

From: [REDACTED] (JUST)
Sent: jeudi 28 septembre 2017 20:10
To: [REDACTED] (CAB-JOUROVA); [REDACTED] (JUST)
Cc: JUST E3; [REDACTED] (JUST); [REDACTED] (JUST); [REDACTED] (JUST); [REDACTED] (JUST); [REDACTED] (JUST)

Food labelling and CPC authorities were invited.

Attendance was good with CPC authorities from BE, BG, CZ, EE, IE, ES, IT, LV, LT, LU, HU, RO SK, UK. And food authorities from BE, CZ, EE, HR, LT, HU, NL, AT, SK (Perm Rep), FI, SE.

Authorities welcome the guidance and did not challenge its legal soundness, but as they had it received only two days before, they were invited to send written comments. UK and LU representatives questioned its applicability in practice as there was no evidence that consumers would in fact make different choices and SK and LT representatives wanted more concrete and more "black and white" concepts as they are fearing possible litigation by companies. We were very assertive on its applicability and the fact that UCPD can only be implemented by a case by case assessment and that it worked in other contexts so there was no reason why it could not be applied on misleading practices in the communication of brands. The AT representative called on the other MS to use the CPC framework to make information and enforcement requests on concrete cases, this could also ultimately help as the cases may be transferred to judges and ultimately referred to judges.

Interest for the proposed funds is growing and hopefully a group of 6 countries (led by CZ and SK) may bid for a project that we could co-finance at 70%.

We proposed to organise a specific workshop to discuss concrete steps and start looking at specific case studies and work on shaping the financial proposals. This proposal was widely supported.

Details

[REDACTED] (JUST E3) opened the workshop by briefly introducing the issue of dual quality food and the current state of play. Three presentations were given on the Commission's action to tackle the issue: (1) development and implementation of a harmonised testing approach (Joint Research Centres (JRC)), (2) Commission guidelines, adopted on 26 September (SANTE/JUST) and (3) call for proposals to help MS to build the necessary capacities (Chafea).

Representatives from the competent national food and consumer authorities generally welcomed the Commission's activity while making remarks and asking questions.

The JRC stressed that the testing should cover all MS and explained the two phases of their approach: (phase 1) revisiting studies completed at national level, to discuss the interpretation of the results, and – based on the outcome of this mapping exercise – to develop a harmonised testing protocol which shall be available in early 2018; (phase 2) implementation of the harmonised testing approach under the coordination of JRC. JRC is committed to support MS and to ensure quality and comparability of the results while continuing the dialogue with stakeholders (MS, authorities, NGOs, industry etc.). CZ welcomed the work of the JRC and assured its full support.

SANTE/JUST presented the Commission's guidance to assist enforcers in applying and making efficient use of the existing EU food- and consumer law (i.e. Food Information Regulation and UCPD). The Commission explained the functioning of the UCPD as a safety net prohibiting misleading practices that are not covered by the sector-specific food law.. Furthermore, the Commission acknowledged that the guidance does not affect food business operators' right to adapt their products to different markets, as long as the consumer is informed accordingly. The aim of the guidance is to avoid situations where products which are marketed across the Single Market as seemingly the same display significant difference in

100

[Illegible handwritten notes]

composition. Member States generally welcomed the guidance, in particular CZ, SK and HU. MS further asked about clarifications and raised concerns about the general terms "product of reference" (LU) and "same packaging and brand" (LT). HU argued that additional legislation should however be considered.

Chafea explained that the Commission provides funding (1 million) for projects in MS to develop and build enforcement capacities. The deadline for this "call for proposals" has been extended to 30 November 2017 and Chafea encouraged MS to call the funds which are – under certain conditions – also available for single beneficiaries.

5th Sherpa meeting of the High Level Forum for a Better Functioning of the Food Supply Chain **(3 October)**

Today we attended the first part of the 5th High Level Forum for a Better Functioning of the Food Supply Chain. Commission representatives from GROW [REDACTED] and JUST [REDACTED] underscored that the Commission takes the issue very seriously and repeated president Juncker's message. [REDACTED] briefly highlighted JUST actions which encompass: (1) Commission notice adopted on 26 September to assist national enforcers (ppt by JUST), (2) funding the development of a harmonised testing methodology, (3) funding to assist MS conduct studies and develop enforcement capacities and (4) to engage into a multi-stakeholder dialogue (amongst others the purpose of this meeting);

The Commission representatives reiterated that the existing legislation – when efficiently implemented – is sufficient to tackle the issue of dual quality food and that it does not restrict food business operators' right to differentiate and adapt their products to meet legitimate goals such as consumer preferences, but that adequate information should be given to consumers in order to be fair and respect their expectations.

Representatives from MS and industry generally welcomed the Commission's actions so far, in particular, they...

- welcomed the guidance and announced they will scrutinize it carefully (CZ, SK, IE, UK, FoodDrinkEurope); most stakeholders called the existing legislation – when implemented effectively – sufficient (NL, UK, IE, SE); only HU and CZ (but mildly) called for further legislation;
- stressed the importance of working on facts and evidence and therefore welcomed the efforts by the JRC (EuroCommerce, FoodDrinkEurope, AT, NL, PL, PO);
- welcomed the idea of a multi-stakeholder network and signaled their general support (HU, FoodDrinkEurope, EuroCommerce, PO); BEUC explained they cannot participate because they do not have the necessary evidence but (if possible) participation would be interesting for some of its members;

Industry representatives further called for the Commission to take the position of a 'honest broker' in a truly multi-stakeholder exchange and refused to work on a 'code of conduct' because they considered this premature and wanted progress on tests first (FoodDrinkEurope, EuroCommerce).

DG GROW and Eurocommerce stressed that a part of the problem comes from Territorial suppliers' restrictions. [REDACTED] made a call to the industry to revisit their market segmentation policies which were not adequate anymore and reflecting the Internal Market of 20 years ago. [REDACTED] announced that further work will be done on such a thematic in the next Meeting of the Forum. [REDACTED] also concluded by asking all MS to be more engaged as the problem was political and economical, and that they should demonstrate respect for an issue judged highly relevant at the top political level in some MS and in the Commission.

— — — — —
— — — — —
— — — — —

— — — — —
— — — — —
— — — — —