

Cross-border enforcement of unfair trading practices: Single Market must come first, says EuroCommerce

At the opening session of [the EU Agri-Food Days](#), Agriculture Commissioner Hansen announced several measures aimed at supporting competitiveness, sustainability and resilience of the agri-food chain, [including a proposal for a Regulation on cross-border enforcement](#) of unfair trading practices rules in the agri-food supply chain.

EuroCommerce – the association representing retailers and wholesalers in Europe – welcomes a more inclusive approach to addressing the key challenges facing the agri-food chain. However, it is also worried that the proposal will undermine the Single Market. *“Retail and wholesale are key partners in the agri-food chain, and a well-functioning Single Market plays a key role in supporting a resilient and competitive agri-food chain. We are extremely worried that the proposal on cross-border enforcement of unfair trading practices rules could allow member states to apply enforcement measures in other EU countries on the basis of national rules which are not harmonised. This risks re-nationalisation of the EU agri-food market. As Enrico Letta noted in his report, such re-nationalisation will ultimately affect the benefits derived from the Single Market for consumers”,* commented Christel Delberghe, EuroCommerce Director General at a panel of the EU Agri-Food Days in Brussels today.

The proposal is presented as a procedural measure with no impact assessment or stakeholder consultation. EuroCommerce fails to see the urgency of proposing procedural rules now when the substantive legislative framework will be reviewed in less than a year. An impact assessment is necessary as the rights and obligations of stakeholders may be affected.

The Commission first announced the principle as part of a non-paper drawn up during the farmers' protests. Retailers and wholesalers sympathise with the situation facing farmers. The proposal, however, raises serious legal concerns for the Single Market due to the risk that it undermines businesses' rights to choose the law and jurisdiction applicable to their contracts.

Member States have shown a keen interest in extending their sometimes stricter national rules beyond their borders. Therefore, the Single Market is at real risk of fragmentation. Co-legislators must preserve the EU single market by including strong safeguards that the proposed regulation can only apply to rules harmonised at EU level.

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Note to editors

Background

The Commission's proposal for a Regulation stems from the March 2024 'non-paper' on strengthening farmers' position in the food supply chain, confirmed in the Commission's [implementation report](#) in April 2024. At the time, legitimate concerns were being raised by farmers who were struggling with regulatory burden. Since that time those concerns have been discussed during the [Strategic Dialogue on the future of EU Agriculture](#), with the conclusions on unfair trading practices ranging from improving mediation to increasing awareness and improving confidentiality. The Commission will translate the conclusions of that dialogue into its vision on agriculture in the first 100 days.

The evaluation of the 2019 unfair trading practices directive started at the end of 2023 and is expected to conclude at the end of 2025. The running of the evaluation designed to gather the evidence to address the effectiveness of 2019 rules means the regulation is proposed before the Commission has completed its exercise to gather evidence and experience and comes at a time when there have been relatively few cases addressed by the enforcement authorities it intends to strengthen. There has been limited experience to date, with the Commission's [implementation report](#) and [staff working document](#) noting that in 2023, 269 infringements (about 27% of the closed investigations) were detected, leading to an overall financial sanction of over EUR 22 million. Of the EUR 22 million collected in fines, EUR 20 million was collected in Poland. Around 75% of own initiative cases and investigations were in Spain only. In Ireland, for example, the enforcement authority was only set up at the end of 2023.

In December 2023, EuroCommerce lodged a complaint¹ that explains why there is perceived real risk that the proposed Regulation will be used as a means for member states to impose extra-territorial application of their national law, which in some cases are likely to infringe Union law. The likely consequences would be to deprive companies of legal certainty and lead to fragmentation of the EU Single Market in the agri-food sector, discouraging pan-European sourcing. The Commission estimated in its [Communication](#) on the 30th Anniversary of the Single Market that the Single Market brings consumers a benefit of around EUR 34 billion a year.

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EuroCommerce is the principal European organisation representing the retail and wholesale sector. It embraces national associations in 28 countries and 5 million companies, including leading global players and many small businesses. Over a billion times a day, retailers and wholesalers distribute goods and provide an essential service to millions of business and individual customers. The sector generates 1 in 7 jobs, offering a varied career to 26 million Europeans, many of them young people. It also supports millions of further jobs throughout the supply chain, from small local suppliers to international businesses. EuroCommerce is the recognised European social partner for the retail and wholesale sector.

¹[20231213-eurocommerce-urges-european-commission-to-take-action-against-french-rules-on-b2b-commercial-relations.pdf](#)