



Joint Position Paper on Common Names for Dairy

Amendment 171 of the Common Organisation of Markets proposal

Brussels, 16 September 2020

This paper addresses the vote in the European Parliament plenary on 19-22 October 2020 on the Proposal for a Regulation amending Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products ("Regulation 1308/2013").

In its new Farm to Fork Strategy, the Commission proposed encouraging a shift towards healthier, more sustainable diets. Yet Amendment 171 of the report, adopted in May 2019 by the Committee on Agriculture and Rural Development, is contrary to this positive momentum. Amendment 171 has the potential to have an unintended, but extremely detrimental, impact on the future development of plant-based food and on the provision of meaningful information to consumers. Furthermore, it breaches the principle of proportionality.

The European Alliance for Plant-based Foods (EAPF) thus calls on MEPs to reject Amendment 171 and avoid further restrictions on dairy-inspired preparations.

The EU has expressed the ambition to provide "clear information that makes it easier for consumers to choose healthy and sustainable diets" (Farm to Fork) and that "shall not be misleading" (Regulation (EU) 1169/2011). However, this goal is undermined by regulatory barriers like the current ban on the use of commonly used terms for healthier, more sustainable foods such as "soya milk," "vegan cheese," "plant butter." Promoting healthy, sustainable diets means removing barriers for the plant-based food sector in the Annex VII, part III of current Regulation 1308/2013 which requires modernisation. Yet instead of enhancing the information available to European consumers regarding plant-based foods, Amendment 171 goes completely in the other direction. This would make it more difficult for consumers to make healthier, more sustainable choices for themselves and their families and hold back the further development of the innovative and environmentally friendly plant-based food sector in Europe.

Reasons why Amendment 171 should be rejected:

- It risks seriously restricting communication about plant-based food such as "plant-based alternative for yoghurt", "plant-based alternative for cream", or the mere use of descriptive terms such as "buttery" or "creamy" could fall under the scope of the prohibition. Such limits on communication constitute a restriction on freedom of expression;

- Confusing indications and practices are already prohibited under point (6) of Annex VII, part III of Regulation 1308/2013, while Article 7 of Regulation 1169/2011 already prohibits misleading food information. The new wording in Amendment 171 creates uncertainty and confusion regarding its relationship with these existing provisions. It could result in an unduly broad interpretation of what commercial practices should be considered as misleading. For example:
 - Using "colour codes" (red and blue package) to indicate the salt level in butter, for plant-based alternatives;
 - Using packages for plant-based foods that are typical with dairy products, such as butter blocks, milk cartons, etc.;
 - Using wordings such as "creamy" and "buttery" to inform the consumer of the texture and flavour of a plant-based food;
- It could mean negative and restrictive interpretation of existing regulations and standards, and confuse the use of generally accepted terms. For instance, there is a serious risk that descriptive statements such as "product contains yoghurt cultures" or "product contains bacterial cultures also found in yoghurt," would not be possible anymore for describing plant-based products.

There is a risk that these examples could be deemed to be in breach of the rules introduced by Amendment 171.

Additional legal concerns raised by Amendment 171:

- The adoption of this amendment will result in legal uncertainty since the relationship between amendment 171 and the existing legal provisions on the use of designations for food and the rules on labelling to consumers is unclear;
- The changes are contrary to the principle of proportionality, because the additional wording is not appropriate, nor necessary to achieve the legitimate objective that is supposedly pursued by this amendment (namely consumer protection);
- Amendment 171 could in fact undermine consumer protection by preventing the use of terms that have an informative and descriptive character, and that are necessary to adequately inform consumers regarding the nature and composition of the product;
- There is clearly an evolving consumer demand for plant-based products that necessitates an expansion of the rules on the use of certain designations for non-dairy products, rather than a further restriction. Regulation 1308/2013 should therefore, pursuant to Article 78(3) thereof, be amended accordingly;
- Amendment 171 does not provide for any transitional measures or grandfathering period, so risks impacting currently existing practices.

For all of these reasons, we urge you to reject Amendment 171 during the plenary session of 19-22 October. In doing so, you will promote the production of environmentally friendly plant-based foods within the EU and help consumers to make healthier, more sustainable choices.