACK PRACTICES

TEN “BLACK” UNFAIR TRADING PRACTICES

1. Payment 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. Payments not related to a sale of agricultural and food products
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

EXAMPLE OF UNFAIR TRADING PRACTICES



“ Fish farmer A sells fresh fish the local fish factory (turn-over EUR 40 million) for the production of tinned fish filets. He is paid only 40 days after delivering the fish. As he cannot get the fish factory to change its payment practice, he complains to the enforcement authority. The fish factory hears about that and threatens to stop dealing with him if he does not withdraw the complaint. The fish factory commits two unfair trading practices prohibited, first for not paying within 30 days for a perishable product, secondly for commercial retaliation. ”

GREY PRACTICES

SIX “GREY” UNFAIR TRADING PRACTICES, ALLOWED SUBJECT TO CLEAR AND UNAMBIGUOUS AGREEMENT BEFOREHAND

1. Return of unsold products
2. Payment of the supplier for stocking, display and listing
3. Payment of the supplier for promotion
4. Payment of the supplier for marketing
5. Payment of the supplier for advertising
6. Payment of the supplier for staff of the buyer, fitting out premises

