

A photograph of a banana plantation. In the foreground, large green banana leaves are visible. In the background, a dirt path leads through rows of banana trees. Two people are walking away from the camera on the path. The person on the left is wearing a striped shirt and dark shorts, carrying a white bag. The person on the right is wearing a green shirt and dark shorts, carrying a white bag. The path is flanked by banana trees and some blue plastic sheeting is visible on the left side.

Banana splits: Bananas, supermarkets, and a tale of Unfair Trading Practices

Media Briefing: October 2015



“We work harder and harder, try to produce more and better while preserving the environment. But while our plants and fruits grow, while the profits of the supermarkets grow, the prices we receive never seem to grow. They cannot sustain a decent standard of living.”

Anton Bowman, small producer,
Windward Islands, Caribbean.

Introduction

Bananas are a major staple as well as an important cash crop in developing countries and the most eaten fruit in Europe and Northern America. For decades, the banana economy has been a key example of trade injustice. The concentration of power in the hands of a few multinational companies has negatively affected the lives of thousands of banana workers and small farmers. These large fruit companies now compete to be the ‘preferred suppliers’ of the retailers whose increasing market dominance gives them the power to control banana value chains across the globe.

Make Fruit Fair

Since 2012, the Make Fruit Fair campaign has raised consumer awareness of the need to regulate supermarket buyer power at the level of the European Union (EU) and, more broadly, to reform European competition law. In 2014 the European Commission (EC) published a communication about the Unfair Trading Practices (UTPs) of retailers in the European Union. A more detailed report is due to be released in early 2016 to present the course of action the EU should take on UTPs, including an assessment of Member States competition authorities’ actions and an independent evaluation of the Voluntary Supply Chain Initiative (SCI).

This briefing set out the main findings of research commissioned by the Make Fruit Fair campaign that investigated how banana value chains in Europe operate and UTPs between fruit buyers in Europe and banana producers in exporting countries, their consequences on farmers and workers, and the relationship with pressure on prices in European markets.

Recommendations

Measures are required to address the problems identified by the research, and which are outlined in this briefing - namely the downward pressure on prices caused by the retailers, and the UTPs in the banana trade, that threaten the existence of small producers, and are eroding the working and living conditions of workers in the banana industry.

The EU and national governments in the EU need to:

Adopt legislation to ensure all EU Member States put in place robust, credible, and well-coordinated enforcement mechanisms to stop the application of Unfair Trading Practices within food supply chains serving the EU market. The following minimum requirements should be met:

- ▶ the mechanisms should be accessible for all businesses participating in EU food supply chains regardless of whether they are located in the EU or not;
- ▶ operate in a manner which protects the anonymity and confidentiality especially of suppliers who are concerned that they may lose business if they do;
- ▶ be able to deter poor practice, either at EU or Member State level via a selection of different enforcement tools (e.g. informal dialogue, financial penalty);
- ▶ share information and coordinate enforcement both between a European network of enforcement authorities and internationally.

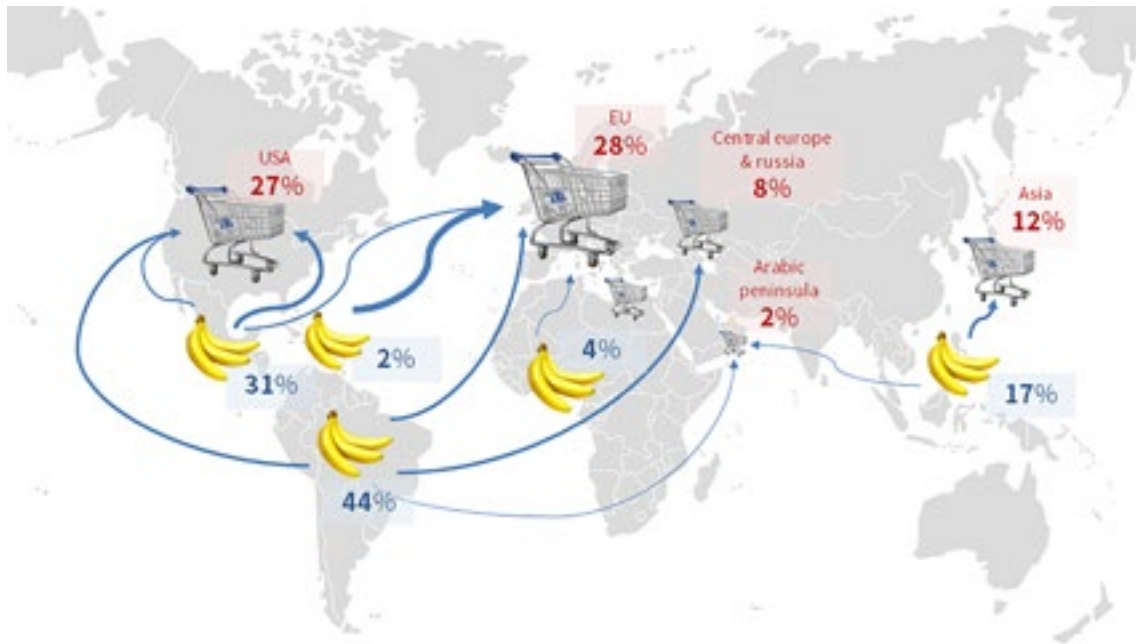
Use the EU and national competition powers to guarantee sustainable supply chains and neutrality in the interpretation and implementation of rules on the balance of power across the supply chain. Namely:

- ▶ By addressing structural issues such as the accumulation of excessive buyer power and increased market concentration in the retail sector through a revised approach to merger control.
- ▶ By addressing behavioural issues such as anticompetitive agreements and abusive unilateral behaviour in the retail sector, which have an adverse impact on small suppliers and consumers. This could also be achieved by, for example, adopting a block exemption regulation for the food sector that would allow agreements between agricultural companies when the aim is to improve trading conditions and the livelihood of producers, and/or official EC guidance on how existing legislation should be interpreted to meet these concerns.

Background

Banana production and distribution

World banana production is mainly concentrated in South-East Asia, Africa, Latin America and the Caribbean. Only 15 to 20% of world banana production is traded globally with the 5 leading banana-exporting countries (Ecuador, Colombia, the Philippines, Costa Rica and Guatemala) accounting for more than 80% of global banana exports.



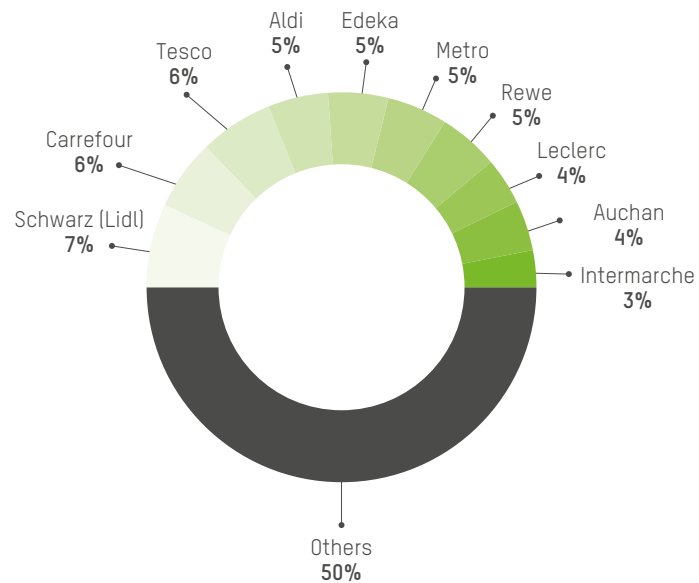
Share of banana world exports and imports
Source: BASIC based on Comtrade data (2014)

The banana consumer market in Europe

European grocery retail: a strong and growing influence of big retailers, especially discounters

- ▶ Modern grocery retail sales account for 54% of the total food sales in the EU. On a value basis, hypermarkets and supermarkets are the two main operators, accounting respectively for 35% and 33% of food sales in Europe, while discounters are the third most popular outlets with a 17% market share
- ▶ At the pan-European level, the ten biggest retailers represent almost 50% of modern food retail sales and are among the 30 largest world retailers. Five of them are German (Schwarz, Aldi, Edeka, Metro and Rewe), four are French (Carrefour, Leclerc, Auchan and Intermarché), and one is British (Tesco).

Share of grocery market by retailer in the European Union (by value)

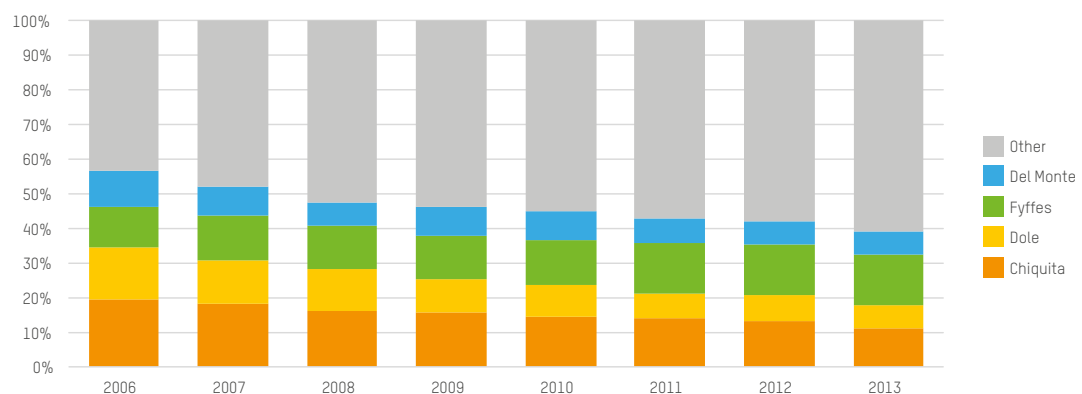


Source: BASIC, based on Planet Retail, European Grocery Retailing, May 2014

Bananas in Europe: one of the most consumed and cheapest fruits

- ▶ The European Union is the biggest world importer of bananas with the majority being sourced from Latin America. The import industry was traditionally dominated by vertically integrated companies that controlled all operations along the chain - production, shipping, import and ripening. In the 1980's, five companies alone (Chiquita, Del Monte, Dole, Noboa and Fyffes) traded 80% of world bananas. However, a major divesting by these companies of directly owned plantations and ships has reduced the main barrier to entry for businesses at both ends of the banana chain. A process which now sees Chiquita, Dole, Del Monte and Fyffes controlling only 39% of the banana trade in Europe.

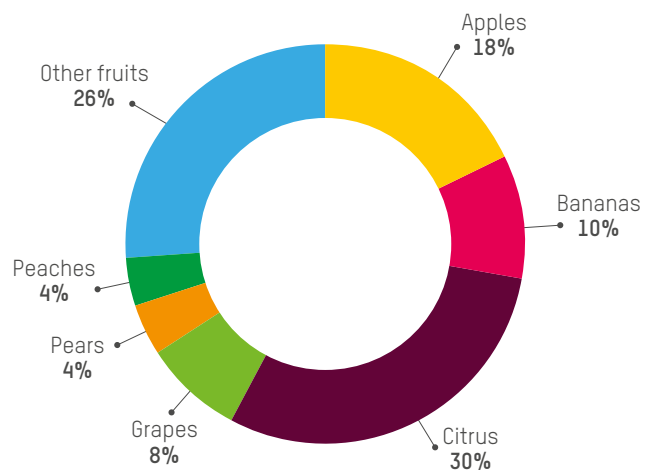
Market share of banana importers in the European Union (2006-2013)



Source: BASIC, based on European Commission, Chiquita Brands International/ Fyffes merger procedure (2014)

- ▶ Fresh fruits in general, and bananas in particular, are very important categories of products for European retailers who use this product to set the price image of their stores and attract consumers.

Main fruits consumed in the European Union (by volume)

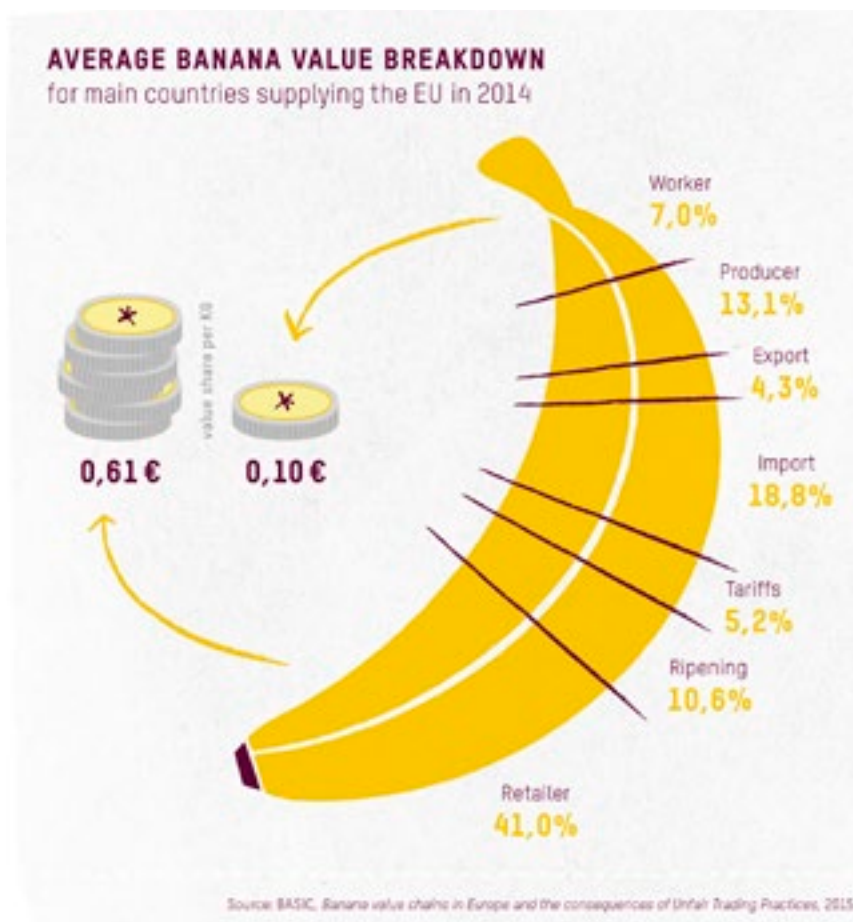


Source: BASIC, based on data from FAO Stat(2010) and Eurostat (2011)

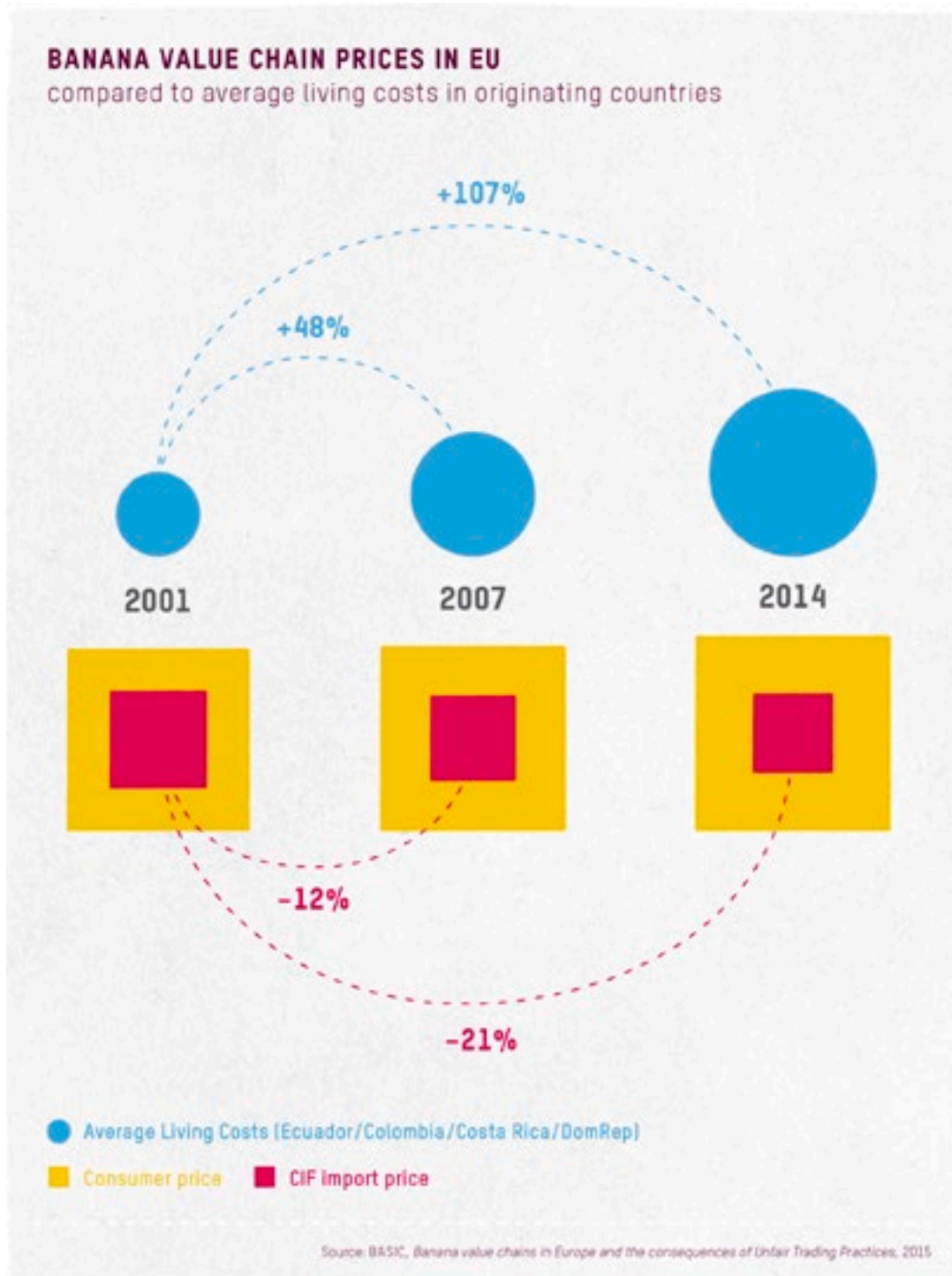
- ▶ As a result of the strong competition between retailers, the average consumer price of bananas in Europe is 25% lower than that of apples, even though the latter is the most consumed local fruit in the EU whereas, bananas are imported from Latin America and Africa.

The banana value chain in the EU

- ▶ The diagram below illustrates the share of banana value along the chain from the main countries supplying the EU, with retailers taking around 41% of the value.



- ▶ Real consumer prices have remained globally stable since 2001 in most European countries, except in the UK, where it has halved. This is in stark contrast to the import price of bananas, which has dropped by 20 % over the same period. This has effected all major countries supplying bananas to the EU (Ecuador, Colombia, Costa Rica, Dominican Republic and Cameroon) while retailers have increased their share of the banana value in most countries.



Source: BASIC based on data from Comtrade, Eurostat, CIRAD and national offices of statistics

Impact in banana producing countries

Economic impact: low and decreasing share of value not sufficient to cover production costs

- ▶ While the retailers' share of European banana value has increased since 2001 (except in the UK), small farmers and workers are getting squeezed between the price pressure of buyers and increasing production and living costs.
- ▶ In terms of production costs, between 2001 and 2015, shipping costs have increased by 233%, costs of inputs like fertilizers and pesticides by an average of 195%, and packaging materials by an average 150%.
- ▶ Meanwhile, increases in living costs are evidenced by the evolution of the national consumer price indices which are calculated on the basis of the costs of food, health, education, housing, transport and communication which have increased by 92 % in Colombia, 129 % in Ecuador, 218 % in Costa Rica and 278 % in Dominican Republic since 2001.

Main social and environmental issues related to banana production

- ▶ Increased production and living costs generate and amplify significant social and environmental impacts in most banana producing countries, including the denial of basic human rights, gender discrimination (including low levels of women's employment), a failure to earn living wages and long working hours. Additionally, workers are often poorly protected against the effects of the heavy application of toxic agrochemicals, suffering serious negative health impacts. The intensification of large scale banana export production, often without ecological production practices, is causing the pollution of land, water courses and aquifers, harming local communities and reducing biodiversity.

UTPs: an aggravating factor for banana producers and workers

The downward pressure on prices, coupled with increased production and living costs, are further aggravated by UTPs, which have been defined by the EC as those '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'. For this report, over 60 banana industry stakeholders have been interviewed to better understand how UTPs arise in the sector.

UTPs and fear of reprisal

- ▶ It should, first and foremost, be noted that collecting evidence of UTPs in the banana industry is subject to a climate of fear, with many interviewees afraid of negative reactions of buyers and potential market loss should they be identified. Not only did respondents ask to remain anonymous, but even asked for non-disclosure of the country in which they were based.

UTPs and market power in the banana sector

- ▶ UTPs in the banana sector are rooted in the imbalance of power negotiation between retailers and their suppliers, and get amplified at the beginning of the chain in producing countries, mainly taking the form of one-sided (also called 'leonine') clauses in contracts with producers and/or exporters,
- ▶ This can be aggravated during the commercial low season for bananas when demand reduces during the European summer as local fruits are available, while simultaneously, production in Latin America tends to be higher. Last minute cancellation of orders and quality claims and rejects all increase at this time of the year.

Consequences for banana farmers and workers

- ▶ Overall, small banana growers (particularly in Ecuador, Dominican Republic, Peru and Colombia) are the most impacted by UTPs as they cannot afford to remain in business because of very low profitability. Lacking sufficient resources to invest on their farms, their productivity falls dramatically, land decapitalisation takes place and migration is enhanced. This generates growing social tensions for those who remain in banana regions, as there are very few alternative local job opportunities.

Ecuador: A country of small producers

Production in Ecuador is relatively small scale compared to other Latin American countries, with 90% of banana producers being small and medium sized farms of less than 50 hectares, and giving direct employment to an estimated 190,000 people. Smaller producers employ, on average, twice as many people per hectare than the big industrialised plantations in Ecuador.

However, the current downward trend in prices leaves small producers highly vulnerable, with the potential for significant loss of jobs, particularly among rural youth, and resulting in increased social problems for the country.

- ▶ Working and living conditions for banana workers are also under pressure, with hourly rates commonly being replaced in several countries by piece-work; increased hiring of workers for limited (and repeated) periods of three months, thereby reducing the number of permanent workers; increased use of sub-contractors and temporary agencies; and increased use of migrant workers in several countries to achieve a cheaper and potentially more compliant labour force (often lacking the necessary official papers). In the Dominican Republic, for example, around 66% of the banana workers are migrant workers from neighbouring Haiti.

Consequences for consumers

- ▶ While suppliers are the first to suffer the consequences of the current situation in the banana trade, negative consequences for consumers are likely to arise sooner or later. If retailers continue to capture an increasingly excessive share of banana values, and buying prices are forced down to unsustainable levels, suppliers will struggle to survive. More vulnerable smaller producers may be forced to leave the industry, no longer able to support their families through the banana trade.
- ▶ And ultimately, the result may well be highly concentrated banana chains, from retailers down to producers, generating further negative social and environmental impacts in producing countries, while reducing the choice available to consumers.

What could the EU do?

The European Parliament has raised concerns about UTPs several times, and as far back as 2008 more than 50% MEPs signed a written declaration to ask the EC to look at regulating supermarkets to stop the application of UTPs in food supply chains. The EC's Green Paper on UTPs in January 2013 gathered stakeholder views on the occurrence of UTPs in the food and non-food supply chain¹.

In its recent Communication Tackling unfair trading practices in the business-to-business food supply the **EC acknowledges that UTPs are quite common and may have harmful effects, especially on small and middle-size enterprises in food supply chains.** The Commission also stated *"that UTPs applied within the EU could have direct or indirect effects on producers and companies outside the EU, including in developing countries."*²

A few EU Member States are well advanced in setting up robust enforcement mechanisms which are mindful of the climate of fear to stop UTPs (France, Hungary, Ireland and the UK).³ Others (Austria, Cyprus, Greece, Latvia, Malta and Poland) have enforcement mechanisms which were considered insufficient by companies surveyed who felt exposed.⁴ The problem is that *"The existing legal tools that can be useful to address UTPs and their negative effects are very fragmented and not specifically designed to tackle this problem"*⁵.

1 Green Paper on unfair trading practices in the business-to-business food and non-food supply chain in Europe COM(2013) 37, 31 January 2013

2 Communication from the European Commission, Tackling unfair trading practices in the business-to-business food supply chain, COM(2014) 472, 15 July 2014.

3 British Institute of International and Comparative Law (J Stefanelli and P Marsden), Models of Enforcement in Europe for Relations in the Food Supply Chain, April 2012

4 European Commission DG Internal Market European Business Test Panel Consultation on Unfair Practices 15 Feb 2012

5 Communication from the European Commission, 2014, op. cit.

In the meantime, a number of industry associations have set up a voluntary self-regulation initiative (the Supply Chain Initiative). Whilst it has raised awareness on the problem of UTPs, it does not guarantee sufficient confidentiality for suppliers, nor has it the ability to apply tough financial sanctions, and so the initiative cannot be considered as an effective enforcement mechanism.

By the end of 2015 the Commission intends to present to the Council and the European Parliament an evaluation of the effectiveness of Member States' enforcement mechanisms and of the industry-led voluntary scheme.

In parallel, EU Competition Policy has so far ignored sustainability and fair trade criteria in the assessment of both structural and behavioural market competition issues. The current methodologies applied to assessing consumer welfare do not sufficiently take into account the interest of future consumers. This is however hardly compatible with the new mission given to the new EU Competition Commissioner Margrethe Vestager, *"Competition policy [...] should contribute to steering innovation and making markets deliver clear benefits to consumers, businesses and society as a whole"*⁶.

There are already a number of EU Member States that are taking action at national level to address this gap. For example, in May 2014, the Dutch government issued policy directions to the Dutch competition authority on the application of the Dutch competition rules to sustainability initiatives, pushing for the adoption of a broad consumer welfare concept (not only price considerations), and taking into account benefits to both current and future consumers.⁷

Further information

The full Make Fruit Fair report *Banana value chains in Europe and the consequences of Unfair Trading Practices* is available to download at **www.makefruitfair.org**

The background "Who's got the power" report issued in October 2014 is available to download at **www.fairtrade-advocacy.org/power**

6 Mission letter from Jean-Claude Juncker, President of the European Commission, to Margrethe Vestager, Competition Commissioner, 1 November 2014

7 See <http://kluwercompetitionlawblog.com/2014/05/15/art-1013-and-sustainability-new-developments-in-the-netherlands/>

Media contacts

Sergi Corbalán

Executive Director
Fair Trade Advocacy Office
Village Partenaire - bureau 1
Rue Fernand Bernierstraat 15
1060 - Brussels - Belgium
corbalan@fairtrade-advocacy.org
+32 (0) 2 543 19 23

Jacqui Mackay

Banana Link
42-58 St George's Street
Norwich
Norfolk
NR3 1AB
United Kingdom
info@bananalink.org.uk
+44 (0)1603 765670

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