



*The Directive on unfair trading practices  
in business-to-business relationships in  
the agricultural and food supply chain*

CDG Olive oil  
7 June 2019

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# The Directive on unfair trading practices

**Entry into force 30 April 2019**

Transposition into national law: **1 May 2021**

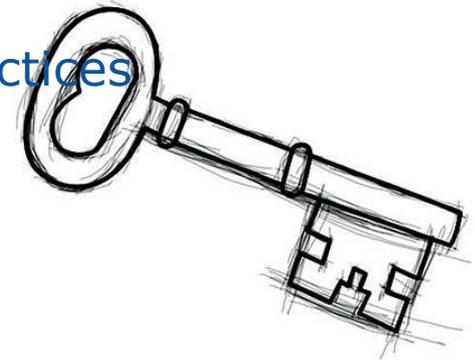
Application under national law: **1 November 2021**

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

**Evaluation in 2025**

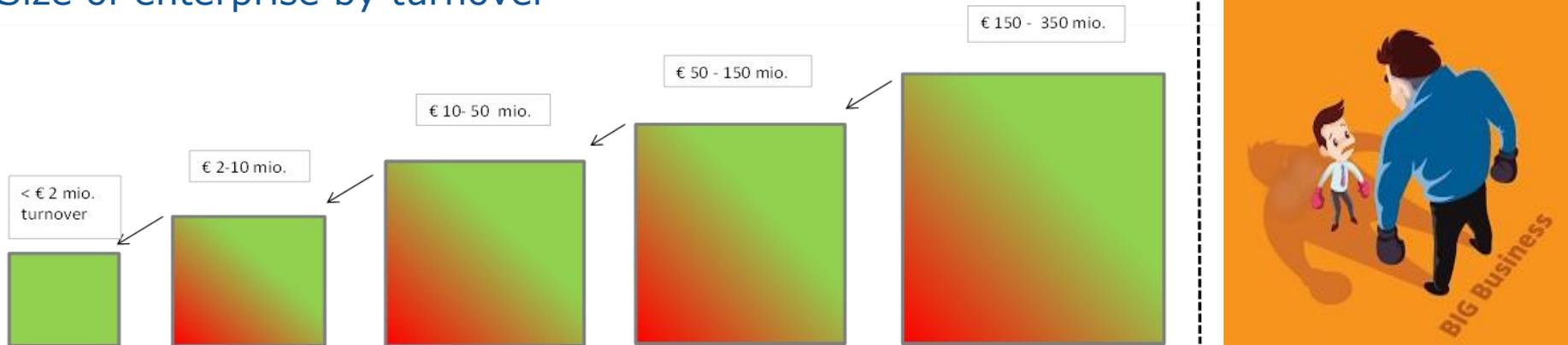
# Key elements

- Legal basis: Article 43 TFEU
- The Directive:
  - protects weaker suppliers against stronger buyers (B2B) against UTPs occurring in the food supply chain
  - links to agri- and food products
  - follows minimum harmonisation approach (MS can go beyond and be stricter)
  - protects against 16 specific unfair trading practices
  - provides for minimum enforcement power
  - foresees coordination between MS authorities



# Protecting the weak against the strong –

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

- The distinction between black and grey UTPs in the Commission's proposal has been retained.
- Article 3 (1) : 10 **Black UTPs**. Prohibited, whatever the circumstances.
- Article 3 (2): 6 **Grey UTPs**. Prohibited, if the parties do not clearly and unambiguously agree beforehand.

# Unfair trading practices prohibited – black

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. Rights of defense.
  - Power to investigate
  - Power to terminate an infringement
  - Power to levy fines and impose other penalties
  - Power to publish decisions

## **Statements by the institutions**

### **Study on retail alliances**

COM is tasked to undertake an analysis on the role and effect of retail alliances on the agri-food supply chain

### **Market transparency**

... The Commission is encouraged to continue its ongoing work to enhance market transparency at EU level.