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### WORKING PAPER

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### **WORKING DOCUMENT**

From:	Presidency
To:	Working Party on Horizontal Agricultural Questions (Unfair Trading Practices) Special Committee on Agriculture (SCA)
Subject:	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 - Information from the Presidency

In preparation for the next trilogue, delegations will find in the Annex information from the Presidency on the above mentioned subject with a view to the meeting of the Special Committee on Agriculture on 26 November 2018 and the meeting of the Working Party on Horizontal Agricultural Questions (Unfair Trading Practices) ( attachés) on 29 November 2018.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
1.	<i>Title</i>			
2.	<p>Proposal for a</p> <p><b>DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b></p> <p><b>on unfair trading practices in business-to-business relationships in the food supply chain</b></p>		<p><b><u>Draft</u> Proposal for a</b></p> <p><b>DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b></p> <p><b>on unfair trading practices in business-to-business relationships in the <u>agri</u>-food supply chain</b></p>	<p><b><u>Trilogue 2 (T2): A-list</u></b></p> <p><b><u>Draft</u> Proposal for a</b></p> <p><b>DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b></p> <p><b>on unfair trading practices in business-to-business relationships in the <u>agricultural and</u> food supply chain</b></p> <p><i>Comment: Instead of "<u>agri</u>-food", use "<u>agricultural and food</u>" throughout the text.</i></p> <p><i>See Article 1(1).</i></p>
3.	<i>Recitals</i>			

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4.	(1) Three Commission communications since 2009 <sup>1</sup> have focused on the working of the food supply chain, including the occurrence of unfair trading practices. Unfair trading practices are in that context defined as practices that grossly deviate from good commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner on another. The Commission suggested desirable features for national and voluntary governance frameworks of unfair trading practices in the food supply chain. Not all of those features have become part of the legal framework and voluntary governance regimes in Member States, leaving the occurrence of such practices			<i>Recitals to be redrafted at a later stage.</i>

<sup>1</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A better functioning of the food supply chain, COM(2009) 591.  
Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Tackling unfair trading practices in the business-to-business food supply chain, COM(2014)472 final.  
Report from the Commission to the European Parliament and the Council on unfair business-to-business trading practices in the food supply chain, COM(2016)032 final.

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	still in the focus of the political debate in the Union.			
5.	(2) In June 2016, a European Parliament resolution <sup>2</sup> invited the Commission to submit a proposal for a Union legal framework concerning unfair trading practices. In December 2016, the Council invited the Commission to undertake, in a timely manner, an impact assessment with a view to proposing a Union legal framework or non-legislative measures to address unfair trading practices <sup>3</sup> . An impact assessment has been prepared by the Commission which was preceded by an open public consultation as well as targeted consultations.			
6.		<b><u>AM 1</u></b> <b><i>(2a) In 2010, the Commission-led High Level Forum for a Better</i></b>		

<sup>2</sup> European Parliament resolution of 7 June 2016 on unfair trading practices in the food supply chain (2015/2065(INI)).

<sup>3</sup> [Council Conclusions](#) of 12 December 2016, Strengthening farmers' position in the food supply chain and tackling unfair trading practices.

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		<i>Functioning Food Supply Chain endorsed a set of principles of good practice in vertical relations in the food supply chain agreed by organisations representing a majority of the operators in the food supply chain. Those principles became the basis for the Supply Chain Initiative launched in 2013.</i>		
7.		<b><u>AM 2</u></b> <i>(2b) In 2011, the OECD adopted the updated Guidelines for Multinational Enterprises on Responsible Business Conduct, which represent the most comprehensive set of recommendations promoted by governments in existence, and cover all major areas of business ethics.</i>		
8.	(3) Different operators are active in the food supply chain at the stages of production,	<b><u>AM 3</u></b> (3) Different operators are active in the <b><i>agricultural and</i></b> food supply chain at the stages	(3) Different operators are active in the <b><i>agri-</i></b> food supply chain at the stages of production,	

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	processing, marketing, distribution and retail of food products. The chain is by far the most important channel for bringing food products from “farm to fork”. Those operators trade food products, that is to say primary agricultural products, including fishery and aquaculture products, as listed in Annex I to the Treaty for use as food, and other food products not listed in that Annex but processed from agricultural products for use as food.	of production, processing, <b><i>importing, exporting, marketing, distribution, retail and sale to final consumers of agricultural and</i></b> food products. The chain is by far the most important channel for <b><i>delivering</i></b> products. Those operators trade <b><i>agricultural and</i></b> food products, that is to say primary agricultural products, including fishery and aquaculture products, as listed in Annex I to the Treaty for use as food, other food products not listed in that Annex but processed from agricultural products for use as <b><i>agricultural and</i></b> food products.	processing, marketing, distribution and retail of <b><u>agri-</u></b> food products. The chain is by far the most important channel for bringing <b><u>agri-</u></b> food products from “farm to fork”. Those operators trade <b><u>agri-</u></b> food products, that is to say primary agricultural products, including fishery and aquaculture products, as listed in Annex I to the Treaty <del>for use as food, and other</del> food products not listed in that Annex but processed for use as food <b><u>using from</u></b> <del>agricultural</del> products <b><u>listed in that Annex.</u></b>	
9.		<i>(The change from "food supply chain" to "agricultural and food supply chain" applies throughout the text. Adopting it will necessitate corresponding changes throughout.)</i>		

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10.	(4) While business risk is inherent in all economic activity, agricultural production is particularly fraught with uncertainty due to its reliance on biological processes, since agricultural products are to a greater or lesser extent perishable and seasonable, and its exposure to weather conditions. In an agricultural policy environment that is distinctly more market-oriented than in the past, protection against unfair trading practices has become more important for operators active in the food supply chain and in particular for agricultural producers and their organisations.		(4) While business risk is inherent in all economic activity, agricultural production is particularly fraught with uncertainty due to its reliance on biological processes, since agricultural products are to a greater or lesser extent perishable and seasonable, and its exposure to weather conditions. In an agricultural policy environment that is distinctly more market-oriented than in the past, protection against unfair trading practices has become more important for operators active in the <b>agri-</b> food supply chain and in particular for agricultural producers and their organisations.	
11.	(5) The number and size of operators vary across the different stages of the food supply chain. Differences in bargaining power relate to the	<b><u>AM 4</u></b> (5) The number and size of operators vary across the different stages of the <b><i>agricultural and</i></b> food supply chain. Differences in	(5) The number and size of operators vary across the different stages of the <b>agri-</b> food supply chain. Differences in bargaining	

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	<p>different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized operators in the food supply chain. Agricultural producers, who supply primary agricultural products, are largely small and medium-sized.</p>	<p>bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are <i>even more</i> harmful for small and medium-sized operators in the <i>agricultural and</i> food supply chain, <i>both inside and outside the Union</i>. Agricultural producers, who supply primary agricultural products, are <i>often</i> small and medium-sized, <i>but all suppliers irrespective of size are susceptible to unfair trading practices</i>.</p>	<p>power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized operators in the <u>agri</u>-food supply chain. Agricultural producers, who supply primary agricultural products, are largely small and medium-sized.</p>	
12.		<p><u>AM 5</u></p> <p><i>(5a) Irrespective of the size of the operators, differences in bargaining power are commensurate with the dependence, particularly economic dependence, of the supplier on the buyer.</i></p>		



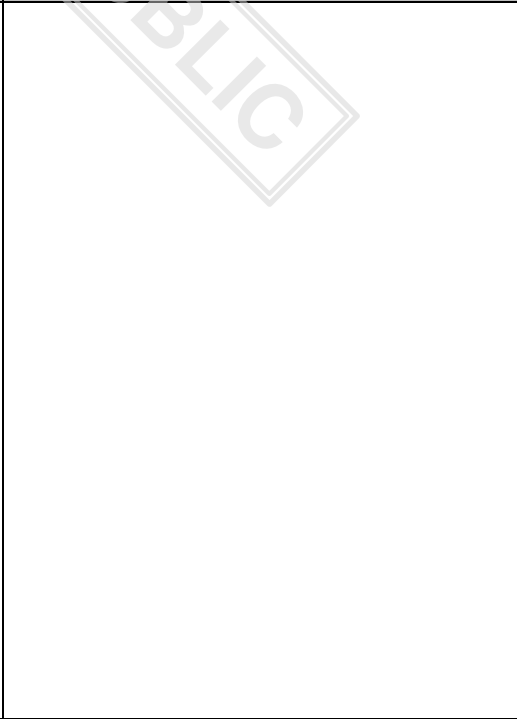
Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
13.	(6) A majority of all Member States, but not all of them, have specific national rules that protect suppliers against unfair trading practices occurring in business-to-business relationships in the food supply chain. Where reliance on contract law or self-regulatory initiatives is possible, fear of retaliation against a complainant limits the practical value of these forms of redress. Certain Member States, which have specific rules on unfair trading practices in place, therefore entrust administrative authorities with their enforcement. However, Member States' unfair trading practices rules - to the extent they exist - are characterised by significant divergence.		(6) A majority of all Member States, but not all of them, have specific national rules that protect suppliers against unfair trading practices occurring in business-to-business relationships in the <b>agri</b> -food supply chain. Where reliance on contract law or self-regulatory initiatives is possible, fear of retaliation against a complainant limits the practical value of these forms of redress. Certain Member States, which have specific rules on unfair trading practices in place, therefore entrust administrative authorities with their enforcement. However, Member States' unfair trading practices rules - to the extent they exist - are characterised by significant divergence.	
14.	(7) A minimum Union standard of protection against certain	<b>AM 6</b> (7) A minimum Union standard of protection against	(7) A minimum Union standard of protection against certain	19.11.2018:

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	manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC <sup>4</sup> . Those micro, small or medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on small and	certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies <b><i>agricultural and</i></b> food products, including producer organisations, associations of producer organisations <b><i>and cooperatives</i></b> . The financial pressure caused by unfair trading practices often passes through the chain and reaches agricultural producers <b><i>and therefore</i></b> rules on unfair trading practices should also protect intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in	manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies <b><u>agri-food products, including organisations of producers, organisations of suppliers and associations of such organisations</u></b> <del>producer organisations and associations of producer organisations,</del> provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC <sup>5</sup> . Those micro, small or medium suppliers are particularly vulnerable to unfair trading practices and	Council text maintained with the following adjustments:  "(7) A minimum Union standard of protection against certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies <b><u>agricultural and</u></b> food products, including <b><u>producer organisations, whether recognised or not, organisations of suppliers and associations of such organisations, including cooperatives</u></b> <del>producer organisations and</del>

<sup>4</sup> OJ L 124, 20.5.2003, p. 36.

<sup>5</sup> OJ L 124, 20.5.2003, p. 36.

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	medium-sized enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect small and medium-sized intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.	terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products.	least able to weather them without negative effects on their economic viability. As the financial pressure on small and medium-sized enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect small and medium-sized intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.	<p>associations of producer organisations, [...] "</p> <p><i>See Article 2(2), AM 34, row 61.</i></p> <p><b>T2: A-list</b></p> <p><b>T3: A-list</b> (with further modification compared to T2)</p> <p><i>Comment: The rest (in [...]) depends on political agreement on scope.</i></p>
15.		<p><b>AM 7</b></p> <p><i>(7a) As the place of establishment of a buyer in not always the same place</i></p>		

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		<p><i>where the agricultural and food products are delivered and marketed, the relevant rules should apply to all buyers, independently of their place of establishment, when the products they buy are intended for the Union agricultural and food supply chain. To strengthen the implementation and enforcement of this Directive by operators established outside the Union, the Commission should include specific clauses in the Union's bilateral trade agreements with third countries.</i></p>		
16.		<p><b><u>AM 8</u></b></p> <p><i>(7b) Services ancillary to the sale of agricultural and food products should be included in the scope of this Directive. Services such as transport, disinfection or invoicing should not be considered as ancillary to the sale of agricultural and food</i></p>		

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		<i>products and thus should not fall within the scope of this Directive.</i>		
17.	(8) Suppliers established outside the Union should be able to rely on the Union minimum standard when they sell food products to buyers established in the Union to avoid unintended distorting effects resulting from the protection of suppliers in the Union.	<b><u>AM 9</u></b> (8) Suppliers established outside the Union should be able to rely on the Union minimum standard when they sell <b><i>agricultural and</i></b> food products to buyers to avoid unintended distorting effects resulting from the protection of suppliers in the Union.	(8) Suppliers established outside the Union should be able to rely on the Union minimum standard when they sell <b><u>agri-</u></b> food products to buyers established in the Union to avoid unintended distorting effects resulting from the protection of suppliers in the Union.	
18.		<b><u>AM 10</u></b> <i>(8a) The imbalance of power in the supply chain and unfair trading practices of supermarkets come at a high price, as this generates and amplifies significant negative social and environmental impacts in most countries producing agricultural products and poor countries, including the denial of basic human rights, gender</i>		

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		<i>discrimination, a failure to earn living wages, and long working hours.</i>		
19.	(9) The relevant rules should apply to business conduct by larger, that is to say non-small and medium-sized, operators in the food supply chain as they are the ones who normally possess stronger relative bargaining power when trading with small and medium-sized suppliers.	<b><u>AM 11</u></b> (9) The relevant rules should apply to <i>all</i> business operators in the <i>agricultural and</i> food supply chain.	(9) The relevant rules should apply to business conduct by larger, that is to say non-small and medium-sized, operators in the <i>agri</i> -food supply chain as they are the ones who normally possess stronger relative bargaining power when trading with small and medium-sized suppliers.	
20.	(10) As a majority of Member States already have national rules on unfair trading practices, albeit diverging, it is appropriate to use the tool of a Directive to introduce a minimum protection standard under Union law. This should enable Member States to integrate the relevant rules into their national legal order in such a way as to bring about a	<b><u>AM 12</u></b> (10) As a majority of Member States already have national rules on unfair trading practices, albeit diverging, it is appropriate to use the tool of a Directive to introduce a minimum protection standard under Union law. This should enable Member States to integrate the relevant rules into their national legal order in such a way as to bring about a	(10) As a majority of Member States already have national rules on unfair trading practices, albeit diverging, it is appropriate to use the tool of a Directive to introduce a minimum protection standard under Union law. This should enable Member States to integrate the relevant rules into their national legal order in such a way as to bring	

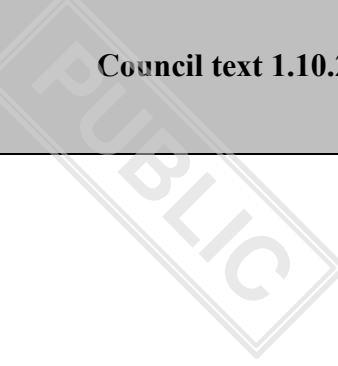
Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	cohesive regime. Member States should not be precluded from adopting and applying on their territory stricter national laws protecting small and medium-sized suppliers and buyers against unfair trading practices occurring in business-to-business relationships in the food supply chain, subject to the limits of Union law applicable to the functioning of the internal market.	cohesive regime. Member States should not be precluded from adopting and applying on their territory stricter national laws protecting <i>all</i> suppliers and buyers <i>regardless of their size</i> against unfair trading practices occurring in business-to-business relationships in the <i>agricultural and</i> food supply chain, subject to the limits of Union law applicable to the functioning of the internal market.	about a cohesive regime. Member States should not be precluded from <u><b>maintaining and introducing</b></u> adopting and applying on their territory stricter national laws <u><b>rules providing for a higher standard of protection of</b></u> <del>protecting</del> small and medium-sized suppliers and buyers against unfair trading practices occurring in business-to-business relationships in the <u><b>agri-</b></u> food supply chain, subject to the limits of Union law applicable to the functioning of the internal market.	
21.			<b>(10a)</b> The rules laid down in this Directive should not impair the possibility for the Member States to maintain <del>existing rules that are further reaching</del> or to adopt such rules in the future, <u><b>or introduce national rules designed to combat unfair trading practices that are not within the scope of this Directive</b></u> , subject to the	

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			<p>limits of Union law applicable to the functioning of the internal market. <u>Such national rules could go beyond this Directive, for example as regards the size of the buyers and suppliers, protection of buyers, the scope of products and the number and type of prohibited unfair trading practices.</u> The rules would apply alongside voluntary governance measures</p>	
22.			<p><u>(10b) Such national rules would apply alongside voluntary governance measures, such as national codes of conduct or the Food Supply Chain initiative. The use of such voluntary measures of conflict resolution between suppliers and buyers is explicitly encouraged, without prejudice to the right of the supplier to submit a complaint and the right of the enforcement authority to start</u></p>	



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			<u>investigations based on its own initiative or following a complaint.</u>	
23.	(11) As unfair trading practices may occur at any stage of the sale of a food product, i.e. before, during or after a sales transaction, Member States should ensure that the provisions of this Directive should apply to such practices whenever they occur.	<b><u>AM 13</u></b> (11) As unfair trading practices may occur at any stage of the sale of <i><b>an agricultural or</b></i> food product, i.e. before, during or after a sales transaction, <i><b>or in connection with the provision of services which are ancillary to the sale of that product by the buyer or a group of buyers to the supplier</b></i> , Member States should ensure that the provisions of this Directive should apply to such practices whenever they occur.	(11) As unfair trading practices may occur at any stage of the sale of an agri-food product, i.e. before, during or after a sales transaction, Member States should ensure that the provisions of this Directive should apply to such practices whenever they occur.  <b><u>(11a) Late payments for perishable agri-food products, which also include perishable products other than food products, and short notice cancellations of orders of such products impact negatively on the economic viability of the supplier without off-setting benefits. Such practices should therefore be prohibited. In this context, it is appropriate to provide for a definition of perishable</u></b>	Presidency compromise text 21.11.2018:  (12) As unfair trading practices may occur at any stage of the sale of an <i><b>agricultural and</b></i> food product, before, during or after a sales transaction (i.e. <i><b>any agreement under which the supplier transfers or undertakes to transfer the ownership of the goods to the buyer and the buyer pays or undertakes to pay the price thereof</b></i> ), Member States should ensure that the provisions of this Directive should apply to such practices whenever they occur.  <i><b>[To be further checked by the EP].</b></i>

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			<p><u>agri-food products for the purposes of this Directive. Definitions used in food law related acts of the Union aim at different objectives, such as health and food safety, and are therefore not appropriate for the purposes of this Directive. A product should be considered perishable if it can be expected to become unfit for sale within 30 days from the last act of harvesting, production or processing by the supplier, regardless of whether the product is further processed after sale, and regardless of whether after sale the product is handled in accordance with other applicable rules, in particular food safety rules.</u></p>	
24.	(12) When deciding whether an individual trading practice is considered unfair it is important to reduce the risk of	<p><b><u>AM 14</u></b></p> <p>(12) When deciding whether an individual trading practice is considered unfair it is important to reduce the risk</p>		

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	<p>limiting the use of fair and efficiency-creating agreements agreed between parties. As a result, it is appropriate to distinguish practices that are foreseen in clear and unambiguous terms in supply agreements between parties from practices that occur after the transaction has started without being agreed in advance in clear and unambiguous terms, so that only unilateral and retrospective changes to those relevant terms of the supply agreement are prohibited. However, certain trading practices are considered as unfair by their very nature and should not be subject to the parties' contractual freedom to deviate from them.</p>	<p>of limiting the use of fair and efficiency-creating agreements agreed between parties. As a result, it is appropriate to distinguish practices that <i><b>do not result from the exploitation of an economic dependence of the supplier on the buyer</b></i> and are foreseen in clear and unambiguous terms in supply agreements between parties, from practices that occur after the transaction has started without being agreed in advance in clear and unambiguous terms, so that only unilateral changes to those relevant terms of the supply agreement are prohibited. However, certain trading practices are considered as unfair by their very nature and should not be subject to the parties' contractual freedom to deviate from them.</p>		
25.		<p><b><u>AM 15</u></b> <i>(12a) Where a complaint is submitted to an enforcement</i></p>		

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		<i>authority, the burden of proof that the supply agreement covers the trading practice in question in clear and unambiguous terms should be on the buyer.</i>		
26.		<p><b><u>AM 16</u></b></p> <p><i>(12b) A payment by a buyer to a supplier beyond a reasonable time limit, which should be set in this Directive, should be considered as an unfair trading practice and be prohibited. That prohibition should be without prejudice to the rules on payment terms laid down in the statute of a producer organisation or of an association of producer organisations, including cooperatives, if that statute contains rules enabling members to scrutinise democratically their organisation and its decisions, or to agreements, decisions and concerted practices within recognised inter-branch organisations,</i></p>		

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		<i>the aim of which is to modify the terms of payment relating to agricultural and food products falling within the scope of a Union quality scheme.</i>		
27.		<p><b><u>AM 17</u></b></p> <p><i>(12c) The use of written contracts in the agricultural and food supply chain reinforces the responsibility of operators and helps to avoid certain unfair commercial practices, and increases the awareness of the need to better take into account the signals of the market, to improve price transmission and to adapt supply to demand. In order to incentivise the use of such contracts suppliers, or their associations, should have the right to request a written contract. The refusal by a buyer to enter into a written contract with a supplier despite the supplier having requested such a contract in</i></p>		

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		<i>accordance with this Directive, when terms have been agreed between them, should be considered as an unfair trading practice and be prohibited.</i>		
28.		<b><u>AM 18</u></b> <i>(12d) Nutrition labelling schemes unilaterally imposed by buyers on suppliers, which do not provide the consumers with comprehensive information, might discriminate between producers and mislead consumers in their choice of products. It should be possible for the imposition of such schemes to be considered as falling under the definition of an unfair trading practice.</i>		
29.			<b><u>(12a) With regard to demonstrating that the terms in a supply agreement are clear and unambiguous, parties might consider using written agreements. While there is no obligation to use</u></b>	

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
			<p><u>such written contracts, it should be recalled that according to Articles 148(1) and 168(1) of Regulation (EU) No 1308/2013<sup>6</sup>, Member States may decide that the delivery of agricultural products between parties is to be covered by a written contract. Where Member States do not make use of this possibility, producers, producer organisations and associations of producer organisations may, according to Article 148(1a) and Article 168(1a) of Regulation No (EU) 1308/2013 require from the first purchaser that the delivery of products be subject to a written</u></p>	

<sup>6</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products, OJ L 347 of 20.12.2013, p. 671 as amended by Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy, (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products and (EU) No 652/2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material (OJ 2017 L350, p. 15) ("Omnibus Regulation").

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
			<p><u>contract, unless the first purchaser is a micro, small or medium-sized enterprise within the meaning of Recommendation 2003/361/EC<sup>7</sup>. The rules on the burden of proof are those laid down by national law of Member States.</u></p>	<p>Compromise text 21.11.2018:</p> <p><i>(12b) As a matter of principle, the costs of maximising sales of the buyer's products by any kind of product promotion, marketing or advertising, including promotional displays in stores and sales campaigns, should, unless agreed in clear and unambiguous terms at the conclusion of the supply agreement, be borne by</i></p>

<sup>7</sup> Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5/2003, p. 36).



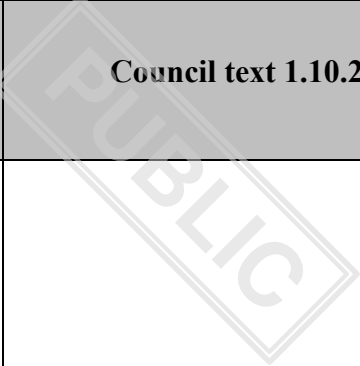
Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				<p><i>the buyer as such costs are directly linked to the buyer's business activities of product sale and distribution and consequently the transfer of such costs on the supplier in such cases should be prohibited under this Directive.</i></p> <p><b>T3: A-list</b></p>
30.	<p>(13) In order to ensure an effective enforcement of the prohibitions laid down in this Directive, Member States should designate an authority that is entrusted with their enforcement. The authority should be able to act either on its own initiative or by way of complaints by parties affected by unfair trading practices in the food supply chain. Where a complainant requests that his identity remain confidential because of fear of retaliation, the enforcement authorities of</p>	<p><b><u>AM 19</u></b></p> <p>(13) In order to ensure an effective enforcement of the prohibitions laid down in this Directive, Member States should designate an authority that is entrusted with their enforcement. The authority should be able to act either on its own initiative or by way of complaints by parties affected by unfair trading practices in the <i>agricultural and</i> food supply chain. <i>Whenever a complaint is lodged</i>, the enforcement <i>authority</i> of the Member <i>State concerned</i></p>	<p>(13) In order to ensure an effective enforcement of the prohibitions laid down in this Directive, Member States should designate <del>an authority</del> <b><u>authorities</u></b> that <del>is</del> <b><u>are</u></b> entrusted with their enforcement. <del>The authority</del> <b><u>Those authorities</u></b> should be able to act either on <del>its</del> <b><u>their</u></b> own initiative or by way of complaints by parties affected by unfair trading practices in the <del>agri-</del>food supply chain. Where a complainant requests that his identity remain</p>	<p>Presidency compromise text 21.11.2018:</p> <p>In order to ensure an effective enforcement of the prohibitions laid down in this Directive, Member States should designate <del>an authority</del> <b><u>authorities</u></b> that <del>is</del> <b><u>are</u></b> entrusted with their enforcement. <del>The authority</del> <b><u>Those authorities</u></b> should be able to act either on <del>its</del> <b><u>their</u></b> own initiative or by way of complaints by parties affected by unfair trading practices in the</p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	the Member States should honour such a request.	<i>must, due to the fear of retaliation, guarantee, in accordance with national law, that the complainant's identity remains anonymous.</i>	confidential because of fear of retaliation, the enforcement authorities of the Member States should honour such a request.	<b>agricultural and</b> food supply chain. <u>An enforcement authority might find that there are not sufficient grounds to act on a complaint. Such insufficient grounds can also result from administrative priorities. If the authority finds that it will not be able to give priority to acting on a complaint, it should inform the complainant and give reasons.</u> Where a complainant requests that his identity remain confidential because of fear of retaliation, the enforcement authorities of the Member States should honour such a request. <i>Comment: linked to Article 5(4a), row 180.</i> <b>[To be further checked]</b>
31.		<b><u>AM 20</u></b> <i>(13a) In order to ensure an effective enforcement of the</i>		

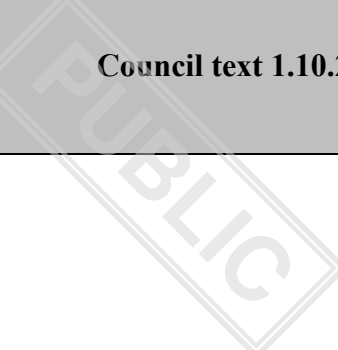
Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>prohibition of unfair trading practices, the designated enforcement authorities should have all necessary resources, staff and expertise at their disposal.</i>		
32.			<b>(13a) <u>If a Member State has more than one enforcement authority, it should designate one single contact point with a view to facilitating effective cooperation with the enforcement authorities of other Member States and with the Commission.</u></b>	
33.			<b>(13b) <u>In order to ensure an effective enforcement of the prohibition of unfair trading practices, the designated enforcement authorities should have all necessary resources, staff and expertise.</u></b>	
34.	(14) Complaints by producer organisations or associations of	<b><u>AM 21</u></b> (14) Complaints by producer <i>or supplier</i>	(14) Complaints by <b><u>organisations of producers, organisations</u></b>	

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	<p>such organisations can serve to protect the identity of individual members of the organisation who are small and medium-sized suppliers and consider themselves exposed to unfair trading practices. Enforcement authorities of the Member States should therefore be able to accept and act upon complaints by such entities while protecting the procedural rights of the defendant.</p>	<p>organisations or associations of such organisations, <i>including representative organisations with knowledge of trading practices in the agricultural and food supply chain</i>, can serve to protect the identity of individual members of the organisation who consider themselves exposed to unfair trading practices. Enforcement authorities of the Member States should therefore be able to accept and act upon complaints by such entities while protecting the procedural rights of the defendant.</p>	<p><u>of suppliers and associations of such organisations</u>  <del>producer organisations or associations of such organisations</del> can serve to protect the identity of individual members of the organisation who are small and medium-sized suppliers and consider themselves exposed to unfair trading practices. Enforcement authorities of the Member States should therefore be able to accept and act upon complaints by such entities while protecting the procedural rights of the defendant <u>buyer</u>.</p>	
35.		<p><u>AM 22</u>  <i>(14a) Special attention should be paid to the protection of the identity of complainants and other victims of practices if the authority pursues the obligation to publish its</i></p>		

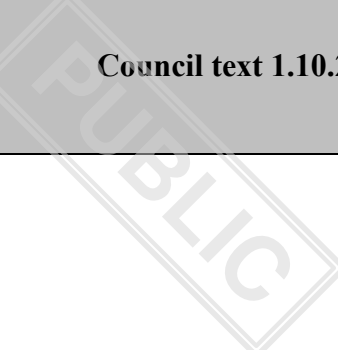
Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>decisions in accordance with this Directive.</i>		
36.	<p>(15) The enforcement authorities of the Member States should have the necessary powers that enable them to effectively gather any factual information by way of information requests. They should have the power to order the termination of a prohibited practice, where applicable. The existence of a deterrent, such as the power to impose fines and the publication of investigation results, can encourage behavioural change and pre-litigation solutions between the parties and should therefore be part of the powers of the enforcement authorities. The Commission and the enforcement authorities of the Member States should cooperate closely so as to ensure a common approach with respect to the application of the rules set out in this</p>	<p><b><u>AM 23</u></b></p> <p>(15) The enforcement authorities of the Member States should have the necessary powers that enable them to effectively gather any factual information by way of information requests. They should <i><b>be impartial bodies with no conflicts of interest with operators in the agricultural and food supply chain and have an in-depth knowledge of the functioning of the agricultural and food supply chain. They should guarantee the fair and proper functioning of the agricultural and food supply chain and should have the power to require the buyer to promptly terminate</b></i> a prohibited practice, where applicable. The existence of a deterrent, such as the power to impose fines <i><b>and other equally effective sanctions</b></i></p>	<p>(15) The enforcement authorities of the Member States should have the necessary powers that enable them to effectively gather any factual information by way of information requests. They should have the power to order the termination of a prohibited practice, where applicable.</p>	

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	<p>Directive. In particular, the enforcement authorities should provide each other mutual assistance, for example by sharing information and assisting in investigations which have a cross-border dimension.</p>	<p>and the publication of investigation results, can encourage behavioural change and pre-litigation solutions between the parties and should therefore be part of the powers of the enforcement authorities.</p> <p><b><i>Repeated infringements should be taken into account when determining the sanction to be applied.</i></b> The Commission and the enforcement authorities of the Member States should cooperate closely so as to ensure a common approach with respect to the application of the rules set out in this Directive, <b><i>particularly with regard to fines and sanctions.</i></b> In particular, the enforcement authorities should provide each other mutual assistance, for example by sharing <b><i>all relevant</i></b> information and assisting in investigations which have a cross-border dimension.</p>		

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
37.		<p><b><u>AM 24</u></b></p> <p><i>(15a) An enforcement authority should inform the complainant, within a reasonable time limit, about its decision to act or not to act on the complaint. A decision to reject the complaint should be subject to judicial review. Where an enforcement authority considers that there are sufficient grounds for acting on a complaint, it should conduct an investigation, which should be concluded within a reasonable time limit. Where an infringement of this Directive is established, the enforcement authority should require the buyer to promptly terminate the prohibited trading practice and impose a pecuniary fine and other equally effective sanctions, in accordance with national legislation. The fine and the other sanctions should be effective, proportionate to the</i></p>		

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<p><i>harm caused and dissuasive taking into account the nature, duration and gravity of the infringement. Repeated infringements by the same buyer should be taken into account when determining the pecuniary fine and/or the other sanctions to be applied. The enforcement authority should be able to abstain from taking any measure, if such decision would risk revealing the identity of a complainant or disclosing any other information in respect of which the complainant considers disclosure harmful to his interests, provided that the complainant has identified that information. The enforcement authority should be able to publish its decisions regarding the sanctions imposed.</i></p>		
38.		<p><u>AM 25</u> <i>(15b) Member States should promote, without prejudice to the powers and obligations of</i></p>		

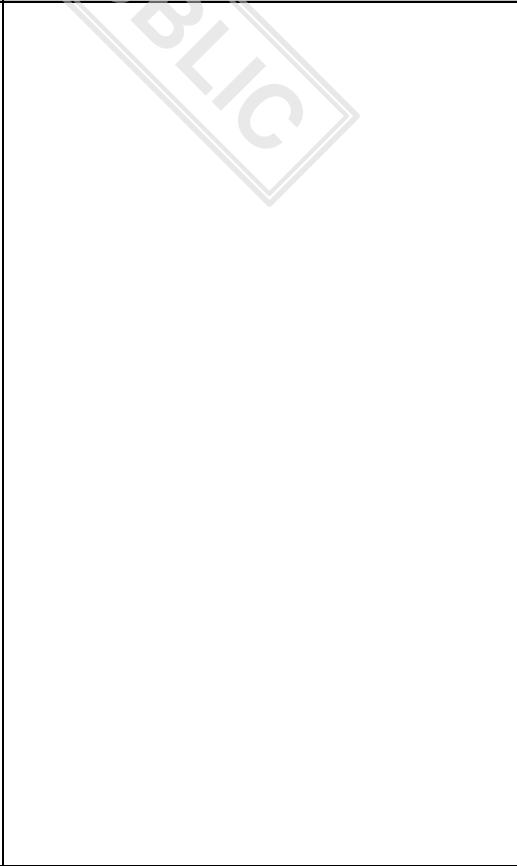


Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<p><i>their enforcement authorities, the use of effective and independent mediation procedures or an alternative dispute resolution mechanism in case of a dispute between a supplier and a buyer due to an unfair trading practice as defined in this Directive. The use of mediation or of an alternative dispute resolution mechanism should be without prejudice to the right of a supplier to submit a complaint. The Commission should be able to facilitate dialogue and exchange of proven practices concerning the use of mediation or of an alternative dispute resolution mechanism at Union level.</i></p>		
39.		<p><b><u>AM 26</u></b></p> <p><i>(15c) It is necessary to establish a Union Enforcement Network ('the Network'), hosted by the Commission, aimed at coordinating and facilitating the exchange of information</i></p>		

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>and best practices concerning Member States' national legislation and experience of enforcement in a coordinated and systematic way so as to ensure a common approach with respect to the application of the rules set out in this Directive. The Network should also help improving the common understanding on which specific types of business practice should be considered unfair trading practices and to better address potential cross-border unfair trading practices.</i>		
40.			<b>(15a) <u>The exercise of the powers conferred by this Directive on enforcement authorities should be subject to appropriate safeguards which meet the standards of general principles of Union law and the Charter of Fundamental Rights of the European Union, in accordance with the case law of the Court of Justice</u></b>	

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
			<u>of the European Union, including the respect of the buyer's rights of defence.</u>	
41.			(15b) The existence of a deterrent, such as the power to impose <u>or initiate</u> fines <u>and other appropriate penalties</u> and the publication of investigation results, can encourage behavioural change and pre-litigation solutions between the parties and should therefore be part of the powers of the enforcement authorities. <u>Fines may be particularly effective and dissuasive. However, it should be the decision of the enforcement authority in individual investigations which of its powers it will exercise and whether it will impose or initiate a fine or another appropriate penalty.</u>	
42.			(15d) The Commission and the enforcement authorities of the Member States should	

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
			cooperate closely so as to ensure a common approach with respect to the application of the rules set out in this Directive. In particular, the enforcement authorities should provide each other mutual assistance, for example by sharing information and assisting in investigations which have a cross-border dimension.	
43.	(16) To facilitate effective enforcement, the Commission should help organise meetings between the enforcement authorities of the Member States where best practices can be exchanged and relevant information can be shared. The Commission should establish and manage a website to facilitate those exchanges.	<b><u>AM 27</u></b> (16) To facilitate effective enforcement, the Commission should help <i>organising the</i> meetings of the <i>Network</i> where best practices can be exchanged and relevant information can be shared. The Commission should establish and manage a website to facilitate those exchanges.		
44.	(17) The rules laid down in this Directive should not impair the	<b><u>AM 28</u></b> (17) The rules laid down in this Directive should not	<del>(17)</del>	

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	<p>possibility for the Member States to maintain existing rules that are further-reaching or to adopt such rules in the future, subject to the limits of Union law applicable to the functioning of the internal market. The rules would apply alongside voluntary governance measures.</p>	<p>impair the possibility for the Member States to maintain existing rules that are <i>stricter with regard to the unfair trading practices identified in this Directive or to additional ones</i>, or to adopt such rules in the future, subject to the limits of Union law applicable to the functioning of the internal market, <i>in particular the principles of the free movement of goods and services, freedom of establishment, non-discrimination and access to an impartial and independent judicial review</i>. The rules <i>should be subject to a pre-notification procedure and</i> would apply alongside voluntary governance measures.</p>		
45.	(18) The Commission should have an overview of the implementation of this Directive in the Member States. In addition, the Commission should be able to			

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	<p>assess the effectiveness of this Directive. To this end, the enforcement authorities of the Member States should submit annual reports to the Commission. In order to ensure uniform conditions for the implementation of the reporting obligation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>8</sup>. The Committee for the Common Organisation of the Agricultural Markets should assist the Commission in this procedure.</p>			
46.	<p>(19) In the interest of an effective implementation of the policy in respect of unfair trading practices in business-to-</p>	<p><b><u>AM 29</u></b></p> <p>(19) In the interest of an effective implementation of the policy in respect of unfair trading practices in business-</p>	<p>(19) In the interest of an effective implementation of the policy in respect of unfair trading practices in business-to-</p>	<p><b><u>T3: agreed</u></b></p>

<sup>8</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	business relationships in the food supply chain, the Commission should review the application of this Directive and submit a report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The review should also pay particular attention to whether protection of small and medium-sized buyers of food products in the supply chain – in addition to the protection of small and medium sized suppliers – in the future would be justified,	to-business relationships in the food supply chain, the Commission should review the application of this Directive and submit a report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.	business relationships in the <u>agri</u> -food supply chain, the Commission should review the application of this Directive and submit a report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The review should also pay particular attention to whether protection of small and medium-sized buyers of <u>agri</u> -food products in the supply chain – in addition to the protection of small and medium sized suppliers – in the future would be justified.	Council text acceptable, with the modification regarding "agri-food":  In the interest of an effective implementation of the policy in respect of unfair trading practices in business-to-business relationships in the <u>agricultural and</u> food supply chain, the Commission should review the application of this Directive and submit a report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The review should also pay particular attention to whether protection of small and medium-sized buyers of <u>agricultural and</u> food products in the supply chain – in addition to the protection of small and

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				medium sized suppliers – in the future would be justified.
47.			<p><u>(20) Since the objectives of this Directive, namely laying down a minimum Union standard of protection by harmonising Member States' diverging measures relating to unfair trading practices, cannot be sufficiently achieved by the Member States, but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,</u></p>	
48.	Article 1			



Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	<i>Subject matter and scope</i>			
49.	<p>1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers in the food supply chain and lays down minimum rules concerning their enforcement and arrangements for the coordination between enforcement authorities.</p>	<p><b><u>AM 30</u></b></p> <p>1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers in the <b><i>agricultural and</i></b> food supply chain and lays down minimum rules concerning their enforcement and arrangements for the coordination between enforcement authorities.</p>	<p>1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers in the <b><u>agri</u></b>-food supply chain and lays down minimum rules concerning their enforcement and arrangements for the coordination between enforcement authorities.</p>	<p><b><u>T2: A-list</u></b></p> <p>1. This Directive establishes a minimum list of prohibited unfair trading practices between buyers and suppliers in the <b><i>agricultural and</i></b> food supply chain and lays down minimum rules concerning their enforcement and arrangements for the coordination between enforcement authorities.</p> <p>Comment: Council could accept AM 30 and to use "<b><i>agricultural and</i></b> food supply chain" (instead of "<b><u>agri</u></b>-food supply chain") throughout the document, including for the title of the Directive.</p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
50.		<i>(The change from “food supply chain” to “agricultural and food supply chain” applies throughout the whole directive)</i>		
51.	2. This Directive applies 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.	<b><u>AM 31</u></b> 2. This Directive applies to certain unfair trading practices which occur in relation to the sales of <b><i>agricultural and</i></b> food products by a supplier to a buyer, <b><i>as well as to the related services provided by a buyer to a supplier, which are ancillary to the sale of agricultural and food products.</i></b>	2. This Directive <del>applies</del> <b><u>shall apply</u></b> to certain unfair trading practices which occur in relation to the sales of <b><u>agri</u></b> -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. <b><u>It shall not apply to agreements between suppliers and consumers.</u></b>	Suggested compromise text: 2. This Directive <del>applies</del> <b><u>shall apply</u></b> to certain unfair trading practices which occur in relation to the sales of <b><u>agricultural and</u></b> 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. <b><u>It shall not apply to agreements between suppliers and consumers.</u></b> <b><u>[To be further discussed]</u></b>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
52.	3. This Directive shall apply to supply agreements concluded after the date of applicability of the provisions transposing this Directive referred to in the second subparagraph of Article 12(1).			
53.			3a. <b><u>By way of transition, supply agreements concluded before the date of the applicability of the provisions transposing this Directive referred to in the second subparagraph of Article 12(1) shall be brought into compliance with those provisions within 12 months after that date.</u></b>	<b><u>T2: agreed</u></b> 3a. <b><u>By way of transition, supply agreements concluded before the date of the applicability of the provisions transposing this Directive referred to in the second subparagraph of Article 12(1) shall be brought into compliance with those provisions within 12 months after that date.</u></b>  <i>Comment: Council text agreed. (including 12 months)</i> <i>See AM 141, row 274</i>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
54.	<i>Article 2 Definitions</i>			
55.	For the purposes of this Directive, the following definitions apply:			
56.		<b><u>AM 32</u></b> <i>(-a) “unfair trading practice” means any practice that:</i>		AM 32 not acceptable. Wording could be further elaborated in a Recital. See row 237.
57.		<i>- grossly deviates from good commercial conduct, is contrary to good faith and fair dealing and is unilaterally imposed by one trading partner on another;</i>		
58.		<i>- imposes or attempts to impose an unjustified and disproportionate transfer of a buyer’s economic risk to the supplier; or</i>		
59.		<i>- imposes or attempts to impose a significant imbalance of rights and obligations on the supplier in the commercial relationship</i>		

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>before, during or after the contract;</i>		
60.	(a) “buyer” means any natural or legal person established in the Union who buys food products by way of trade. The term "buyer" may include a group of such natural and legal persons;	<b><u>AM 33</u></b> (a) “buyer” means any natural or legal person, <i>irrespective of that person’s place of establishment</i> , who buys <i>agricultural and</i> food products <i>to be delivered within the Union for commercial purposes and/or offers services ancillary to the sale of those products</i> . The term "buyer" may include a group of such natural and legal persons;	(a1) “buyer” means any natural or legal person established in the Union who buys <u>agri-</u> food products by way of trade. The term "buyer" may include a group of such natural and legal persons;	Partial agreement to include "public authorities" as set out below. "(a1) “buyer” means any natural or legal person [established in the Union], <u>or a public authority in the Union</u> , who buys <u>agricultural and</u> food products <del>by way of trade</del> . The term "buyer" may include a group of such natural and legal persons;" <i>Comments:</i> <i>-regarding public authorities, linked to row 75 (Article 3);</i> <i>-regarding third country buyers, scepticism by MSs on administrative burden and enforceability.</i>
61.		<b><u>AM 34</u></b>		Council text agreed.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	(b) “supplier” means any agricultural producer or any natural or legal person, irrespective of their place of establishment, who sells food products. The term “supplier” may include a group of such agricultural producers or such natural and legal persons, including producer organisations and associations of producer organisations;	(b) “supplier” means any agricultural producer or any natural or legal person, irrespective of their place of establishment, who sells <i>agricultural and</i> food products. The term “supplier” may include a group of such agricultural producers or such natural and legal persons, including producer organisations and associations of producer organisations <i>and cooperatives</i> ;	(b2) “supplier” means any agricultural producer or any natural or legal person, irrespective of their place of establishment, who sells <u>agri</u> -food products. The term “supplier” may include a group of such agricultural producers or such natural and legal persons, including <del>producer organisations and associations of producer organisations</del> <u>organisations of producers, organisations of suppliers and associations of such organisations</u> ;	AM 34 is covered by Recital 7, row 14. <b>T2: A-list</b> (b2) “supplier” means any agricultural producer or any natural or legal person, irrespective of their place of establishment, who sells <u>agricultural and</u> food products. The term “supplier” may include a group of such agricultural producers or such natural and legal persons, including producer organisations, <u>organisations of suppliers</u> and associations of such <del>producer</del> organisations; <b>T3: A-list</b> (with further modifications compared to T2)
62.		<u>AM 35</u> (ba) “ <i>economic dependence</i> ” means a		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>relationship between a supplier and a buyer with different strength of bargaining power, in which the supplier is dependent on the buyer because of the buyer's reputation, its market share, the absence of sufficient alternative sales possibilities or because the total sum for which the supplier invoiced the buyer accounts for a significant amount of the supplier's turnover;</i>		
63.		<p><b><u>AM 36</u></b></p> <p><i>(bb) “supply agreement” means an agreement between a supplier and a buyer that clearly and transparently covers the relevant elements of the commercial agreement, including the names of the parties, their rights and obligations, price, duration, terms of delivery, terms of payment, as well as the cause, the execution of the contract</i></p>		<p>EP ready to withdraw.</p> <p><b><u>T3: A-list</u></b></p>



Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>and the effect of terminating the contract;</i>		
64.	(c) “small and medium-sized enterprise” means an enterprise within the meaning of the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC <sup>9</sup> ;	<u>AM 37</u> <i>deleted</i>	(e3) “small and medium-sized enterprise” means an enterprise within the meaning of the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC <sup>10</sup> ;	Not acceptable. <i>Comment: related to discussion on scope.</i>
65.	(d) “food products” means products listed in Annex I to the Treaty intended for use as food as well as products not listed in that Annex, but processed from those products for use as food;	<u>AM 38</u> (d) “ <i>agricultural and</i> food products” means products listed in Annex I to the Treaty as well as products not listed in that Annex, but processed from those products for use as food;	(e4) “ <u>agri</u> -food products” means products listed in Annex I to the Treaty <del>intended for use as food</del> as well as products not listed in that Annex, but processed <u>for use as food</u> <del>using from those products for use as food</del> <u>listed in that Annex</u> ;	<u>T2: A-list</u>  (e4) “ <u>agricultural and</u> food products” means products listed in Annex I to the Treaty <del>intended for use as food</del> as well as products not listed in that Annex, but processed <u>for</u>

<sup>9</sup> Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5/2003, p. 36).

<sup>10</sup> Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5/2003, p. 36).

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				<del>use as food using</del> from these products for use as food <u>listed in that Annex</u> ;
66.		<i>(The change applies throughout the text. Adopting it will necessitate corresponding changes throughout.)</i>		
67.		<b><u>AM 39</u></b> <i>(da) "private label food products" means food products that are sold under retailers' brands;</i>		EP ready to withdraw. <b><u>T3: A-list</u></b>
68.	(e) “perishable food products” means food products that will become unfit for human consumption unless they are stored, treated, packaged or otherwise conserved to prevent them from becoming unfit.	<b><u>AM 40</u></b> (e) “perishable <i>agricultural and</i> food products” means <i>agricultural and</i> food products <i>which are naturally suitable for commercialisation and proper use for a period of up to thirty days or that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions;</i>	(e5) “perishable <u>agri</u> -food products” means <u>agri</u> -food products that will <u>by their nature or at their stage of processing are liable to</u> become unfit for human consumption unless they are stored, treated, packaged or otherwise conserved to prevent them from becoming unfit <u>sale within 30 days</u>	<b><u>T2: Council text agreed.</u></b> See also Recital 11a. (e5) “perishable <u>agricultural and</u> food products” means <u>agricultural and</u> food products that will <u>by their nature or at their stage of processing are liable to</u> become

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
			<u>from harvest, production or processing.</u>	unfit for human consumption unless they are stored, treated, packaged or otherwise conserved to prevent them from becoming unfit <u>sale within 30 days from harvest, production or processing.</u>
69.		<u>AM 41</u> (ea) “non-perishable products” means products other than those referred to in point (e).		Not acceptable <i>Comment: No need to mention this separately.</i>  EP: to be discussed in relation with AM. 43
70.	Article 3 <i>Prohibition of unfair trading practices</i>			

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
71.	1. Member States shall ensure that the following trading practices are prohibited:	<b><u>AM 42</u></b> 1. Member States shall ensure that <i>at least</i> the following <i>unfair</i> trading practices are prohibited:		Council could accept AM 42. <b><u>T2: A-list</u></b> 1. Member States shall ensure that <i>at least</i> the following <i>unfair</i> trading practices are prohibited:
72.	(a) a buyer pays a supplier for perishable food products later than 30 calendar days after the receipt of the supplier's invoice or later than 30 calendar days after the date of delivery of the perishable food products, whichever is the later. This prohibition shall be without prejudice:	<b><u>AM 43</u></b> (a) a buyer pays a supplier later than:	(a) a buyer pays a supplier for perishable <b><u>agri-</u></b> food products:	Still under consideration by the Presidency. [To be further checked]
73.		- 30 calendar days <i>starting from the last day of the month of</i> receipt of the	- later than 30 calendar days after the receipt of the supplier's invoice <b><u>date of</u></b>	[To be further checked]

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		supplier's invoice <i>for perishable agricultural and food products</i> , or later than 30 calendar days after the date of <i>the contractually agreed</i> delivery of the perishable <i>agricultural and food products</i> ; or	<p><u>delivery, provided that the amount payable has been established</u>; or</p> <p><u>- where products are delivered on a regular basis under a supply agreement</u>, later than 30 calendar days after the date of delivery of the perishable food products, whichever is the later <u>end of an agreed delivery period in which deliveries have been made</u>, <u>provided that the agreed delivery period does not exceed one month, and provided that the amount payable has been established</u>;</p> <p><del>This prohibition shall be without prejudice:</del></p>	
74.		- 60 calendar days starting from the last day of the month of receipt of the supplier's invoice for non-perishable agricultural and food products, or later than 60 calendar days after the date of		[To be further checked]

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>the contractually agreed delivery of the non-perishable agricultural and food products.</i>		Comment: skepticism from Member States regarding 60 days.  <b>19.11.2018:</b> <i>Text in rows 73 and 74 should be integrated.</i>
75.		<i>Member States shall ensure that, in sales transactions and for services provided where the buyer is a public authority, those practices are equally prohibited.</i>		EP text on "public authority" covered in row 60.  <b>T3: A-list</b>
76.		<i>Those prohibitions</i> shall be without prejudice <i>to</i> :		Rows 76, 77, 79 have been moved to row 95.  <b>T3: A-list</b>
77.	- to the consequences of late payments and remedies as laid down in Directive 2011/7/EU;	- the consequences of late payments and remedies as laid down in Directive 2011/7/EU;	<del>-to the consequences of late payments and remedies as laid down in Directive 2011/7/EU;</del>	Rows 76, 77, 79 have been moved to row 95.  <b>T3: A-list</b>
78.		- <i>the rules on payment terms laid down in the statute of a producer organisation or</i>		Not acceptable

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>of an association of producer organisations, including cooperatives, of which an agricultural producer is a member or supplier, if that statute contains rules enabling members to scrutinise democratically their organisation and its decisions;</i>		
79.	- to the option of a buyer and a supplier to agree on a value sharing clause within the meaning of Article 172 a) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council <sup>11</sup> .	- the option of a buyer and a supplier to agree on a value sharing clause within the meaning of Article 172a of Regulation (EU) No 1308/2013 of the European Parliament and of the Council <sup>15</sup> ;	<del>to the option of a buyer and a supplier to agree on a value sharing clause within the meaning of Article 172 a) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council<sup>12</sup>.</del>	Rows 76, 77, 79 have been moved to row 95. <b>T3: A-list</b> Comment: See row 95.
80.		- <i>agreements, decisions and concerted practices of</i>		Not acceptable

<sup>11</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

<sup>12</sup> ~~Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).~~

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>interbranch organisations recognised under Article 157 of Regulation (EU) No 1308/2013, the aim of which is to modify the terms of payment for transactions relating to agricultural and food products falling under a quality scheme established in accordance with Regulation (EC) No 110/2008 of the European Parliament and of the Council, Regulation (EU) No 1151/2012 of the European Parliament and of the Council, Regulation (EU) No 1308/2013 and Regulation (EU) No 251/2014 of the European Parliament and of the Council.</i>		
81.	(b) a buyer cancels orders of perishable food products at such short notice that a supplier cannot reasonably be expected to find an alternative to	<b><u>AM 44</u></b> (b) a buyer <i>unilaterally</i> cancels orders of perishable <i>agricultural and</i> food products <i>without agreeing full compensation with the supplier, with notice of less than 60 days from the</i>	(b) a buyer cancels orders of perishable <b>agri-</b> food products at such short notice that a supplier cannot reasonably be expected to find an alternative to	[To be further checked] <i>Comment: Member States not ready to move.</i>



Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	commercialise or use these products;	<i>contractually agreed date for delivery of the</i> products;	commercialise or use these products;	
82.	(c) a buyer unilaterally and retroactively 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 the food products;	<b>AM 45</b> (c) a buyer unilaterally <i>imposes</i> changes <i>to</i> the terms of the supply agreement concerning the frequency, <i>manner</i> , timing or volume of the supply or delivery, the quality standards, <i>the terms of payment</i> or the prices of the <i>agricultural and</i> food products <i>or the services ancillary to the sale of those products</i> ;	(c) a buyer unilaterally and retroactively changes the terms of the supply agreement concerning the frequency, <b>method, place</b> , timing or volume of the supply or delivery <b>of agri-food products or</b> , the quality standards or <del>the</del> prices of <del>the</del> <b>agri-</b> food products;	Compromise text 8.11.2018 and modified later: (c) a buyer unilaterally and retroactively changes the terms of the supply agreement concerning the frequency, <b>method, place</b> , timing or volume of the supply or delivery <b>of agricultural and food products or</b> , the quality standards, <b>the terms of payment</b> or the prices of <del>the</del> <b>agricultural and</b> food products; <i>Comment: the question of "retroactively" and services is still outstanding.</i> [To be further checked, including taking into account legal linguistic comments].

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
83.		<b><u>AM 46</u></b> <i>(ca) a buyer unilaterally terminates the supply agreement;</i>		<i>Comment: covered or withdrawn.</i>
84.		<b><u>AM 47</u></b> <i>(cb) a buyer unilaterally terminates supply agreements in response to falling prices.</i>		<i>Comment: covered or withdrawn.</i>
85.		<b><u>AM 48</u></b> <i>(cc) a buyer obtains or attempts to obtain from a supplier some kind of benefit without providing any compensation or service in return, or if the benefit is clearly disproportionate to the value of the compensation or service provided;</i>		Not acceptable.
86.		<b><u>AM 49</u></b> <i>(cd) a buyer demands subsequently payments without any services in return;</i>		<i>Comment: covered or withdrawn.</i>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
87.		<b><u>AM 50</u></b> <i>(ce) a buyer forces a supplier - or attempts to force a supplier - to give that buyer special conditions under the threat of partial or total destocking of the supplier's agricultural products or foodstuffs;</i>		<i>Comment: covered or withdrawn.</i>
88.		<b><u>AM 51</u></b> <i>(cf) a buyer imposes or attempts to impose onto the supplier a significant imbalance of rights and obligations in the commercial relationship before, during or after the contract;</i>		<i>Comment: covered or withdrawn.</i>
89.		<b><u>AM 52</u></b> <i>(cg) a buyer imposes or attempts to impose an unjustified or disproportionate transfer of the buyer's economic risks onto the supplier;</i>		<i>Comment: covered or withdrawn.</i>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
90.		<b><u>AM 53</u></b> <i>(ch) a buyer transfers unilaterally the sales risk onto the supplier;</i>		<i>Comment: covered or withdrawn.</i>
91.		<b><u>AM 54</u></b> <i>(ci) a buyer imposes discount schemes and listing fees;</i>		<i>Comment: covered or withdrawn.</i>
92.		<b><u>AM 55</u></b> <i>(cj) a buyer uses reverse electronic auctions, or two-stage auctions, to drive down prices. Those are not regulated and are such as to fail to ensure the transparency of negotiations, pricing and bidders in the purchasing of agricultural and food products of EU-certified quality and origin as well as non-certified products;</i>		Not acceptable.
93.		<b><u>AM 56</u></b>		<b>T3: A-list</b>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>(cl) mergers are applied to form retail and wholesale purchasing groups;</i>		<i>Comment: EP will make a unilateral statement on a study on buying alliances.</i>
94.	(d) a supplier pays for the wastage of food products that occurs on the buyer's premises and that is not caused by the negligence or fault of the supplier.	<b><u>AM 57</u></b> (d) a <i>buyer requires the</i> supplier <i>to pay</i> for the wastage of <i>agricultural and</i> food products <i>delivered on time and in the contractually agreed quality</i> that occurs <i>when those products are in</i> the buyer's <i>ownership</i> and that is not caused by the negligence or fault of the supplier.	(d) a <b><u>buyer requests a</u></b> supplier <b><u>to</u></b> pays for the wastage <b><u>deterioration or loss</u></b> of <b><u>agri-food</u></b> products, <b><u>or both</u></b> , that occurs on the buyer's premises and that is not caused by the negligence or fault of the supplier.	Compromise text 8.11.2018 and modified later: "(d) a <b><u>buyer requires a</u></b> supplier <b><u>to</u></b> pays for the wastage <b><u>deterioration or loss, or both, of agricultural and</u></b> food products that occurs on the buyer's premises <b><u>or when they are in the buyer's ownership</u></b> and that is not caused by the negligence or fault of the supplier." <i>Comment: Council could agree to use "requires" instead of "requests".</i> <b><u>T3: A-list</u></b>
95.			<b><u>The prohibition referred to in point (a) shall be without prejudice:</u></b>	(Text moved here from rows 72, 77 and 79)

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
			<p><b><u>- to the consequences of late payments and remedies as laid down in Directive 2011/7/EU;</u></b></p> <p><b><u>- to the option of a buyer and a supplier to agree on a value sharing clause within the meaning of Article 172 a) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council<sup>13</sup>.</u></b></p>	<p>Suggested compromise text:</p> <p><b><u>- to the consequences of late payments and remedies as laid down in Article 3(1) and (2) and Article 6 of Directive 2011/7/EU;</u></b></p> <p><b>T3: A-list</b></p> <p><i>Comment: subject to technical drafting concerning the late payment deadlines in Article 3.</i></p>
96.		<p><b><u>AM 58</u></b></p> <p><i>(da) when terms have been agreed between a buyer and a supplier, the buyer refuses to enter into a written contract with that supplier despite the supplier having requested such a contract in accordance</i></p>		<p><i>Council compromise proposal:</i></p> <p>"A buyer refuses to make a supply agreement that he has agreed with the supplier the subject of a written agreement, even though the supplier has</p>

<sup>13</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>with Article 3a, or the buyer refuses to provide the supplier with sufficiently detailed and unambiguous information on the supply agreement as defined in point (bb) of Article 2.</i>		<p>requested the conclusion of a written agreement, or a buyer refuses to provide the supplier with a written confirmation of the content of a supply agreement that he has agreed with the supplier, although the supplier has requested a written confirmation.</p> <p>Such a written agreement ..." [to be completed]</p> <p><i>Comment: Intended to replace AM 96 and 101. Moreover, it should be considered in the overall context of list of new UTPs.</i></p>
97.		<p><b><u>AM 59</u></b></p> <p><i>(db) a buyer shares with third parties or misuses, intentionally or otherwise, confidential information relating to the supply agreement, including sensitive trade information</i></p>		[To be further checked]

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>shared by the supplier with the buyer;</i>		
98.		<p><b><u>AM 60</u></b></p> <p><i>(dc) a buyer carries out communication or promotional activities or implements commercial policies which - including on account of their duration - damage, or are liable to damage, the image of products bearing a geographical indication pursuant to Regulation (EU) No 1151/2012, Regulation (EC) No 110/2008 or Regulation (EU) No 251/2014;</i></p>		<i>Comment: covered or withdrawn.</i>
99.		<p><b><u>AM 61</u></b></p> <p><i>(dd) a buyer retaliates or threatens to retaliate commercially against the supplier, by means of practices such as delisting of products, stopping data sharing services, excessive promotions, delayed</i></p>		Not acceptable.



Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>payments, unilateral deductions and/or blocking of promotions, in order to obtain better conditions under existing contracts or when negotiating a new contract;</i>		
100.		<p><b><u>AM 62</u></b></p> <p><i>(de) The buyer threatens or carries out commercial retaliation against the supplier when the supplier exercises its contractual and legal rights, including filing a complaint and cooperating with national enforcement authorities.</i></p>		Not acceptable.
101.		<p><b><u>AM 63</u></b></p> <p><i>(df) a buyer refuses to take commercial measures if a supplier avails itself of its contractual rights, including the submission of a complaint and cooperating with the national enforcement authorities, or threatens the supplier with corresponding measures;</i></p>		<i>Comment: covered or withdrawn.</i>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
102.		<b><u>AM 64</u></b> <i>(dg) A buyer unilaterally imposes quality standards that are not based on current legislation, quality schemes, science or current practices, which may have a distorting effect on trade;</i>		Not acceptable.
103.		<b><u>AM 65</u></b> <i>(dh) a buyer lays down provisions regarding environmental protection and animal welfare standards which are more stringent than the relevant legal provisions in force;</i>		EP ready to withdraw. <b>T3: A-list</b>
104.		<b><u>AM 66</u></b> <i>(di) a buyer uses overly strict 'minimum life on receipt criteria' in order to reject a previously agreed order, or to reject an order that, for reasons unrelated to the supplier, has not been processed quickly enough;</i>		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
105.		<p><b><u>AM 67</u></b></p> <p><i>(dj) a buyer proceeds to a unilateral debit which relates to or constitutes a retroactive, albeit non-contractual, change in conditions laid down in supply contracts, as well as to the deduction of amounts, without the prior consent of the other party, on the invoicing values due for the supply of goods or services;</i></p>		<i>Comment: covered or withdrawn.</i>
106.		<p><b><u>AM 68</u></b></p> <p><i>(dk) a buyer makes the conclusion of a supply agreement dependent on payment of an annual fee and applies this retroactively;</i></p>		<i>Comment: covered or withdrawn.</i>
107.		<p><b><u>AM 69</u></b></p> <p><i>(dl) a buyer makes business cooperation and the conclusion of a supply agreement conditional upon compensation in goods and services;</i></p>		<i>Comment: covered or withdrawn.</i>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
108.		<b><u>AM 70</u></b> <i>(dm) a buyer charges a fee for the inclusion of the supplier's agricultural or food products;</i>		<i>Comment: covered or withdrawn.</i>
109.		<b><u>AM 71</u></b> <i>(dn) a buyer charges a fee for storage and handling after delivery of the agricultural or food product;</i>		<i>Comment: covered or withdrawn.</i>
110.		<b><u>AM 72</u></b> <i>(do) a buyer charges a fee for services not provided, or for services rendered although not contractually provided for between the contracting parties;</i>		<i>Comment: covered or withdrawn.</i>
111.		<b><u>AM 73</u></b> <i>(dp) a buyer charges a fee for reduced turnover, sales or supplier's margin due to lower sales of a particular agricultural or food product;</i>		<i>Comment: covered or withdrawn.</i>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
112.		<b><u>AM 74</u></b> <i>(dq) a buyer makes the conclusion of a supply agreement and business cooperation conditional upon imposing the obligation to participate in discounts or sales by reducing the purchase price at the expense of the supplier;</i>		<i>Comment: covered or withdrawn.</i>
113.		<b><u>AM 75</u></b> <i>(dr) a buyer charges a fee for conclusion of a supply agreement with the supplier which is disproportionate to the administrative costs the supplier must bear;</i>		<i>Comment: covered or withdrawn.</i>
114.		<b><u>AM 76</u></b> <i>(ds) a buyer reduces, in a non-transparent manner, the quantity and/or value of agricultural or food products of a standard quality;</i>		<i>Comment: covered or withdrawn.</i>
115.		<b><u>AM 77</u></b>		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>(dt) a buyer refuses to give the supplier a description of any differentiated treatment of the supplier as compared with own brands.</i>		
116.		<i>That description may include at the least every instance of different treatment in the sense of specific measures or procedures in connection with:</i>		Not acceptable.
117.		<i>(a) access to personal or other data gathered in connection with the purchase of agricultural or food products;</i>		Not acceptable.
118.		<i>(b) listing, displaying, classifying or other factors affecting consumer purchase decisions;</i>		To be further discussed.
119.		<i>(c) direct or indirect remuneration for using services provided by the buyer;</i>		Not acceptable.
120.		<i>(d) access to or the conditions for the use of services directly</i>		To be further discussed.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>related to the supply agreement;</i>		
121.		<b><u>AM 78</u></b> <i>(du) a buyer imposing disproportionately high contractual sanctions in comparison to the value and significance of the subject of the obligation;</i>		Not acceptable.
122.		<b><u>AM 79</u></b> <i>(dv) a buyer demands a full, partial or prior transfer of the direct payments of the supplier to which the latter is entitled under Regulation (EU) No 1307/2013.</i>		<i>Comment: covered or withdrawn.</i>
123.		<b><u>AM 80</u></b> <i>(dw) a supplier is de-listed without reasonable notice, written explanation of the decision and without genuine commercial reasons;</i>		Not acceptable.
124.		<b><u>AM 81</u></b> <i>(dx) a buyer obliges the supplier to pay staff for</i>		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>fitting-out the premises for the sale or manipulation of the agricultural and food products;</i>		
125.		<u>AM 82</u> <i>(dy) a buyer requests compensation from the supplier for the cost of examining customer complaints related to its products;</i>		Not acceptable.
126.		<u>AM 83</u> <i>(dz) a buyer requires suppliers to bear any costs incurred as a result of any forecasting error, unless:</i>		<i>Comment: covered or withdrawn.</i>
127.		<i>-the buyer has prepared those forecasts in good faith and with due care, and following consultation with the supplier;</i>		<i>Comment: covered or withdrawn.</i>
128.		<i>-the supply agreement includes an express and unambiguous provision that</i>		<i>Comment: covered or withdrawn.</i>



Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>full compensation is not appropriate;</i>		
129.		<u>AM 84</u> <i>(daa) a buyer, by means of a supply agreement, obliges the supplier not to sell agricultural or food products to other buyers and/or processors at lower prices than those paid by the buyer and/or processor;</i>		<i>Comment: covered or withdrawn.</i>
130.		<u>AM 85</u> <i>(dab) a buyer threatens directly or indirectly to cancel a supplier's products from listing, if the supplier does not comply or want to comply with a buyer's demands for price reduction;</i>		<i>Comment: covered or withdrawn.</i>
131.		<u>AM 86</u> <i>(dac) a buyer compels a supplier to manufacture the same product to be sold under the retailer's own brand at the same or a lower cost than the supplier's branded product;</i>		<i>Comment: covered or withdrawn.</i>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
132.		<p><b><u>AM 87</u></b></p> <p><i>(dad) a buyer returns unsold food products to a supplier at the supplier's cost and without payment for those unsold food products.</i></p>		<p>Not acceptable.</p> <p><i>Comment: covered by Article 3(2)a. See row 134.</i></p> <p>To be further discussed.</p>
133.	<p>2. Member States shall ensure that the following trading practices are prohibited, if they are not agreed in clear and unambiguous terms at the conclusion of the supply agreement:</p>	<p><b><u>AM 88</u></b></p> <p>2. Member States shall ensure that the following trading practices are prohibited, if they are not agreed in clear and unambiguous terms at the conclusion of the supply agreement <i>or in any subsequent agreement between the buyer and the supplier during the validity of the supply agreement, or if they are the result of an abuse of the supplier's economic dependence on the buyer, which enabled the buyer to impose those terms:</i></p>	<p>2. Member States shall ensure that the following trading practices are prohibited, <b><u>unless they are</u></b> <del>if they are not</del> agreed in clear and unambiguous terms at the conclusion of the supply agreement:</p>	<p>Not acceptable as regards concept of abuse of economic dependence (legal uncertainty)</p> <p>As regards subsequent agreement, suggested compromise text:</p> <p>"2. Member States shall ensure that the following trading practices are prohibited, <b><u>unless they have been previously</u></b> <del>if they are not</del> agreed in clear and unambiguous terms <del>at the conclusion of</del> <b><u>in</u></b> the supply agreement <b><u>or in any subsequent agreement between the supplier and the buyer:</u></b>"</p> <p><i>Comment: this takes on board possible subsequent</i></p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				<i>changes in the supply agreement (suggested by EP).</i> To be further checked.
134.	(a) a buyer returns unsold food products to a supplier;	<u><b>AM 89</b></u> <i>deleted</i>	(a) a buyer returns unsold <b>agri</b> -food products to a supplier;	[To be further checked]. <i>Comment: possibly include wording from AM 87.</i>
135.		<u><b>AM 90</b></u> <i>(aa) the buyer removes products from the list of contracted products that the supplier delivers to the customer or significantly reduces an order of a particular agricultural or food product without prior written notice provided within the time period specified in the contract, or within a time limit which may not be shorter than 30 days in cases where the deadline is not stipulated in the contract;</i>		<i>Comment: covered or withdrawn.</i>
136.	(b) a buyer charges a supplier payment as a		(b) a buyer charges a supplier payment as a	<u><b>T2: A-list</b></u>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	condition for the stocking, displaying or listing food products of the supplier;		condition for the stocking, displaying or listing <u>agri</u> -food products of the supplier;	(b) a buyer charges a supplier payment as a condition for the stocking, displaying or listing <u>agricultural and</u> food products of the supplier;  EP: to be further discussed
137.	(c) a supplier pays for the promotion of food products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion and the expected quantity of the food products to be ordered;	<b>AM 91</b> (c) a supplier pays for the promotion <i>or advertising</i> of food products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion and the expected quantity of the food products to be ordered;	(c) a <b>buyer requests a</b> supplier <b>to</b> pays for the promotion of <u>agri</u> -food products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion and the expected quantity of the <u>agri</u> -food products to be ordered;	<i>Council suggested compromise text:</i> (c) a <b>buyer requests requires a</b> supplier <b>to</b> pays for the promotion of <u>agricultural and</u> food products sold by the buyer. Prior to a promotion and if that promotion is initiated by the buyer, the buyer shall specify the period of the promotion and the expected quantity of the <u>agricultural and</u> food products to be ordered;

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				<p><i>Comment: By consequence of changing the text in AM 57, row 94 ("requests" is replaced by "requires").</i></p> <p>And add a new paragraph (da):</p> <p><b><u>(da) a buyer requires a supplier to pay for the advertising of agricultural and food products by the buyer."</u></b></p> <p><b>T3: A-list</b></p>
138.	(d) a supplier pays for the marketing of food products by the buyer.		(d) a <b>buyer requests a</b> supplier <b>to</b> pays for the marketing of <b>agri</b> -food products by the buyer.	<p><b>T2: agreed</b></p> <p>Council suggested compromise text for paragraph (d),</p> <p>"(d) a <b>buyer requests requires a</b> supplier <b>to</b> pays for the marketing of <b>agricultural and</b> food products by the buyer."</p> <p><b>T3: A-list</b> (with further modifications compared to T2)</p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
139.		<b><u>AM 92</u></b> <i>(da) a buyer sells agricultural and food products below the purchase price as per invoice, less the proportional part of the discounts included in the invoice, plus the transport costs and the taxes charged on the transaction, as a marketing mechanism and the loss or cost is ultimately borne by the supplier;</i>		Not acceptable.
140.		<b><u>AM 93</u></b> <i>(db) a buyer passes the costs incurred in transporting and storing the products on to the supplier;</i>		<i>Comment: covered or withdrawn.</i>
141.		<b><u>AM 94</u></b> <i>(dc) a buyer obliges the supplier to deliver the products only to the supplier's platforms.</i>		Not acceptable.
142.		<b><u>AM 95</u></b>		<i>Comment: covered or withdrawn.</i>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<p><i>2a. Member States shall ensure that the trading practices referred to in points (b), (c) and (d) of paragraph 2 are prohibited if the ensuing payments from the supplier to the buyer are not related to the costs incurred by the buyer.</i></p>		
143.		<p><b><u>AM 96</u></b></p> <p><i>2b. Where a complaint relating to a practice referred to in paragraph 2 is submitted to an enforcement authority, the burden of proof that the supply agreement covers the trading practice in question in clear and unambiguous terms shall be on the buyer.</i></p>		<p>Not acceptable.</p> <p><i>Comment: See AM 58 + AM 101.</i></p>
144.		<p><b><u>AM 97</u></b></p> <p><i>2c. Member States may prohibit any additional unfair trading practice, as defined in point (-a) of Article 2, beyond those referred to in paragraphs 1 and 2 of this Article.</i></p>		<p><i>Covered in Article 8(2).</i></p> <p>See row 237.</p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
145.	3. If a payment is requested by the buyer for the situations described in points (b), (c) and (d) of paragraph 2, the buyer shall, if requested by the supplier, provide the supplier with an estimate of the payments per unit or overall, whichever is appropriate, and insofar as the situations described in points (b) and (d) of paragraph 2 are concerned also an estimate of the costs and the basis for such estimate.	<b><u>AM 98</u></b> 3. If a payment is requested by the buyer for the situations described in points (b), (c) and (d) of paragraph 2, the buyer shall provide the supplier with an estimate of the payments per unit or overall, whichever is appropriate, and insofar as the situations described in points (b) and (d) of paragraph 2 are concerned also an estimate of the costs and the basis for such estimate. <i><b>Those estimates shall be provided in written form by the buyer and agreed by the supplier before the provision of the service concerned.</b></i>	3. <del>If</del> <b>Where</b> a payment is requested by the buyer for the situations described in points (b), (c) and (d) of paragraph 2, <del>the buyer shall,</del> if requested by the supplier, <b><u>the buyer shall</u></b> provide the supplier with an estimate of the payments per unit or <b><u>the overall payments</u></b> , whichever is appropriate, and insofar as the situations described in points (b) and (d) of paragraph 2 are concerned, <b><u>shall</u></b> also <b><u>provide</u></b> an estimate of the costs and the basis for <del>such</del> <b><u>that</u></b> estimate.	Suggested compromise text: "3. <del>If</del> <b>Where</b> a payment is requested by the buyer for the situations described in points (b), (c) and (d) of paragraph 2, <del>the buyer shall,</del> if requested by the supplier, <b><u>the buyer shall</u></b> provide the supplier with an estimate <b><u>in writing</u></b> of the payments per unit or <b><u>the overall payments</u></b> , whichever is appropriate, and insofar as the situations described in points (b) and (d) of paragraph 2 are concerned, <b><u>shall</u></b> also <b><u>provide</u></b> an estimate of the costs and the basis for <del>such</del> <b><u>that</u></b> estimate <b><u>in writing</u></b> ." <b>T3: A-list</b>
146.	4. Member States shall ensure that the prohibitions laid	<b><u>AM 99</u></b> 4. Member States shall ensure that the prohibitions		<i>Comment: Covered in Article 8(1).</i>



Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	down in paragraphs 1 and 2 constitute overriding mandatory provisions which are applicable to any situation falling within their scope, irrespective of the law otherwise applicable to the supply agreement between the parties.	laid down in paragraphs 1 and 2 constitute overriding mandatory provisions which are applicable to any situation falling within their scope, irrespective of the law otherwise applicable to the supply agreement between the parties. <i>Member States may adopt rules going beyond the prohibitions laid down for each unfair trading practice referred to in paragraphs 1 and 2.</i>		<b>T3: A-list</b>
147.		<b><u>AM 100</u></b> <i>4a. Member States shall ensure that contractual terms or practices that exclude interest for late payment are prohibited in accordance with Article 7 of Directive 2011/7/EU.</i>		See new wording in row 95, Article 3(1). <b>T3:A-list</b>
148.		<b><u>AM 101</u></b> <i>Article 3a</i>		Not acceptable. <i>Comment: See AM 58 + AM 96.</i>
149.		<i>Contractual relations</i>		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
150.		<i>1. A supplier may require that any delivery of its agricultural and food products to a buyer be the subject of a written contract between the parties and/or the subject of a written offer for a contract from the first purchaser.</i>		Not acceptable.
151.		<i>2. Any contract or offer for a contract referred to in paragraph 1 shall:</i>		Not acceptable.
152.		<i>(a) be made in advance of the delivery;</i>		Not acceptable.
153.		<i>(b) be made in writing; and</i>		Not acceptable.
154.		<i>(c) include, in particular, the following elements:</i>		Not acceptable.
155.		<i>(i) the price payable for the delivery, which shall:</i>		Not acceptable.
156.		<i>— be static and be set out in the contract, and/or</i>		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
157.		<i>— be calculated by combining various factors set out in the contract, which may include market indicators reflecting changes in market conditions, the quantities delivered and the quality or composition of the agricultural products delivered;</i>		Not acceptable.
158.		<i>(ii) the quantity and quality of the products concerned which may or must be delivered and the timing of such deliveries;</i>		Not acceptable.
159.		<i>(iii) the duration of the contract, which may include either a definite duration or an indefinite duration with termination clauses;</i>		Not acceptable.
160.		<i>(iv) details regarding payment periods and procedures;</i>		Not acceptable.
161.		<i>(v) arrangements for collecting or delivering the agricultural products, and</i>		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
162.		(vi) <i>rules applicable in the event of force majeure.</i>		Not acceptable.
163.		3. <i>Paragraphs 1 and 2 shall be without prejudice to Articles 125, 148 and 168 of Regulation (EU) No 1308/2013.</i>		Not acceptable.
164.		4. <i>Member States may identify, share and promote best practices concerning long-term contractualisation, aimed at strengthening the bargaining position of producers within the agricultural and food supply chain.</i>		Not acceptable.
165.	Article 4 <i>Designated enforcement authority</i>		Article 4 <i>Designated enforcement <del>authority</del> <u>authorities</u></i>	<b><u>T2: A-list</u></b> <i>Article 4</i> Designated enforcement <del>authority</del> <b><u>authorities</u></b>
166.	Each Member State shall designate a public authority to enforce the prohibitions laid down in Article 3 at	<b><u>AM 102</u></b> 1. Each Member State shall designate <i><b>one or more authorities</b></i> to enforce the prohibitions laid down in	<b><u>1.</u></b> Each Member State shall designate a public authority <b><u>one or more authorities</u></b> to enforce the prohibitions laid	<b><u>T2: A-list</u></b> 1. Each Member State shall designate <i><b>one or more authorities</b></i> to enforce the prohibitions

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	national level ("enforcement authority").	Article 3 at national level ("enforcement authority"), <i>and inform the Commission of the designation.</i>	down in Article 3 at national level ("enforcement authority").	laid down in Article 3 at national level ("enforcement authority"), <i>and inform the Commission of the designation.</i>
167.		<b><u>AM 103</u></b> <i>1a. If a Member State designates more than one enforcement authority on its territory, it shall designate one single contact point for cooperation among enforcement authorities and for cooperation with the Commission.</i>	<b><u>2.</u></b> <b><u>If a Member State designates more than one enforcement authority on its territory, it shall designate one single contact point for cooperation among enforcement authorities and for cooperation with the Commission.</u></b>	<b><u>T2: A-list</u></b> <b><u>2. If a Member State designates more than one enforcement authority on its territory, it shall designate one single contact point for cooperation among enforcement authorities and for cooperation with the Commission.</u></b>
168.		<b><u>AM 104</u></b> <i>Article 4a</i>		Not acceptable. [To be further checked]
169.		<i>Competent enforcement authority</i>		Not acceptable.
170.		<i>1. The enforcement authority of the Member State in which a buyer suspected to have engaged in a prohibited trading practice is</i>		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>established, shall be competent to investigate unfair trading practices committed by the buyer.</i>		
171.		<i>2. If a supplier delivers its products to a recipient related to the buyer but established in a Member State which does not correspond to the place of establishment of the buyer suspected to have engaged in a prohibited trading practice, the enforcement authority of that Member State shall be competent to investigate unfair trading practices committed by the buyer. The recipient of the products shall be considered as jointly liable for infringements committed.</i>		Not acceptable.
172.		<i>3. Where the buyer is established outside the Union, the enforcement authority of the Member State where the supplier is established shall be competent to investigate unfair trading practices</i>		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>committed against the supplier.</i>		
173.		<i>4. The enforcement authority shall also be competent to investigate unfair trading practices as regards the provision of services related to the supply agreement. The buyer shall be considered as jointly liable for any infringements committed by a third-party provider of the related services.</i>		Not acceptable.
174.	<i>Article 5 Complaints and confidentiality</i>			
175.	1. A supplier shall address a complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established.	<b><u>AM 105</u></b> 1. <i>Complaints shall be addressed</i> to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established. <i>Where the buyer is established outside the Union, the complaint shall be addressed to the enforcement</i>	1. <del>As</del> Suppliers <del>may</del> <b>shall</b> address a complaint <b><u>either</u></b> to the enforcement authority <b><u>of their own Member State or to the enforcement authority</u></b> of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established. <b><u>The</u></b>	[To be further checked.]

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>authority of the Member State in which the supplier is located. That enforcement authority shall take action.</i>	<u>enforcement authority to which the complaint was addressed shall be competent to enforce the prohibitions laid down in Article 3 in the territory of its Member State.</u>	



Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
176.		<p><b><u>AM 106</u></b></p> <p><i>1a. A supplier may submit a complaint to the enforcement authority of the Member State in which the supplier is established. The enforcement authority of that Member State shall forward the complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established. That enforcement authority shall take action.</i></p>		[To be further checked.]
177.	<p>2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint.</p>	<p><b><u>AM 107</u></b></p> <p>2. Organisations <i>of producers or of suppliers</i> or associations of organisations <i>of producers or of suppliers, organisations working with producers with knowledge of trading practices in the agricultural and food supply chain, and representative organisations</i>, whose member(s) or member(s) of</p>	<p>2. <del>Producer organisations and associations of producer organisations</del> <b><u>Organisations of producers, organisations of suppliers and associations of such organisations,</u></b> whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice,</p>	[To be further checked.]

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint <i>and to be properly involved in the proceedings.</i>	shall have the right to submit a complaint <u>at the request of their members or, where appropriate, at the request of members of their members.</u>	
178.	3. The enforcement authority shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality.	<b><u>AM 108</u></b> 3. The enforcement authority shall ensure the confidentiality of the identity of the complainant and any other information, in respect of which the complainant considers disclosure harmful to his interests. The complainant shall identify such information in a possible request for confidentiality. <i>Throughout the procedure, the enforcement authority shall ensure the confidentiality of the process and of any sensitive information, while protecting the procedural rights of both parties.</i>	3. <b><u>Member States shall ensure that, where the complainant so requests, the enforcement authority is to take the necessary measures for the appropriate protection of</u></b> shall ensure, if so requested by the complainant, the confidentiality of the identity of the complainant <b><u>or the members referred to in paragraph 2</u></b> and any other information, in respect of which the complainant considers <b><u>that</u></b> disclosure <b><u>would be</u></b> harmful to <del>his</del> <b><u>its</u></b> interests. The complainant shall identify <del>such</del> <b><u>any</u></b> information <b><u>for which</u></b> in a	Compromise text 21.11.2018: <i>3a. Member States shall ensure that the enforcement authority informs the complainant how it intends to follow up on the complaint within a reasonable period of time after the receipt of the complaint.</i> <b><u>T3: A-list</u></b>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
			possible <del>it</del> requests for confidentiality.	
179.		<p><b><u>AM 109</u></b></p> <p><i>3a. Where such information is nevertheless made public, the buyer shall not, on the basis of that information, perform any detrimental acts in relation to the supplier. If the buyer breaches that prohibition, the buyer shall be liable for compensation for the damage caused to the supplier, including loss, loss of profit and reputational damage.</i></p>		To be further checked.
180.	<p>4. Where the enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall inform the complainant about the reasons.</p>	<p><b><u>AM 110</u></b></p> <p><i>deleted</i></p>		<p>Compromise text 21.11.2018:</p> <p>4. Where the enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall inform the complainant about the reasons. <b><u>It shall do so within a reasonable</u></b></p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				<p><u>period of time after the receipt of the complaint.</u></p> <p><u>4a. Where the enforcement authority considers that there are sufficient grounds for acting on a complaint, it shall initiate, conduct and conclude an investigation within a reasonable period of time.</u></p> <p>Comment: regarding Article 5(4a): Council could accept, provided EP can accept recital 13, row 30</p> <p><u>(4b) (new): Member States shall ensure that where the enforcement authority finds that a buyer has infringed the prohibitions referred to in Article 3, it shall require the buyer to terminate the prohibited trading practice.</u></p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				Comment: covers AM 121. <b>T3: A-list</b>
181.		<b><u>AM 111</u></b> <i>4a. The Commission shall draw up a multilingual guide, which shall be available on its website, explaining how to draft a complaint and what type of information must be provided to the respective enforcement authorities across the Union to decide whether a formal investigation can be opened.</i>		Not acceptable
182.	Article 6 <i>Powers of the enforcement authority</i>			
183.	Member States shall ensure that the enforcement authority is properly equipped and shall confer on it the following powers:	<b><u>AM 112</u></b> Member States shall ensure that <i>their</i> enforcement <b>authorities are</b> properly equipped and <i>have the necessary resources, including sufficient budget and expertise, to ensure the proper and fair functioning of the agricultural and food</i>	<b><u>1.</u></b> Member States shall ensure that the enforcement authority is properly equipped <b>has the necessary resources to perform its duties</b> and shall confer on it the following powers:	<b><u>T2: A-list</u></b> <b>"1.</b> Member States shall ensure that <b>each of their</b> the enforcement authority <b>ies</b> is properly equipped <b>has the necessary resources and</b>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>supply chain. They</i> shall confer on <i>them</i> the following powers:		<u><b>expertise to perform its duties</b></u> and shall confer on it the following powers:"
184.	(a) to initiate and conduct investigations on its own initiative or based on a complaint;	<u><b>AM 113</b></u> (a) to <i>proactively</i> initiate and conduct investigations on its own initiative based <i>on reasonable suspicion or</i> on a complaint, <i>including anonymous or whistle-blower complaints</i> ;	(a) <u><b>the power</b></u> to initiate and conduct investigations on its own initiative or based on a complaint;	<u><b>T2: A-list</b></u> (a) <u><b>the power</b></u> to initiate and conduct investigations on its own initiative or based on a complaint; <i>Comment: Reference should be made in a recital to anonymous or whistle blower complaints.</i>
185.	(b) to require buyers and suppliers to provide all necessary information in order to carry out investigations on the prohibited trading practices;		(b) <u><b>the power</b></u> to require buyers and suppliers to provide all necessary information in order to carry out investigations on the prohibited trading practices;	<u><b>T2: A-list</b></u> (b) <u><b>the power</b></u> to require buyers and suppliers to provide all necessary information in order to carry out investigations on the prohibited trading practices;
186.		<u><b>AM 114</b></u>		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>(ba) to perform unannounced on-site inspections within the framework of its investigations;</i>		
187.	(c) to take a decision establishing an infringement of the prohibitions laid down in Article 3 and require the buyer to terminate the prohibited trading practice. The authority may abstain from taking any such decision, if such decision would risk revealing the identity of a complainant or disclosing any other information in respect of which the complainant considers disclosure harmful to his interests, provided that the complainant has identified that information in accordance with Article 5(3);	<b><u>AM 115</u></b> (c) to take a decision establishing an infringement of the prohibitions laid down in Article 3 and <b><i>grant the supplier interim relief to put an end to the forbidden commercial practice, and</i></b> require the buyer to terminate the prohibited trading practice, <b><i>as well as to annul the relevant clauses or illegal contracts.</i></b> The authority may abstain from taking any such decision, if such decision would risk revealing the identity of a complainant or disclosing any other information in respect of which the complainant considers disclosure harmful to his interests, provided that the complainant has identified	(c) <b><u>the power</u></b> to take a decision <b><u>establishing finding</u></b> an infringement of the prohibitions laid down in Article 3 and <b><u>requiring</u></b> the buyer to terminate the prohibited trading practice. The authority may abstain from taking any such decision, if such decision would risk revealing the identity of a complainant or disclosing any other information in respect of which the complainant considers disclosure harmful to his interests, provided that the complainant has identified that information in accordance with Article 5(3);	Not acceptable.  See comment in row 188.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		that information in accordance with Article 5(3);		
188.	(d) to impose a pecuniary fine on the author of the infringement. The fine shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement;	<b><u>AM 116</u></b> (d) to impose a pecuniary fine <i>and/or other equally effective sanctions</i> on the <i>natural or legal person found to have carried out an infringement of this Directive, in accordance with national legislation</i> . The fine <i>and the other sanctions</i> shall be effective, proportionate <i>to the harm caused</i> and dissuasive taking into account the nature, duration and gravity of the infringement. <i>Repeated infringements by the same buyer shall be taken into account when determining the pecuniary fine and the other sanctions to be applied;</i>	(d) <b><u>the power to impose or initiate a pecuniary fines and other appropriate penalties</u></b> on the author of the infringement, <b><u>in accordance with national rules and procedures</u></b> . <del>The fine shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement;</del>	EP ready to withdraw the last sentence of its AM ("repeated infringements"). See row 192. Suggested improved wording: "(d) <b><u>the power to impose or initiate proceedings for the imposition of a pecuniary fines and other equally effective appropriate penalties</u></b> on the author of the infringement, <b><u>in accordance with national rules and procedures</u></b> . <del>The fine shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement;</del> "



Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				[To be further checked]
189.		<b><u>AM 117</u></b> <i>(da) to arrange for compensation of damages by the author of an infringement in cases where confidentiality has been requested by the complainant;</i>		Not acceptable.
190.	(e) to publish its decisions relating to points (c) and (d);	<b><u>AM 118</u></b> (e) to publish <i>systematically</i> its decisions relating to points (c) and (d);	(e) <b><u>the power</u></b> to publish its decisions relating to points (c) and (d);.	<b><u>T2: A-list</u></b> "(e) <b><u>the power</u></b> to <b><u>regularly</u></b> publish its decisions relating to points (c) and (d);."
191.	(f) to inform buyers and suppliers about its activities, by way of annual reports, which shall <i>inter alia</i> describe the number of complaints received and the investigations initiated and closed by it. For each	<b><u>AM 119</u></b> (f) to <i>publish a review of its enforcement actions and</i> activities, by way of annual reports, which shall <i>inter alia</i> describe <i>the characteristics of the unfair trading practices identified and</i> the number of complaints received and the	<del>(f) to inform buyers and suppliers about its activities, by way of annual reports, which shall <i>inter alia</i> describe the number of complaints received and the investigations initiated and closed by it. For each</del>	Covered by row 248.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	investigation, the report shall contain a summary description of the matter and the outcome of the investigation.	investigations initiated and closed by it, <i>and those still underway, as well as a list of the enterprises which have had findings made against them.</i> For each investigation, the report shall contain a summary description of the matter, <i>the conclusions of the investigation and information on</i> the outcome of the <i>procedure as well as the decision taken, in line with the confidentiality rules established under national law.</i>	<del>investigation, the report shall contain a summary description of the matter and the outcome of the investigation.</del>	
192.			<u>The penalties referred to in point (d) shall be effective, proportionate and dissuasive taking into account the nature, duration and gravity of the infringement.</u>	<u>T2: agreement</u> <u>"The penalties referred to in point (d) shall be effective, proportionate and dissuasive taking into account the nature, duration, recurrence and gravity of the infringement."</u>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				(PM: last sentence of EP AM 116, row 188 covered here)
193.		<p><b><u>AM 120</u></b></p> <p><i>1a. Member States shall ensure that the exercise of those powers is subject to appropriate safeguards in respect of rights of defence, in accordance with the general principles of Union law and the Charter of Fundamental Rights of the European Union, including where the complainant requests confidential treatment of information pursuant to Article 5(3).</i></p>	<p><b><u>2.</u></b></p> <p><b><u>Member States shall ensure that the exercise of those powers is subject to appropriate safeguards in respect of buyers' rights of defence, in accordance with the general principles of Union law and the Charter of Fundamental Rights of the European Union, including in cases where the complainant has requested confidential treatment of information pursuant to Article 5(3).</u></b></p>	<p><b><u>T2: A-list</u></b></p> <p><i>1a. Member States shall ensure that the exercise of those powers is subject to appropriate safeguards in respect of rights of defence, in accordance with the general principles of Union law and the Charter of Fundamental Rights of the European Union, including where the complainant requests confidential treatment of information pursuant to Article 5(3).</i></p>
194.		<p><b><u>AM 121</u></b></p> <p><i>Article 6a</i></p>		<p><i>Comment: The whole Article 6a is covered by Article 5, which contains an obligation.</i></p> <p><b><u>T3: A-list</u></b></p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
195.		<i>Obligations of the enforcement authority</i>		<p><i>Comment: The whole Article 6a is covered by Article 5, which contains an obligation.</i></p> <p><b><u>T3: A-list</u></b></p>
196.		<i>1. Enforcement authorities shall control and ensure the proper and fair functioning of the agricultural and food supply chain in the Union.</i>		<p><i>Comment: The whole Article 6a is covered by Article 5, which contains an obligation.</i></p> <p><b><u>T3: A-list</u></b></p>
197.		<i>2. Within 30 days from the receipt of a complaint, the enforcement authority shall inform the complainant about its decision to act or not to act on the complaint.</i>		<p><i>Comment: The whole Article 6a is covered by Article 5, which contains an obligation.</i></p> <p><b><u>T3: A-list</u></b></p>
198.		<i>3. Where the enforcement authority considers that there are insufficient grounds for acting on a complaint, it shall adopt a formal reasoned decision rejecting the complaint and inform the complainant about that</i>		<p><i>Comment: The whole Article 6a is covered by Article 5, which contains an obligation.</i></p> <p><b><u>T3: A-list</u></b></p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>decision. The decision shall be subject to judicial review.</i>		
199.		<i>4. Where the enforcement authority considers that there are sufficient grounds for acting on a complaint, it shall initiate and conduct an investigation, which shall be concluded within six months from the initiation of the investigation. In duly justified cases, the period of six months may be extended by an additional period of six months. The enforcement authority shall inform the complainant of this extension and of the reasons for it.</i>		<p><i>Comment: The whole Article 6a is covered by Article 5, which contains an obligation.</i></p> <p><b>T3: A-list</b></p>
200.		<i>5. Where, as a result of the investigation, an infringement of this Directive is established, the enforcement authority shall require the buyer to terminate the prohibited trading practice and impose a pecuniary fine and/or other</i>		<p><i>Comment: Covered by Article 5(4b)new, which contains an obligation, so that Article 6 can remain an 'empowerment' article.</i></p> <p><b>T3: A-list</b></p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>equally effective sanctions on the natural or legal person author of the infringement, in accordance with national legislation. The fine and the other sanctions shall be effective, proportionate to the harm caused and dissuasive taking into account the nature, duration and gravity of the infringement. Repeated infringements by the same buyer shall be taken into account when determining the pecuniary fine and the other sanctions to be applied.</i>		
201.		<i>6. The enforcement authority may abstain from taking any measure referred to in paragraph 5 of this Article, if such decision would risk revealing the identity of a complainant or disclosing any other information in respect of which the complainant considers disclosure harmful to his interests, provided that the complainant has</i>		<i>Comment: The whole Article 6a is covered by Article 5, which contains an obligation.</i> <b>T3: A-list</b>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>identified that information in accordance with Article 5(3).</i>		
202.		<i>7. The enforcement authority may decide to publish its decisions relating to paragraph 5 of this Article.</i>		<i>Comment: The whole Article 6a is covered by Article 5, which contains an obligation.</i> <b>T3: A-list</b>
203.		<b><u>AM 122</u></b> <i>Article 6b</i>		Not acceptable.
204.		<i>Delegated acts</i>		Not acceptable.
205.		<i>The Commission shall be empowered to adopt delegated acts setting out criteria and a common methodology for use by enforcement authorities when determining the amount of pecuniary fines, having regard to at least the following elements: the turnover of the infringer, the benefits accrued by the infringer from the unfair trading practice, the number and status of the victims of the infringement, and the</i>		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>repeated use of unfair trading practices by a buyer.</i>		



Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
206.		<b>AM 123</b> <i>Article 6c</i>		<b>T3: A-list</b>
207.		<i>Mediation or alternative dispute resolution mechanism</i>		Compromise text 21.11.2018: Alternative dispute resolution <b>T3: A-list</b>
208.		<i>1. Without prejudice to the powers and obligations of the enforcement authority laid down in Articles 6 and 6a, Member States shall promote the use of effective and independent mediation procedures or an alternative dispute resolution mechanism in case of a dispute between a supplier and a buyer due to an unfair trading practice as defined in point (-a) of Article 2.</i>		Compromise text to replace paragraphs 1-3: <del>1.</del> <i>Without prejudice to the right of suppliers to submit a complaint under Article 5, and the powers of the enforcement authority under Article 6 of this Directive, Member States may shall promote the voluntary use of effective and independent alternative dispute resolution mechanisms such as mediation with a view to the settlement of disputes between suppliers and buyers</i>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				<i>regarding the use of unfair trading practices by the buyer.</i> <b>T3: A-list</b>
209.		<i>2. The use of mediation or of an alternative dispute resolution mechanism shall be without prejudice to the right of the supplier to submit a complaint, as set out in Article 5.</i>		<b>T3: A-list</b> Covered by row 208
210.		<i>3. The Commission may facilitate dialogue and exchange of proven practices concerning the use of mediation or of an alternative dispute resolution mechanism at Union level.</i>		<b>T3: A-list</b> Covered by row 208
211.	<i>Article 7 Cooperation between enforcement authorities</i>	<b>AM 124</b> <i>Union Enforcement Network</i>		<b>T3: A-list</b> <i>Comment: EP ready to withdraw AM 124.</i>
212.	1. Member States shall ensure that enforcement authorities cooperate effectively with	<b>AM 125</b> 1. <i>A Union Enforcement Network ('the Network') is hereby established.</i>	1. Member States shall ensure that enforcement authorities cooperate effectively with	Compromise text 21.11.2018: 1. Member States shall ensure that

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	each other and provide each other mutual assistance in investigations that have a cross-border dimension.		each other and provide each other <b>with</b> mutual assistance in investigations that have a cross-border dimension.	enforcement authorities cooperate effectively with each other and <b>with the Commission</b> and provide each other <b>with</b> mutual assistance in investigations that have a cross-border dimension. <b>T3: A-list</b>
213.	2. The enforcement authorities shall meet once per year to discuss the application of this Directive on the basis of the annual reports referred to in Article 9(1) and best practices in the area it covers. The Commission shall facilitate those meetings.	<b>AM 126</b> 2. The <i>purpose of the Network is to serve as a platform for structured cooperation between enforcement authorities of the Member States and the Commission and to streamline the practices of enforcement authorities within the Union.</i>		Compromise text 21.11.2018: 2. The enforcement authorities shall meet <b>at least</b> once per year to discuss the application of this Directive on the basis of the annual reports referred to in Article 9(1). <b><u>The enforcement authorities shall discuss best practices, new cases and new developments in the area of unfair trading practices in the agricultural and food supply chain as well as exchange information, in particular on the</u></b>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				<p><u>implementing measures they have adopted in accordance with this Directive and their enforcement practices.</u></p> <p><u>The enforcement authorities may adopt recommendations in order to encourage consistent application of the provisions laid down in this Directive and to improve enforcement actions.</u> The Commission shall facilitate those meetings.</p> <p><i>Comment: covers AM 129 and AM 130, row 216-233.</i></p>
214.	<p>3. The Commission shall establish and manage a website that provides for the possibility of information exchange between the enforcement authorities and the Commission, in particular</p>	<p><u>AM 127</u> <i>deleted</i></p>	<p>3. The Commission shall establish and manage a website that provides for the possibility of information exchange between the enforcement authorities and <u>with</u> the Commission, in</p>	<p>Compromise text 21.11.2018:</p> <p>3. The Commission shall establish and manage a website that provides for the possibility of information exchange between the enforcement</p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	in relation to the annual meetings.		particular in relation to the annual meetings.	authorities and with the Commission, in particular in relation to the annual meetings. <u><b>The Commission shall establish a public website with the contact details of the designated enforcement authorities and with links to websites of the national enforcement authorities or other authorities of Member States, which shall contain information about the national acts of transposition within the meaning of Article 12(1).</b></u> <b>T3: A-list.</b>
215.		<b><u>AM 128</u></b> <i>3a. The Commission shall ensure that it has a functional mailbox available on its website to support small and medium-sized enterprises (SMEs) both inside and outside of the Union to protect and enforce their</i>		<i>Covered in compromise text in row 214.</i> <b>T3: A-list</b>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>rights against unfair trading practices, by providing information about the procedures. All relevant information shall be provided in all Union languages.</i>		
216.		<u>AM 129</u> <i>Article 7a</i>		Covered by Article 7, row 211-213 <b>T3: A-list</b>
217.		<i>Composition of the Union Enforcement Network</i>		Covered by Article 7, row 211-213 <b>T3: A-list</b>
218.		<i>1. The Network shall be composed of one representative from each enforcement authority referred to in Article 4, two representatives from the Commission and their respective alternates.</i>		Covered by Article 7, row 211-213 <b>T3: A-list</b>
219.		<i>2. The Network shall meet at regular intervals and, where necessary, at the duly justified</i>		Covered by Article 7, row 211-213 <b>T3: A-list</b>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>request of the Commission or a Member State.</i>		
220.		<i>3. The Network shall involve all relevant stakeholders in a discussion of the application of the directive, with a view to facilitating dialogue and exchange of good practices and promoting a common approach.</i>		Covered by Article 7, row 211-213 <b>T3: A-list</b>
221.		<u>AM 130</u> <i>Article 7b</i>		Covered by Article 7, row 211-213 <b>T3: A-list</b>
222.		<i>Coordinated enforcement tasks</i>		Covered by Article 7, row 211-213 <b>T3: A-list</b>
223.		<i>1. The Network shall have the following tasks:</i>		Comment: covered by Article 7, row 211-213 <b>T3: A-list</b>
224.		<i>(a) to discuss the application of this Directive on the basis of the annual reports referred to in Article 9(1);</i>		Covered by Article 7, row 211-213 <b>T3: A-list</b>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
225.		<i>(b) to facilitate the exchange of information on relevant topics including on the results of investigations referred to in point (a) of Article 6(1) and new cases of unfair trading practices;</i>		Covered by Article 7, row 211-213 <b>T3: A-list</b>
226.		<i>(c) to coordinate and facilitate the exchange information and best practices concerning Member States national legislation and experience of enforcement in a coordinated and systematic way in order to improve the common understanding on which specific types of business practice should be considered unfair trading practices and to better address potential cross-border unfair trading practices;</i>		Covered by Article 7, row 211-213 <b>T3: A-list</b>
227.		<i>(d) to examine any question as regards the application of this Directive and adopt guidelines and recommendations in order to encourage consistent</i>		Covered by Article 7, row 211-213 <b>T3: A-list</b>



Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>application, including by creating a common methodology for defining and setting penalties;</i>		
228.		<i>(e) to promote and facilitate collaboration with other relevant networks and groups, in particular the Supply Chain Initiative.</i>		Comment: covered by Article 7, row 211-213 <b>T3: A-list</b>
229.		<i>2. The Commission shall have the following tasks:</i>		Comment: covered by Article 7, row 211-213 <b>T3: A-list</b>
230.		<i>(a) to establish and manage a website that provides for the possibility of information exchange between the enforcement authorities and the Commission, in particular in relation to the annual meetings;</i>		Comment: covered by Article 7, row 211-213 <b>T3: A-list</b>
231.		<i>(b) to facilitate the organisation of common training programmes and exchanges of personnel between enforcement authorities, and where</i>		Comment: covered by Article 7, row 211-213 <b>T3: A-list</b>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>appropriate, with the enforcement authorities of third countries;</i>		
232.		<i>(c) to organise the meetings of the Network referred to in Article 7a(2);</i>		Comment: covered by Article 7, row 211-213 <b>T3: A-list</b>
233.		<i>(d) to facilitate technical or scientific expertise for the purpose of implementing enforcement administrative cooperation.</i>		Comment: covered by Article 7, row 211-213 <b>T3: A-list</b>
234.	Article 8 National rules			
235.	Member States may provide for rules designed to combat unfair trading practices going beyond those set out in Articles 3, 5, 6 and 7, provided that such national rules are compatible with the rules on the functioning of the internal market.	<b><u>AM 131</u></b> 1. Member States may <i><b>maintain or introduce</b></i> rules designed to combat unfair trading practices <i><b>which are stricter than</b></i> those <i><b>laid down in this Directive</b></i> , provided that such national rules are compatible with the rules on the functioning of the internal market, <i><b>including the free movement of goods and</b></i>	1. <b><u>With a view to ensuring a higher level of protection,</u></b> Member States may <b><u>maintain or introduce</u></b> <del>provide for</del> rules designed to combat unfair trading practices <b><u>which are stricter than those laid down by this Directive</u></b> <del>going beyond those set out in Articles 3, 5, 6 and 7, provided that such</del>	Council text covers AM 131. <b>T3: A-list</b>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>services and the freedom of establishment, non-discrimination and access to impartial and independent judicial review.</i>	national rules are compatible with the rules on the functioning of the internal market.	
236.		<p><b><u>AM 132</u></b></p> <p><i>1a. Member States shall inform the Commission of any new national rules which are stricter than those laid down in this Directive.</i></p>		<p><b><u>T3: A-list</u></b></p> <p><i>Covered in reporting.</i></p>
237.		<p><b><u>AM 133</u></b></p> <p><i>1b. This Directive shall be without prejudice to national rules aimed at combating unfair trading practices that are not within its scope, provided that such rules are compatible with the rules on the functioning of the internal market.</i></p>	<p>2. <b><u>This Directive shall be without prejudice to national rules aimed at combating unfair trading practices that are not within the scope of this Directive, provided that such rules are compatible with the rules on the functioning of the internal market.</u></b></p>	<p><b><u>T2: A-list</u></b></p> <p>2. <b><u>This Directive shall be without prejudice to national rules aimed at combating unfair trading practices that are not within the scope of this Directive, provided that such rules are compatible with the rules on the functioning of the internal market.</u></b></p> <p><i>Comment: Presidency considers that AM 97 is</i></p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
			PUBLIC	<p><i>already covered in compromise text above.</i></p> <p>Compromise text 21.11.2018 in order to cover AM 32:</p> <p><b>2. <u>This Directive shall be without prejudice to national rules aimed at combating unfair trading practices that are not within the scope of this Directive, in particular practices that:</u></b></p> <p><b><u>- grossly deviate from good commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner on another;</u></b></p> <p><b><u>- impose or attempt to impose an unjustified and disproportionate transfer of a buyer's economic risk to the supplier; or</u></b></p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				<p><u>- impose or attempt to impose a significant imbalance of rights and obligations on the supplier in the commercial relationship before, during or after the contract;</u></p> <p><u>provided that such rules are compatible with the rules on the functioning of the internal market.</u></p> <p><i>Comment: Elements from the definition of UTPs (AM 32).</i></p> <p>[To be further checked.]</p>
238.		<p><b><u>AM 134</u></b></p> <p><i>1c. Proceedings in relation to point (c) to (e) of Article 6 shall comply with the administrative and legal proceedings and principles in the specific Member State.</i></p>		<p><b><u>T3: A-list</u></b></p>
239.		<p><b><u>AM 135</u></b></p> <p><i>Article 8 a</i></p>		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
240.		<i>National observatories on the functioning of the agricultural and food supply chain</i>		Not acceptable.
241.		<i>1. In order to keep economic actors and the Member States' enforcement authorities informed, the Member States may set up national observatories on the functioning of the agricultural and food supply chain.</i>		Not acceptable.
242.		<i>2. Member States shall ensure that their national observatories are properly equipped and shall confer on them the following powers:</i>		Not acceptable.
243.		<i>(a) the collection of all the available statistical data necessary for the analysis of price formation mechanisms and margins in the agricultural and food supply chain and the existence of unfair commercial practices;</i>		Not acceptable.

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
244.		<i>(b) analysis of the information collected and the undertaking or commissioning of research necessary for its activity;</i>		Not acceptable.
245.		<i>(c) the production of summary reports on the sectors studied and the regular dissemination of its work;</i>		Not acceptable.
246.		<i>(d) contributing to, and/or assisting the implementing authority in, the drafting of the report on unfair trading practices in inter-company relations within the agricultural and food supply chain, as set out in Article 9.</i>		Not acceptable.
247.	<i>Article 9 Reporting by Member States</i>		<i>Article 9 Reporting by Member States</i>	
248.			-1. <b><u>Member States shall ensure that the enforcement authorities publish an annual report about their activities falling under the scope of</u></b>	[To be further discussed] See row 191, AM 119. Compromise text 21.11.2018:

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
			<u>this Directive, which shall <i>inter alia</i> describe the number of complaints received and the investigations opened or closed. For each closed investigation, the report shall contain a summary description of the matter and the outcome of the investigation, subject to the confidentiality requirements laid down in Article 5(3).</u>	-1. <u>Member States shall ensure that the enforcement authorities publish an annual report about their activities falling under the scope of this Directive, which shall <i>inter alia</i> describe the number of complaints received and the investigations opened or closed. For each closed investigation, the report shall contain a summary description of the matter, the outcome of the investigation and, where applicable, the decision taken, subject to the confidentiality requirements laid down in Article 5(3).</u>
249.	1. By 15 March of each year, Member States shall send to the Commission a report on unfair trading practices in business-to-business relationships in the food	<b><u>AM 136</u></b> 1. By 15 March of each year, Member States shall send to the Commission a report on unfair trading practices in business-to-business relationships in the	1. By 15 March of each year, Member States shall send to the Commission a report on unfair trading practices in business-to-business relationships in the <b>agri-</b>	Compromise text 8.11.2018 1. By 15 March of each year, Member States shall send to the Commission a report on unfair trading practices in



Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	supply chain. That report shall contain, in particular, all relevant data on the application and enforcement of the rules under this Directive in the Member State concerned in the previous year.	<i>agricultural and</i> food supply chain. That report shall contain, in particular, all relevant data on the application and enforcement of the rules under this Directive, <i>as well as on the efficacy of the measures implemented by the enforcement authority</i> in the Member State concerned in the previous year. <i>Member States shall ensure dialogue with all relevant stakeholders, including consumer organisations, on the functioning of the supply chain in their territory.</i>	food supply chain. That report shall contain, in particular, all relevant data on the application and enforcement of the rules under this Directive in the Member State concerned in the previous year.	business-to-business relationships in the <u><i>agricultural and</i></u> food supply chain. That report shall contain, in particular, all relevant data on the application and enforcement of the rules under this Directive in the Member State concerned in the previous year.  <i>Comment: "efficacy" covered in row 261 and 264.</i> <b>T3: A-list</b>
250.	2. The Commission may adopt implementing acts laying down:			
251.	(a) rules on the information necessary for the application of paragraph 1			
252.	(b) arrangements for the management of the information to be sent			

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	and rules on content and form;			
253.	(c) arrangements for transmitting, or making information and documents available, to the Member States, international organisations, the competent authorities in third countries, or the public, subject to the protection of personal data and the legitimate interest of agricultural producers and undertakings in the protection of their business secrets.			
254.	Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 10(2).			
255.	<i>Article 10</i> <i>Committee procedure</i>			

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
256.	1. The Commission shall be assisted by the Committee for the Common Organisation of the Agricultural Markets established by Article 229 of Regulation (EU) No 1308/2013. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.			
257.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.			
258.	<i>Article 11 Evaluation</i>			
259.	1. No sooner than three years after the date of application of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European	<b><u>AM 137</u></b> 1. <b><i>Within</i></b> three years after the date of application of this Directive, the Commission shall carry out <b><i>the first</i></b> evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and	1. No sooner than three years <b><u>and no later than five years</u></b> after the date of application of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament,	To be further discussed. <i>Comment: this period starts after the date referred to in row 272.</i> <i>Compromise text 22.11.2018:</i> <b><i>Within</i></b> [three / <b><u>five</u></b> ] years after the date of application <b><u>referred to in</u></b>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	Economic and Social Committee and the Committee of the Regions.	Social Committee and the Committee of the Regions.	the Council and the European Economic and Social Committee and the Committee of the Regions.	<u><i>the second subparagraph of Article 12(1)</i></u> of this Directive, the Commission shall carry out <i>the first</i> evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions.
260.		<b><u>AM 138</u></b> <i>1a. That evaluation shall assess, but not be limited to:</i>		<b><u>T3: agreed</u></b>
261.		<i>(a) the effectiveness in protecting the weakest actors in the agricultural and food supply chain against unfair trading practices;</i>		Compromise text 8.11.2018: <i>"(a) the effectiveness of the measures implemented at national level aimed at combating unfair trading practices in the agricultural and food supply chain; "</i>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
				<p><i>Comment: AM 136, row 249 - covered here.</i></p> <p><b>T3: A-list</b></p>
262.		<p><i>(b) the effectiveness of cooperation between competent enforcement authorities and whether there is a need for coordination to enforce and monitor Union legislation on unfair trading practices</i></p>		<p>20.11.2018: compromise text:</p> <p><i>(b) the effectiveness of cooperation between competent enforcement authorities and, where appropriate, the identification of ways to improve this cooperation.</i></p> <p><b>T3: A-list</b></p>
263.		<p><b><u>AM 139</u></b></p> <p><i>1b. On the basis of the findings of its report, the Commission may present appropriate legislative proposals.</i></p>		<p>Not acceptable.</p> <p><i>Comment: linked to recital 19.</i></p>
264.	2. Member States shall provide the Commission with the information necessary for the preparation of that report.		2. <del>Member States shall provide the Commission with the information necessary for the preparation of that report.</del> <b><u>The Commission shall base the report, in particular, on the annual</u></b>	<p>Compromise text 8.11.2018</p> <p>Council text agreed, with the following modification to cover row 249, AM 136:</p>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
			<u>reports referred to in Article 9(1). If necessary, the Commission may request additional information from Member States.</u>	"Member States shall provide the Commission with the information necessary for the preparation of that report. <u>The Commission shall base the report, in particular, on the annual reports referred to in Article 9(1). If necessary, the Commission may request additional information from Member States, including information on the effectiveness of the measures that were implemented at national level and the effectiveness of cooperation and mutual assistance.</u> " <b>T3: A-list</b>
265.	3. Six months after the date of transposition of this Directive, the Commission shall present an intermediary report on the state of its transposition and implementation to the			

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	European Parliament and to the Council as well as to the European Economic and Social Committee and the Committee of the Regions.			
266.		<b><u>AM 140</u></b> <i>Article 11a</i>		<b><u>T3: agreed</u></b> EP AM 140 is withdrawn
267.		<i>Reporting on effects on consumers</i>		<b><u>T3: agreed</u></b> EP AM 140 is withdrawn
268.		<i>1. The Commission shall carry out an evaluation to establish whether specific trading practices which are unfair have negative effects on consumers, and shall present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions.</i>		<b><u>T3: agreed</u></b> EP AM 140 is withdrawn
269.		<i>2. On the basis of the findings of its report, the Commission may present</i>		<b><u>T3: agreed</u></b> EP AM 140 is withdrawn

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>appropriate legislative proposals.</i>		
270.	<i>Article 12 Transposition</i>			
271.	1. Member States shall adopt and publish, by six months after the entry into force of the Directive at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.		1. Member States shall adopt and publish, by <del>six</del> <b>twenty-four</b> months after the entry into force of the Directive at <del>the latest</del> , the laws, regulations and administrative provisions necessary to comply with this Directive. They shall <del>forthwith</del> <b>immediately</b> communicate <del>to the Commission</del> the text of those <del>provisions</del> <b>measures to the Commission</b> .	[To be further discussed.] Compromise text 22.11.2018: Member States shall adopt and publish, by <del>six</del> <b>[eighteen / twenty-four]</b> months after the entry into force of the Directive <del>at the latest</del> , the laws, regulations and administrative provisions necessary to comply with this Directive. They shall <del>forthwith</del> <b>immediately</b> communicate <del>to the Commission</del> the text of those <del>provisions</del> <b>measures to the Commission</b> .
272.	They shall apply those provisions from 12 months		They shall apply those <del>provisions</del> <b>measures</b> <del>from</del> <b>not later than 12 thirty</b>	[To be further discussed.]



Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
	after entry into force of this Directive.		months after entry into force of this Directive.	Compromise text 22.11.2018: They shall apply those provisions <del>measures</del> from <u>not later than 24 / 12 thirty</u> months after entry into force of this Directive.
273.	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.		When Member States adopt those <del>provisions</del> <u>measures</u> , they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.	<b>T3: agreed</b>
274.		<b><u>AM 141</u></b> <i>For existing supply contracts concluded before ... [the date of entry into force of this Directive], Member States may provide for a transitional period of not more than six months after ... [the date of</i>		<b><u>T2: A-list</u></b> AM 141 withdrawn <i>Comment: Covered by Article 1(3a), row 53.</i>

Row	Commission proposal (COM(2018) 173)	EP amendments 25.10.2018 (A8-0309/2018)	Council text 1.10.2018	Presidency suggested compromise text
		<i>entry into force of this Directive] for compliance with the rules laid down in the Directive.</i>		
275.	2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.			
276.	<i>Article 13</i> <i>Entry into force</i>			
277.	This Directive shall enter into force on the fifth day following that of its publication in the <i>Official Journal of the European Union</i> .			
278.	<i>Article 14</i> <i>Addressees</i>			
279.	This Directive is addressed to the Member States.			