

Call for views in response to

Draft EU Directive on Unfair Trading Practices in Business to Business Relationships in the Food Supply Chain (COM (2018) 173 Final – 2018/0082 (COD))

The Department of Business, Enterprise and Innovation is seeking views from stakeholders and interested parties on a new draft EU Directive intended to deal with unfair trading practices in business to business relationships in the food supply chain at EU level which was published by the EU Commission on 12 April 2018.

The scope of the draft Directive will apply to certain unfair trading practices which occur in relation to the sales of food products by a supplier that is a small and medium-sized enterprise to a buyer that is not a small and medium-sized enterprise. The terms “buyer” and “supplier” are defined in article 2 of the Directive.

The draft Directive seeks to establish a minimum list of prohibited unfair trading practices between buyers and suppliers in the food supply chain, lays down minimum rules concerning their enforcement and other arrangements for the coordination between enforcement authorities. Four trading practices will be banned outright under Article 3 of the draft Directive as follows:

- Paying a supplier later than 30 days for perishable food products or later than 30 days after the date of delivery of such goods;
- A buyer cancels orders for perishable food products at such short notice that it is not possible to expect the supplier to sell such goods elsewhere;
- A buyer unilaterally and retrospectively changes the terms of the supply agreement concerning the frequency, timing, or volume of the supply or delivery, the quality standards or the prices of food products;
- A supplier pays for the wastage of food products which occurs on the buyer’s premise but where the supplier is not negligent in causing such wastage.

The draft Directive will undergo the normal legislative process through the working party of the Agriculture Council of Ministers and by the European Parliament in due course.

It should be recalled that the Minister for Business, Enterprise and Innovation signed regulations in 2016 to control certain unfair trading practices between large supermarkets and wholesalers and their direct suppliers of food and drink products in the grocery goods sector in Ireland. The Regulations entered into force on 30 April 2016 and they are enforced by the Competition and Consumer Protection Commission (CCPC).

Views on the draft Directive are requested no later than **close of business on Friday 1 June 2018**. Submissions should be marked “EU Directive on UTPs in the Food Supply Chain” and can either be e-mailed to conspol@dbei.gov.ie or sent in hard copy to Competition and Consumer Policy Section, Department of Business, Enterprise and Innovation, 1 Earlsfort

Centre, Lower Hatch St., Dublin 2. A relevant link to the draft EU Directive and the Impact Assessment published by the EU Commission is embedded in this document, for information.

https://ec.europa.eu/info/law/better-regulation/initiatives/com-2018-173_en

Your attention is drawn to the fact that information provided to the Department may be disclosed in response to a request under the Freedom of Information Act 2014. Therefore, should you consider that any information you provide is commercially sensitive, please identify same, and specify the reason for its sensitivity. The Department will consult with you regarding information identified by you as sensitive before making a decision on any Freedom of Information request. Any personal information, which you volunteer to this Department, will be treated with the highest standards of security and confidentiality, strictly in accordance with the Data Protection Acts 1988 and 2003.

The Department may also decide to place any submissions received by it on the Department's website. A decision on any such placement may occur **without prior consultation** with respondents to this process. Thus, it is in the interests of respondents to highlight, in their submissions, any commercially sensitive or confidential information at the time of submission.

Queries

Further information may be obtained by contacting Competition and Consumer Protection Section of the Department at the following contact points:

Anne Barrett at 01- 6312620 (or at Anne.Barrett@dbei.gov.ie)

Paul Brennan at 01-6312612 (or at Paul.Brennan@dbei.gov.ie)

Kieran Grace at 01-6312676 (or at Kieran.Grace@dbei.gov.ie)