

EEB reaction to the report on unfair business-to-business trading practices in the food supply chain by the European Commission

On 29 January, the European Commission published its report [on unfair business-to-business \(B2B\) trading practices in the food supply chain](#).

This report gives an evaluation of the Supply Chain Initiative (SCI) that was launched two years earlier to promote fair trading practices in the food supply chain. The Commission's evaluation of the SCI was a disappointment for the Supply Cha!nge project. The Commission has completely disregarded the opinion of farmers' representatives who decided not to join the SCI since in their view it does not ensure sufficient confidentiality for complaining parties and does not provide for independent investigations and sanctions. Small and Medium-sized Enterprises (SMEs) are also clearly under-represented at the SCI. It is not surprising that farmers and SMEs are usually the weakest parties of the food supply chains and therefore the ones who suffer more often from unfair trading practices.

Eva Izquierdo, who coordinates the policy work in the Supply Cha!nge project, commented: *"We welcome the fact that the Commission encourages Member States to introduce legislation that covers the entire B2B food supply chain which includes operators from non-EU countries. It shows that the European Commission understands that to make food supply chains more sustainable, global action is needed. However, only encouraging the Member States is not enough. We need a European enforcement mechanism to guarantee confidentiality and to prevent unfair trading practices from appearing in the food supply chain."*

Background: The EEB is a partner of the [Supply Cha!nge project](#).

In July 2014, the Commission defined unfair trading practices (UTPs) as practices that deviate grossly from good commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner on another. To address the problem of UTPs, the European Commission encouraged operators in the European food supply chain to participate in the voluntary EU-wide Supply Chain Initiative (SCI) and the national SCI platforms that have been set up. At Member State level, the Commission emphasized the importance of an existing regulatory and enforcement framework.

The Commission sees the overall assessment of the regulatory frameworks at national level as satisfactory. However the Commission also affirms that most of the Member States legislation was introduced only very recently. Therefore assessment is not based on a track record. To compensate, before the end of its mandate the Commission will re-assess the potential added value of EU action to address UTPs in the light of new developments.

The SCI does not allow individual confidential complaints by potential victims of UTPs like farmers or own-initiative investigations by an independent body. Furthermore, information on bilateral disputes and how they were resolved under the SCI was based on survey responses and may therefore be incomplete. To be effective, the SCI should be modified but the European Commission just acknowledged that there is room for improvement.

In the report on orange juice [SQUEEZE OUT: The truth behind the orange juice business](#) made by the Supply Cha!nge project, we stated that the players taking part in the commercialization of orange juice in Europe do their business across borders. One example is Refresco Geber, which is the European leading bottler of soft drinks and fruit juices whose headquarters are in Rotterdam. This means that a representative from Rotterdam will negotiate the conditions of their orange juice purchase for the whole of Europe, not only for the Netherlands. If the EU wishes to eliminate UTPs, as was its firm intention five years ago, it must do something more than only encouraging Refresco Geber to be kind to the Brazilian farmers they are buying the orange juice from. We deeply regret that the Commission does not see the added value of a European enforcement mechanism which could harmonise the regulatory approach of the Member States at this stage.