



EUROPEAN COMMISSION

Brussels, 19.3.2019  
C(2019) 2006 final

*Dear President,*

*The Commission would like to thank the Senato della Repubblica for its Opinion on the Proposal for a Directive of the European Parliament and of the Council on unfair trading practices in business-to-business relationships in the food supply chain {COM(2018) 173 final}.*

*The proposal is currently in the legislative process involving both the European Parliament and the Council. On 19 December 2018, the co-legislators have reached a political agreement on the basis of an extended scope of the Directive.*

*As regards the suggestions contained in the Opinion of the Senato della Repubblica, the Commission would like to share some relevant considerations.*

- a. The ambit of the scope of the Directive has been extended to cover agricultural products other than food products;*
- b. Buyers established in non-European Union countries are now covered by the Directive (in addition to suppliers from non-European Union countries);*
- c. The Directive's scope is not extended to cover all suppliers or operators regardless of size. The premise of the Directive still is that relatively weak suppliers are protected against unfair trading practices engaged in by relatively more powerful buyers;*
- d. The definition of perishable products has been further specified;*
- e. The rules on payments delays have been adjusted including a special rule for payments at the end of the month after an invoice is presented;*
- f. A 60-day rule for non-perishable agricultural products has been added;*
- g. Sales at a loss are not covered by the Directive as an unfair trading practice;*

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- h. Economic dependence has not been retained as a principle that would qualify for the unfair trading practices that are prohibited;
- i. A general definition of unfair trading practices has been included but it remains, for the purposes of the Directive, defined by the specifically prohibited practices. Member States can go further in their prohibition of practices they consider unfair in their national laws, subject to applicable strictures of Union law;
- j. The refusal of a request by a supplier for a written contract is an unfair trading practice;
- k. Member States will need to designate a competent enforcement authority but this authority can be an existing one;
- l. The enforcement modalities applying to the competent national enforcement authorities have been further clarified;
- m. The circle of organisations which can submit complaints has been extended in comparison to the initial proposal by the Commission;
- n. A provision refers to forms of alternative dispute resolution.

*The text of the Directive that encompasses the political agreement reached on 19 December 2018 will now have to be endorsed by the European Parliament and the Council. The Commission expects this to happen before the end of the current mandate of the Parliament, allowing the Directive to be formally adopted. Once adopted, Member States have 24 months to transpose the Directive into their national laws. After a further 6 months of preparation time for the stakeholders to get in line with the national rules transposing the Directive, the rules will be fully applicable and protect suppliers in the food supply chain. The Directive constitutes a minimum standard of protection that suppliers will be able to rely on across the European Union. As acknowledged above, Member States will remain free to continue or introduce further-reaching rules. Moreover, existing voluntary codes of conduct and mechanisms of alternative dispute resolution will complement the protection against unfair trading practices. The Commission will present a report on the effectiveness of the relevant rules on unfair trading practices four years after the application of the national measures transposing the Directive.*

*The Commission hopes that these comments address the issues raised by the Senato della Repubblica and looks forward to continuing the political dialogue in the future.*

*Your faithfully,*

*Frans Timmermans  
First Vice-President*

*Phil Hogan  
Member of the Commission*