



Code of conduct for fair trading relationships between suppliers and buyers in the Agro Food Chain

2011-2012 Annual Report

The code of conduct for fair trading relationships between suppliers and buyers anticipates that an annual report is issued on the basis of the input of the relevant sector organisations without stating individual names. The committee of sector organisations decides on possible adjustment of the code and informs the minister and the administration about its activities.

The following report provides an overview of the application of this code during the second year of operation.

This report has been divided into 4 themes:

- Adherences
- Follow-up of the recommendations
- Dispute resolution
- Possible adjustments

1. Adherences

The recommendations become binding through individual adherence of the operators to a declaration of fair trading relationships between suppliers and buyers.

The number of adherences did not further evolve in the course of the second year of operation. At the moment **221 companies** signed the Adherence of which

- **42 compound feed companies** (BEMEFA)
- **166 companies from the Food industry** (FEVIA)
- **13 companies from the distribution sector** (COMEOS)

The lists of acceded companies are available on the websites of these sector organisations.

For the ABS, Boerenbond, FWA, UNIZO and UCM organisations the signature of the chairman applies to all members.



2. Follow-up of the recommendations

Below an overview is provided of the activities for each of the recommendations:

- *Suppliers and buyers exchange general information in order that the seller can better gear the offer to the demand and can – where necessary – diversify or convert.*

As announced in the previous annual report COMEOS had the intention of presenting a plan of approach to the Chain platform. For the implementation thereof COMEOS and VLAM agreed on arrangements for the exchange of market information. During a periodic meeting between both organisations GFK figures and reports of the sector groups will be exchanged. As a consequence COMEOS is able to further elaborate the relevant recommendation of the code of conduct.

- *Suppliers and buyers act as partners endeavouring sustainable development of the entire Agro Food Chain. In this context the following three dimensions are considered in their entirety and approached uniformly:*
 - *“Society” (a correct income for both employees and employers);*
 - *“Environment” (an activity that burdens the ecological system as little as possible for future generations);*
 - *“Economy” (an economic return that is sufficient to guarantee the continuity of the links in the chain.*

In the course of the year of operation extreme price discounts by some retailer were reported occasionally. One instance was brought before the court by the farmers organisations in preliminary injunction proceedings in order to assess the compatibility with the statutory ban on sales at a loss. In another instance the relevant retailer acknowledged that it was a mistake. After an intervention of COMEOS the retailer sent an erratum to all relevant stores.

One farmer organisation requested to no longer announce promotional discounts for fresh agricultural products on account of the fact that the costs thereof would, according to the same, be recovered from the suppliers. COMEOS argued that promotional discounts stimulate the demand and translate, in the long term, into better prices, also for the suppliers. Hence a common viewpoint was not possible in respect of this request. The parties did agree on a call for restraint in the area of price discounts in times of crisis situations.

An explanation was provided on the Agro Food Chain platform about the agreement that the farmers organisations reached after their actions with a retailer about the award of an “efficiency bonus” to the sow breeders. This bonus was made possible through a reduction of the number of suppliers of pork meat and therefore an increased efficiency and cost saving at the relevant retailer.

In the course of the year of operation the implementation of the European Directive for the housing of productive poultry resulted in a shortage of eggs for the processing industry resulting in a strong increase of the prices. The chain organisations requested all partners of the egg chain to comply with the code of conduct, which also implied observance of the delivery agreements.



- *Buyers guarantee an accurate handling of the Food products in order that the efforts of the suppliers are valorised maximally.*

As the cooperation of a retailer with the Federal Food Agency fell short the recall of a certain potato variety adopted unnecessarily large proportions resulting in considerable damages for the suppliers. After mediation by COMEOS an arrangement was agreed between the relevant parties that resulted in arrangements for more and better cooperation.

- *Buyers offer and promote local products to the extent that they are competitive (in the area of the price and the quality) and are in line with their commercial strategy.*

Since 2008 the members of COMEOS have committed to support the Belgian agriculturists and horticulturists by boosting their communication about Belgian products in advertising folders and in the points of sale.

The share of Belgian products on the shelves of the members of COMEOS is maintained at a very high level. For the products of animal origin this increases up to 95%. It is difficult to provide a global percentage for vegetables and fruits. Within the offer of the Belgian growers equally high percentages are recorded in the harvest season.

- *Buyers comply with the contractually stipulated, where applicable statutory, payment terms. In this respect the moments of the transfer of title that can differ depending on the sector and the product are taken into account.*

A farmer organisation presented the question of reducing the payment delays for fresh products. The other chain organisations argued that payment delay is part of the commercial negotiations. The recommendation of the code of conduct is moreover limited to the observance of contractually stipulated payment terms. Hence the opinions differ on payment terms. In order to better evaluate the payment practice in this area the Chain organisations exchanged the results of survey amongst their members. This showed that the payment delays differ greatly from sector to sector: between 12 and 37 days for fresh products and an average of 48 days for industrial products. As the suppliers of cooperatives are also the owners of their cooperative it was noted that it makes little sense to act in a regulatory manner. The cooperatives know that the applied payment delays are a direct result of the commercially stipulated customer credit.

- *Suppliers and buyers prepare a written agreement with clear terms and conditions (where necessary the pricing method) of which both parties can take note in advance.*

One retailer anticipates the charge of all sorts of new costs to the suppliers in the new agreements: internal transport (from a central warehouse to the stores), handling of pallets, compulsory fee for packaging damaged by the consumer and for unsold goods. COMEOS announced to address this with the relevant retailer.



- *Suppliers and buyers do not impose unilateral changes of contractual terms and conditions.*

In the course of the year of operation no incidents were discussed in connection with this recommendation barring one isolated instance.

- *Suppliers and buyers acknowledge the possibility of relying on mediation with agreement of both parties in terms of the mediator.*

The possibility to rely on a form of mediation was discussed as a possible track for compliance with the recommendations of the code of conduct. In this respect reference is also made to point 4 of this annual report about “possible adjustment”.

- *Suppliers and buyers resolutely opt for the consultative model as a strategy to solve disputes in their mutual relationship.*

In the course of the past year of operation all participating Chain organisations did, without exception, refrain from actions that would interfere with the consultative model.

The Chain organisations elaborated a joint viewpoint regarding the Federal Agency for the Safety of the Food Chain (“FAVV”) and established a sustainable development working group (the latter to date without COMEOS).

3. Dispute resolution

The platform does not handle individual complaints. If an incident has a wide scope then the undersigned organisations inform each other accordingly with a copy to the chairman of the platform. The latter keeps an overview of the incidents. The follow-up of these incidents is evaluated in the plenary platform.

During the period of this report four incidents were reported (see above). The relevant sector organisations followed each of these incidents. This implies that clarification was provided about the policy of the relevant operator according to the principle of “comply or explain”.

4. Possible adjustment

Even though this code is a national initiative the organisations of the Belgian Agro Food Chain opted to pursue a European harmonisation. The high-level activities of the European forum for a better operation of the Food supply Chain are therefore followed closely.

During the past year of operation this particularly regarded two aspects of these European activities:

- the principles of good practices for the vertical relationships in the Food supply Chain; and
- the framework for implementation and enforceability of these principles.



4.1. Principles of good practices

The differences between the Belgian code of conduct and the European principles were listed and discussed. According to the Chain organisations the adoption of the European principles in the Belgian code would result in a weakening of the latter as the principles are formulated in a less mandatory manner than the recommendations of the code. This particularly applies to the principles in connection with written agreements, unilateral deviations and the company risk. Two other points of the European principles have, however, not expressly been anticipated in the Belgian code: confidentiality and justified questions. The Chain organisations were, however, of the opinion that these latter two points are implicitly covered by the current Belgian code. Hence it was decided that the European principles do not necessitate an immediate change of the Belgian code.

4.2. Implementation and enforceability

After the approval of the principles of good practices in November 2011 the European Commission requested the organisations of the Food Chain to elaborate a proposal about the implementation and enforceability of these principles. In June 2012 this resulted in a draft text on the basis of the following principles:

- Organisation of a web-based registration system and awareness campaign by the European Commission.
- Stimulation of the companies to accede voluntarily. Before the companies accede they must see to it that the necessary procedures have been anticipated for the resolution of disputes (e.g. training, designation of a contact person in case of disputes, procedure for dispute resolution, ...).
- Engagement of the registered companies to apply the principles of good practices and to implement a procedure for dispute resolution. The party who submits a complaint can choose between 3 options: internal procedure within the company, mediation by a third party (non-binding ruling) or arbitration (binding ruling).
- Control on respect, sanction and evaluation of the success of the implementation framework.
- Management of the implementation procedure by a 'governance group' that follows a number of key performance indicators and that issues an annual report.
- Supremacy of the local (national) arrangements over the European procedure.

Even though some organisations (COPA/COGECA and CLITRAVI) could not agree with this draft text all European organisations committed to further participate in the discussions about the implementation of the principles of good practices.

The impact of these European discussions on the Belgian code of conduct should further be examined.

22 October 2012