EUROPEAN COMMISSION

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REGULATORY SCRUTINY BOARD OPINION

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Directives 2001/110/EC relating to honey, 2001/112/EC relating to fruit juices and certain similar products intended for human consumption, 2001/113/EC relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption, and 2001/114/EC relating to certain partly or wholly dehydrated preserved milk for human consumption

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EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Revision of EU marketing standards for agricultural products

Overall 2nd opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

EU marketing standards for agricultural products define rules and requirements for placing these products on the EU market. The requirements are spread out over several Directives, Regulations and delegated acts and are a key element of the Common Market Organisation. This revision aims to modernise or complement some of these standards. It aims to simplify them and introduce some sustainability elements to meet the objectives of the EU Green Deal and the Farm-to-Fork strategy to some extent. An evaluation was carried out in 2020.

(B) Summary of findings

The Board notes the additional clarifications in the draft report responding to the Board's previous opinion.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

(1) The coherence between different initiatives is not sufficiently clear. In particular, the overlaps with the revision of the Regulation on food information to consumers are not adequately elaborated.

(2) The report does not clearly indicate why certain marketing standards are planned to be revised while others not. The rationale for the selection of the standards requiring a more in-depth assessment is not developed sufficiently.

(3) The report does not sufficiently assess and compare the options selected for in-depth assessments.

(4) The report should be clearer on the envisaged monitoring arrangements and specify when and on what criteria an evaluation will be carried out.

This opinion concerns a draft impact assessment which may differ from the final version.

(C) What to improve

(1) The report should clarify how coherence with the upcoming revision of the Regulation on food information to consumers will be ensured. It should outline where exactly these overlaps will occur and what the solution is to avoid duplication of costs and incoherence between different pieces of legislation. Clarification of these issues is particularly important for the marketing standards related to origin labelling (honey, pulses and egg marking) and sugar content (jams, fruit juices and fruit nectars). Specific initiatives directly relevant for marketing standards are listed in the report, but the relevance and overlap with marketing standards should be set out explicitly.

(2) The report should establish a clear relationship between all the marketing standards listed in the annex of the report and those that are subject to revision and discussed in the report. It should clarify why no new standards are put forward (except for cider and perry) and explain if there is any scope for new marketing standards (e.g. for the quality of olive oil).

(3) The rationale for the selection of the five standards for a more in-depth assessment should be elaborated further in the problem definition. The report should also clarify why sensitive topics such as the sales description of plant-based preparations and the water content in poultry are not assessed in depth, given that political sensitivity is one of the criteria for carrying out an in-depth assessment. The report should provide convincing arguments that the introduction of new standards and the changes to the existing standards not selected for in-depth assessments will not result in significant impacts. It should take into account that although some impacts may be small in absolute terms, they may be particularly significant for some groups of stakeholders.

(4) The report should spell out more clearly how all these initiatives, in particular those assessed in more depth, are consistent with the objectives set out in the European Climate Law and Sustainable Development Goals.

(5) The report should strengthen the impact analyses and comparisons of options in the in-depth assessments. The cost calculations to estimate the administrative burden of the marketing standards assessed in depth should be detailed to allow the reader to follow the calculation method. Only costs and savings for businesses and citizens should be counted for the One In, One Out purposes. The report should more systematically compare the options for each assessed standard in terms of effectiveness, efficiency and coherence. In cases where there is no preferred option (the foie gras standards), it should present clearly the available choice in terms of differences in costs and benefits.

(6) The report should be clearer on the envisaged monitoring arrangements to overcome the identified data and evidence challenges and specify when an evaluation will be carried out.

(7) The report should follow more closely the format of the impact assessment report (Tool 11 of the Better Regulaiton Toolbox), including by integrating the key insights of the individual assessments in the main sections of the report.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

(D) Conclusion **The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.** **If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.**	
Full title	Revision of Commission Implementing and Delegated Regulations on EU marketing standards for agricultural products under the Common Organisation of the Market to ensure the uptake and supply of sustainable products, and modernise, simplify and align them, as well as a proposal to revise the 'Breakfast Directives' for the same purposes
Reference number	PLAN/2020/8824
Submitted to RSB on	22 July 2022
Date of RSB meeting	Written procedure

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

Overview of benefits

I. Overview of Benefits (total for all provisions) – Preferred Option		
Description	***Amount***	***Comments***
Direct benefits		
Benefits for citizens and consumers	n/a	- clearer information to consumers (better product identification), empowering consumers to make informed, healthy and sustainable food choices. - environmental benefits due to better use of resources (reduced waste) and more environmentally-friendly management of orchards for traditional production of cider and perry.
Benefits for businesses	n/a	- better valorisation of products. - increased legal certainty and standards updated to fit with recent developments.
Indirect benefits		
Benefits for businesses	n/a	- level playing field and facilitated business to business transactions and trade within and outside the EU.
Administrative cost savings related to the 'one in, one out' approach*		
Benefits for businesses	n/a	- The streamlining of existing marketing standards legislation will result in lower administrative costs for businesses by aligning or merging some rules. - The introduction of EU marketing standards for cider and perry will harmonise rules within the EU, thereby lowering the recurring administrative costs for businesses for complying with standards.
Benefits for authorities	n/a	- For those Member States which already have controls of national rules for cider and perry, costs for controls will be reduced due to the harmonised standards.

Overview of costs

II. Overview of costs – Preferred option[1]							
		Citizens/Consumers		**Businesses**		**Administrations**	
		One-off	**Recurrent**	**One-off**	**Recurrent**	**One-off**	**Recurrent**
Cider and perry	Direct adjustment costs - compliance with newly introduced EU standards, including possible reformulation	n/a	n/a	EUR 10 million	n/a	n/a	n/a
	Direct administrative	n/a	n/a	EUR 0.5 million	n/a	n/a	n/a

[1] Given the nature of this impact assessment, which covers various individual standards, a full quantification is not possible – in particular because of limited data available on the sectors covered by the initiatives, including on costs. Further available information on costs, mainly qualitative, is presented in Section 10 of the impact assessment.

	costs - adaptation of labelling [2]						
	Direct regulatory fees and charges	n/a	n/a	n/a	n/a	n/a	n/a
	Direct enforcement costs - new system of controls and enforcement [3]	n/a	n/a	n/a	~0	~0	~0
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Fruit juices[4]	Direct adjustment costs	n/a	n/a	0	n/a	n/a	n/a
	Direct administrative costs	n/a	n/a	0	n/a	n/a	n/a
	Direct regulatory fees and charges	n/a	n/a	n/a	n/a	n/a	n/a
	Direct enforcement costs	n/a	n/a	n/a	~0	~0	~0
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Jams	Direct adjustment costs[5]	n/a	n/a	0	n/a	n/a	n/a
	Direct administrative costs - adaptation of labelling [2]	n/a	n/a	EUR 10 million	n/a	n/a	n/a
	Direct regulatory fees and charges	n/a	n/a	n/a	n/a	n/a	n/a
	Direct enforcement costs - revised controls	n/a	n/a	n/a	~0	~0	~0
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Honey	Direct adjustment costs	n/a	n/a	n/a	n/a	n/a	n/a

[2] Recurring labelling costs are business-as-usual. Changes to labels are assessed to be minor as the change in marketing standard requires a change in the text on the label but would not require redesigning the whole label.

[3] Controls on marketing standards are usually combined with other controls. Additional recurring costs are therefore estimated to be negligible.

[4] The changes proposed under the preferred option for the revision of marketing standards for fruit juice will not change mandatory requirements. The administrative burden is therefore set to zero. Businesses producing sugar-reduced fruit juices who decide to update their labels as provided for under the proposed revision will face a one-off cost; considering that such products are still a novelty on the EU market, the impact on businesses of adapting labels is assessed negligible.

[5] The change proposed under the preferred option to raise the minimum fruit content would affect about 15% of products on the market, as most manufacturers offer products with a higher fruit content than the minimum standard. This type of jam is mostly purchased by institutional catering, such as hospitals, nursing homes and schools. It is not expected that manufacturers reformulate these to meet the revised marketing standards. Products with lower fruit content could still be marketed as fruit spread.

	Direct administrative costs - adaptation of labelling - improved traceability and segregation system	n/a	n/a	EUR 7 million	Not quantifiable [6]	n/a	n/a
	Direct regulatory fees and charges	n/a	n/a	n/a	n/a	n/a	n/a
	Direct enforcement costs - revised controls	n/a	n/a	n/a	~0	~0	~0
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Foie gras[7]	Direct adjustment costs	n/a	n/a	0	0	n/a	n/a
	Direct administrative costs	n/a	n/a	0	n/a	n/a	n/a
	Direct regulatory fees and charges	n/a	n/a	n/a	n/a	n/a	n/a
	Direct enforcement costs	n/a	n/a	n/a	0	0	0
	Indirect costs	n/a	n/a	n/a	n/a	n/a	n/a
Costs related to the 'one in, one out' approach							
Total	Direct adjustment costs	n/a	n/a	EUR 10 million	n/a		
	Indirect adjustment costs	n/a	n/a	n/a	n/a		
	Administrative costs (for offsetting)	n/a	n/a	EUR 17.5 million	n/a		

[6] The preferred option for the revision of honey requires country origin labelling. This will likely require honey packers to relabel their products depending on the exact origin of batches, and could translate in a recurring adaptation of the label. It is however not possible to estimate the frequency of the changes to the label, nor to distinguish this from the business-as-usual costs.

[7] The impact assessment does not identify a preferred option for foie gras at this stage. The costs reflected in the table are therefore equal to zero, corresponding to the baseline.

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Opinion

Title: Impact assessment / Revision of EU marketing standards for agricultural products

Overall opinion: NEGATIVE

(A) Policy context

EU marketing standards for agricultural products define rules and requirements for placing these products on the EU market. The requirements are spread out over several Directives, Regulations and delegated acts and are a key element of the Common Market Organisation. This revision aims to modernise or complement some of these standards. It aims to simplify them and introduce some sustainability elements to meet the objectives of the EU Green Deal and the Farm-to-Fork strategy to some extent. An evaluation was carried out in 2020.

(B) Summary of findings

The Board notes the information provided in advance of the meeting.

However, the Board gives a negative opinion, because the report contains the following significant shortcomings:

(1) The report is not clear and consistent on its sustainability objectives and to what extent these reflect the ambitions of the 'Farm to Fork' strategy. It does not sufficiently demonstrate the coherence with other relevant initiatives and existing legislation.

(2) The report does not justify the choice of the 28 changes to the marketing standards. It does not identify the most important issues to tackle, based on the significance of their impacts and the policy choices to be made.

(3) The report does not systematically present alternative options, there is no analysis of the impacts of all options and the comparison of options is missing.

(C) What to improve

(1) The report should clarify its (limited) ambitions on sustainability and health. It should do this consistently throughout the report. In particular, it should explain how the inclusion of sustainability criteria in the standards would bring them in line with current political objectives, such as the ambitions of the 'Farm to Fork' strategy.

(2) The report should clearly demonstrate that the proposed changes are complementary and compatible with existing legislation and upcoming revisions and initiatives, such as the revision of animal welfare legislation, the revision of food information to consumers, the upcoming sustainable food framework and the sustainable labelling initiative. It should briefly explain the role of marketing standards and how they relate to the relevant sectoral and other relevant legislation. It should clarify the relationship between information transparency on labels and the stand-alone informative value of marketing standards.

(3) The report should clarify why exactly these 28 marketing standards are revised. It should present evidence on the magnitude of the problems that justifies their inclusion. It should also discuss why other possible problems that were raised by stakeholders or identified in the evaluation, such as the degradation of the quality of olive oil, are not included in the analysis.

(4) To keep the analysis proportionate, the report should identify those changes that are likely to have significant economic, trade, political, social, environmental or animal welfare impacts. It should single out those where policy choices need to be made or where political sensitivities exist.

(5) Based on this analysis and the existing evidence, the report should provide a more in-depth analysis of the most important revisions of standards. The analysis should include genuine alternative options. Their respective impacts, costs and benefits need to be analysed and compared leading to a preferred option. Other changes of marketing standards for which the problem and impacts are likely to be less important could be dealt with in less detail in an annex. Revisions that are merely technical, such as aligning the legal form with the provisions of the Lisbon Treaty, do not need to be analysed, but can be briefly mentioned in an annex.

(6) The report should better explain the magnitude of the impacts in qualitative or quantitative (where possible) terms. It should construct a clear body of evidence from the available sources. The administrative costs need to be quantified to the extent possible in view of the Commission's commitments under the 'one in, one out' approach.

(7) The report should clarify if and how stakeholders were consulted regarding the specific marketing standards. It should present the views of different stakeholder groups as regards the problems and possible policy solutions. It should explain how and to what extent it has integrated any diverging views in the analysis.

(8) The report should clarify how success of the initiative will be measured and how the future monitoring arrangements will avoid a lack of quantitative evidence.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.

Full title	Revision of Commission Implementing and Delegated Regulations on EU marketing standards for agricultural products under the Common Organisation of the Market to ensure the uptake and supply of sustainable products, and modernise, simplify and align them, as well as a proposal to revise the 'Breakfast Directives' for the same purposes

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