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## **Feedback on the European Commission's Roadmap on revision of EU marketing standards**

The Danish Chamber of Commerce appreciates the opportunity to comment on the European Commission's Roadmap on revision of EU marketing standards.

### **General comments**

The Danish Chamber of Commerce welcomes the opportunity to provide feedback to the roadmap on revision of EU marketing standards for agricultural products. We especially endorse the stated objective of the proposal to simplify current legislation and align with evolving technology and production methods.

Although the marketing standards are not an instrument meant for consumer information, some of them do contain provisions on labelling, as well as requirements which relate to food safety. We propose that the future EU marketing standards exclusively focus on quality requirements, whereas safety-related and/or information-related provisions should be moved to the relevant horizontal EU legislation. In particular, labelling provisions should be dealt preferably within Regulation (EU) No 1169/2011 on food information to consumers – this would help businesses to clearly understand what is required and eventually result in better communication to consumers.

We believe that an initial in-depth impact assessment is needed to provide clarity on where opportunities, gaps and overlaps exist in the current marketing standards. This impact assessment should also focus on identifying unnecessary restrictive standards that lead to potential negative effects, such as food waste and administrative burdens.

After consulting our members within the food retail and wholesale sector in Denmark, we have learned that the marketing standards for eggs, poultry meat and fruit and vegetables in particular need a thorough revision. Our comments regarding specific provisions in selected marketing standards are listed in the following section.

### **Specific comments**

#### *Eggs*

Commission Regulation (EC) No 589/2008, article 13 states that the minimum durability of eggs should be fixed at not more than 28 days after laying. For almost all other foods, it is up to the manufacturer to determine the shelf life based on a risk analysis. We believe that this statutory date is contributing to food waste.

In Commission Regulation (EC) No 853/2004 (this is not a marketing standard, but the specific hygiene rules for food of animal origin.), the requirement in Annex III, Section X, Chapter 1, no. 3

concerning a date of last day of sale of eggs makes no sense “*Eggs must be delivered to the consumer within a maximum time limit of 21 days of laying*”. For almost all other foods, it is up to the manufacturer to determine the shelf life and for no other foods, an additional date of last sale is required. The requirement is not based on a food safety risk, and we believe that the last sale date in particular, but also the statutory shelf life, should be deleted – this would also help reduce food waste, since perfectly fine eggs are being discarded due to a statutory date.

According to Commission Regulation 589/2008, Article 2 (3): “*Class A eggs shall not be treated for preservation or chilled in premises or plants where the temperature is artificially maintained at less than 5 °C. However, eggs which have been kept at a temperature below 5 °C during transport for not more than 24 hours or on retail premises or in annexes thereto for not more than 72 hours shall not be considered as chilled*”.

Since eggs are stored in refrigerators in Danish retail stores, this requirement means that the shops must have a separate refrigerator only for storing eggs (where the temperature is above 5 °C but below 12 °C), if the eggs are sold over a period of more than 72 hours. Practices for storing eggs differ from country to country in the EU, but typically the consumer will store the eggs in the same way as they were stored in the place they were purchased. Meaning that if the eggs are refrigerated in store, the consumer will also put the eggs in the refrigerator at home.

In preamble (7) of Commission Regulation 589/2008 it is stated that: “*Cold eggs left out at room temperature may become covered in condensation, facilitating the growth of bacteria on the shell and probably their ingress into the egg. Therefore, eggs should be stored and transported preferably at a constant temperature and should in general not be refrigerated before sale to the final consumer*”. Similarly, in Commission Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin., Annex III, Section X, Chapter 1, no. 2 it is stated that: “*Eggs must be stored and transported at a temperature, preferably constant, that is best suited to assure optimal conservation of their hygiene properties*”. We therefore believe that Article 2 (3) of Commission Regulation 589/2008 can be deleted since the temperature requirements for transportation and storage of eggs is already covered by Commission Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin.

### *Poultry meat*

The requirement to classify poultry meat in class A and B is mandatory in Commission Regulation 543/2008, but neither the consumer nor the retailers use this information for anything. We therefore suggest that the requirement is deleted in the regulation.

If the overall requirement on classification of poultry meat is not deleted, we suggest a deletion of the requirement to indicate quality class on preparations of poultry meat (e.g. skewers with pieces of marinated chicken fillet). The requirement to specify quality classes for poultry meat was set in Commission Regulation 1234/2007, which has now been replaced by Commission Regulation 1308/2013. The requirement to indicate quality classes is not included in Regulation 1308/2013, Annex VII, Part V on poultry meat, but in Article 230 (1), point C it is stated that the requirement for division into Classes A and B (as stated in Regulation 1234/2007) is still in force.

Likewise, it is unclear when to label with quality class on certain cuts of poultry meat. May or must a cut like chicken tenderloin be labelled with its quality class (A or B)?

The requirement in Commission Regulation 543/2008 Article 5 (3), that fresh poultry meat must be labelled with a “use by” date should be deleted. The setting of a date of durability of poultry meat should follow the same guidelines for labelling with durability as all other types of meat. A wrong date of minimum durability contributes to food waste.

The requirement in Article 5 (4) (b) of Commission Regulation 543/2008 should be deleted: “*In the case of pre-packaged poultry meat, the following particulars shall also appear on the pre-packaging or on a label attached thereto...(b) in the case of fresh poultry meat, the total price and the price per weight unit at the retail stage*”. Other types of meat are not subject to this labelling obligation.

We find that the requirement in in Commission Regulation 543/2008 to indicate whether poultry meat is fresh, frozen or quick-frozen is unnecessary since this information already appears elsewhere on the label.

It should be allowed to sell poultry as thawed, like it already is possible for other types of meat. In Regulation (EU) No 1169/2011 on food information to consumers, Annex VI, there is already a requirement that foods that have been frozen before sale and which are sold defrosted, shall be labelled with ‘defrosted’.

In Annex V to Commission Regulation 543/2008, derogations due to restrictions, including veterinary restrictions are mentioned in the end of the Annex: “*In the event of restrictions, including veterinary restrictions adopted under Community law to protect public and animal health, having the effect of restricting the access of poultry to open-air runs, poultry reared in accordance with the production methods described in points (c), (d) and (e) of the first subparagraph, with the exception of guinea fowls reared in percheries, may continue to be marketed with a special reference to the method of rearing for the duration of the restriction but under no circumstances for more than 12 weeks*”. This derogation should be changed to 16 weeks, which is what applies for eggs in similar situations (according to Commission Regulation 589/2008).

The methods of analysis described in Commission Regulation 543/2008 Annex VII and Annex VIII for determination of the total water content of chickens and of poultry cuts do not work as intended. The method should therefore be revised or the possibility of using other methods of analysis should be introduced in the regulation.

Commission Regulation 543/2008 needs to be updated as regards marketing standards for various cuts of duck, as the market has changed (last updated version was in 2013).

#### *Fruit and vegetables*

In Commission Regulation (EU) No 543/2011, article 5 (4) requires that for fruit and vegetables “*invoices and accompanying documents, excluding receipts for the consumer, shall indicate the name and the country of origin of the products and, where appropriate, the class, the variety or commercial type if required in a specific marketing standard, or the fact that it is intended for*

*processing.*” This requirement is outdated and not in line with the digital world we live in. Today we have efficient control of the marketing standards for fresh fruit and vegetables due to the fact that the products themselves are labelled with the required information combined with a well-functioning and efficient traceability system, which at all times ensures that defective goods can be withdrawn from the market quickly and efficiently. The traceability requirements set in the official control’s regulation are sufficient to ensure traceability of fresh fruit and vegetables.

In Commission Regulation (EU) No 543/2011 we would like an exception from the labelling requirements for fruit and vegetables that are donated from a retail store to avoid food waste.

#### *Olive oil*

In Commission Regulation (EEC) 2568/91 the control requirement for extra virgin olive oil sold at retail level should be revised. It is not fair that the current analytical method of checking the category of extra virgin oils is a subjective, organoleptic method, which has repeatedly shown great deviations and uncertainties, when at the same time it is so important in the control. The organoleptic method may well be a useful tool for the olive oil producer to verify the quality of his olive oil. But the results of the control in e.g. Denmark has shown several times that it should not be used for conformity checks at retail – for this the method is not precise enough.

#### *Fruit jams, jellies and marmalades*

In Council Directive 2001/113/EC, Annex I (II) the minimum content of soluble dry matter is set: “*Products defined in part I must have a soluble dry matter content of 60 % or more as determined by refractometer, except for those products in respect of which sugars have been wholly or partially replaced by sweeteners. Without prejudice to Article 5(1) of Directive 2000/13/EC, Member States may, however, in order to take account of certain particular cases, authorise the reserved names for products defined in part I which have a soluble dry matter content of less than 60 %*”. We propose that the limit of a soluble dry matter content of 60 % or more is reduced, since our experience is, that is it very rarely above 60 % in marmalades.

In Council Directive 2001/113/EC, article 2 (4) can be deleted, since there now is a general requirement for nutrition declaration set in Regulation (EU) No 1169/2011 on food information to consumers, which also includes fruit jams, jellies and marmalades and sweetened chestnut purée.

We propose that Council Directive 2001/113/EC is amended to allow for the use of other sugars than the ones current mentioned in Annex III.

#### *Sugar*

Council Directive 2001/111/EC should be amended to take into account the product development that has happened in this field since 2001. The directive lacks definitions of several types of sugar like “sugar sirup”, “molasses”, “light sirup”, “dark sirup”, “rice sirup” etc. Some of these new sugars are a result of the recent focus on utilization of side-streams from food production in the development of new raw-materials/ingredients.

*Cocoa and chocolate products*

Directive 2000/36/EC of the European Parliament and of the Council should be amended to take into account the product development that has happened in this field since 2000. For example, there is a need to be able to name a vegan version of "milk chocolate bar" as well as products like "ruby chocolate" and "Cacao y Nada", which is made exclusively from cocoa products, with no added sugar. For this type of product, it is a problem that sugar is included in the directive's definition of chocolate.

It is a barrier to trade within the EU that the interpretation varies between EU-countries with regards to when you can use the word "chocolate" in the name of a product that only contains cocoa, for example "chocolate cake" or "chocolate coating".

*Dairy products*

Commission Decision of 20. December 2010, Annex I list's products with a clear traditional usage, that do not contain milk or milk products although their name indicates this. This list should be updated.

There is no definition of the Icelandic product "skyr". Some dairies define it as a "fresh cheese" others as a "fermented milk product".

Residual products from the dairy industry are widely used as a raw material in other products, but there is no standardized product name for those fractions. An example is, whey powder, where the lactose has been removed. If this product is labelled in the list of ingredients as "lactose-free whey powder" it is a nutrition claim.

*Natural mineral waters*

In Directive 2009/54/EF of the European Parliament and of the Council, article 9 (4) and (5) should specify the requirements applicable to spring water from third countries and that the spring water may only be recognised in an EU-member state if the responsible authority in the country of extraction has certified that they satisfy the provisions (equivalent to the requirements for natural mineral water mentioned in article 1 (2)).

Best regards,

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