WHAT IS THE PURPOSE OF THE DIRECTIVE?

• Determines a minimum list of prohibited unfair trading practices between buyers and suppliers in the agriculture and food supply chain and sets minimum code of practice.

• It aims to stop large enterprises from exploiting small and medium-sized suppliers due to weaker bargaining positions and to prevent the costs of such applications from passing on to primary producers.

KEY POINTS

The rules protect small and medium-sized suppliers and large suppliers whose annual turnover does not exceed €350 million. Protection depends onthe relative size of the supplier and buyer in terms of annual turnover. These suppliers are dividedinto 5 subcategories according to turnover:

• Upto 2 million euros;

• 2-10 million €;

• 10-50 million €;

• 50-150 million €; And

• 150-350 million €.

Prohibition of unfair trading practices

The Directive prohibits the following unfair trading practices under any circumstances:

• payment after 30 days for non-resistant agricultural and food products;

• Payment after 60 days for other agricultural and food products;

• cancellation of rapidly deteriorating agricultural and food products;

• Unilateral changes made by the buyer to the terms of the supply agreement;

• payments requested by the buyer not related to the sale of an agricultural and food product;

• Payments requested by the buyer for the deterioration or loss of agricultural and food products not caused by the supplier's negligence or defect;

• The buyer refuses to give written consent to the supply contract, despite the supplier's request;

• Misuse of supplier's trade secrets by the buyer;

• Commercial retaliatory lawsuits against the buyer's supplier if the Supplier is contractuated or exercising its legal rights;

• Transferring costs to the supplier's products for the examination of customer complaints even though the supplier has no negligence or defects.

The Directive prohibits the following unfair trading practices unless the supplier and buyer agree to this with clear and unequivocal terms:

• Buyer returns unsold agricultural and food products to the supplier without paying for or paying for the disposal of unsold products or both;

• The supplier is requested to pay as a condition for stocking, displaying or listing agricultural and food products or to market such products;

• the buyer asks the supplier to pay a discount on agricultural and food products sold by the buyer as part of a promotion;

• The buyer asks the supplier to pay for advertising or marketing by the buyer of agricultural and food products;

• The buyer charges the supplier for the personnel to arrange the facilities used for the sale of the supplier's products.

Complaints and privacy

EU countries determine their national enforcement authorities. Suppliers may file a complaint with the enforcement authority of the recipient's country or their own country suspected of a prohibited trading practice.

If asked, the enforcement authority should take the necessary measures to protect the identity of the complainant and other information deemed to be harmful to the interests of the complainant or suppliers.

Powers of the competent authorities

Enforcement authorities must have the following authority and expertise:

• initiate and conduct investigations;

• request information from buyers and suppliers;

• conduct unannounced on-site inspections;

• Order the end of a prohibited practice where appropriate;

• To sue or initiate a lawsuit against the business that committed the violation for the issuance of fines and other penalties and temporary measures;

• publish decisions.

EU countries can promote effective alternative voluntary dispute resolution mechanisms.

EU countries must ensure that the executive authorities cooperate effectively with each other and with the Commission and help each other in situations of cross-border size.