



EUROPEAN COMMISSION

Brussels, 22.8.2018
C(2018) 5655 final

Dear President,

The Commission would like to thank the Bundesrat 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}.

This proposal forms part of a broader package of ambitious measures designed to improve the functioning of the food supply chain to help farmers strengthen their position in the market place and help protect them from future shocks. It aims at reducing the occurrence of unfair trading practices in the food supply chain by introducing a minimum common standard of protection across the European Union. The proposed provisions targeting minimum enforcement requirements applying to national competent authorities would add to the deterrent character of the proposed regime.

The Commission welcomes the Bundesrat's broad support for the aims of the proposal. It has taken good note of the Bundesrat's concerns regarding the proposal and is pleased to have this opportunity to provide a number of clarifications.

As regards the proposed scope for economic operators, the Commission recalls, as also described in the Impact Assessment accompanying the proposal, that the proposal is based on an approach which provides protection from unfair trading practices for only smaller and medium-sized operators in the food supply chain and which is congruent with the problem driver 'imbalance of bargaining power'.

Regarding the definition of 'Perishability', the Commission is currently working with the legislators to find an agreement on a definition which would be satisfactory for the parties and that would ensure the higher level of protection.

Finally, concerning the term 'Wastage', the Commission would like to inform the Bundesrat that this term was chosen to identify both cases of wasted or unsold products from suppliers and those cases in which the waste is caused by the negligence or default of the supplier.

*Mr. Michael MÜLLER
President of the Bundesrat
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The points made above are based on the initial proposal presented by the Commission, which is currently in the legislative process involving both the European Parliament and the Council.

The Commission hopes that these clarifications address the issues raised by the Bundesrat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Pierre MOSCOVICI
Member of the Commission*