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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2018) 93 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT Initiative to improve the food supply chain (unfair trading practices) Accompanying the document 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

Delegations will find attached document SWD(2018) 93 final.

Encl.: SWD(2018) 93 final



Brussels, 12.4.2018
SWD(2018) 93 final

COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Initiative to improve the food supply chain (unfair trading practices)

Accompanying the document

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} - {SWD(2018) 91 final} - {SWD(2018) 92 final}

Executive Summary
Impact assessment on the initiative to improve the food supply chain – unfair trading practices
A. Need for action
What is the problem and why is it a problem at EU level?
Bargaining power between operators in the food supply chain (FSC) differs; weaker parties (e.g. farmers) are victims of unfair trading practices (UTPs). National regimes on UTPs vary, with little coordination between Member States (MS). This leaves operators in some MS under-protected, translates into different business conditions across MS, and creates uncertainty for cross-border trade.
What should be achieved?
Addressing UTPs contributes to a level playing field and enables effective redress for operators facing UTPs; this contributes to the CAP objectives of a fair standard of living for people engaged in agriculture, greater resilience of weaker operators, and better functioning of the FSC.
What is the value added of action at the EU level (subsidiarity)?
EU action provides a minimum common framework, improves protection against UTPs and reduces repercussions along the FSC. It also contributes to fair living standards of the agricultural community (TFEU Art. 39) and to coordination and exchange of best practices between MS; without EU action this would be difficult.
B. Solutions
What are the various options to achieve the objectives? Is there a preferred option?
Options are broken down by degree of harmonisation, scope of UTP prohibitions, product coverage, operator coverage, enforcement, and coordination of MS. Preferred: partial harmonisation of UTP rules, covering agricultural and processed products, protecting SMEs, minimum requirements for enforcement, and an enforcement mechanism at EU level.
What are different stakeholders' views? Who supports which option?
Most stakeholders who responded to the open public consultation strongly support EU action, incl. on enforcement. (Large) retailers disagree that UTPs occur widely and oppose EU measures.
C. Impacts of the preferred option
What are the benefits of the preferred option (if any, otherwise of main ones)?
Small operators benefit from protection through UTP legislation, which increases their efficiency. These gains should result in positive social and economic impacts on society.
What are the costs of the preferred option (if any, otherwise of main ones)?
Companies' compliance costs are not expected to be major. Social and environmental impacts are expected to be neutral or even positive; there could be costs for national administrations (below).
What are the impacts on SMEs and competitiveness?
SMEs would be better protected, overall competitiveness is expected to increase.
Will there be significant impacts on national budgets and administrations?
A majority of MS already have some form of UTP rules in place; for them administrative costs will be limited. For other MS costs would be somewhat higher, but the experience of MS with UTP legislation shows that implementation costs are generally low and can be absorbed by existing structures.

Will there be other significant impacts?
Third-country suppliers will also be covered.
Proportionality?
Only SMEs, the most damaging UTPs, and areas where MS cannot achieve the objectives on their own are covered. Expected costs are minimal. MS can maintain their regimes and legislate beyond the policy's scope.
D. Follow up
When will the policy be reviewed?
Based on MS reports the policy will be monitored annually by an <i>ad hoc</i> expert group. A full review will be conducted after four years.