



The relationship between contractual arrangements and unfair trading practices in the EU dairy farm sector

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Outline

- **Introduction and policy background**
- **Aim of the study**
- **Data and Methodology**
- **Results**
- **Conclusions & Limitations**

Unfair trading practices (UTPs) are broadly defined as practices which grossly deviate from good commercial conduct, and are contrary to good faith and fair dealing. These practices have been under intense policy scrutiny

In 2013, the EC carried out a **public consultation** on the basis of questions in a "Green Paper on UTPs in the B2B. It aimed to identify the main problems and to propose next steps in addressing UTPs

With the 2016 resolution, Parliament invited the Commission to **submit a proposal** for an EU-level framework to tackle UTPs

In 2017, based on the recommendations of the Agricultural Markets Task Force, the Commission launched an **inception impact assessment and a public consultation. In 2018 the EC** adopted a legislative proposal on unfair trading practices (UTPs)

On 17 April 2019, Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain was adopted. The Directive sets out

- 10 UTPs which are prohibited in all circumstances – these are generally referred to as "Black" UTPs
- 6 UTPs, which are prohibited unless the parties agree clearly and in an unambiguous manner beforehand - these are generally referred to as "Grey" UTPs.

EU MS are required to transpose the Directive into national law by 1 May 2021 the directive will enter into force by 1 November 2021 at the latest.

2013

2016

2017/18

2019

2021



Basic (2015) UTPs between banana buyers in Europe and banana producers in exporting developing countries

- one-sided clauses
- increased occurrence of last minute cancelation, rejection and/or quality claims during low-price (over-supplied) seasons (asymmetric risk sharing);
- small producers are often used as buffer suppliers by large plantations.
- Fear factor

Comisión Nacional de la Competencia, 2011

- survey conducted by the Spanish Competition Authority with the aim to analyse the relations between manufacturers and retailers in the food sector, show that 56% of responding suppliers were frequently or occasionally subject to retroactive changes to contract terms

Empirical evidence of the existence of UTPs

Italian Competition Authority (2013)

A survey conducted by the Italian Competition Authority shows that 57% of producers often or always accepted retroactive unilateral changes in contract terms, because they are afraid of commercial retaliation in case of refusal of the changes

Copa-Cogeca (2013)

- 17 different forms of UTPs
- 94% of all sampled firms) was affected by at least one UTP
- frequent UTPs include: (i) imposing fund, general terms and conditions, refusing or avoiding essential terms in writing; threatening business disruption (or termination) to obtain an advantage



Aim of the Study

- To estimate the determinants and prevalence of UTPs in contractual arrangements between dairy farmers and their buyers in Europe;
- Particularly to investigate the extent to which UTPs can be linked to the degree of contract completeness, within a multidimensional conceptualization of UTPs (e.g. Copa-Cogeca 2013a,b; Renda et al., 2014; Basic 2015)

Data

- Retrospective cross-sectional dairy farm survey conducted in five regions across four EU countries: Germany (Bayern), France (Normandy), Poland (Podlaskie), and Spain (Galicia and Asturias).
- The total number of surveyed farms was 1248 split as follows: 204 in Bayern, 204 in Normandy, 335 in Podlaskie, 405 in Galicia and 100 in Asturias
- Regions were selected to reflect the most import dairy production region(s) in the country. The core sample is represented by farmers that in 2016/2017 were managing a dairy farm active for at least two consecutive past years. The sample was stratified by farms size (i.e. number of dairy cows per farm).

Main evidence on UTPs

In the contract content

- we observed 6 different UTPs
- 96% of surveyed farmers have reported at least one UTP in their contract with the main purchaser
- Across the five studied regions, the share of farmers with at least one UTP varies between 91.4% in Bayern and 100% in Asturias
- The most common UTPs in the contract content are: “no protection if the purchaser fails to fulfil the contract” affecting 90% of total farmers

During contract execution

- we observed 12 different UTPs
- 8.4% of surveyed farmers with written contract reported at least one UTP
- Across the five studied regions, the share of farmers with at least one UTP varies between 15% in Galicia and 1.5% in Podlaskie
- The most common UTPs in the contract executions are: “Fear factor” and price was changed unilaterally affecting 3.7%, 2.7% of total farmers

Estimation procedure

- We use Generalized linear model (GLM) with family (binomial), link(logit). The GLM is represented by three different parts—the distribution of random variable, a linear predictor and link function. Specific to our application we have:
 - Distribution of random variable: $r_d \sim \text{binomial}(k_d, p_d)$
 - Linear predictor: $\eta_d = \beta_0 + \beta_1 x_d$
 - Link function: $\eta_d = \log \lambda_d = \log(-\log(1 - p_d)) - \log \varphi$
- data display a high degree of over-underdispersion

	Count of UTPs									Variance	
	0	1	2	3	4	5	6	7	8	Mean	
Frequencies of total UTPs	42	570	284	119	51	12	5	2	1	1.67	1.12
Frequencies of UTPs in the contract	45	605	289	108	34	4	1			1.54	0.78
Frequencies of UTPs during execution	983	78	16	5	3	1				0.13	0.22

Estimation procedure (continue)

➤ The model we analysed is the following:

The linear model we analysed is the following:

$$Y_{ij} = b_0 + b_1 \text{Flex_complex contract}_i + b_2 \text{Farmer}_i + b_3 \text{Market}_i + b_4 \text{Regions}_i + e_i$$

➤ Three different model specifications:

- M1: Y=UTPs arising in the contract content
- M2: Y=UTPs arising in contract execution
- M3: pooled UTPs identified in both contract content and execution



	UTPs in the contract	UTPs during contract execution and during finalization	All UTPs		UTPs in the contract (A)	UTPs during contract execution and during finalization (B)	All UTPs (C)
	OR				OR		
Contract completeness	1.110***	1.073	1.099***	Contract completeness	1.124***	1.276**	1.126***
Frequency on price inquiry	0	0	0	Farmer bargaining power CORE	0.850*	0.62	0.833**
Never	1	1	1	Farmer bargaining power OTHER	0.876	1.703	0.934
Once a day or week	0.937	1.098	0.957	Relationship with the buyer			
once every fortnight or month	0.873	1.816	0.93	Rather bad/very bad	1	1	1
Less than once a month	0.782**	1.622	0.840*	So-so	0.979	0.597	0.861
Relationship duration	0.999	0.994	0.999	Rather good	0.848	0.282**	0.729*
Investment in the dairy farm	0.98	1.442	1.006	Very good	0.744*	2.71e-08***	0.625**
Distance to the main buyer	0	0	0	Education	1.065	1.332	1.074
Between 1-9.9 km	1	1	1	Gender	0.860**	0.502	0.853**
Between 10-50 km	1.016	0.753	0.989	Milk cooperative	1.292*	13.62***	1.453***
More than 50 km	1.13	1.223	1.122	Milk PO	1.34	11.58**	1.459*
Farmer bargaining power CORE	0.849**	0.524	0.824**	Farm size			
Farmer bargaining power OTHER	0.872	1.738	0.91	Small	1	1	1
Relationship with the buyer				Medium	0.992	0.511	0.969
Rather bad/very bad	1	1	1	Large	0.945	0.429	0.931
So-so	0.78	0.971	0.827	Interaction: contract completeness – cooperative	0.955*	0.726**	0.942**
Rather good	0.703*	0.366*	0.688**	Interaction: contract completeness – PO	0.925**	0.679**	0.915***
Very good	0.580**	0.0796**	0.569***	Nut3 FE	Yes	Yes	Yes
Education	1.021	1.068	1.019	Company FE			
Gender	0.905	0.511*	0.884*	Number of Observations	1029	1029	1029
Milk cooperative	1.299*	2.604	1.383**				
Milk PO	1.214	2.237	1.284				
Farm size							
Small	1	1	1				
Medium	0.98	0.818	0.974				
Large	1.083	1.082	1.075				
Other farm activities	1.205*	0.581	1.149				
Interaction: contract – cooperative	0.958	0.863	0.951*				
Interaction: contract completeness – PO	0.953	0.909	0.953*				
Nut3 FE	Yes	Yes	Yes				
Company FE							
Number of Observations	1064	1064	1064				

Conclusions

- A significant presence of UTPs is observed among dairy farms, with 96% of surveyed farmers reporting at least one UTP. However, there appears to be a relatively lower occurrence of UTPs during the contract execution phase.
- The completeness of contracts is linked to the likelihood of farmers reporting more UTPs in the contract content. However, it does not impact the number of reported UTPs during the contract execution and its finalization.
- Empowering farmers positively influences the reduction of UTPs, particularly when negotiating core elements such as milk price, contract duration, premiums for higher milk quality, timing of payments, and quantity.
- There is some evidence suggesting the influence of Producer Organizations (POs) in reducing UTPs, particularly in situations where contracts are complex.
- It is crucial to direct more attention towards small farms, as they face a higher incidence of Unfair Trading Practices compared to larger ones.

Limitations

- No panel data was utilized in the analysis.
- Farms without contracts were excluded from consideration in the study.
- There is a question regarding the extent to which our findings can be generalized beyond the five regions included in the analysis. Further research in other settings, encompassing different regions or sectors, is deemed necessary.

Thank you
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Variables' name	Definition	Variables 'code
Flex_comp	Contract completeness	Sum of the elements included in the contract (from 0 to 18)
Status	Farm legal status	1= Individual/family farm household
int4_ii	Interaction terms between distance and farmer size (Small holders)	0 to 4
int4_iii	Interaction terms between distance and farmer size (Medium holders)	1 to 4
Int5 int5b	Interaction terms between flex_comp and Milk cooperative/POs	0 to 16
Farmer bargaining power	Share of elements included in the contract and negotiated by farmers on total elements in the contract	continues
Milk cooperative	Dummy variable, member of a Milk cooperative	1 if member 0 otherwise
Milk producer organisation (PO)	Dummy variable, member of a Milk producer organization (PO)	1 if member 0 otherwise
Regional Price	Frequency checking regional milk price in the region	once a day or week; once every fortnight or month; less than once a month; Never
long relationship	Number of years delivering milk to the main purchaser	continues
Gender	Gender farm manager	1==Female
Education	Type of education	Vocational training, Primary or below, Secondary, University, Higher
Other livestock	No dairy specialized	1 if producer of other livestock or agricultural products
Investment	Innovation adopted for dairy farming in the last five years	World Bank WDI (2011)
Distance	distance from the main purchaser in Km	Less than 1km, Between 1-9.9km , Between 10-50km, More than 50 km
Type of holders	Number of dairy cows	small, medium and large holders
Regions	Dummy variable for regions	Five dummies variables