



EC Register for Interest Representatives No 109356110578-03

26 July 2017

Re: Roadmap for the evaluation of the Common Market Organisation [Regulation (EU) No 1308/2013]

The European Vegetarian Union (EVU) is an accredited EU stakeholder (see below). We are writing to you to provide feedback on the Commission “Roadmap” evaluation of marketing standards published 28 June 2017.

ON THE SCOPE AND AMBITION OF THE EVALUATION

The EVU welcomes the Roadmap and thanks the Commission for the opportunity to comment, namely on the charted scope of the evaluation of the Common Market Organisation (CMO). The evaluation should not shy away from asking fundamental questions about the added value it brings to food producers, processors and consumers – and indeed allow from the outset for the conclusion that the added value it might once have brought to some areas has diminished or vanished entirely. Clearly, a frank discussion is necessary.

ON FOOD DENOMINATIONS

We observe diminished value in the rigid system the CMO maintains regarding the designation of dairy products. Regulation (EU) No 1308/2013 states what is permitted to be called ‘milk and milk products’ in its Annex VII, Part III. These rules were first established thirty years ago by Regulation (EEC) No 1898/87 on the protection of designations used in the marketing of milk and milk products (OJ L 182 of 3 July 1987, p. 36) with the express objective of establishing privileges for dairy against “competing substitute products”. Recently, the Regulation was given a particularly restrictive interpretation in the judgement of the Court of Justice of the EU (CJEU) in Case C-422/16 (Verband Sozialer Wettbewerb e.V. v. TofuTown.com GmbH) of 14 June 2017. In its judgement, the CJEU stuck to the letter of the law and limited “dairy-sounding” names to secretions from animal glands. The ruling – and the Regulation it is based on – plainly ignores the development of consumer perceptions over the last thirty years and leads to an ossification of the law on product denominations that is out of touch with reality. This inflexibility also stifles the development of new food products, while innovation in food production is otherwise very much favoured by Union policy.

It is mandatory, therefore, that the thorough evaluation of the Common Market Organisation takes a critical look at the continued justification of product denominations. The least we would expect is that the evaluation of the CMO is unprejudiced by established thinking and recognises that product denominations like “rice milk” or “soy yoghurt” carry zero risk of consumer deception. In that way, the evaluation should be embedded in the wider context of bringing the CMO in line with general food information law and Regulation (EU) No 1169/2011 in particular.

Till Strecker
PUBLIC AFFAIRS

Tel +49 30 29028253-41
Fax +49 30 29778050
E-mail till.strecker@euroveg.eu
Web www.euroveg.eu

Address c/o VEBU
Genthiner Str. 48
10785 Berlin
Germany

The EVU therefore suggests to assess whether rules on product denominations in the CMO are still warranted

- **in the light of evolving consumer perceptions and changing dietary behaviours,**
- **with regard to growing food sectors which deserve similar consideration as the dairy industry,**
- **with a view to establishing more cohesion in EU food information law.**

ON TRADITIONAL DENOMINATIONS OF DAIRY ALTERNATIVES

While Regulation (EU) No 1308/2013 establishes the principle that the descriptions “milk and milk products” may not be used for milk products other than those deriving from animal gland secretions, it is a well-established exception that this principle is not applicable to the description of products the exact nature of which is known because of traditional use and/or when the designations are clearly used to describe a characteristic quality of the product (cf. recital 2 to Commission Decision 2010/791/EU). In Union law, ‘tradition’ for food products does not need to reach further back than about thirty years, or one generation (cf. hygiene regulations¹ and quality logos²). It could well be that new traditions have emerged since the adoption of Regulation (EEC) No 1898/87. The latest instalment of the list of Member States’ notifications dates back nearly seven years and should be updated.

For the time until a general reform of the current denomination regime can be agreed upon, a more liberal and more realistic approach to these traditional terms should be applied. In particular, plant-based alternatives to milk have been on the market for many decades with increasing success. In any form of communication, people very naturally employ terms like “soy milk”. The rather artificial denomination “soya drink” is used in food labelling only because of the Regulation in question. There is no indication why “coconut milk” should be more traditional and/or more meaningful as to the nature of a product than “soy milk”, considering that neither term bears the danger of consumer deception.

The EVU therefore suggests

- **to include Commission Decision 2010/791/EU listing the products referred to in the second subparagraph of point III(1) of Annex XII to Council Regulation (EC) No 1234/2007 (OJ L 336 of 21 December 2010, p. 55) in the Roadmap’s evaluation;**
- **to consult Member States with a view to completing the list, both by re-submission of extant notifications and by asking Members States that have not yet done so to submit national lists;**
- **to adopt an Implementing Act based on Article 91(a) of Regulation (EU) No 1308/2013 to update that list.**

¹ Article 7 of (EC) No 2074/2005 defines “foods with traditional characteristics” as meaning “foods that, in the Member State in which they are traditionally manufactured, are: (a) recognised historically as traditional products, or (b) manufactured according to codified or registered technical references to the traditional process, or according to traditional production methods, or (c) protected as traditional food products by a Community, national, regional or local law.”

² Article 3 No 3 of Regulation (EU) No 1151/2012 defines “traditional” as “proven usage on the domestic market for a period that allows transmission between generations; this period is to be at least 30 years.”



About the EVU:

The European Vegetarian Union (www.euroveg.eu) is the voice of the growing number of Europeans choosing vegetarian and vegan products over animal-based nutrition. Its aim is to make vegetarian and meat-reduced lifestyles attractive, available and safe for consumers, producers and traders and provide adequate information on related health issues, as well as on plant health, animal health and welfare and environmental protection, with reference to a vegetarian lifestyle. The EVU is also the organisation backing the 'V-Label' (www.v-label.eu), a voluntary certified labelling scheme. The EVU is registered in the Register of Interest Representatives (No. 109356110578-03).

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