

Press Release

New unassessed Commission proposal on Unfair Trading Practices risks to undermine the single market and primacy of EU law


Today, the European Commission published a proposal to step up and extend enforcement of the EU Directive on Unfair Trading Practices (UTPs). Although announced months ago, the proposal was not preceded by any impact assessment, in direct contradiction with the Commission's own Better Regulation Agenda. This is all the more a worrisome development, as some aspects of this proposal risk to undermine the single market, creating avenues for national policies that challenge the primacy of EU law. To counter this risk, we call on the co-legislators to ensure that this legislation solely focuses on better enforcement of the harmonised provisions and scope of the UTP Directive. This is imperative to ensure that the law cannot be weaponised to challenge the primacy of EU law and of the single market.

While the Commission announced already in March 2024 that it would work on new rules on cross-border enforcement of UTPs, this proposal was not subject to any detailed impact assessment nor to any stakeholder consultation, and based on only very limited internal consultation between the Commission's services. This is a highly unusual choice, which is in stark contradiction with the Commission's own internal rules on Better Regulation. *"It is alarming that the Commission chose to table such an ambitious proposal without any impact assessment or stakeholder consultation."* commented Else Groen, Director General of Independent Retail Europe.

This is particularly troublesome since we also have major concerns as to the quality of the proposal, as some aspects put into question the single market for food products and the primacy of EU law in relation to the choice of jurisdiction and of applicable law (e.g. the Rome I and Brussels I bis Regulations). The choice to allow national authorities to seek information from their counterpart in another Member State on issues that have not been harmonised by the UTP Directive, will play in the hands of governments which seek to implement nationalistic policies. *"The proposal legitimately seeks to step up the fight against UTPs in the food chain, however, allowing Member States to enforce their national rules that go beyond the harmonised provision of the UTP Directive on contracts that do not fall under their jurisdiction would deeply undermine the single market and primacy of EU law and could ultimately easily backfire against any operators in the food supply chain, including farmers"* commented Else Groen, Director General of Independent Retail Europe.

In light of this, Independent Retail Europe calls on the Council and European Parliament to step in and amend the Commission proposal to ensure that it cannot be weaponised by individual Member States to break up the single market for food products and impose the extraterritoriality of their national laws. A proper functioning single market for food products is an absolute must to preserve the competitiveness of all operators along the food supply chain, while keeping food affordable for European Consumers.

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About Independent Retail Europe:

Independent Retail Europe is the European association that acts as an umbrella organisation for groups of independent retailers in the food and non-food sectors. Our members are groups of independent retailers, associations representing them as well as wider service organizations built to support independent retailers. Independent Retail Europe represents 24 groups and their over 501.000 independent retailers, who manage more than 764.000 sales outlets, with a combined retail turnover of more than 1,411 billion euros and generating a combined wholesale turnover of 621 billion euros. This represents a total employment of more than 6.440.000 persons.

