

USDA Foreign Agricultural Service

GAIN Report

Global Agricultural Information Network

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EC Tackles Dual Quality of Foodstuff in the EU

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Trade Policy Monitoring

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Report Highlights:

On April 11, 2018, the European Commission published a proposal to amend the Unfair Commercial Practices Directive to answer Member States' demand for tools to tackle dual quality of foodstuff in the EU. The Commission [defines](#) dual quality foodstuff as “goods marketed in the Single Market under the same brand or trademark but with differences in content, composition or quality in individual EU Member States.” Stakeholders can provide feedback on the draft Directive before June 11, 2018.

General Information:

On April 11, 2018, the European Commission published a new [package of legislative proposals](#) to update its consumer rights legislation. As part of what is presented as a “New Deal for Consumers,” the Commission proposed to amend [Directive 2005/29/EC](#) concerning unfair business-to-consumer commercial practices in the internal market, the so-called “Unfair Commercial Practices Directive” to tackle dual quality of foodstuff in the EU. The European Commission [defines](#) dual quality foodstuff as “goods marketed in the Single Market under the same brand or trademark but with differences in content, composition or quality in individual EU Member States” (e.g. containing a different content of meat or fish, a greater fat content or a different type of sweetener).

As discussed below, dual quality food has been a hot topic in Brussels for the past year and a half. Eastern Member States governments [called](#) on the Commission to act swiftly, arguing that composition differences for some products constituted discrimination against their citizens. Industry has countered that differences between recipes can exist in different countries to allow for consumer preferences; enable manufacturers to utilize local ingredients; and to ensure flexibility in supply chains. They have also [noted](#) that no evidence of widespread dual quality has been found.

To address this issue, the Commission put forward an [amendment](#) to Directive 2005/29/EC so that “any marketing of a product as being identical to the same product marketed in several other Member States, while those products have significantly different composition or characteristics” shall be regarded as misleading if it causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise. When a practice is found to be misleading, competent authorities in Member States shall address the practice according to national rules. Commenting on this proposal, EU Justice and Consumers Commissioner Věra Jourová said that this amendment “make it black and white that dual food quality is forbidden.”

Next steps:

The European Parliament and the Council of the European Union, as co-legislators, will now examine the Commission’s proposal. They can propose amendments separately but will have to find a common position for the Directive to be finally adopted. The Commission opened a [feedback period](#), open to all stakeholders, which will close on June 11, 2018. The Commission will then present a summary of the feedback received to the Parliament and Council.

The Commission also made EUR 1 million available to its Joint Research Centre (JRC) to develop a methodology to improve food product comparative tests. The harmonized testing methodology is [expected](#) to be finalized in April 2018 and to produce its first results on the quality of certain food products by the end of 2018.

Background:

In the first half of 2017, three European Member States national authorities - Hungary, Slovakia and the Czech Republic – launched investigations pertaining to differences found in the quality of certain foodstuffs sold in the Eastern and Western European markets. An often-cited example is that fish fingers of a specific brand contained less fish in Slovakia than in Austria. Other examples included sodas containing more sweetener and strawberry yogurts containing 40 per cent less strawberry in

Eastern markets versus Western markets. This issue became very political in nature with Eastern Members States complaining of being treated as second-class citizens of the EU and putting pressure on the European Commission to act. Bulgarian Prime Minister Boyko Borissov described the practice as “food apartheid.” President Juncker stated that it was not acceptable that “in some parts of Europe [...] people are sold food of lower quality than in other countries, despite the packaging and branding being identical.” He added that the Commission would seek to “equip national authorities with stronger powers to cut out these illegal practices.”