

European considerations in addressing UTPs
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Oliver Sitar
European Commission, Directorate General for
Agriculture and Rural Development



Enhancing the position of farmers in the food supply chain

- Possibilities for producer cooperation
 - Omnibus  Regulation (changes to Article 152 CMO)
- Governance of unfair trading practices
 - Proposal for a Directive
- Market transparency
 - Market observatories
 - Further measures in 2018

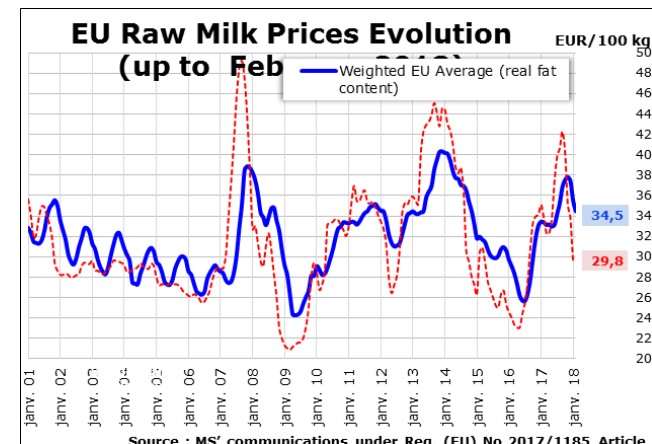




Economics



- Successive reforms since 1992 \Rightarrow market orientation of CAP
- EU agriculture's integration in world markets (\pm alignment to world market prices & participation in free trade agreements)
- Greater price volatility & income risks for farmers



Proposal for EU rules on unfair trading practices

- Adopted on 12 April 2018 by Commission*
- Now with legislator in ordinary legislative procedure
- First time measures are proposed at EU level



* [COM\(2018\) 173 final](#) - [{SWD\(2018\) 91 final}](#) - [{SWD\(2018\) 93 final}](#)



The backstory

29 January 2016	Report from the European Commission to the European Parliament and the Council on unfair business-to-business trading practices in the food supply chain
2 March 2016	Opinion of the Committee on Agriculture and Rural Development on unfair trading practices in the food supply chain
1 June 2015	Commission Decision establishing the High Level Forum for a better functioning food supply chain
15 July 2014	European Commission Communication on tackling unfair trading practices
12 November 2013	Opinion of the European Economic and Social Committee on the 'Green Paper on unfair trading practices in the business to business food and non-food supply chain in Europe'
31 January 2013	European Commission Green Paper on unfair trading practices in the business-to-business food and non-food supply chain in Europe
19 January 2012	European Parliament Resolution on imbalances in the food supply chain
5 July 2010	European Commission report , Retail market monitoring report, Towards more efficient and fairer retail services in the internal market for 2020
28 October 2009	European Commission Communication on a better functioning food supply chain and Staff Working Document , Competition in the food supply chain

Political context



EP resolution (600 pro votes): calls upon COM to propose legislation (June 2016)



EESC: recommends network of enforcement authorities (September 2016)



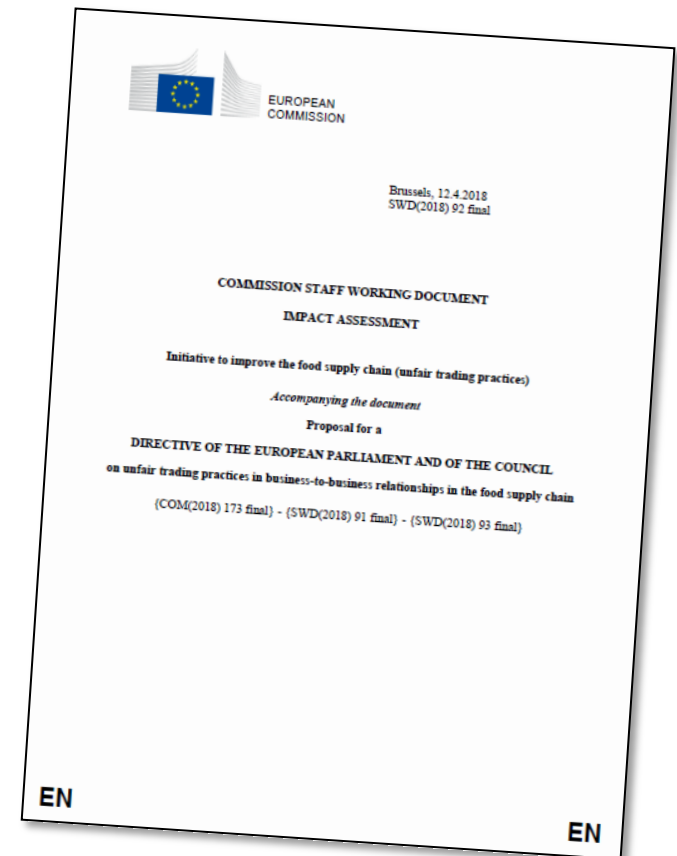
Council Conclusions: invite COM to submit impact assessment (December 2016)



Agricultural Markets Task Force: recommends legislation (report of November 2016)

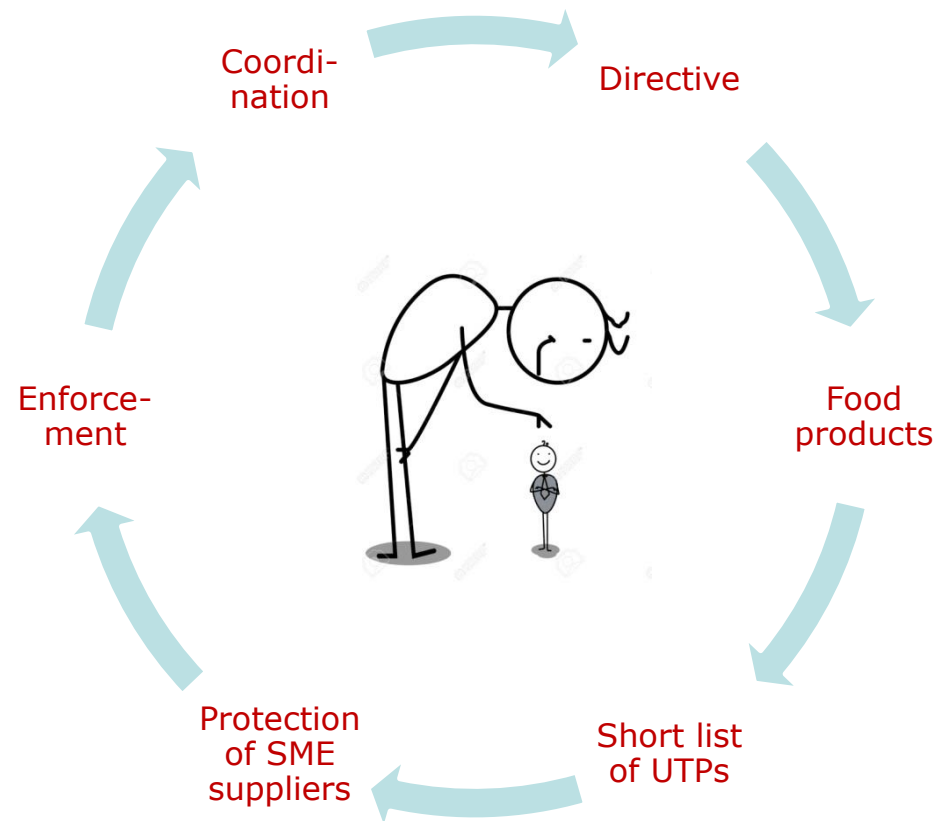
Impact assessment

- Problem definition
- Why should the EU act?
- Objectives
- Policy options
- Impact

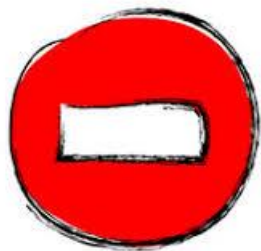


Characteristics of the proposal

- Directive
- Legal basis – Art. 43 TFEU (agriculture)
- Protected: SME suppliers (incl. 3rd country suppliers) in the food supply chain
- EU minimum protection:
 - Short list of prohibited unfair trading practices
 - Minimum enforcement powers for Member State authorities
 - Coordination of Member State enforcement authorities
- Complementary to Member States' rules and self-regulation
- Member States may go beyond EU rules



Unfair trading practices prohibited



1. Payments later than 30 days for perishable food products
2. Short-notice cancellations of perishable food products
3. Unilateral and retroactive contract changes
4. Wasted product risk transferred to supplier
5. Unsold product risk transferred to supplier
6. Payments for stocking, displaying and listing
7. Contributions to buyer's promotion campaign
8. Contributions to buyer's marketing campaign

Parties'
agreement
matters

Enforcement requirements

- Designated public authority
- Confidentiality of complainant
- Own initiative investigations
- Investigative powers
- Fines
- Publication of decisions



Cooperation between enforcement authorities:

