

The Danish UTP Act

Annual report on enforcement
activities

March 2025



KONKURRENCE- OG FORBRUGERSTYRELSEN

The Danish UTP Act

The Danish Competition and Consumer Authority

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Online ISBN 978-87-7029-849-0

Annual report on enforcement activities 2024 for the Danish UTP Act has been prepared by the Danish Competition and Consumer Authority

March 2025

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Chapter 1

Introduction

On 1 July 2021, the Danish Act on unfair trading practices in business-to-business relationships in the agricultural and food supply chain entered into force; cf. Act No. 719 of 27 April 2021¹ (the Danish UTP Act). The Danish UTP Act transposes Directive 2019/633/EU on unfair trading practices in business-to-business relationships in the agricultural and food supply chain² (hereafter referred to as the "UTP Directive"). The Directive intends to eliminate or limit certain types of trading practices (so-called "Unfair Trading Practices").

Under article 10, subsection 1 of the Directive, the Danish Competition and Consumer Authority (hereafter referred to as "the DCCA") must publish a report, which describes the activities that fall within the scope of the UTP Directive. The report includes i.a. the number of complaints received and the number of investigations opened or closed during the previous year.

In this report, the DCCA describes the most significant activities related to the transposition of the Directive and the authority's enforcement of the new rules in the area.

¹ <https://www.retsinformation.dk/eli/lt/2021/719> (The Danish UTP Act)

² [L 2019111DA.01005901.xml](https://eur-lex.europa.eu/eli/dir/2019/633/oj) (europa.eu)

Chapter 1

The rules

2.1 Rules on unfair trading practices in the agricultural and food supply chain

The Danish UTP Act regulates trade between buyers and suppliers at all levels of the agricultural and food supply chain. This includes producers of primary goods, manufacturing firms, distributors and retail trade. The Act does not regulate consumers' purchase of agricultural and food products.

The Act regulates agreements between suppliers and buyers of agricultural and food products. The Danish implementation goes beyond the underlying UTP Directive by expanding the scope, with certain exceptions regarding the rules on maximum payment terms in Sections 3 and 4 of the Act. This expansion means that all suppliers benefit from the protection provided by the Directive, regardless of the supplier's size and relative bargaining power. With regard to the rules concerning maximum payment periods in Sections 3 and 4 of the Act, there are certain exceptions for small buyers with an annual revenue of EUR 2 million or less and for large suppliers with an annual revenue of more than EUR 350 million, respectively.

Box 2.1

Background to the rules

- » Aim to protect producers and suppliers of agricultural and food products against unfair trading practices from larger buyers
- » Prohibits 16 types of unfair trading practices

Chapter 2

Enforcement of the Act

3.1 The DDCA's Enforcement of the Act in 2024

The DCCA has been appointed as the independent enforcement authority of the rules concerning unfair trading practices in the Danish UTP Act. Thus, the DCCA receives complaints and adopts decisions in accordance with the Danish UTP Act.

The DCCA has not received any complaints in 2024. Since the Act came into force, the DCCA has only received one complaint. However, the complaint was subsequently withdrawn. The DCCA has also not initiated any investigations, meaning that no decisions have been made in cases under the Danish UTP Act for now.

3.2 Focus on information and guidance

Since the Act came into force, the DCCA has focused on informing and advising companies about the rules in the new Danish UTP Act. This has also been the case in 2024.

The DDCA has also provided general guidance to companies regarding the scope of the Act, as well as other provisions of the Act and their interpretation.

In 2024, as in previous years, the DCCA has been in dialogue with market actors about their experiences with the Act.

It is the DCCA's understanding, partly based on dialogue with industry organizations, that companies have largely adapted to the rules since the law's implementation. Furthermore, the DCCA understands that suppliers, buyers, and industry organizations have largely addressed issues related to unfair trading practices through dialogue.

However, some industry organizations have pointed out that there is still room for improvement in certain areas when it comes to the practical application of the Act and market actors' compliance with the rules. This is particularly true in relation to the requirement that contractual terms, as set out in Section 6 of the Danish UTP Act, must be agreed upon in "clear and unambiguous terms," and in relation to the buyer's collection of payments not related to the sale of the supplier's agricultural and food products³. The DCCA has not received or processed complaints regarding these issues.

³ According to section 4.3.3 in [the DCCA's Evaluation of the Danish UTP Act, November 2024](#).

Box 3.1
Prohibition

Absolute prohibitions (Black list⁴)

1. Payment for perishable agricultural and food products later than 30 days⁵
2. Payment for other agricultural and food products later than 60 days⁶
3. Cancellation of orders of perishable products at short notice
4. Unilateral changes of supply agreements
5. Requesting payments that are not related to the supplier's sale of agricultural and food products
6. Requesting payment for the deterioration or loss, or both, of goods which is not caused by the negligence or fault of the supplier
7. Buyer refuses to confirm in writing the terms of a supply agreement
8. Illegal acquisition, use or disclosure of the supplier's trade secrets
9. Buyer threatens to or carries out acts of commercial retaliation, for example if the supplier's legal rights are exercised
10. Requesting compensation for costs of examining customer complaints, despite the absence of negligence or fault on the part of the supplier

Prohibitions that can be waived by prior agreement (Gray list⁷)

1. The buyer returns unsold agricultural and food products without paying for those.
2. The supplier is charged for stocking, displaying or listing of the goods
3. The buyer requires the supplier to bear all or part of the costs of any discounts as result of e.g. sales promotion
4. Requesting payment for advertising the product
5. Requesting payment for marketing of the product
6. Charging for staff for fitting-out premises used for the sale of the good

3.3 Cooperation across EU member states

In order to achieve a consistent approach to the interpretation of the rules on unfair trading practices throughout the EU, the UTP Directive prescribes a close collaboration between the enforcement authorities of the EU Member States and the European Commission.

The DCCA has in 2024 participated in discussions with other European enforcement authorities about the transposition and enforcement of the prohibition provisions.

⁴ The trading practices listed in Sections 3-5 of the Danish UTP Act are considered unfair due to their nature and are therefore always prohibited. These prohibitive provisions are referred to as the "black list," while the corresponding provisions in the EU context are referred to as "The Black List" or "Black UTPs."

⁵ For suppliers with turnover above 350 million euros, only a maximum payment term of 60 days applies. No maximum payment terms are set for buyers with an annual turnover of less than 2 million euros.

⁶ Ibid.

⁷ The forms of trading practices listed in Section 6 of the UTP Act are only lawful if an agreement has been made beforehand in clear and unambiguous terms in the delivery agreement or in a subsequent agreement between the parties. These prohibitive provisions are referred to as the "grey list," while the corresponding provisions in the EU context are referred to as "The Grey List" or "Grey UTPs."

Chapter 3

Monitorering og evaluation

4.1 Background for the Evaluation of the Danish UTP Act

The Danish UTP Act introduced a new sector-specific regulation of the food supply chain, which had not previously been separately regulated under Danish law. As mentioned, the Act implements the underlying UTP Directive, which is a so-called minimum directive. Therefore, Member States have had the opportunity to introduce more far-reaching rules.

The Danish UTP Act transposes the underlying UTP Directive without the turnover categories that follow from Article 1 of the Directive, with certain exceptions regarding the provisions on payment periods. Consequently, the Danish UTP Act applies to more trades than what follows from the underlying directive. This decision reflected a balancing of various considerations, including an assessment that the ongoing administrative burden on food businesses to comply with the regulations would be limited and lower than if the directive were implemented directly.

On that basis, it was decided that an ongoing monitoring of the effects of the Act should be carried out and gathered in an evaluation 3 years after the Act entered into force, i.e. in 2024.⁸

4.2 Approach for Monitoring and Evaluation

As part of the ongoing monitoring, the DCCA sent questionnaires in the spring of 2022, 2023, and 2024 to a number of industry associations representing companies in the affected segments of the food supply chain, i.e., both suppliers and buyers of agricultural and food products. The industry associations subsequently redistributed the DCCA's questionnaires to relevant member companies.

The DCCA has also held annual meetings with industry associations to discuss companies' experiences with the Danish UTP Act, as well as the results from the DCCA's annual questionnaires. In addition, the Authority has been in continuous dialogue with the associations and relevant companies about the interpretation of the rules, and has encouraged associations and companies to contact the DCCA with any questions or challenges.

The results and experiences from the DCCA's three monitoring rounds, along with ongoing dialogue with relevant industry associations and companies, form the basis for the DCCA's evaluation of the Danish UTP Act, which was published in November 2024.

⁸ According to the draft bill L 184, presented by the then Minister for Industry, Business and Financial Affairs, Simon Kollerup (S), and adopted on April 22, 2021. In favor were S, V, DF, SF, RV, EL, KL, and UFG. Against were NB and LA: <https://www.ft.dk/samling/20201/lovforslag/l184/index.htm>

4.3 DCCA's Main Conclusions Based on the Evaluation

The results from the DCCA's annual monitoring rounds in 2022, 2023, and 2024 indicate that there are relatively few contractual terms in Denmark where buyers and suppliers of agricultural and food products experience issues with unfair trading practices. Overall, and in isolation, the results from the monitoring rounds show no signs of widespread unfair trading practices. The DCCA's enforcement of the rules also points in this direction.

For the areas where market actors experience challenges related to the law, the results from the DCCA's three monitoring rounds suggest that this is mainly due to the rules on unfair trading practices in the UTP Directive in general. In the few cases where respondents have pointed out negative indirect effects, the challenges do not seem to relate to the Danish implementation.

Based on the DCCA's monitoring and evaluation of the Danish UTP Act, it is the DCCA's overall assessment that the law, in its current form, sufficiently meets the objectives of the underlying UTP Directive to protect producers and suppliers of agricultural and food products against unfair trading practices from larger buyers.

The DCCA has published a comprehensive evaluation on the DCCA's UTP webpage which can be assessed in Danish [here](#).
