

# SENATE OF THE REPUBLIC

17TH PARLIAMENTARY TERM

Doc. XVIII-bis No 15

## RESOLUTION OF STANDING COMMITTEE NO 14

(EU Policies)

: (Rapporteur: Senator Candiani)

*approved at the session of 18 December 2014*

on the

**Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions:  
"Tackling Unfair Trading Practices in the Business-to-Business Food Supply Chain" (COM(2014) 472) (COMMUNITY DOCUMENT NO 49)**

*pursuant to Article 144(1), (5) and (6) of the Rules of Procedure*

**Submitted to the President's Office on 8 January 2015**

The Committee, having examined the EU document,

Whereas this document is aimed at contributing to fair and sustainable commercial relationships and a level playing field for market participants in the food supply chain through helping to reduce the harmful effects and possible cross-border obstacles caused by unfair trading practices (UTPs), especially for SMEs (small and medium-sized enterprises), and to that end suggests a combination of voluntary and regulatory frameworks, taking into account different national circumstances and approaches;

Whereas certain developments over recent decades, such as the increased concentration and vertical integration of market participants across the EU, have led to structural changes in the food supply chain, contributing to a situation of significantly different levels of bargaining power and economic imbalances in individual trade relations between operators, and whereas differences in bargaining power are common and legitimate in commercial relationships and the abuse of such differences has led to unfair trading practices;

Whereas the European Commission's Green Paper (COM(2013) 37), of 31 January 2013, identifies the following as the main categories of UTP: a trading partner's retroactive misuse of unspecified, ambiguous or incomplete contract terms; a trading partner's excessive and unpredictable transfer of costs or risks to its counterparty; a trading partner's use of confidential information; the unfair termination or disruption of a commercial relationship. to which territorial supply constraints may be added as an example of a problematic practice, imposed – for example – by multi-national suppliers on retailers to prevent them from sourcing identical goods elsewhere;

Welcoming the proposals made in the Communication aimed at creating an effective European framework against UTPs, including: a comprehensive market take-up of the Supply Chain Initiative, developed within the High-Level Forum for a Better Functioning of the Food Supply Chain; a common understanding of the principles of good practice; ensuring effective enforcement of rules at the national level;

hereby issues a favourable opinion, within its area of competence, with the following comments:

In reference to the self-regulatory initiative called the Supply Chain Initiative, it supports the proposal to support its adoption in all EU Member States, considering it essential to ensuring equal or comparable operating conditions in terms of fairness and good practice for all undertakings operating in EU territory in order to avoid distortions of competition and to ensure that the economic benefits that come with the absence of UTPs are more widespread;

In this regard, it considers it essential to effectively address the 'fear factor' issue, in which the weaker party in a commercial relationship in the food supply chain (usually an SME) fears that initiating litigation may lead the stronger party to terminate the commercial relationship, by providing anonymous or confidential forms of remedy and designating independent enforcement authorities with competence to receive complaints and carry out checks on compliance with rules relating to UTPs;

Welcoming the fact that competence for this area remains at the national level, it nevertheless considers it useful and appropriate to lay down harmonised minimum requirements or principles of good practice at the EU level, such as those proposed as part of the Supply Chain Initiative (written agreements, predictability in changes to

contracts, compliance with agreements made, correct information, confidentiality, responsibility for risk, and justifiability of requests), in order to ensure the most widespread propagation of good practice relating to fair trade and to ensure the Member States take greater responsibility for achieving this.

€1.00