



MINISTRY
OF RURAL DEVELOPMENT

B2B Relations: Voluntary Initiatives vs. Regulation

Péter Szilágyi
senior counsellor
Dept. of Food Processing



Content

- Unbalanced relation of retailer chains and food suppliers in Hungary – experiences of voluntary and regulatory solutions.
- The EU initiative – High Level Forum for a Better Functioning Food Supply Chain – expected outcome of the B2B platform activities.

Retail Chains in Hungary

- ‘Modern chains’ (hypermarkets, cash and carry, supermarkets, discount chains) make up about two thirds of the share of the FMCG retail market; hypermarkets alone have about a quarter share (GfK 2008)
- Due to the extreme competition among chains there is a constraint to reduce prices/costs (price driven market)
- The results are **unfair business practices** deteriorating quality of goods and services
- Need of government actions

Government Actions

- New trade act (2005)
- Unsuccessful initiatives of Ministry of Agriculture
 - Code of Ethics (2006)
 - Food Supply Chain Code (2009)
- Act XCV. of 2009 on prohibition of unfair commercial practices by distributors over against suppliers of agricultural and food products

Act XCV. of 2009 - Unfair Business Practices

- Conditions ensuring unilateral advantages for the retailer;
- Mandatory redemption, except for default fulfilment; to pass costs serving retailer's interests;
- Listing fees;
- Charges regarding services that were either not provided or not required by the supplier;
- Clause regarding supplier's contribution higher than the discount given to the consumer by the retailer;
- Charging logistic costs between the retailer's own premises;
- To devolve fines;
- Payment over 30 days;
- Exclusion of interests or penalty in case of late payment;
- Clause on exclusive selling rights (excluding retail brands);
- Unilateral modification of contracts;
- Sale below the purchasing price or the production costs in case of own production;
- Etc.

Act XCV. of 2009 – Enforcement

- Authority: National Food Chain Safety Office (“NÉbih”).
- Procedures/investigations of the Authority are based on
 - claims of suppliers (anonymity!)
 - reports of suppliers’ associations
 - ‘ex officio’ initiations of NÉbih
- Consequences of breach of provisions
 - product chain fine based on the extent of breaches and the net revenue of the distributor
 - taking written commitment of harmonising attitude with the provisions

Act XCV. of 2009 – Results

- Some positive changes in the business practice of retail chains that indicates that the provisions of the Act are effective and can be observed.
- The Ministry regularly surveys the results, and takes the necessary amendments, e.g.:
 - extended definition of distributor of food and agricultural products
 - prohibition of discriminative pricing (margin)

High Level Forum

- High Level Group on the Competitiveness of the agro-Food Industry (2008) – „Recommendations”
- High Level Forum for a Better Functioning Food Supply Chain (2010) – *'...shall assist the Commission with the development of industrial policy in the agro-food sector.'*
- Structure:
 - High Level Forum
 - Sherpa Group
 - Expert Platforms (WG-s)
 - Expert Platform on Competitiveness
 - ***Expert Platform on B2B Contractual practices***
 - Expert Platform on Food Prices

B2B Platform

- Objectives:
 - to agree on a list of practices which can be deemed unfair;
 - to identify relevant best practices in commercial relations;
 - to propose actions when necessary
- Stakeholders:
 - Retailers and their organizations
 - Agricultural producers and organizations
 - Food processing organizations
 - Representatives of certain MS-s
- Disputes:
 - between trading organizations and suppliers
 - on voluntary vs. regulatory solutions

B2B Platform - Outcome

- Principles of good practices
- Voluntary framework to offer complement to (other) EU and national measures
 - Web based system
 - Voluntary registration of stakeholders
 - Solving disputes by
 - internal disputes
 - mediation
 - arbitration
 - Governance group composed by the interest groups

Voluntary Framework - HU opinion

- Anonymity is not ensured
- Enforcement is not ensured (lack of hard sanctions)
- Hungarian SME-s participation is unlikely

B2B Platform - HU position

- To those States that are more affected with this problem it would be important to have a common European solution that is acceptable for all Member States.
- Hungary would welcome the development of a ***detailed community guidance*** that would lay out the framework of considerations of fair business practices for retailers
- Each Member State – in accordance with this framework – could establish within their competence the actions they deem necessary according to their peculiarities.



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Thank you for your kind attention!