

DRAFT

EFFAT - FoodDrinkEurope joint position on the revision of the UTP Directive

The 2019 EU Directive on unfair trading practices (UTPs) in the agri-food supply chain was a positive step towards fairer commercial relations, but further improvements are needed.

The European Social Partners in Food and Drink, EFFAT and FoodDrinkEurope, demand an ambitious revision to tackle persistent imbalances in the value chain. Experience since the Directive entered into force shows that several structural issues remain unresolved.

- **UTPs remain widespread:** In the European Commission's [2026 public consultation](#), 65.2% of respondents had seen illegal behaviour in their supply chains.
- **Retail concentration**
- **facilitates UTPs:** The power imbalance between producers and retailers has widened. In most EU countries, the four largest retailers control over 50% of the market - and nearly 90% in some.
- **European Retail Alliances (ERAs) worsen UTPs:** By pooling competing retailers, ERAs have increased their bargaining power throughout the chain and control access to consumers. Their share of EU grocery sales nearly doubled from 31% in 2015 to 59% in 2024. They also exploit weaker national rules or locate outside the EU, for example in Switzerland, to avoid the regulation on UTPs through the Directive.
- **Suppliers fear retaliation:** As the European Commission's recent evaluation confirms, this "fear factor" continues to deter suppliers from reporting UTPs and other unfair practices.

The EU's largest manufacturing industry – food and drink processing – generates around €1.5 trillion in turnover, nearly €300 billion in value added, and 4.8 million jobs across more than 309,000 companies, 99% of them SMEs. But food and drink manufacturers are under growing pressure from rising input costs and increasingly demanding downstream buyers, like large retailers. Unfair trading practices may further constrain manufacturers' margins, with potential implications for employment conditions and workforce resilience. As the buyer of 70% of all EU farm produce, protecting the food and drink manufacturing sector is essential to European farmers, rural communities, strategic autonomy, food security, and the wider economy.

EFFAT and FoodDrinkEurope joint policy demands

1. Protect all suppliers – remove the threshold in the scope of the UTP Directive

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.

Turnover does not accurately reflect bargaining power, which depends more on economic dependence and access to shelf space. A large supplier may have limited activity in the food chain, while a major exporter may be a small player in its national market.

Removing the EU-level threshold would:

- improve legal clarity, close enforcement gaps and replace the patchwork of national rules with a more harmonised approach;
- benefit farmers, SMEs and the wider food chain by limiting the knock-on effects of UTPs faced by larger companies; and
- reduce opportunities for retailers and their alliances to circumvent national rules, including through forum shopping, regulatory arbitrage, and cross-border practices that currently escape effective oversight, such as delistings.

2. Expand the blacklist of prohibited UTPs

With the continued existence of unfair trading practices and the emergence of new ones, the revised Directive should explicitly prohibit further unfair practices by adding them to the 'blacklist' of banned practices.

Prohibited practices must include: the abrupt termination of commercial relationships; unjustified delistings; substantial last-minute order reductions; double-drop tenders and auctions; "pay-on-scan" model; marketing contributions unrelated to the product; supermarkets issuing tenders where suppliers are requested to compete through successive price reductions; and all comparable practices. In relation to retailers' self-preferencing, the prohibition of practices, such as misuse of business secrets and intellectual property rights, should be strengthened.

3. Address fear of retaliation and strengthen enforcement

Fear of retaliation continues to deter suppliers from reporting UTPs. Although stakeholders continue to report illegal practices and their effects on processors' costs, formal action remains exceptionally rare: only 5.7% of respondents to the public consultation indicated that they had submitted a formal complaint. Since the safeguards under Article 5 have proved insufficient in practice, enforcement authorities need to be empowered to take a stronger and more proactive approach to enforcement.

Therefore, the EU needs more consistent and effective enforcement. Diverging national protection regimes create legal complexity and uneven levels of protection, particularly for SMEs.

Policymakers should ensure that national enforcement authorities have adequate resources and sufficiently strong investigative powers to carry out effective controls and impose sanctions.

The revised Directive should provide for:

- a harmonised EU standards for inspection frequency and staffing levels;
- a consistent framework for sanctions that are proportionate and sufficiently effective to deter violations;
- a framework empowering enforcement authority to conduct proactive controls rather than relying solely on supplier complaints; and
- an improved cross-border cooperation under Regulation 2026/697.