Unfair trading practices in the food supply chain

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EU conducts new annual survey on unfair trading practices in the food supply chain

Report from the Commission: Implementing the prohibition of unfair trading practices to strengthen the position of farmers and operators in the agricultural and food supply chain – State of play

Questionnaire to suppliers in the agricultural and food supply chain on unfair trading practices (UTPs)

Update

The European Commission conducted a follow-up survey on operators' experience of unfair trading practices (UTPs). The survey closed on 17 December 2024.

On 23 April 2024, the Commission published a report on the implementation of Directive 2019/633 on UTPs in the food supply chain. The report provides an overview of investigations undertaken by EU Member States into UTPs, highlighting the most common breaches by operators.

What is changing?

Report evaluating the UTP Directive

The European Commission has evaluated implementation of the EU UTP Directive. The main findings, published in April 2024, were:

- while the aim of the UTP Directive was to ensure harmonised minimum standards across the EU, a large majority of EU Member States have adopted a higher level than required by the Directive
- in 2023 around 1500 investigations were opened, 17% of which found infringements that resulted in fines
- 269 infringements were detected (about 27% of the closed investigations)
- the most frequently detected UTP was late payment: 50% of infringements concerned late payments on perishable food products, and 13% on non-perishable food products

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- other major infringements were: requests for payment not related to the sale of the food (7%); payments requested from the supplier to support marketing of the product (7%); and payments required for stocking, displaying, and listing products (7%)
- 41% of the detected UTPs occurred at retail level, 36% during processing, and 22% at the wholesale level.

Survey

Since the adoption of Directive 2019/633 the Commission has carried out four annual surveys of food chain operators' experiences regarding UTPs. The main findings of these earlier surveys are:

- 75% of respondents to the survey have experienced at least one UTP, with 11% experiencing more than five UTPs
- UTPs were most frequently experienced in the context of sales to wholesalers (40%), followed by those to retailers (38%), and to commodity traders (26%)
- awareness of the EU UTP Directive was greatest among secondary processers (78% of respondents) and weakest among organic producers (59%)
- the UTP most frequently experienced was late payments (31% related to non-perishable food, 20% to perishable food); this was followed by the buyer's refusal to provide written confirmation of a supply agreement (10%); passing on to suppliers costs related to product deterioration at the buyer's premises (9%); and suppliers being required to bear the costs of discounts on promoted products even where not previously agreed (9%)
- 35% of respondents have never raised UTPs with buyers, and 66% have never addressed these issues with public enforcement authorities
- 27% of respondents do not raise UTP issues beause they fear retaliation by the buyer, and 21% because they are unaware that public bodies can handle the issues.

The Commission has completed its 2024 survey.

Timeline

The fifth survey closed on 17 December 2024. The European Commission will carry out a more detailed evaluation of the UTP Directive in 2025 to assess its effectiveness, and possibly refine its scope and enforcement mechanisms.

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Recommended Actions

If food suppliers in non-EU countries have experienced any of the UTPs listed in the Directive (see Background), they are encouraged to gather and submit information to the annual UTP surveys, for example through representative trade bodies.

Background

In 2019 the European Parliament and the Council adopted Directive (EU) 2019/633 on UTPs in business-to-business (B2B) relationships in the agricultural and food supply chain.

While the main focus is the EU, this Directive also applies to suppliers outside the EU that are selling agricultural and food products direct to an EU buyer. This recognises that non-EU suppliers are equally vulnerable to UTPs. It also aims to prevent UTPs being diverted towards unprotected suppliers outside the EU.

Note that the Directive only applies to suppliers outside the EU that are selling direct to an EU buyer (not via an intermediary).

The UTPs that are prohibited under Directive 2019/633 are:

- Payment later than 30 days for perishable agricultural and food products.
- Payment later than 60 days for other agricultural and food products.
- Short-notice order cancellations (less than 30 days) of perishable agricultural and food products.
- Unilateral contract changes by the buyer.
- Payments requested by the buyer that are not related to sale of the agricultural and food product of the supplier.
- Payment for deterioration and/or loss of agricultural and food products (occurring at the buyer's premises) unduly transferred from the buyer to the supplier.
- Refusal by the buyer to provide a written confirmation of a supply agreement.
- Misuse of a supplier's trade secrets by the buyer.
- Commercial retaliation by the buyer.
- Payment of costs for examining customer complaints unduly transferred from the buyer to the supplier.

In addition, the following UTPs are prohibited if they have not been agreed between buyer and supplier before the action is taken:

- The buyer returns unsold agricultural and food products to the supplier without paying for them.

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- The buyer requires the supplier to pay for stocking, displaying, and listing of agricultural and food products.
- The buyer requires the supplier to bear costs of discounts for agricultural and food products that are part of a promotion.
- The buyer requires the supplier to pay for advertising.
- The buyer requires the supplier to pay for marketing.
- The buyer requires the supplier to pay for the buyer's staff, or for fitting out the buyer's premises, used to sell the supplier's agricultural and food products.

Resources

Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain

Commission Staff Working Document: Unfair Trading Practices (UTP) – Overview tables on Member States' transposition choices and enforcement activities accompanying the document "Report from the Commission: Implementing the prohibition of unfair trading practices to strengthen the position of farmers and operators in the agricultural and food supply chain – State of play"

European Commission: Unfair trading practices in the food chain

European Commission: Food Chain – UTP – survey results

Sources

Report from the Commission: Implementing the prohibition of unfair trading practices to strengthen the position of farmers and operators in the agricultural and food supply chain – State of play

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