



Parlamentul României

Senat

Bucharest, 11th June 2018

Courtesy translation

OPINION

of the SENATE OF ROMANIA

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 Senate of Romania has examined 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, according to the provisions of the Treaty of Lisbon (Protocol no.2).

Taking into account the report of the Committee for European Affairs no. LXII/265/30.05.2018, **the plenum of the Senate**, during its session of 4th June 2018, has decided the following:

(1) Notes that the principle of subsidiarity is respected and the principle of proportionality is partially respected.

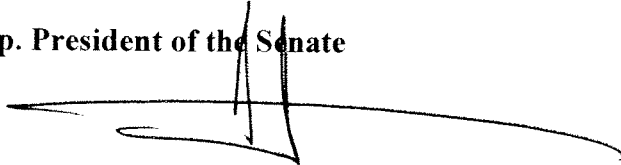
(2) Considers that:

a) Whilst the proposal indeed allows Member States to provide for additional rules designed to combat unfair commercial practices and going beyond the minimum Union standard, the proposal for a Directive itself should be amended by inserting into the enumeration in Article 3 of other unfair commercial practices as well. In this context, it stresses that, in the absence of some EU regulations on combating unfair commercial practices, the difficulties faced by suppliers (agricultural producers) will persist and the food market will be fragmented. In addition, it mentions the need to widen the scope of prohibited commercial practices through the Directive, given that, as the Commission itself has pointed out in the proposal for a Directive, an approach based on non-binding legal instruments risks not being effective in ensuring the conditions of fair competition desired. It is very important that in the list of unfair prohibited practices, included in the proposal for a Directive, be explicitly included as well, the following practices, which, in our experience, have proved extremely damaging to the market:

1. Non-observance by the buyer of the obligation to inform in detail and in unequivocal terms the supplier about all the contractual provisions;

2. Conditioning by the buyer of signing the commercial agreement by the payment of some annual fees and their retroactive application;
 3. Transferring the costs of transporting and storing products to suppliers;
 4. The obligation established by the buyer for the supplier to deliver the products only to the supplier's platforms;
 5. The obligation established by the buyer for the supplier to reduce the price for the agri-food products if the buyer notifies that the producer has reduced the price into another distribution network according to art. 101-102 TFEU - anti-competitive agreements by fixing prices;
 6. The obligation established by the buyer for the supplier to pay the personnel responsible for arranging spaces for sale, handling or selling agri-food products;
 7. The obligation established by the buyer for the supplier to cover logistical fees and various commissions through the terms - drawback, monthly draw, discount for efficiency in acquisition, further discount and discount new stream, provision that is transposed by the procedure of self-invoicing at the end of each month.
- b) It is appropriate for the European Commission to analyze the position expressed in this document, also taking into account the fact that an adequate EU-level regulation of the matter could create the prerequisites for solving several of the problematic issues covered by case 2016/2148.

p. President of the Senate

A handwritten signature in black ink, consisting of a long horizontal stroke with a loop at the end and two vertical strokes intersecting it.

Adrian ȚUȚUIANU