

Unfair trading practices

POSITION PAPER

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The 2019 EU Directive on unfair trading practices (UTP) in the agri-food supply chain marked an important step towards fairer commercial relations in Europe's strategic agri-food chain.

In the forthcoming revision of the Directive, policymakers should address evolving retailer practices that current rules are no longer able to adequately capture. The revision should deliver a more coherent framework for tackling UTPs, one that reflects the close interdependence between farmers and food and drink makers.

WHY SHOULD THE UTP DIRECTIVE BE REVISED?

1 High retail market concentration facilitates unfair trading practices

The structural power imbalance between food and drink producers and retailers has widened over the past decade. In most EU Member States, the top four retailers hold over 50% of the retail market.

A food manufacturer might rely on just one of those retailers for 30–40% of its sales, while representing only 1–2% of that retailer's revenue – a glaring power imbalance.

Top 4 grocery retail concentration by selected EU Member States (%)

Market	DK	FI	NL	BE
Top-4 market share	~ 89%	~ 83%	~ 79%	~ 74%
	DE	FR	PL	IT
	~ 68%	~ 64%	~ 57%	~ 45%

2 European Retail Alliances (ERAs) have exacerbated unfair trading practices

ERAs bring together competing retailers to reinforce their position on the market and increase their negotiating power over food and drink makers. The share of ERAs has nearly doubled over the past decade, rising from around 31% of EU grocery sales in 2015 to 59% by 2024. ERAs operate as gatekeepers, controlling access to consumers for EU manufacturers. ERAs operate across EU borders, carefully selecting those countries with less stringent UTP rules and they even go so far as to establish their headquarters outside the EU (e.g. in Switzerland) to evade the UTP Directive altogether.

3 The cascading effect on farmers is severe

Food and drink companies have a strong, interconnected relationship with farmers, built on long-term partnerships.

When a food or drink producer is a victim of unfair trading practices, farmers also suffer the cascading effect of such practices. 70% of what Europe's farmers produce is bought by processors and manufacturers.

UTPs undermine those enterprises' ability to invest in sustainable and resilient supply chains and share value with farmers.

4 Europe's largest manufacturing sector calls for urgent action

For Europe's largest manufacturing industry, UTPs are a growing concern, with 62% of food & drink CEOs reporting that they have increased over the past five years¹.

Three asks for a Directive fit for purpose

Eliminate the threshold of **€350 million** turnover

Expand the list of **banned** unfair trading practices

Address the fear factor & **improve enforcement**

POLICY ASKS

1 The current threshold defining the scope of application of the Directive should be removed

Article 1.2 limits the Directive's scope to suppliers with no more than €350 million turnover but unfair practices affect suppliers of all sizes – unfair is unfair.

The current turnover-based approach may even discourage buyers from dealing with smaller suppliers, so as to avoid UTP rules under the current threshold. The revised Directive should explicitly recognise that protecting manufacturers from UTPs is inseparable from protecting farmers. Removal of the threshold in the UTP Directive is therefore needed to empower farmers.

Removing the threshold would strengthen and extend protections to all, improve harmonisation across Member States, simplify the legal framework, reduce administrative burdens, and prevent circumvention by retailers and their alliances.

2 The 'blacklist' of UTPs needs to be expanded

In recent years, food and drink producers have faced unfair trading practices which should be explicitly prohibited by the revised UTP Directive, including:

- Abrupt termination of commercial relations, including unjustified de-listings or major order reductions;
- Abusive logistical penalties, including unilateral or disproportionate financial penalties;
- Refusal by the buyer to renegotiate in exceptional circumstances or severe cost increases.

UTPs remain a systemic problem, with frequent cases of late payments beyond 60 days, unjustified penalties, and unilateral changes of terms. Although already prohibited by the Directive, weak enforcement and suppliers' fear of retaliation allow these practices to continue.

3 Suppliers need more uniform enforcement

The EU's fragmented protection regimes must be addressed. Diverging national rules are creating legal complexity, especially for SMEs.

Policymakers should ensure national enforcement authorities have adequate resources, stronger controls and sanctions, improved cross-border cooperation under the new EU Regulation, and an EU-level coordination mechanism for retail alliance-related practices.

Compliance should also rely on proactive oversight by enforcement authorities, not just supplier complaints.

4 Fear of retaliation continues to deter action

Despite the impact of UTPs on processors' costs, only a minority of companies take formal action. Fear of retaliation is the top reason for inaction, cited by over 60% of food and drink makers (FoodDrinkEurope UTP survey 2025). Current confidentiality and anonymity provisions under *Article 5* have proven insufficient in practice.

ABOUT FOODDRINKEUROPE

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