



Briefing on supply chain fairness issues for the Agriculture Bill second reading

The food supply sector is dominated by large businesses, from brands to retailers. Smaller suppliers, including the majority of the farmers growing our food both in the UK and overseas, are therefore vulnerable to being subjected to abusive treatment by their buyers. This can involve paying invoices late, changing orders at the last minute or charging suppliers unexplained fees.

The Agriculture Bill, placed before parliament on 12th September and due for second reading on 10th October, provides a basis for regulation of unfair trading practices between agricultural producers and their customers.

As a group of organisations concerned with delivering just and fair supply chains, we welcome the advancement of this bill. However, we hope that the parliamentarians will seek to ensure the bill goes further in ending exploitative practices by raising the points below. Page 2 contains essential amendments that should be tabled at committee stage.

Points to raise at second reading

There are a number of important issues to highlight during the second reading debate:

1. The Government should be congratulated for including measures to support fairer supply chains, as called for by the farming industry. However, the government's commitment to tackling unfair trading practices will be demonstrated by the timely introduction of secondary legislation. The government should be called upon to state exactly when and how it intends to use the powers contained within section 25 of the Bill.
2. The powers in this Bill should be used to support fair purchasing in all agricultural sectors, rather than only being used to protect the most high-profile sectors such as dairy and livestock.
3. Fair dealing measures should be supported by an enforcement body with the appropriate powers, including the power to fine non-compliance and the ability to ensure the confidentiality of complainants.
4. The next step for a government that is serious about tackling unfair trading practices is to ensure that regulation applies to all stages of the supply chain.

Supporting notes to the above points

1. This is an enabling bill and lacks any detail on when regulations will be forthcoming, what specifics they will include, and how they will be enforced. The government's commitment to supporting fair dealing practices is welcome. However, the success of this bill will be revealed through the statutory instruments that the government introduces in its wake. The government should be called upon to state exactly when and how it intends to use the powers contained within clause 25 of the Bill.
2. The Explanatory Notes to the Bill lay out the government's intention to support sector-specific codes of conduct, '*which will be introduced in the sectors where voluntary codes have been unable to significantly improve contractual relationships*'. This piecemeal approach is inappropriate. If the government agrees that unfair purchasing practices are potentially damaging to the entire agricultural sector, then it should regulate accordingly. Regulating to protect a dairy farmer but not a fruit or vegetable grower would be unfair and inefficient.
3. To be effective, regulation aimed at tackling unfair trading practices must have at least two key characteristics:
 - **Fining powers:** Unfair trading practices are lucrative. An enforcement body must have the power to apply dissuasive sanctions, including the ability to fine. This is supported by the experience of regulators across Europe, including the UK's Groceries Code Adjudicator.
 - **The ability to preserve the confidentiality of complainants:** Suppliers subjected to unfair treatment are often reluctant to complain for fear of being identified by their buyer and subjected to commercial repercussions. For this reason, it is crucial that any enforcement enshrines the principle that the identity of complainants is confidential. An enforcement body should have the power to carry out investigations on its own initiative. This would also provide protection to complainants.
4. Food supply chains are complex: the behaviour of one part of the chain often affects the situation of a business many steps removed. To properly tackle unfair trading practices, a regulator must have the power to look at trading relationships along the whole chain. A focus that is limited to the relationship between a farmer and their immediate buyer is unlikely to successfully identify the root cause of unfair practices. The next step for the government should be to introduce more comprehensive legislation along these lines.

Essential amendments for consideration at committee stage

*25 (5)(a) – for complaints relating to alleged non-compliance to be **kept confidential and to be referred to a specified person with a responsibility for ensuring that confidentiality.***

25 (5)(e) – for investigations to either be based upon a complaint or upon reasonable suspicion of a non-compliance having occurred

25 (10) – Producer includes a producer outside the United Kingdom, and also includes both individual producers, and those entities which sell agricultural products after they have been aggregated from several producers. For the avoidance of doubt producers include those businesses operating a packhouse.

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