

THE CODE OF GOOD PRACTICE RELATING TO RELATIONSHIP BETWEEN FOOD COMMERCIAL UNITS CHAINS AND PRODUCT SUPPLIERS

CHAPTER I. GENERAL PROVISIONS

Article 1. Subject matter and scope

(1) The Code of good practice relating to relationship between food commercial units chains and product suppliers (hereinafter the "Code" or "Code of Good Practice") is a set of rules on fair interaction between food commercial chains and product suppliers.

(2) The provisions of this Code are mandatory for food commercial units chains and / or suppliers if the enterprise expresses written consent to accept the provisions of this Code under the terms of the Act.

(3) The provisions of this Product Code also apply to products marketed under their own brand, unless the provisions of the Code specifically provide that they apply only to certain types of products.

Article 2. The basic definitions used in the Code

(1) Supplier - an independent undertaking engaged in the supply of food commercial units chains for the purpose of retail and / or wholesale marketing to consumers.

(2) Food commercial units chains - two or more commercial units legally belonging to one or more enterprises within the same group of undertakings determined in accordance with the Competition Law no.183 of 11.07.2012; or a combination of two or more dependent commercial units operating under the same trade mark or using the same means of individualization whose activity is the sale and / or resale of the products.

(3) Part - food commercial units chain and / or the supplier.

(4) Assortment Matrix - a list of all products sold by food commercial units chains, including seasonal products, which may temporarily be missing in food commercial units chains.

(5) Own-branded goods - products manufactured or processed by a food commercial units chains or products manufactured or processed by the supplier under the command of food commercial units chain, on which are applied the trade mark, under the right of food commercial units chains.

(6) Product – food product, as defined in art. 2 of the Foodstuffs Law no. 78 from 18.03.2004.

Article 3. General principles applied to the relationship between food commercial units chains and suppliers

(1) This Code is based on the fundamental principles of civil law, namely the principles of recognition of equality of participants in the commercial circuit, the inviolability of property, contractual freedom, the inadmissibility of arbitrary intervention by any person in private affairs, the coherent application of civil rights, assuring the restoration of violated rights and their legal protection. The Code is based on the common principles and good faith of the food commercial units chains and suppliers, regardless of the application or non-application of the provisions of this Code.

(2) The predictability for undertaking (potential undertaking) when defining trading conditions in contracts, the parties will promote competition in the relationship between suppliers and food commercial units chain, which would allow cost optimization and minimization of losses when co-ordinating the framework of the collaboration conditions, and the execution of obligations

between the parties. Suppliers and food commercial units chain may take any measures provided by applicable law to restrict access of their competitors to individual business terms of contracts and other confidential information.

(3) Each supplier and each food commercial units chain independently bears the business risks and determines its sources of income. At the same time, one of the main sources of food commercial chains and suppliers is the markup, and other conditions may vary depending on the sales volume targets, brand development (brand awareness), increase in the level customer loyalty and other economically justified criteria. Suppliers and food commercial units chains are making every effort to ensure fair competition and do not interfere with the business activities of partners and their competitors.

(4) All negotiated arrangements, including agreements of intent, shall be reflected in the contract concluded between the food commercial unit chains and the supplier. The parties may foresee the way of communication, including the possibility of using electronic devices.

(5) Suppliers and food commercial units chains shall jointly increase the degree of predictability for parties, order volume and product delivery, service delivery, in order to optimize the costs of production, storage, delivery and sale of products.

(6) Suppliers and food commercial units chains will inform each other when identifying non-compliant quality products and products whose compositional information is not true.

CHAPTER II. LIST OF GOOD PRACTICES

Article 4 The selection of undertaking

When selecting the undertaking and for setting up the contract the equal competition conditions must be assured between the distributors and food commercial units chains for concluding the contract) it has to be applied in the same way between the food commercial units chains with suppliers), as well as equal access to information in regard to conditions of undertaking's selection for concluding the contract under the conditions not to non-disclosure of commercial terms.

Article 5. Documenting negotiations between the parties

The negotiation process between the parties, the contractual conditions can be ensured in written by the mutual agreement of the parties to all the agreements reached.

Article 6. Contract Clauses

The contract may include, but is not limited to, clear clauses on:

- a) the requirements of the food commercial units chain vis-à-vis delivered products;
- b) situations where the food commercial units chain may reject the delivered products;
- c) the payment period for the products and the circumstances in which the payment or part of the payment may be withheld or delayed;
- d) the term of validity of the contract;
- e) the quantity and quality of the products;
- f) the circumstances of the termination of the contract, if such a possibility is provided.

Article 7. Coordination of price product's changes and services

(1) Regarding the coordination of change in the contractual clauses on product's prices must ensure foreseeability, predictability, feasibility and economic argumentation which gives the undertaking the opportunity to reach agreement on new prices or, if no agreement is reached, to look for alternative counterpart.

(2) In the contract are not allowed following clauses, limiting opportunities, introducing

restrictions or foresee the moratorium for the supplier or food commercial unit chains, to submit to the undertaking proposals for price changes. The final term for reviewing the proposal for a price change must correspond to the deadline set in the contract but should not exceed 30 (thirty) calendar days from the date of receipt of the proposal for price change.

(3) The deadline for the receiving party to confirm receipt of the negotiated price list shall not exceed 5 (five) working days from the date of receipt of the proposal by the consignee.

(4) In case of sudden changes in key factors influencing the product price situation, including the leu exchange rate vis-à-vis the currencies of the exporting countries, the regulatory framework or the interest rate, the deadline for coordinating the proposal, in accordance with the above procedure, must not exceed 7 (seven) business days.

(5) If the Contracting Party has sent to the undertaking several distinct notices regarding the price change for the same products, the period for negotiating in order to change the price for the products shall be determined from the date of receipt of the last proposal that was send.

(6) Until the entry into force of new prices, the supplier is obliged to execute the orders placed by the food commercial units chains at the existing prices.

(7) If, during the negotiation period, no agreement is reached on the new price, no penalties shall be imposed on the supplier upon termination of delivery of the products at the old price and also to the food commercial units chain for the refusal to purchase products at the new price.

(8) The food commercial units chain will not require the supplier to provide information regarding the setting of new prices with other chains and / or evidence that other chains have accepted or rejected the new prices.

Article 8. Unilateral amendment of the contract

The unilateral amendment of the contract is forbidden. Any amendment to the contract may be made with the written consent of the parties.

Article 9. Payment for suppliers

(1) The food commercial unit chain shall pay to the supplier for the delivered and accepted products, according to the contract, in reasonable terms established by contract or legislation.

(2) The reasonable terms shall be determined by the benefits, costs and risks to the parties.

Article 10. Restrictive Conditions

(1) It is forbidden for the parties to commit each other, directly or indirectly, with respect to the purchase or sale of products and / or services from / to a third party.

(2) It is forbidden to restrict the supplier's rights to simultaneously make promotions for the same products or product types in the food commercial units chains.

Article 11. Payment for food commercial units chain

(1) It is forbidden to the food commercial unit chain to require the supplier, directly or indirectly/ invoicing or re-invoicing of services or collect payments that are not included in the cost of purchasing the products except products services for product promotion during promotional activities (promo activity, marketing, advertising and logistics) that are stipulated in the contract.

(2) The food commercial units chain can not oblige the supplier, directly or indirectly, to compensate and / or contribute to the costs of opening a new shop or enlarge the sales area, arrangement, renovation, changes of the barcode , to cover the losses (except the of cases of repairing damage under civil law), product exposure, better positioning of products on the shelf, organizing commercial activity (packaging design, market and consumer research, opening or renovating a shop, etc.), logistics services.

(3) Non-acceptance of the services provided in paragraph (1) and (2) by the supplier can not

constitute a ground for terminating the collaboration between the parties.

Article 12. Exclusion of products from the assortment matrix of the food retail chain

(1) The procedure for terminating the contract or exclusion of products from the assortment matrix of the food commercial unit chain (similar to the cessation of delivery by the supplier) should be foreseeable, allowing the counterparty to look for an alternative counterpart.

(2) In the case of exclusion of the product from the food assortment chain matrix, it shall provide reasonable justification for the cause of such exclusion, which may be based on real commercial reasons. Real commercial reasons are considered the following:

- a) non-compliance with the quality and quantity requirements;
- b) non- fulfilment of the sales objectives over the trial period or the expected profitability under the contract;
- c) systematic failure to meet delivery requirements, confirmed by accepted written notifications. If the provider does not respond within 10 (ten) calendar days, the notification shall be deemed accepted;
- d) non-compliance of the products delivered by the supplier to the legal requirements.

(3) Exclusion of the products from the assortment matrix of the food commercial units chain may be done after notification by written notice of intent.

(4) The period of notification in written form for the exclusion of the products from the matrix assortments of the food commercial unit chain (similar to termination of delivery by the supplier) must be specified in the contract between the supplier and food commercial unit chain, shall not be less than 14 (fourteen) calendar days.

(5) The period of notification may be excluded if time is essential (including security issues).

Article 13. Establishing the penalties for breach of obligations according to the contract

(1) When establishing penalties for non-execution or improper execution of contractual obligations, it is necessary to coordinate the full list of penalties, to ensure the transparency of penalties application for non- execution or inadequate execution of obligations and the proportionality of penalties with the consequences of the obligation's enforcement by the food commercial units chain / or supplier).

(2) The concluded penalties in the contract must be equivalent, fair and proportionate for both parties.

(3) The parties may foresee the possibility of penalties application or may refuse to set penalties in the contract.

Article 14. Standards and quality specifications

(1) The Parties shall comply with product quality and conformity standards and, where appropriate, make available to each other, in clear, unambiguous and concise terms, all the quality specifications of the products used and the requirements to these specifications after case.

(3) The food commercial units chain may reject products if they do not meet the legal quality standards, packaging and labeling, do not comply with the ordered quantity, legal transport standards at the appropriate temperature of the product and / or delivery terms.

(4) The food commercial units chain must make any claim for damaged or defective products or any other similar claim within a reasonable time and in any case for the entire period of validity of the product from its delivery to food commercial units chain.

Article 15. Placement of order for products delivery

(1) Placing the order for the product delivery by the food commercial units chain is considered to be coordinated by the parties and becomes mandatory for the execution after the official supplier's confirmation of execution as stipulated in the contract.

(2) The supplier and food commercial units chains may coordinate ordered quantity for delivery at a single location in a certain timeframe, the delivery address, the procedure of order placement and the coordination of the order.

(3) The parties may agree on the yearly delivery plan, also the order volume variation in the calendar year on quarterly or monthly basis, in the case when parameters of the location of food commercial units chain may deviate from the provisions of the contract or the annual delivery plan the parties may refer to the modification of contractual conditions of the delivery plan and the volume of the order.

(4) The supplier is not entitled to condition the delivery of a product by accepting the additional product to the one requested or replacing it with another product not related to the request.

(5) The parties undertake not to allow the application of penalties unforeseen by the contract in case of total or partial refusal to coordinate the order and / or receipt of the products, the parameters of which deviate from the parameters stipulated in the contract or the annual plan of deliveries.

Article 16. Receipt of products

(1) The risks of accidental loss and accidental deterioration of products are transferred to the food commercial units chain from the moment of receipt of the products of the commercial unit, the distribution center (if delivery is done via distribution center) or the warehouse to the supplier (if delivery is made directly from the supplier's warehouse) if no other stipulation is foreseen in the contract for the transfer of the risk of accidental loss of the goods.

(2) The representative of the supplier (including the driver, the consignor) shall be granted access to the territory of the unloading area of the commercial unit or the distribution center of the food commercial units chain for unloading the products.

Article 17. Return and withdrawal of food products

(1) The parties may stipulate in contracts conditions related to the return of food products in accordance with the food safety standards, whose final date of consumption indicates the return of food products according to the food safety standards, but not less than 45 (forty-five) days.

(2) The withdrawal or recall by the supplier of food products not conforming to the rules of food safety or with hidden defects detected by the food commercial units chain after the receipt and evaluation in terms of conformity and quantity shall be carried out in accordance with the legislation on protection consumer rights and food safety.

Article 18. Exchange of Documents

(1) The exchange of documents shall be ensured by an effective mechanism for notifying the undertaking of the mistakes committed in making the necessary documents for the delivery of the products or the payment of the delivered products.

(2) The Parties shall endeavour to adopt and use electronic data-sharing technologies. The parties have the right to include the responsibility for failing to present properly executed documents within the term specified by the contract or by the laws and regulations in force.

(3) In the case when the required documents for payment or delivery are concluded incorrectly which makes the payment or the delivery impossible, the food commercial units chain or the supplier must inform the undertaking in accordance with the procedure specified in the contract and if the procedure is not specified in the contract, within 5 working days of receipt of the documents including the error.

(4) Failure to perform one of the contractual obligations until the date of submission of duly drafted documents provided for by law and / or contract shall not constitute a breach of contract and

shall not imply the application of any liability measures if the other party to the contract has been notified of the error committed in the elaboration of the documents.

Article 19. Coordination of common actions for products promotion

(1) The common activities for the promotion of products shall be coordinated in written form by the Parties.

(2) Food commercial unit chain when placing the order for the products within the promotional period is obliged to order the quantity of products agreed by the parties for the promotion. The supplier is required to ensure the presence and delivery of ordered promotional products during the promotional period.

(3) In case when food commercial units chain has ordered a product from the supplier related to the promotion, it will not cancel the order without the supplier written consent.

(4) The supplier and the food commercial unit chain may agree on a common action plan for the promotion of products, which sets out the basic parameters of the actions and the procedure for the approval of the event.

(5) If promotional actions proposed by the food commercial unit chain or supplier are not foreseen in the plan (if there is one), the supplier and the chain have the right to refuse to participate or conduct this event.

(6) From the moment of coordination by the supplier and food commercial units chain of the participation conditions in promotional actions of the supplier, setting deadlines, the parties shall be fully liable for the breach of their obligations, including to third parties.

(7) The time limit for the promotion of the same product (regarding price) may not exceed 15 days (fifteen) days during the calendar month.

Article 20. Food commercial unit chains' reports regarding the conduct of promotional activities

(1) At the end of the product promotion activities, the food commercial unit chain at the written request of the supplier shall submit a report containing the confirmation of the full provision of the promotion services in accordance with the contract concluded between the parties and the legislative and normative acts in force.

(2) The report shall include information on the specific content and number of the actions taken by the food commercial unit chain for product promotion services. The report may be accompanied by photographs, flyers, brochures or other materials confirming the provision of services, unless otherwise agreed in the contract.

Article 21. Expenses reimbursement to the food commercial units chain as a result of consumer complaint

If a consumer submits a complaint to food commercial units chain due to the inappropriate quality of the products, he will examine and solve the consumer's complaint in accordance with the legislation in force.

Article 22. Intellectual Property Rights

(1) Food commercial units chains shall respect intellectual property rights held by suppliers in relation to the delivered products, including intellectual property rights in relation to the brand, packaging and advertising.

(2) In the process of production under-traded goods, food commercial units chain shall not infringe the intellectual property rights of a supplier in respect of the products.

Article 23. Confidential information

(1) The food commercial units chain must not use information on the supply of products, including product development, proposed promotions or pricing, considered confidential information, for other purposes.

- (2) The information is not confidential in the following case:
- a) is available to the public;
 - b) it is provided to the food commercial unit chain not via supplier.

CHAPTER III. FINAL AND TRANSITORY PROVISIONS

Article 24. The procedure for the acceptance of the Code of Good Practice

(1) The Code is approved in the process of accepting assumed remedies by enterprises in accordance with the provisions of the Competition Law no.183 from 11.07.2012.

(2) Third-party enterprises may adhere to the Code by submitting a written declaration to the Competition Council regarding assumed remedies to obey the Code of Good Practice.

Article 25. Application of the Code of Good Practice

(1) The Code will be implemented by the food commercial units chains and suppliers after being approved by the Competition Council Plenum.

(2) Any conflict between undertakings regarding the breach of the provisions of the Code of Good Practice shall be settled amicably, and in case of impossibility, the Competition Council shall be informed and in this case provisions of the contract and / or legislation shall be applied.

(3) The provisions of the Code that contravene the legislation in force are null and void.

(4) Within a term of 6 months from the date of being informed by the Competition Council regarding to the acceptance of the Code, the party shall provide a written offer to its counterparty to modify the contract so that it complies with the requirements of this Code.