



Unit 1 - Inquiries and ICT

F3 Secretariat General European
Commission

Strasbourg, 10/04/2017

Complaint Q1/2017/JAP

Dear

On 16 March 2017, the European Ombudsman received a letter from the Office of the Bulgarian Ombudsman concerning dual quality of food products available in different markets of the EU Member States. With the consent of the Office of the Bulgarian Ombudsman, we have decided to treat this letter as a query.

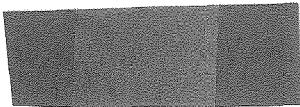
Since the Commission is the best placed institution to address the issues raised by the Bulgarian Ombudsman, we would appreciate it if the Commission were to kindly:

(i) explain its roadmap for action towards eliminating dual quality of food products available in different markets of the EU Member States, and the relative timeline;

(ii) explain how the consumer protection cooperation network and the high-level forum for a better functioning food supply chain may address the issue of dual quality of food products available in different markets of the EU Member States; and

(iii) clarify whether Articles 5 and 8 of the General Food Law Regulation¹ read in conjunction with its Recital 8 could be interpreted to mean that these provisions prohibit (a) the marketing of dual quality food products in different geographic segments of the internal market in general, and (b) the marketing of two versions of a product, one healthier (for humans in particular) than the other, presented to consumers as the same product.

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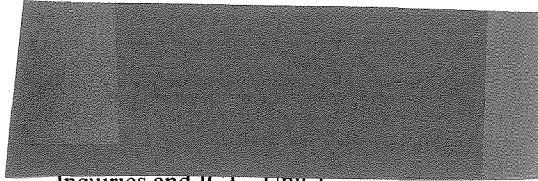
¹ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, OJ L 31, 1.2.2002, p. 1.



I would be grateful to receive your reply to this query both in English and in Bulgarian by 15 May 2017, so that I would be in a position to forward the information to the services of the Bulgarian Ombudsman as rapidly as possible.

Please find enclosed a copy of the Bulgarian Ombudsman's query.

Yours sincerely,



Inquiries and ICT - Unit 1



VĚRA JOUROVÁ
Membre de la Commission européenne

Brussels,
Ares(2017)

24 05 17

Subject: Your letter of 10 April 2017 regarding the complaint Q1/2017/JAP

Dear

Thank you for your letter of 10 April 2017 in which you mention the query of the Bulgarian Ombudsman, who raised specific questions regarding the issue of dual quality food.

The Commission is aware of the results of the studies carried out in several Member States about differences in quality of food products and has taken this concern seriously. Following the discussions held in the European Council on 6 March 2017 with Ministers in charge of agriculture and fisheries, I, as Commissioner for Justice, Consumers and Gender Equality, raised this issue with national authorities in charge of consumer protection and requested that they provide information and further evidence as regards the existence, the extent and the possible reasons for these alleged practices. In reply to your questions I can inform you that :

(i) & (ii) As a first step the Commission services will analyse the data and evidence collected by the consumer protection authorities in view of the sherpa meeting of the High Level Forum (HLF) for a better functioning food supply chain on 20 June 2017, in line with the conclusions of the European Council of 9 March 2017. This will allow for a meaningful and fact-based discussion between all the stakeholders involved, including inter alia national authorities, food manufacturers, consumers, producers and retailers. If appropriate a road map of further actions will be discussed at that stage.

(iii) a) Regarding the interpretation of the General Food Law Regulation, it is first necessary to understand what is meant by "dual quality food products" and "different geographic segments of the internal market". If these references are to be understood as meaning that food products are marketed under the same brand, but with differences in composition or quality of the ingredients in different Member States, it should be noted that EU law, particularly Regulation (EC) No 178/2002 and Regulation (EU) No

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1169/2011 do not prohibit such practice, provided the products in question are safe and consumers are correctly informed about their composition.

b) Regarding the second part of the question, it is first of all necessary to assess in which way a product could be "healthier" for humans than another, which is nevertheless presented as the same product. In this context, it is important to note that product composition may change from one Member State to another, e.g. since Member States can impose a particular composition of a food with respect to certain nutrients as part of their overall public health strategy.

Furthermore, voluntary efforts are in place at national level to reformulate the composition of certain food products and adjust their content in salt, sugar and other nutrients, to which food business operators may subscribe.

Yours sincerely,

Věra Jourová