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**COMMISSION STAFF WORKING DOCUMENT**

**EVALUATION**

*of*

**marketing standards (contained in the CMO Regulation, the ‘Breakfast Directives’ and  
CMO secondary legislation)**

{SWD(2020) 231 final}

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## GLOSSARY

<i>Term or acronym</i>	<i>Meaning or definition</i>
CAP	Common agricultural policy
CMO	Common market organisation
CODEX	Codex Alimentarius
EU	European Union
F&V	Fruits and vegetables
GI	Geographical Indications
MS	Member States
RUCIP	Rules & practices of the inter-european trade in potatoes
UNECE	United Nations Economic Commission for Europe

## 1. INTRODUCTION

EU marketing standards are a set of rules aimed to ensure that the single market is supplied with standardised quality agricultural products that meet consumer expectations; for that, the rules seek to facilitate trading and ensure a level playing field for EU producers. Marketing standards concern the external qualities of products (e.g. fruits and vegetables) and the non-visible qualities that result from a particular production process (e.g. water content in poultry meat or the percentage of oleic acid in olive oil).

EU marketing standards were laid down in the early days of the common agricultural policy (CAP) and were based on existing national and international standards that means they were drawn up in different times and under different conditions for specific products or entire sectors.

The **purpose** of this evaluation is to contribute to the performance check required in the Commission's policy-making cycle, considering that up until now there has been no comprehensive, cross-sector evaluation of marketing standards.

The **geographical coverage** of the evaluation encompasses the European Union of 28 Member States, including the United Kingdom, as it was a Member State when the evaluation was carried out (from December 2018 to November 2019).

The **examination period** of the evaluation covers the period following the implementation of the 2013 CAP reform.

The evaluation examined all **evaluation criteria**, i.e. the effectiveness, efficiency, relevance, coherence and EU added value of marketing standards for food products in the Union of 28, as set out under the following **measures**:

- the applicable Regulation 1308/2013 on a common market organisation<sup>1</sup>, laying down rules concerning marketing standards, definitions, designations, sales descriptions, eligibility criteria and optional reserved terms for a broad range of sectors;
- secondary common market organisation (CMO) legislation, laying down detailed rules on marketing standards for specific sectors;
- the so-called 'Breakfast Directives', which establish specific rules on the description, definition, characteristics and labelling of coffee and chicory extracts, cocoa and chocolate products, sugars intended for human consumption, fruit jams, jellies, marmalades and sweetened chestnut purée intended for human consumption, dehydrated milk, fruit juices and honey.

The evaluation took into account other relevant applicable rules and in particular relevant private and international marketing standards, checks and penalties related to marketing rules, across-the-board labelling rules on food information to consumers, hygiene rules for food of animal origin and control rules for food and feed, animal health and animal welfare.

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<sup>1</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, OJ L 347, 20.12.2013, p. 671–854.

The evaluation aimed to determine whether marketing standards for food products achieve their objectives in a manner that is useful and sufficient for all stakeholders, (i.e. producers, processors, traders, retailers, consumers, Member State' administrations), and that, avoids unintended side-effects (such as deadweight<sup>2</sup>).

The findings of the evaluation can therefore be used in the reflection and debate on a need for regulatory changes to marketing standards and, on the potential for their simplification. The findings can also feed into a Commission report to the European Parliament and to the European Council, which, in accordance with Article 75(6) of Regulation 1308/2013, is required before any change can be made to the list of products covered by marketing standards.

## 2. BACKGROUND TO THE INTERVENTION

### 2.1. Description of the intervention and its objectives

Marketing standards were developed at EU level to facilitate the smooth functioning of the internal market, to keep food of unsatisfactory quality off the market and, to provide clarity for consumers and a level playing field for producers, traders and retailers. These general objectives and expected impacts on the different stakeholders are also developed in the following legislative documents:

#### [Regulation \(EU\) 1308/2013 on a common market organisation](#)

The Common Market Organisation Regulation includes a specific section on **marketing standards** (Part II, Title II, Chapter I, Section 1); it provides for marketing standards (Subsection 2, Article 75), definitions, designations and sales descriptions (Subsection 2, Article 78) and optional reserved terms (Subsection 3). Figure 1 provides a cross-sectoral, global overview of EU marketing standards, listing the available instruments (e.g. classification criteria, indication of species, presentation, labelling appearance, components, on production methods, optional reserved terms etc.) and highlighting the sectors where they are relevant. Marketing standards apply to both EU and imported products and require compliance with certain product characteristics, classification, production methods, packaging methods as well as labelling/marketing requirements. Some standards constitute a 'bottom line', whereby products below specifications may not be sold in retail stores (e.g. some fruits & vegetables). In other cases, compliance is necessary to secure a particular sales designation, such as 'milk'. Marketing standards provide consumers with better products and food business operators with common sales descriptions, such as 'milk' or 'veal'.

In the Common Market Organisation Regulation, the objective and scope of marketing standards in relation to agricultural product quality policy have been defined as follows: *'Marketing standards should apply to enable the market to be easily supplied with products of a standardised and satisfactory quality, and in particular should relate to technical definitions, classification, presentation, marking and labelling, packaging,*

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<sup>2</sup> Deadweight: effects which would have arisen even if the intervention had not taken place.

*production method, conservation, storage, transport, related administrative documents, certification and time limits, restrictions of use and disposal.*<sup>3</sup>

In addition to the sectors presented in Figure 1, the common market organisation for rice, sugar and cereals provides for eligibility criteria (and empowerments to further define them) that are relevant for market mechanisms, such as public intervention and private storage<sup>4</sup>. These eligibility criteria define the specifications a product must have to be eligible for support.

**Figure 1 –EU marketing standards: cross-sectoral and global overview**

Typologies of instruments	Sectors							
	Fresh fruit and vegetables	Processed fruit and vegetables	Poultry	Eggs	Dairy products	Olive oil	Hops	
a: technical definitions, designation and sales descriptions								
b: classification criteria such as grading into classes, weight, sizing, age and category								
c: indication of the species, plant variety or animal race or commercial type								
d: presentation, labelling linked to obligatory marketing standards, packaging, rules to be applied in relation to packing centres, marking, year of harvesting and use of specific terms								
e: criteria such as appearance, consistency, conformation, product characteristics and the percentage of water content								
f: standards on specific substances used in production, or components or constituents, including their quantitative content, purity and identification								
g: standards on the type of farming and production method, including advanced systems of sustainable production								
h: standards on the frequency of collection, delivery, preservation and handling, the conservation method and temperature, storage and transport								
i: indication on the place of farming and/or origin								
j: restrictions as regards the use of certain substances and practices								
l: additional requirements for marketing of products in the fruit and vegetables sector								
m: certification for hops								
o: optional reserved terms by sector or by product <sup>5</sup>								

<sup>3</sup> Recital 71 of Regulation (EU) No 1308/2013.

<sup>4</sup> Article 8 of Regulation 1308/2013 sets out the general provisions on public intervention and aid for private storage: (a) public intervention, where products are bought up by the competent authorities of the Member States and stored by them until disposed of; and (b) granting of aid for private operators to store products.

<sup>5</sup> Optional reserved terms: Title II Chapter 1 Section 1 of Regulation 1308/2013 lays down rules on marketing and producer organisations, in particular on marketing standards. These rules are to be divided between obligatory rules and optional reserved terms for agricultural products.

## Secondary common market organisation legislation

The Commission has introduced the following secondary legislation:

*Commission Regulation (EC) 589/2008* lays down detailed rules for implementing Council Regulation (EC) 1234/2007 as regards marketing standards for **eggs**, setting the mandatory rules for marking eggs and packs as 'Free range eggs', 'Barn eggs', 'Eggs from caged hens' or Organic eggs, depending on the way the laying hens are kept. It also sets out the quality standards for Class A eggs, concerning e.g. appearance and smell. Eggs not fulfilling these standards are Class B eggs and can only be sold to the food industry. The Regulation also contains rules on grading the eggs according to weight (S, M, L or XL), and voluntary rules on marking the eggs according to freshness or information on how the hens were fed.

*Commission Regulation (EC) 617/2008* lays down detailed rules for implementing Regulation (EC) 1234/2007 as regards marketing standards for **eggs for hatching and farmyard poultry chicks**, laying down rules on monthly communications on production data, to be collected by the Member States and notified to the Commission.

*Commission Implementing Regulation (EU) 543/2011* lays down detailed rules for the application of Council Regulation (EC) 1234/2007 in respect of **fruit and vegetables and processed fruit and vegetables**. The general principle for this sector is that products must be 'intact, sound and clean', mature, properly packaged and traceable. Products are classified as either 'extra', 'class I' or 'class II'. Further details are laid out in ten specific standards for apples, citruses, pears, kiwi, strawberries, lettuces, sweet peppers, peaches/nectarines, table grapes and tomatoes. The rules also provide details on methods of inspection and, how to perform conformity checks and provide definitions for 'consignment', 'package', 'lot' etc. upon imports. *Commission Implementing Regulation 1333/2011* lays down marketing standards specifically for bananas.

*Commission Regulation (EC) 543/2008* lays down detailed rules for the application of Council Regulation (EC) 1234/2007 as regards the marketing standards for **poultry meat**, laying down definitions for different categories of poultry meat carcasses and cuts, setting minimum standards for the production of foie gras and setting the rules on quality grading (class A and B). It also lays down legal requirements for alternative poultry production methods under the optional reserved terms ('Fed with ... % ...', 'Extensive indoor'- 'Barn-reared', 'Free-range', 'Traditional free range', 'Free range — total freedom'), and sets legal limits for the uptake of extraneous water in poultry meat, laying down the methods for measuring and determining this and setting out the requirements for official checks in this field. It also establishes a 'Board of Experts' to coordinate the work of the national reference laboratories responsible for testing water content in poultry meat.

*Commission Regulation (EC) 566/2008* lays down detailed rules for the application of Council Regulation (EC) 1234/2007 as regards the marketing of the **meat of bovine animals aged 12 months or less**, providing rules on compulsory information on the label, rules on imports and official controls. Moreover, Regulation 1760/2000 establishes a system for identifying and registering bovine animals and labelling beef and beef



products. Commission Regulation 1825/2000 lays down additional detailed rules on labelling beef and beef products. Both Regulations provide for (post-BSE) beef labelling and traceability rules.

Commission [Regulation \(EC\) 1850/2006](#) of 14 December 2006 lays down detailed rules for the certification of **hops and hop products** and Commission Regulation 1295/2008 of 18 December 2008 on the importation of hops from third countries, providing definitions of prepared/unprepared hops, seeded/seedless hops, etc. They also provide requirements that must be met to present hops for certification (moisture content, leaves and stalks, hop waste), rules on sampling and approval of certification centres.

For **milk and milk products**, the density of rules is high. Commission [Regulation \(EC\) 445/2007](#) provides detailed rules for applying Regulations (EC) 2991/94 and (EEC) 1898/87<sup>6</sup> regarding the use of the designation 'butter'. Commission Decision 2010/791/EU on the descriptions of milk and milk products whose exact nature is known because of traditional use and/or when the designations are clearly used to describe a characteristic quality of the product. [Council Directive 2001/114/EC](#) provides requirements for partly or wholly dehydrated preserved milk for human consumption. Commission Directive 79/1067/EEC lays down Community methods of analysis for testing partly or wholly dehydrated preserved milk for human consumption. Commission Directive 87/524/EEC lays down Community methods of sampling for chemical analysis for the monitoring of preserved milk products. [Directive \(EU\) 2015/2203](#) provides definitions and labelling requirements for caseins and caseinates intended for human consumption. (see also Section 3 below).

Commission Implementing [Regulation \(EU\) 29/2012](#) of 13 January 2012 on marketing standards for **olive oil** and Commission [Regulation \(EC\) 2568/91](#) of 11 July 1991 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis provide requirements for the packaging, labelling, blending, designation of origin and controls of all categories of olive oils (extra virgin olive oil, virgin olive oil, etc.); these requirements oblige Member States to appoint competent monitoring authorities for conformity checks and impose reporting obligations and set out rules on the physico-chemical and organoleptic characteristics of olive oil, olive-residue oil and the relevant methods of analysis.

Secondary legislation lays down detailed rules complementing Annex VII, Part II of the CMO Regulation providing quality parameters for **wine, new wine (still in fermentation), liqueur wine, sparkling wine and some other related products**<sup>7</sup>. Wine

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<sup>6</sup> Please that this regulation is no longer in force.

<sup>7</sup> Commission Delegated Regulation (EU) 2019/934 of 12 March 2019 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files;  
Commission Implementing Regulation (EU) 2019/935 of 16 April 2019 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards analysis methods for determining the physical, chemical and organoleptic characteristics of grapevine products and notifications of Member States decisions concerning increases in natural alcoholic strength;  
Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of

was not in the scope of this evaluation. Marketing standards for wine were assessed in the evaluation support study on the CAP measures applied to the wine sector<sup>8</sup>.

### The ‘Breakfast Directives’

Marketing standards established by the ‘Breakfast Directives’ have been drafted under different conditions and times for several products or sectors, and predate the CMO Regulation. They were justified due to differences between national laws that could lead to unfair competition, mislead consumers, and thereby have a direct adverse effect on the establishment and functioning of the common market. They include:

*[Directive 1999/4/EC](#) of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts.*

*[Directive 2000/36/EC](#) of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption.*

*Council Directive [Dir 2001/111/EC](#) of 20 December 2001 relating to certain sugars intended for human consumption.*

*Council [Directive 2001/113/EC](#) of 20 December 2001 relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption.*

*Council [Directive 2001/114/EC](#) of 20 December 2001 relating to certain partly or wholly dehydrated preserved milk for human consumption.*

*Council [Directive 2001/112/EC](#) of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption.*

*Council [Directive 2001/110/CE](#) of 20 December 2001 relating to honey.*

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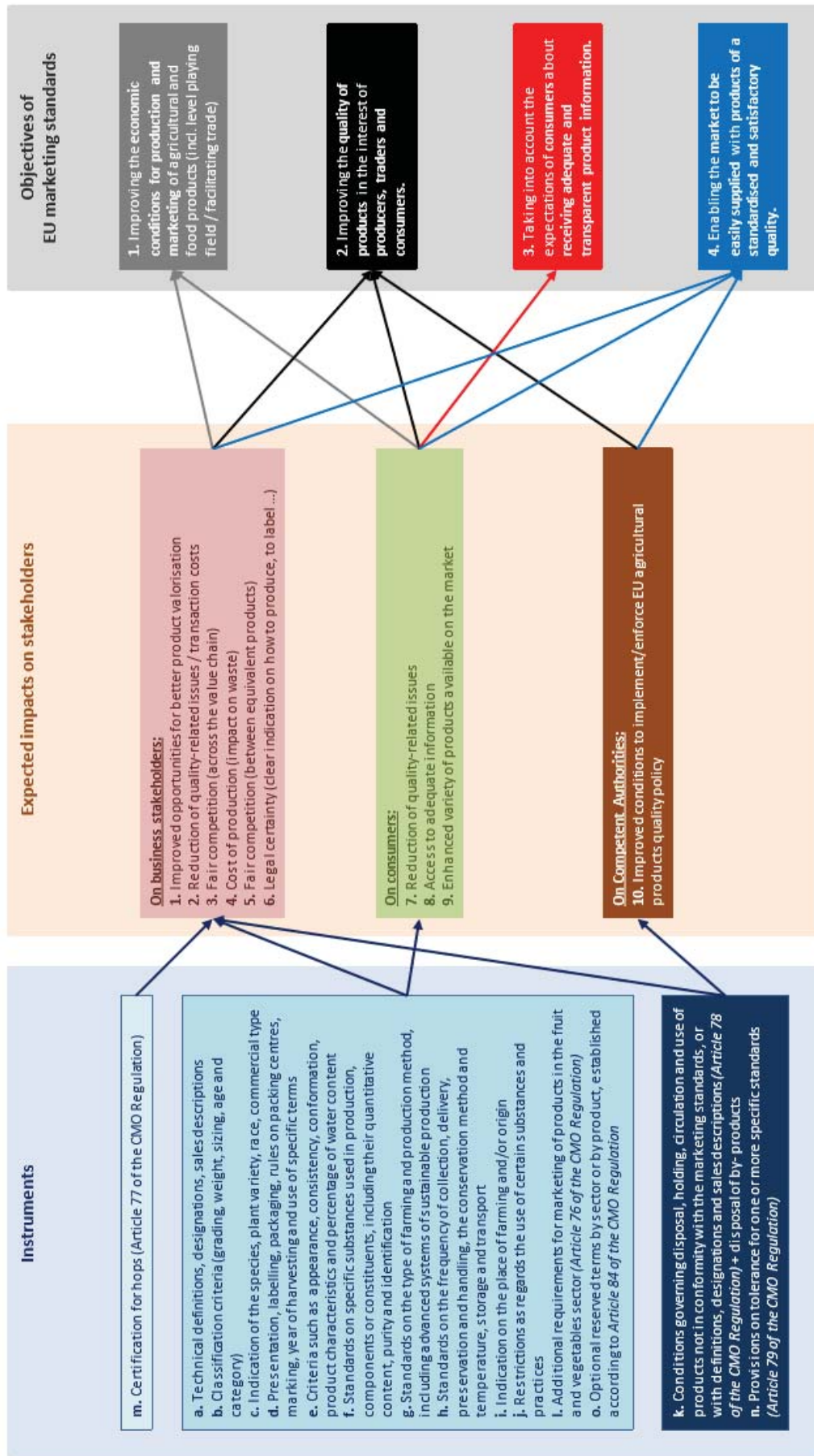
designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation;

Commission Implementing Regulation (EU) 2019/34 of 17 October 2018 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, amendments to product specifications, the register of protected names, cancellation of protection and use of symbols, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards an appropriate system of checks;

Commission Delegated Regulation (EU) 2018/273 of 11 December 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, notifications and publication of notified information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties.

<sup>8</sup> <https://op.europa.eu/en/publication-detail/-/publication/21c4fc5f-5064-11e9-a8ed-01aa75ed71a1>

**Figure 2 - Model of intervention logic of EU marketing standards – summary**





## 2.2. Baseline and points of comparison

The evaluation focuses on marketing standards under the current Common Market Organisation Regulation, but some of these measures were introduced long before the entry into force of Regulation (EU) 1308/2013. It is therefore very difficult to establish a meaningful counterfactual analysis: for some sectors, it would require going back decades, at the risk of weak results. In addition, the benefits of marketing standards are difficult to quantify, and it would not be easy with economic modelling to capture their effects. Therefore, the evaluation followed a qualitative rather than quantitative approach, reaching out to all categories of stakeholders to assess the marketing standards as they stand today.

However, the sector of fruit and vegetables, where a number of different marketing standards were replaced by a single Regulation, could offer an example of recent and meaningful counterfactual comparison. In 2008, Commission Regulation (EC) No. 1221/2008 repealed 26 of the 36 specific marketing standards. Thus, the 36 specific standards defined by 34 regulations were replaced by just 1 regulation for 11 standards (one general marketing standard and 10 specific ones). The general marketing standard is applicable to all fresh fruit and vegetables covered by the common market organisation, but the 10 other specific marketing standards are maintained for the following products: apples, tomatoes, strawberries, peaches and nectarines, citrus, peppers, kiwi, lettuces, pears and grapes. The general principle here is that products must be ‘intact, sound and clean’, mature, properly packaged and traceable. Products are classified either as ‘extra’, ‘class I’ or ‘class II’. Further details are laid out for apples, citrus, pears, kiwi, strawberries, lettuces, sweet peppers, peaches/nectarines, table grapes and tomatoes. When importing, customs issue a certificate of conformity for the consignments. The rules also provide details on methods of inspection. They indicate how to perform conformity checks and provide definitions for ‘consignment’, ‘package’, ‘lot’ etc.

The pros and cons of repealing the 26 specific marketing standards were analysed in the 2009 Study on marketing standards in the fruit and vegetable sector<sup>9</sup>. The analysis found that the usefulness of the marketing standards depended on the category of operators: the presence of public or private marketing standards (EU, UNECE or retailers specifications) seems to be essential for large-scale retailers. For packers, the presence of marketing standards tends to make work easier by offering a common external basis for all operators (producers – suppliers, traders and staff assigned to the packing line). For producers, thanks to marketing standards practices can be adjusted (varieties choice, cultural practices) to obtain the required result (share of extra class, of class I and II within a lot). For wholesalers, thanks to marketing standards, big quantities can be bought and sold without each piece having to be checked. They reduce transaction costs.

Farmer’s associations were of the opinion that withdrawing public standardisation norms opens the space for multiple private standardisation schemes, each with its own, distinctive set of rules. That is why they prefer to keep a European system for marketing standards in place. Some would even like to reinstate the 26 marketing standards eliminated back in 2008.

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<sup>9</sup> [https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/cmef/products-and-markets/marketing-standards-fruit-and-vegetable-sector\\_fr](https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/cmef/products-and-markets/marketing-standards-fruit-and-vegetable-sector_fr)

The expected impacts on stakeholders are notably to ensure legal certainty, fair competition and access to adequate information and to facilitate the implementation and enforcement of the EU policy on quality agricultural products<sup>10</sup>.

### 3. IMPLEMENTATION /STATE OF PLAY

Due to the large scope of the evaluation covering a wide range of products and sectors, and taking into account other relevant rules in addition to the EU legislation<sup>11</sup>, it is extremely difficult to describe the implementation of the marketing standards in a generalised, all-encompassing manner.

In addition regulations apply directly. Therefore to better understand the implementation of marketing standards, the approach in this section is to examine information on non-compliance available to the Commission, notably for poultry and olive oil, and to analyse judgment of the European Court of Justice, notably for dairy products.

#### Overview of controls of water content in poultry meat

Poultry, like all animal species, has water naturally present in it. This is known as physiological water. Commercial poultry processing in accordance with good manufacturing practice, adds an amount of water known as ‘extraneous water’, part of which is technically unavoidable.

Commission Regulation (EU) No 543/2008 sets legal limits for the amount of technically unavoidable water so that the ‘true extraneous’ water can be detected and consumers are not being disadvantaged by excess added water in the final product.

The system for monitor and checking water content in poultry meat relies on regular monitoring in slaughterhouses and checks carried out by national competent authorities along the marketing chain, including in slaughterhouses, cutting plants and at the stage of imports. The respective national reference laboratories (NRLs) report the results of the checks (‘control data’) to the Commission each year. The control data are evaluated by the Joint Research Centre<sup>12</sup> and discussed at the annual meetings of the Expert Group for Water Monitoring in Poultry Meat.

Control data are reported according to product categories for which legal limits are set in the Marketing Standards Regulation, distinguishing also the origin of the poultry meat (EU/non-EU).

In the date from the most recent period (data from 2011-2017), a relatively limited share of non-compliance samples were reported for chicken carcasses (6-11%). The chicken carcasses originated almost exclusively in the EU (imports of whole carcasses to the EU are negligible).

The non-compliance rate for poultry cuts ranged from 14% to 25% of the total control data reported, regardless of the origin of the poultry meat. This overall picture masks

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<sup>10</sup> [https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality\\_en](https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality_en)

<sup>11</sup> Regulations are directly applicable in all Member States.

<sup>12</sup> <https://ec.europa.eu/jrc/en/about/jrc-site/geel>

differences in the non-compliance rates between poultry cuts of EU and non-EU origin and between various categories of poultry cuts. The share of reported non-compliant imported poultry cuts is very high, ranging from 25% to 46%, while non-compliance of EU poultry cuts is somewhat lower between 11% and 21%. It is worth noting, however, that for the specific category of chicken breast of EU origin, non-compliance is also high (14% to 32%); this suggests that it is becoming increasingly difficult for EU producers to meet the legal limits, at least for this product category.

### Overview of the controls in the olive oil sector

Non-compliance is a good way to analyse the implementation of marketing standards. The controlling checks in the olive oil sector are presented as an example, but do not imply any generalisation across the various sectors.

Olive oil, and in particular extra virgin olive oil, is considered a food category at high risk of non-compliance and fraud due to its high economic value compared to other food products.

Conformity checks are an essential tool for verifying that marketing standards specifically designed for a product are effectively complied with on the EU market.

In accordance to Regulation (EEC) No 2568/91, EU Member States should perform each year at least one conformity check per thousand tons of olive oil marketed in each Member State.

Conformity checks should be performed in all the relevant stages of the supply chain. Member States should assess the level of risk of each stage of the production and marketing chain and design their control plans accordingly. In producing Member States, all the stages of the supply chain should be covered by controls, whereas in non-producing Member States, distributors and retailers are mostly controlled.

Conformity checks for olive oils are based on a risk analysis, which, if conducted effectively, and allows the competent authorities to target their control activities as appropriate, thus ensuring the efficacy and efficiency of checks.

Across the EU, the three main criteria used for risk analysis are the following: a) category of oil: the majority of controls is focused on bottled extra virgin olive oil; b) the position of operators in the marketing chain; c) the findings from previous checks.

The following main typologies of infringements can be identified:

- marketing of virgin olive oil as extra virgin olive oil;
- marketing of seed oils colored with chlorophyll as extra virgin olive oil;
- marketing of other vegetable oils (sunflower, corn, palm, etc.) blended with olive oil as ‘olive oil’;
- misleading use of the indications of origin;
- marketing of ‘lampante’ olive oil labelled as ‘extra virgin’ or ‘virgin’ olive oil.

The EU system of conformity checks makes olive oil one of the most controlled products in the EU food chain. In particular, the control requirements include the minimum number of conformity checks to be performed annually, as set out by Regulation (EEC)

No 2568/91, taking into account the characteristics of their domestic market and the need to also control other food products.

### Court cases for dairy

Another way to look at the implementation of marketing standards is to analyse the European Court of Justice cases interpreting EU law. For dairy definitions, two cases are worth mentioning.

In its judgment of 16 December 1999, *Diät-Käse*, C-101/98, EU:C:1999:615, the European Court of Justice considered that products, including ‘cheese’, could be described using the designation ‘milk products’ only if they are products derived exclusively from milk and provided that no milk constituent has been replaced, even partially, during the manufacturing process. The European Court of Justice added that this prohibition was introduced because of the need to protect consumers and to avoid any confusion between milk products and other food products, including those consisting partly of milk components. The Court noted that the legislator, in the light of the principle of proportionality, clearly considered that only a strict ban on the use of the designation ‘cheese’ for products derived from milk from which the natural milk fat has been removed could with certainty prevent any confusion that might arise in the mind of the consumer as a result of the use of the word ‘cheese’, even if accompanied by written explanations.

In its judgment of 14 June 2017, *Tofu Town*, C-422/16, EU:C:2017:458, the European Court of Justice stressed the fact that, whether in marketing or advertising, the term ‘milk’ and the designations reserved exclusively for milk products can only be used for products which meet the requirements laid down by Annex VII, Part III, to Regulation No 1308/2013. Furthermore, for the producers of those products, these rules guarantee undistorted conditions for competition, and for consumers the rules guarantee that the products with those designations meet all the same standards of quality, eliminating for consumers any confusion surrounding the composition of the products they intend to purchase.

## 4. METHOD

### 4.1. Short description of methodology

The **strategy to collect** and gather the vast and varied evidence base needed for the evaluation **combined multiple data collection methods and tools**. In particular, these multiple methods and tools were used to make the overall data collection system more robust, address any potential failure of specific methods/tools, and manage the related risks. The following methods were applied:

**Desk research**, which includes compiling relevant legislative texts, documentation, background information, datasets (mainly concerning trade data) and reviewing the available scientific and technical literature (of both a general and specialist nature).

**In-depth structured interviews with competent authorities, stakeholders and independent experts.**



Three different **stakeholder surveys**, targeting different respondents and collecting a substantial part of the evidence base needed for the evaluation from primary sources, notably Member State' competent authorities (19 responses received), business associations at both EU level and Member State level, and consumer associations.

**Focus groups with business associations, consumer associations and independent experts**, in order to collect relevant information from primary sources (associations of business operators directly impacted by the implementation of marketing standards; consumer associations; academics and consultants boasting high-profile expertise on marketing standards).

**Four thematic case studies**, focusing on specific aspects/issues dealing with the implementation of marketing standards set out in regulations or directives, or on specific issues arising from the lack of marketing standards, for **fruit juices and certain similar products** intended for human consumption (provisions on minimum Brix level for reconstituted juices<sup>13</sup>), **cocoa and chocolate products** (marketed for both industrial and final consumer use), **poultry meat sector** (optional reserved terms) and **cider** (no EU definition for cider). The thematic case studies were aimed at collecting additional evidence to assess the effectiveness of EU marketing standards, and in particular to what extent they help to create a **level playing field for producers, traders and retailers**, and to assess the **strengths and weaknesses of regulations and directives** as instruments for setting **marketing standards for the sectors/products currently not covered**.

**Focus groups with producers, processors, traders/retailers and consumer associations** were organised in the form of a **multi-stage consultation process**, aimed at feeding qualitative and especially quantitative evidence for replying to evaluation questions on the efficiency of EU marketing standards.

The methodology is described in more detail in Annex 3.

#### 4.2. Limitations and robustness of findings

The findings from the evaluation support study<sup>14</sup> face **limitations** stemming from the scope of the analysis, which encompasses a large number of products and sectors and, therefore leads to a lower granularity of the results compared to other studies that tackle a particular sector.

Because **reliable data was not always available** and it was difficult to compare different sectors and draw reliable conclusions, the methods of the evaluation support study focused mainly on qualitative rather than quantitative sources.

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<sup>13</sup> The Brix level is a measure of the sugar content of an aqueous solution. With respect to reconstituted fruit juices, Directive 2001/112/EC establishes, also at Annex I(1)(b), that “The soluble solids content of the finished product shall meet the minimum Brix level for reconstituted juice specified in Annex V. If a juice from concentrate is manufactured from a fruit not mentioned in Annex V, the minimum Brix level of the reconstituted juice shall be the Brix level of the juice as extracted from the fruit used to make the concentrate”. Annex V consists in a table reporting the minimum Brix levels for reconstituted fruit juice and reconstituted fruit purée, which are specified for a number of fruits.

<sup>14</sup> Evaluation support study of the marketing standards contained in the common market organisation (CMO) regulation, the ‘breakfast directives’ and CMO secondary legislation: [https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/cmef/products-and-markets/cmo-regulation-breakfast-directives\\_en](https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/cmef/products-and-markets/cmo-regulation-breakfast-directives_en)

**Given the wide range of sectors analysed and this heavier reliance on qualitative rather than quantitative sources, the level of detail of the analysis is uneven across sectors, making it difficult to establish general conclusions on marketing standards.**

## 5. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS

This chapter builds on the evaluation support study ('analysis') consisting of twelve questions addressing the effectiveness, efficiency, coherence, relevance, and EU added value of marketing standards, complemented with information from other relevant sources and the outcome of a public consultation carried out for the purpose of the evaluation<sup>15</sup>.

### 5.1. Effectiveness

The effectiveness of marketing standards in addressing their objectives is **assessed by analysing the extent to which marketing standards have been successful in improving the quality of relevant products, in providing adequate and transparent information and in promoting the supply of products of a standardised and satisfactory quality.** The analysis also look at the extent to which the marketing standards help to **improve economic conditions for production and marketing** (and creating a level playing field for producers, traders and retailers), and **for fruit and vegetables, the extent to which simplification of marketing standards has made the policy more or less effective.**

[Improving quality, providing transparent information and promoting standardised quality](#)

According to the analysis, **EU marketing standards have successfully achieved their objectives in most of the covered sectors**, in terms of:

- helping to improve the quality of the concerned products in the interest of producers, traders and consumers;
- meeting the expectations of consumers of receiving adequate and transparent information;
- enabling the market to be easily supplied with products of a standardised and satisfactory quality.

**Relatively few limitations were identified<sup>16</sup>** and those that were identified were in **specific sectors** (dairy products<sup>17</sup>, olive oil<sup>18</sup>). The absence of mandatory origin labelling for a number of products is an issue of relevance to consumers. However, upon the existing data it cannot be concluded that the absence of generalised mandatory origin labelling in EU marketing standards was a serious limitation.

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<sup>15</sup> <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1457-Evaluation-of-marketing-standards-Regulation-EU-No-1308-2013-/public-consultation>

<sup>16</sup> No significant limitations in terms of effectiveness were identified for the following products covered by the evaluation: table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk; honey.

<sup>17</sup> Improper use of protected dairy terms for marketing plant-based products competing with dairy products.

<sup>18</sup> Significant limitations of marketing standards for olive oil in taking into account the fact that the characteristics of olive oil degrade over time.

### *Improving quality*

The extent to which marketing standards help to improve the quality of the products was assessed on the basis of consultations and interviews; from these it emerged that most of the business associations consulted agreed on three key findings:

- The **average quality levels** for a wide range of agricultural and food products in the EU **have improved over time**.
- EU **marketing standards have often contributed to this** improvement.
- In a few, very specific situations<sup>19</sup>, marketing standards have limited the improvement of product quality.

### *Providing adequate and transparent information*

The **contribution of marketing standards in providing adequate and transparent information to consumers is positive overall**. But certain limitations have been identified, notably by the EU-level consumer association when consulted on, the absence of mandatory origin labelling for a number of products<sup>20</sup> and the insufficient requirements on mandatory origin labelling (from a consumer information standpoint), where they exist<sup>21</sup>. Mandatory labelling of a product's origin already applies for several products covered by EU marketing standards: e.g. fresh fruit and vegetables, extra virgin olive oil and virgin olive oil, sheep, goat, pig and poultry meat, as well as beef.

The **positive judgement on marketing standards is confirmed by a survey of 19 competent authorities**:

- 89% of the respondents considered that EU marketing standards have provided consumers with adequate information, with 6 competent authorities reporting minor shortcomings;
- 95% judged positively the effectiveness of EU marketing standards in providing consumers with transparent information, with 9 reporting minor shortcomings and 3 highlighting serious limitations for consumers to identify products of outstandingly high quality (although it can be argued that the primary function of EU marketing standards is not the identification of products of outstanding quality, but the setting of common levels for minimum quality requirements).

The **positive assessment is echoed in the results of the public consultation**, according to which 79% of the 81 respondents found that marketing standards had a positive contribution in providing adequate and transparent information to consumers, while 12%

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<sup>19</sup> For instance, in the fruit and vegetables sector, the replacement of product-specific standards for 26 products by a general marketing standard, the appearance of new products/varieties on the market that do not fit well in the framework of the standards in force. In most cases, this shortcoming has been addressed by adapting the relevant provisions.

<sup>20</sup> The consumer associations consulted at EU and Member State level did not provide inputs on specific products for which the introduction of mandatory origin labelling would be needed.

<sup>21</sup> In the case of honey, for instance, the obligation is about EU/non-EU origin labelling only; however, EU legislation allows Member States to introduce in their national legislation the requirement for all domestically packed blends of honey originating in two or more countries to be labelled with the specific countries of origin. Another example provided by the consulted national consumer association for Italy concerns olive oils made from olives cultivated in multiple Member States and/or third countries.

found that they had a negative contribution, 8% claimed no effect and 1% had no opinion.

### *Promoting standardised and satisfactory quality products*

**As for whether marketing standards helped the market to be easily supplied with standardised products of a satisfactory quality**, most of the business associations interviewed considered EU marketing standards to have been an enabling factor. The EU-level consumer association consulted was of the opinion that consumers would be negatively affected by the removal of standards, because they would have to compare the characteristics and/or composition of several different products, which are currently harmonised in terms of quality.

Most respondents in the survey targeting at business associations (82% of the 123 respondents) were not aware of temporary or structural supply shortages of specific product typologies that could be related to the setting up of EU marketing standards. Most of the 22 respondents who identified such shortages mentioned the poultry meat and eggs sectors as affected sectors, although they did not provide further details<sup>22</sup>.

According to 88% of the 82 respondents to the public consultation, **EU marketing standards made a positive contribution in supplying the market with standardised products of satisfactory quality**, while 3% found that they had a negative contribution, 4% claimed no effect and 5% had no opinion.

The results of the public consultation were also positive concerning the extent to which **marketing standards provide the purchaser with value for money**, with 21% of 81 respondents indicating very good value for money, 47% good value for money, against 12% replying limited value for money, 9% no value for money and 11% did not have an opinion.

### Improving the economic conditions for production and marketing

The assessment of marketing standards in helping to improve the economic conditions for production and marketing (and in particular in helping to create a level playing field for producers, traders and retailers), is based on a qualitative analysis of the perceptions of the consulted stakeholders and on quantitative analyses mainly focusing on the evolution of intra-EU trade in a number of sectors (fruit juices, fresh fruit and vegetables, hops). The assessment points to generally high levels of satisfaction by stakeholders.

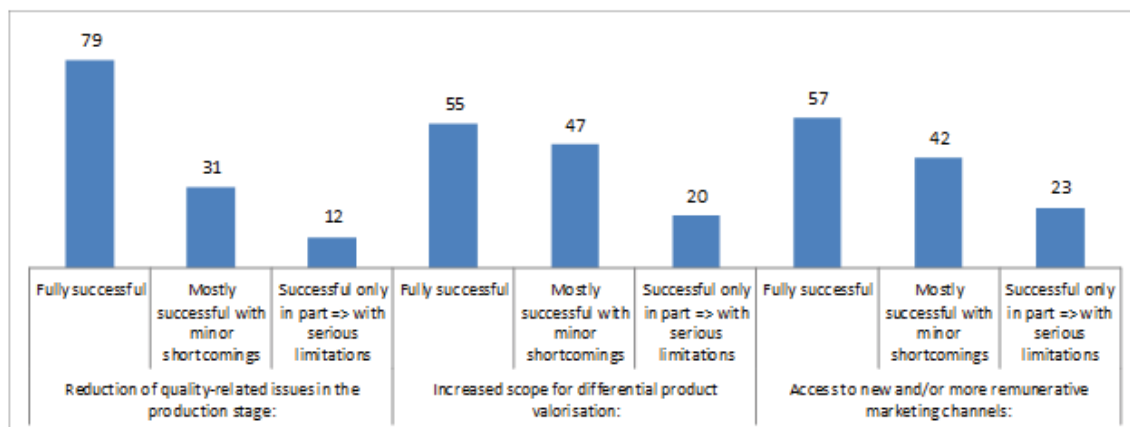
In surveys, both business associations and individual companies were clearly positive in their judgement about the effectiveness of EU marketing standards in **reducing quality-related issues in the production stage** of the concerned supply chains (see Figure 3). They were slightly less positive in their judgement on the effectiveness of EU marketing standards in **increasing the scope for differentiated product valorisation and in accessing new and/or more remunerative marketing channels**. The main limitation highlighted is related to the issue of the ‘standard inflation’, clearly illustrated in the eggs

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<sup>22</sup> Even fewer cases were identified by individual companies that replied to the survey: only 3 out of 54 companies highlighted cases of temporary or structural shortages of specific product typologies that could be related to the setting up of EU marketing standards. It should be noted that most of the companies that participated in the survey (45 out of a total of 67) operate in the poultry meat and eggs supply chains.

sector. In several parts of the EU, barn eggs have become the market standard in retail sales for direct consumption, as caged eggs are no longer produced for that market. This implies that there is no longer a market advantage for barn eggs, as they have become the market standard, at least for what concerns the retail market. This translates into a reduced remuneration of a higher standard, produced in more costly animal welfare-friendly rearing systems.

**Figure 3 – Practical role of EU marketing standards in promoting the improvement of economic conditions (in the views of producers)**



Note: total of 122 respondents among business associations

A generally positive judgement by business stakeholders also emerged about the effectiveness of **EU marketing standards in improving the economic conditions for marketing**, particularly with respect to **business-to-business relationships**.

Overall, the business associations surveyed considered that EU marketing standards effectively **reduced quality-related issues in the intermediate distribution stages** and helped to **remove barriers to intra-EU trade**. As to whether they **reduced transaction costs in business-to-business relationships**, the judgement is again mostly positive, even though a slightly higher share of respondents identified serious limitations, without fully detailing their reasons. The lowest share of fully positive judgements emerged regarding whether marketing standards **provide the scope for developing innovative business-to-business practices**. The olive oil sector was indeed found to be affected by relatively minor shortcomings in EU marketing standards, which, in the eyes of the business associations, failed to provide the scope for developing innovative business-to-business practices, and removing barriers to intra-EU trade.

The assessment of how effective **EU marketing standards were in improving the economic conditions for marketing** in a **business-to-consumer** perspective revealed that business stakeholders had comparable levels of satisfaction. They had a favourable judgement of the effectiveness of EU marketing standards in **reducing quality-related issues in the final distribution stage**. Even with a lower share of fully positive judgements, they were also basically positive about the contribution of EU marketing standards to **more balanced quality/price ratios**. The lower share of positive judgements (‘fully successful’ and ‘mostly successful with minor shortcomings’) was recorded with respect to expanding the **scope for developing innovative business to consumer marketing practices**.

The data collection has confirmed that it is **not possible** to attempt any **quantification of the benefits for food business operators of complying with marketing standards**. Nonetheless, in terms of improving the economic conditions, the business associations surveyed identified the following qualitative benefits:

- The **marketing standards fully contribute to an improvement in product quality** (76% of the associations), **in market access** (64%) and **in controls by enforcement authorities** (52%); for most of the remaining respondents the marketing standards at least partly contribute to these benefits (for less than 3% to 8% of the associations the marketing standards do not at all contribute to these objectives).
- On the other hand, **the benefit least considered to be fully conferred by marketing standards is a positive impact on prices**: for 41% of business associations marketing standards fully contribute to higher prices, but for another 38% the beneficial impact is only partial and for 21% there is no impact.
- For the majority (78%) of business associations, **marketing standards do not have a notable impact on price volatility**; only 18% of the business associations consider them to have a positive impact in reducing price volatility i.e. contributing to more stable prices.

A similar assessment emerges from the feedback received from 54 individual companies (of which 30 and 15 from the poultry and eggs sectors, respectively). **For only 31% of respondents marketing standards contribute partially to improved prices**. Higher prices is the benefit considered to be the least conferred fully by marketing standards (52% of company respondents), although for another 31% there is a partially beneficial impact; nonetheless, according to 17% of respondents (9 companies) marketing standards do not help to improve prices. Similarly, three quarters of respondents (41 companies) do not consider marketing standards to have an impact on price volatility; the remaining respondents are rather divided, with 6 companies considering them to contribute to more stable prices and 7 companies seeing them as increasing price volatility.

Interviews with sector associations confirmed that **EU marketing standards do not influence price volatility** in the following sectors: fresh fruit and vegetables; dairy products; olive oils; hops.

It should also be noted that the results of a comparative analysis of price volatility for selected fruit and vegetable products still covered by product-specific standards and selected fruit and vegetable products concerned by the **transition from product-specific standards to the general marketing standard** suggest that the replacement of specific standards **had no influence on the evolution of price volatility for the products affected by the shift**.

### Creating a level playing field

The assessment of the **effectiveness of EU marketing standards in creating a level playing field for operators** referred to two different concepts of ‘level playing field’: a ‘horizontal’ field (of operators of different Member States) and a ‘vertical’ field (of different typologies of operators within the concerned supply chains).

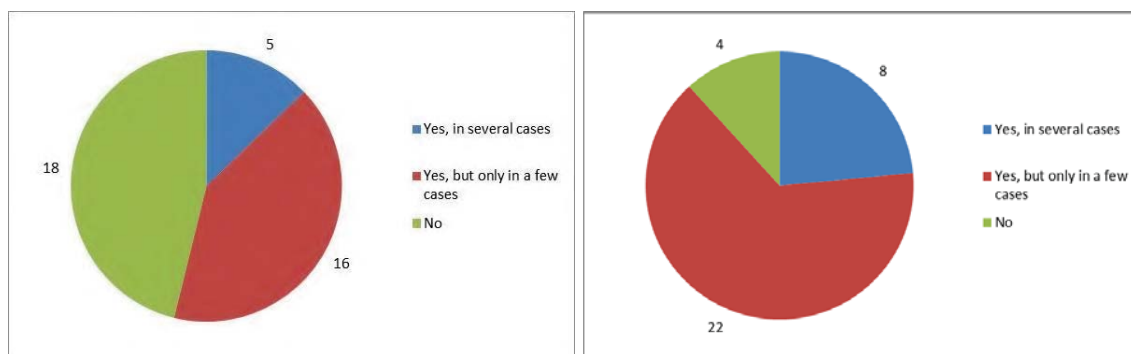
The assessment further distinguished between operators, i.e. between producers (farmers and processors), and traders and retailers. The assessment was mainly based on the perceptions of both business stakeholders and national competent authorities, and on the any specific sectoral issues identified in terms of situations of unfair competition / non-level playing field among operators.

For the business associations surveyed who represent **farmers and processors**, a much larger percentage of the business associations representing processors (88%) highlighted situations of unfair competition / a non-level playing field among operators of different Member States resulting from national differences in the definition and/or implementation of EU marketing standards; the percentage of business associations representing the interests of farmers who highlighted these situations was lower (54%)<sup>23</sup>. It is worth noting that processors often export their products to multiple Member States, and deal also with the products covered by the ‘Breakfast Directives’, for which national differences in the definition and/or implementation of EU marketing standards are more frequent. Even if the appraisal by processors’ associations is less positive, only a minority of the associations surveyed in both groups considered that the related cases were numerous.

**Figure 4 – Survey results: situations of unfair competition / a non-level playing field among operators of different Member States resulting from national differences in the definition and/or implementation of EU marketing standards – farmers vs. processors**

Associations representing farmers (total = 39)

Associations representing processors (total = 34)



Regarding **retailers and processors**, the usefulness of the survey results is seriously limited by the very low number of associations surveyed who represent exclusively the interests of traders/wholesalers (3 associations) and retailers (1 association). That said, those four associations made a rather negative overall appraisal of the situations of unfair competition / a non-level playing field; however, the available evidence did not identify any products to back that up. Therefore, the fairly negative overall judgement remains unsubstantiated.

The majority of the **competent authorities** surveyed (11 out of 19, i.e. 59%) reported no situations of unfair competition / a non-level playing field among operators of different

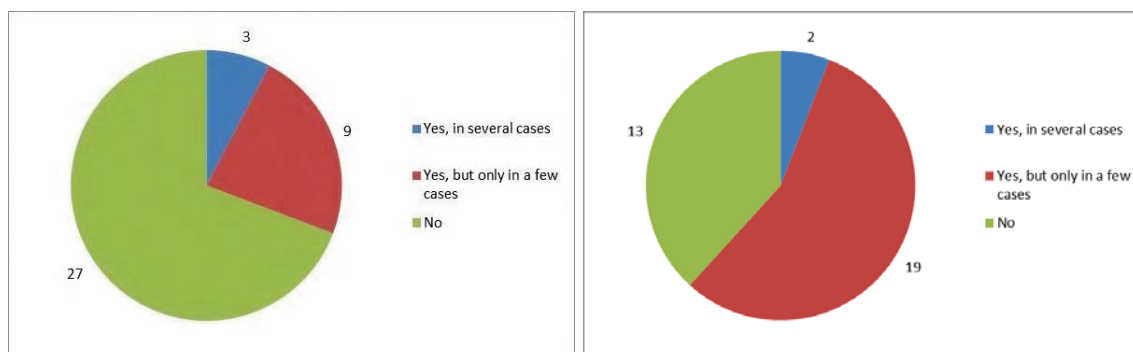
<sup>23</sup> Survey results: situations of unfair competition / a non-level playing field among operators of different Member States resulting from national differences in the definition and/or implementation of EU marketing standards – farmers vs. processors.



Member States resulting from national differences in the definition and/or implementation of EU marketing standards.

Regarding the **‘vertical’ level playing field**, the share of surveyed business associations, representing **farmers and processors**, who highlighted situations of unfair competition / a non-level playing field among operators as a result of differential requirements imposed by EU marketing standards on specific typologies of operators is lower than for the ‘horizontal’ level playing field. Similarly, the share is much larger (62%) for associations representing the interests of processors than for those representing the interests of farmers (31%). However, very few of the associations surveyed highlighted numerous cases of unfair competition for both groups (see Figure 5).

**Figure 5 – Survey results: situations of unfair competition / a non-level playing field among operators resulting from differential requirements imposed by EU marketing standards on specific typologies of operators – farmers vs. processors**  
Associations representing farmers (total = 39)      Associations representing processors (total = 34)



For **traders and retailers**, similarly to the overall appraisal of unfair competition / a non-level playing field among operators of different Member States, the overall appraisal by the four associations surveyed highlighted a rather negative situation. However, the business associations surveyed did not provide any concrete evidence about specific cases, thus this judgement remains unsubstantiated.

Interviews with EU-level sectoral associations confirmed the absence of significant situations of unfair competition / a non-level playing field among operators resulting from differential requirements imposed by EU marketing standards on specific typologies of operators.

The majority of the **competent authorities** surveyed (12 out of 19, i.e. 63%) reported no situations of unfair competition / a non-level playing field among operators resulting from differential requirements imposed by EU marketing standards on specific typologies of operators.

When asked the question differently, i.e. on the benefits for food business operators of complying with marketing standards, 65% of the 123 business associations said that compliance created a level playing field between operators, mitigating the rather negative judgement by processors.

The outcome of the public consultation points towards a positive judgement; 82% of the 82 respondents found that **EU marketing standards had helped to improve the conditions for production and marketing and helped to create a level playing field**

**in these sectors**, while 12% found that the standards made a negative contribution, 4% claimed no effect and 5% had no opinion.

Overall, the assessment focusing on **producers** revealed:

- a fairly positive overall judgement by farmers, and by competent authorities and, to a lesser extent, by processors on the effectiveness of EU marketing standards in ensuring a **level playing field among operators of different Member States**, with some sector-specific issues emerging for the eggs, dairy products and olive oil sectors<sup>24</sup>.
- a positive overall judgement by farmers, by competent authorities and, to a lesser extent, by processors on the effectiveness of EU marketing standards in ensuring a **level playing field among different typologies of operators**.

The assessment focusing on **traders and retailers** revealed that the main shortcomings of EU marketing standards in helping to improve the economic conditions for marketing are related to some **constraints** that they would pose **to the development of innovative business-to-consumer marketing practices**. In particular, these constraints concern the impossibility to combine the terms ‘free range’ and ‘organic’ in the marketing of eggs, which would prevent effective communication on the differential characteristics of eggs produced in farming systems that meet both sets of requirements.

The assessment also revealed that limitations posed by EU legislation to the marketing of thawed frozen poultry meat may have costly implications for the related logistics by limiting carcass balancing over time<sup>25</sup>, or the ability to effectively match supply to demand.

The assessment was completed by **two sector-specific assessments** focusing on:

- the effectiveness of the provisions on the minimum Brix level for reconstituted juices in creating a level playing field for producers; and
- the effectiveness of the provisions on the certification of hops in creating a level playing field for producer organisations/producer groups, traders, retailers.

From this it was concluded that:

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<sup>24</sup> These are related to the:

- eggs sector: a non-homogeneous approach by the competent authorities across the EU to enforcing the ban on non-enriched cages in 2012.
- dairy sector: a non-homogenous enforcement at Member State level of the list of national exemptions (EU Commission Decision [2010/791/EU](#) of 20 December 2010), which results in cases of improper/illegal use of protected dairy terms in the marketing of plant-based products competing with dairy products in a number of Member States not covered by the specified exemptions.
- olive oil sector: depending on the Member State, domestic operators may or may not be allowed to blend olive oils with other vegetable oils for sale in their national market, but they can always do that for export to other Member States. Article 6(1), third paragraph of Regulation (EU) No 29/2012 establishes that ‘Member States may prohibit the production in their territory of blends of olive oil and other vegetable oils referred to in the first subparagraph for internal consumption. However, they may not prohibit the marketing in their territory of such blends coming from other countries and they may not prohibit the production in their territory of such blends for marketing in another Member State or for exportation’.

<sup>25</sup> Achieving **carcass balance** means making the best possible use of all edible and inedible by-products from both primary and secondary processes.

- There were **no significant issues** with specific respect to the effectiveness of the **provisions on the minimum Brix level for reconstituted juices** in creating a level playing field for producers<sup>26</sup>.
- **Both business stakeholders and competent authorities had positive judgements** on the effectiveness of the **provisions on the certification of hops** in creating a **level playing field for producer organisations/producer groups, traders, retailers** (also supported by the observed improvement in intra-EU trade performance for hops).

From the findings of the evidence based assessment of different aspects of the effectiveness of EU marketing standards presented above, it can be concluded that **the current framework of EU marketing standards** has in general been fairly successful in helping to **improve the economic conditions for production and marketing**, and to a lesser extent, in **creating a level playing field for producers**.

#### The simplification of marketing standards for fruit and vegetables

The **sector-specific assessment** focusing on **how effective the provisions on classifying of fresh fruit and vegetables were in supporting the interests of producers and traders and in facilitating trade** revealed generally **positive overall judgements by business stakeholders - and by farmers in particular**. They saw those provisions as being effective in:

- removing barriers to intra-EU trade; the actual effectiveness of the provisions in that respect was confirmed by a comparative analysis in aggregated terms of the evolution of intra-EU trade in fruit and vegetables;
- reducing quality-related issues;
- reducing transaction costs;
- increasing the scope for differential product valorisation; and
- increasing the scope for developing innovative marketing practices.

The assessment revealed that **stakeholders**<sup>27</sup> - business operators and national competent authorities – **had mixed views** on the replacement of specific standards for 26 types of fresh fruit and vegetables by a general marketing standard, in particular to:

- facilitating the trading of the concerned products;
- ensuring a level playing field for EU producers of the concerned products.

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<sup>26</sup> Besides generally positive judgments expressed by business stakeholders and the competent authorities on the effectiveness of the provisions in that respect, the analysis of the evolution of intra-EU trade revealed that the trade performance of typologies of fruit juices with the lowest Brix value (which should be in theory the ones most affected by the introduction of provisions on minimum Brix level for reconstituted juices) has not worsened systematically, and has not been systematically worse than the performance of other typologies of fruit juices. It is also important to note that all 28 Member States have reproduced in their implementing national legislation the table reporting the minimum Brix levels for reconstituted fruit juice and reconstituted fruit purée in Annex V of Directive [2001/112/EC](#), as last amended by Directive [2012/12/EU](#), without any modification.

<sup>27</sup> Regarding the objective of facilitating the trading of the concerned products, 9 respondents (35%) considered that the replacement mainly increased the policy's effectiveness, 9 other respondents (35%) expressed the opposite view (mainly decreased effectiveness) and 8 respondents (31%) deemed that the replacement has not affected the effectiveness of the policy.

The **associations representing the interests of farmers** in particular considered that the simplification had mostly negative implications.

Among the **specific negative effects** resulting from the transition, the following were highlighted:

- **Increased transaction costs and reduced transparency of business-to-business transactions** due to the loss of quality specifications (concerning e.g. size or grades) included in the previous product-specific standards (whenever those specifications are not present in either the general marketing standard or the relevant UNECE standards).
- **Proliferation of private standards** in the ‘empty spaces’ left by the replacement of product-specific standards with the general marketing standard, with significant cost implications for farmers (they often have to comply with multiple standards imposed by large-scale retailers).
- For some products affected by the transition, innovation or value-adding efforts have mainly focused on packaging/presentation. The resulting additional value mostly goes to packers and retailers, not to producers.
- Negative implications for operators that have made costly efforts to achieve high-level features or anyway distinctive quality features according to the previous product-specific standards: with the transition to the general marketing standard, some of those quality features may no longer be recognisable, with negative implications for the valorisation of products.

However, it should be noted that a comparative analysis of intra-EU trade performance for selected products still covered by product-specific standards and for selected products concerned by the transition to the general marketing standard revealed that **the performance of intra-EU trade for the products concerned by the transition to the general marketing standard has not been systematically worse than the performance of the products still covered by specific standards**. On the contrary, some of the products now covered by the general marketing standard have even recorded better performances than most of the products still covered by specific standards.

From the findings of the assessment of the different aspects presented above, **a conclusive judgement cannot be made on the implications of the transition from product-specific standards to the general marketing standard** in terms of effectiveness in meeting business-related or consumer-related objectives: this especially applies for the **positive or negative impacts on individual groups of stakeholders** (producers, traders/retailers, competent authorities).

Similarly to what was observed for the business associations surveyed, the 14 competent authorities surveyed had divided views about the implications of the simplification of marketing standards for fresh fruit and vegetables<sup>28</sup>. The most significant negative implications are related to the **non-homogeneous enforcement of EU marketing**

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<sup>28</sup> 6 competent authorities considered the replacement of specific marketing standards by a general marketing standard not to have altered the policy’s effectiveness in achieving its objective of facilitating the trading of the concerned products. However, 6 competent authorities considered the transition to have mainly reduced the policy’s effectiveness in that respect; by contrast, only 2 competent authorities considered it to be the opposite (i.e. the transition increased the policy’s effectiveness).

**standards and the uneven effectiveness of controls across EU Member States** for the 26 types of fruit and vegetables affected by the transition. This situation is due to different national approaches being taken because of the absence of a single reference (as a result of the transition, operators and competent authorities may refer either to the general marketing standard or to UNECE product-specific standards) and the loss of quality specifications (concerning e.g. size or grades) that were included in the previous products-specific standards (whenever those specifications are not present in either the general marketing standard or the relevant UNECE standards).

As for the objective of **ensuring a level playing field for EU producers of the concerned products**, the business associations<sup>29</sup> and competent authorities<sup>30</sup> surveyed again expressed mixed views.

## 5.2. Efficiency

The efficiency of marketing standards in addressing their objectives is assessed by analysing the extent to which the **costs incurred for the marketing standards are justifiable and proportionate to the benefits achieved** and whether there is a **potential for simplifying** marketing standards.

### Costs and benefits

Although neither costs nor benefits can be fully quantifiable, the majority of the business associations and operators consulted across all sectors considered that the **costs of EU marketing standards to be justifiable and proportionate to the benefits achieved**, in terms of the:

- cost and benefits **for food business operators of complying** with marketing standards,
- cost and benefits **for Member States of controls**,
- cost and **usefulness for consumers** of marketing standards.

The analysis finds that the **costs** of complying with the standards **vary between sectors**, depending on the level of specificity and complexity that is laid down in the rules. The relatively low/minor costs compared to the benefits were particularly highlighted in the case of hops, poultry meat, eggs, fresh fruit and vegetables, dairy, honey, and fruit jams. Only respondents from the olive oil sector were divided over whether or not the costs incurred were justifiable/proportionate; in this sector, the control costs are high (for operators and for authorities), as enforcement involves expensive laboratory tests and specific control activities to verify analytical and organoleptic parameters. In most other

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<sup>29</sup> 8 respondents (31%) considered the transition to the general marketing standard to have mainly increased the policy's effectiveness, 6 respondents (23%) expressed the opposite view (mainly decreased effectiveness) and 12 respondents (46%) considered the replacement to have had no implications on the policy's effectiveness.

<sup>30</sup> 5 competent authorities considered the replacement of specific marketing standards by a general marketing standard not to have altered the policy's effectiveness in that respect. 5 competent authorities considered the transition to have mainly reduced the policy's effectiveness in meeting that objective, whereas 4 competent authorities considered it to be the opposite (i.e. the transition increased the policy's effectiveness).

sectors, the costs were considered to be minor/negligible, especially when compared to the benefits<sup>31</sup>.

According to both operators and competent authorities, EU marketing standards contributed to **substantial benefits far outweighing the costs involved**. In particular, the marketing standards are largely considered to have helped improve product quality, market access, and the implementation of controls by enforcement authorities. On the other hand, they are not considered to have had a notable impact on price volatility, which is subject to other factors affecting supply and demand.

Concerning the costs for **Member States**, the most substantial type of costs incurred by Member States' competent authorities are the **ongoing costs of performing verification checks for compliance** (ranked as the **most/second most burdensome** by all 19 competent authorities (of the 11 Member States that responded to the survey<sup>32</sup>), followed by **training** (9 competent authorities), and **changes/adaptations required to process systems** used for verifying compliance (7 competent authorities). Reporting requirements were generally considered less burdensome (2 competent authorities).

There is little evidence from **consumer organisations** on the cost and usefulness of marketing standards for consumers, whether at EU or national level. In principle, consumer organisations are **in favour of regulatory standards ensuring a minimum quality** for consumers, and ensuring that **products are standardised and easier for consumers to compare**. Member States' competent authorities and food business operators both agree that the most important benefit of marketing standards is **improved quality**, which is an **important benefit for consumers**.

Additional information comes from the public consultation: 13% of the 82 respondents found that there was a very strong potential for greater efficiency **by harmonising the control and reporting requirements of the different marketing standards**<sup>33</sup>, while 30% declared a strong potential for greater efficiency, 20% saw a moderate potential for greater efficiency, 11% declared no potential for greater efficiency and 26% did not have an opinion.

For the **certification requirement in the hops sector**, operators consider the **additional costs incurred** to be **justifiable and proportionate to the quality benefits achieved**. German operators identified the costs of certification to be minimal<sup>34</sup>. Benefits include

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<sup>31</sup> It should be noted that no significant limitations in terms of proportionality were identified for EU marketing standards for the following products covered by the evaluation: table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk.

<sup>32</sup> In total, the evaluator received 19 responses to the survey from the competent authorities of 11 Member States. Not all of the 19 competent authorities surveyed responded to all the questions on efficiency (the number of competent authorities who responded is always indicated).

<sup>33</sup> The type of respondents indicating this potential varied and the kind of improvements reported were: simplification of identification with commercial language and consumer; specificity of limits, establishment of securities and removal of subjective and interpretable aspects; compulsory labelling on the type of farming and origin; harmonisation of the marketing rules between the different standards etc.

<sup>34</sup> Germany is by far the biggest producer of hops in the EU. The costs of certification are estimated to range between EUR 0.03-EUR 0.04/kg, of which EUR 0.01-EUR 0.015/kg at producer level, and EUR 0.015-EUR 0.025/kg at processing level, on a product that would sell for approximately EUR 10.00/kg

German hops having an established high reputation worldwide (with Czech and EU hops enjoying this reputation as well), thus supporting the market position of both the EU primary producers of hops and EU brewers of speciality beers in an increasingly competitive market context. The available indicators (cultivated area; quantity produced; quality parameters including moisture content and share of leaves, stem and waste in hops; establishment of protected geographical indications/protected designations of origin for hops-growing regions) have all improved thanks to the certification system in place.

### Potential for simplification

The analysis identified relatively **limited potential for simplifying marketing standards**, except possibly in some specific sectors (e.g. poultry, eggs...).

Across all sectors, 53 of the 123 business associations surveyed consider that there is potential for harmonising control and reporting requirements in order to simplify and ensure more efficient enforcement, without jeopardising effectiveness; for 11 of these, the potential scope for harmonisation is extensive. On the other hand, for 23 associations there is no potential, or the potential is limited. It should nonetheless, be noted that many associations (47) did not know whether there was any potential.

A similar picture emerges from the individual companies that participated in the survey: a majority (29 out of 54 companies) considers that there is some potential (it is noted that 45 companies are from the poultry and eggs sectors). Only 8 companies do not see any potential, while 17 companies did not know.

Relatively limited potential for simplification was identified among the 19 competent authorities surveyed (from 11 Member States): only 5 competent authorities (in 4 Member States) considered that there was some potential, while for 6 competent authorities there was no/limited potential, and 8 did not know. It should be noted that competent authorities in some Member States did not fully align their views on this.

In the **poultry sector** in particular, the implementation of **Articles 16-18 and Article 20 of Commission Regulation (EC) No 543/2008 on water absorption in poultry meat** is said to lead to unnecessary delays in placing poultry meat products on the market<sup>35</sup>. However, data on various aspects of enforcement are not always collated by the authorities; and it was not possible for authorities or business stakeholders to identify the costs and losses associated with these delays. In terms of simplification, one competent authority explained that the frequency of water content controls could be reduced; another suggested that an output-based system could be introduced, which would entail a single 5% legal limit for water content without being prescriptive in terms of the method used. Air chilled carcasses and cuts would not need to be checked because this chilling method (used without a moistening system) does not add water.

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<sup>35</sup> The Commission has carried out two comprehensive studies on the processing technologies used and the absorption of water in poultry meat: 1) *The Study of physiological water content of poultry reared in the EU* (LGC, 2012), 2) *The Study on state of play of processing technologies and the absorption of water in poultry meat* (LGC, 2016). However, these studies were not concerned with simplification *per se*.

In all other sectors<sup>36</sup>, the potential for simplification was found to be limited, given the relatively low costs of complying with EU marketing standards and the fact that the stakeholders consulted (business operators and competent authorities) did not identify any overlaps/redundancies in the provisions that might lead to unnecessary costs.

### 5.3. Coherence

The analysis addresses the coherence of marketing standards by assessing the extent to which the implementation of marketing standards **caused unexpected or unintended effects**, the extent to which **the various instruments of EU marketing standards are coherent with one another**, and the extent to which **they are coherent with other EU rules** and with **international marketing standards**.

#### Unexpected or unintended effects

The assessment of **unexpected or unintended effects of marketing standards** focuses on (i) increased/reduced food waste, (ii) the effects on the welfare of farmed animals, and (iii) abuse by market actors.

**Overall, the assessment revealed that there are very few sector specific and otherwise inconclusive, practical cases of unintended/unexpected effects of EU marketing standards.** No cross-sectoral unintended/unexpected effects of EU marketing standards were identified. Furthermore, the cases identified were rather controversial, and there was no agreement among the stakeholders consulted of a clear linkage between the effects observed and EU marketing standards:

- **Increased food waste volumes for eggs** at packing centres, retail outlets and at home were, according to some of the national competent authorities consulted, related to provisions on the sell-by date (Regulation (EC) No 853/2004) and the minimum durability of eggs (Article 13 of Regulation (EC) No 589/2008). However, none of the competent authority consulted provided any quantitative evidence on the volumes of food waste that can be related to EU marketing standards for eggs. By contrast, business stakeholders did not see clear linkages between this effect and EU marketing standards for eggs. The reviewed literature<sup>37,38,39</sup> suggests that there is a linkage between increased waste and date

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<sup>36</sup> It should be noted that no significant potential for simplification was identified for EU marketing standards for the following products covered by the evaluation: table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk; honey.

<sup>37</sup> WRAP 2015. 'Reducing Food Waste by Extending Product Life'.

<sup>38</sup> Møller, Hanne, Therese Hagtvedt, Nina Lødrup, Jens Kirk Andersen, Pernille Lundquist Madsen, Mads Werge, Ane Kirstine Aare, et al. 2016. Food Waste and Date Labelling: Issues Affecting the Durability. Nordisk Ministerråd, <http://norden.diva-portal.org/smash/record.jsf?pid=diva2:950731>.

<sup>39</sup> See for instance: Vittuari et al. (2015), *Review of EU Member States legislation and policies with implications on food waste*, FUSIONS project report, Department of Agricultural and Food Sciences, University of Bologna; ICF (2018), *Market study on date marking and other information provided on food labels and food waste prevention – Final Report*, funded by the European Commission, Directorate-General for Health and Food Safety. WRAP 2015. 'Reducing Food Waste by Extending Product Life'.



marking in the case of eggs, even if the underlying reasoning is not backed by specific concrete evidence in this specific evaluation.

- Increased waste was potentially stemming from the **‘aesthetic requirements’**<sup>40</sup> (colour, shape, size, grading) set out in the remaining **10 product-specific EU marketing standards for fresh fruit and vegetables**: whereas the business stakeholders consulted did not identify any negative implications, the reviewed literature suggests a linkage between increased waste and ‘aesthetic requirements’, even if very limited concrete evidence is available to substantiate the underlying reasoning<sup>41,42</sup>. By contrast, some of the competent authorities consulted and some studies<sup>43</sup> suggest that **EU marketing standards for fresh fruit and vegetables instead help to reduce food waste and losses**, and that **most of the grading losses**<sup>44</sup> for fresh fruit and vegetables have been the result of particularly demanding private standards, rather than EU marketing standards.
- On the potential implications for animal welfare of force-feeding ducks or geese to produce foie gras (according to the definition provided in Article 1(3) of Regulation (EC) No 543/2008), a business association consulted referred to scientific studies showing that the practice of gavage is not detrimental to animal welfare<sup>45</sup>. However, this contradicts other scientific literature<sup>46</sup>. The marketing standards set out a minimum liver weight that can only be effectively achieved using force-feeding (gavage). This perceived negative outcome could be avoided if the reference to a minimum liver weight was removed from the marketing standards. However, this would not guarantee the presence of hepatic fatty cellular hypertrophy, which is considered to be essential to the taste and quality of the product.

**No significant practical cases of ‘deadweight’ were identified:** EU marketing standards were found to have significantly helped to improve product quality in the interest of producers, traders and consumers. However, some of the stakeholders consulted suggested that the need to comply with extremely demanding requirements set by private standards (often imposed by large-scale retail chains), rather than complying with EU marketing standards, may have become the main driving force behind the improvement in the average quality levels of agricultural and food products marketed in the EU.

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<sup>40</sup> Article on ‘cosmetic aspects in F&V – market and food waste’: <https://library.wur.nl/WebQuery/wurpubs/fulltext/503631>

<sup>41</sup> Roels, K. & Van Gijsegem D. (2017) The impact of cosmetic quality standards on food losses in the Flemish fruit and vegetable sector, summary report, Department of Agriculture and Fisheries, Brussels.

<sup>42</sup> Wunder, S., McFarland, K., Hirschnitz-Garbers, M., Parfitt, J., Luyckx, K., Jarosz, D., Youhanan, L., Stenmarck, A., Colin, F., Burgos, S., Gheoldus, M., Cummins, A.C., Mahon, P., van Herpen, E., 2018: *Food waste prevention and valorisation: relevant EU policy areas. REFRESH.*

<sup>43</sup> See for instance: WRAP (2011), *Fruit and vegetable resource maps - Mapping fruit and vegetable waste through the retail and wholesale supply chain*, Final Report, Waste & Resources Action Programme; Jordbruksverket (2014), *Why do we throw away edible fruit and vegetables?*, Rapport 2014:5 EN; AND International (2010), *Normes de commercialisation dans le secteur des fruits et légumes*, study carried out for the EU Commission. DG Agriculture, September 2010.

<sup>44</sup> Fruit and vegetables diverted to alternative outlets (e.g. processing) or disposed of in the grading phase because they do not meet quality requirements.

<sup>45</sup> For instance, Guémené, et al. (2001).

<sup>46</sup> Broom and Rochlitz (2015).

### *Details on Food waste*

Concerning increased/reduced food waste, a significant number of the competent authorities surveyed/interviewed did not comment on the matter. Those that did were divided: half were of the opinion that the implementation of EU marketing standards generated food waste, whereas the other half thought the contrary.

A large share of the 123 business associations surveyed (38%) was unable to comment due to a lack of specific knowledge on the topic. The majority of respondents (56%) did not identify any practical case of unexpected or unintended effects of EU marketing standards in terms of food waste. Interviews with EU-level business associations revealed some sectoral specificities identified above.

The public consultation provided additional information, 13% of the 81 respondents found that the implementation of the EU marketing standards had some unexpected or unintended effects on food waste, while 41% found that it did not have any and 26% did not have an opinion.

### *Details on animal welfare*

Concerning the effects on the welfare of farmed animals, the 123 business associations surveyed had better knowledge on the matter: the share of those that did not comment was lower (24%) than for food waste. A clear majority of the respondents (65%) did not identify any practical case of unexpected/unintended effects in terms of animal welfare. Some sector-specific elements emerged from interviews with EU-level business associations.

None of the competent authorities consulted identified practical cases of unexpected or unintended effects of EU marketing standards in terms of animal welfare<sup>47</sup>.

The public consultation provided additional information: 31% of the 81 respondents found that the implementation of the EU marketing standards had some unexpected or unintended effects on animal welfare, while 43% found that it did not have any unexpected or unintended effects on animal welfare and 26% did not have an opinion.

### *Potential abuse by market players*

Concerning a potential abuse by market players, knowledge on the matter among the business associations surveyed was similar to their knowledge on animal welfare: 23% of the 123 associations surveyed did not comment for lack of specific knowledge on the matter. Even if the majority of respondents (60%) did not identify any practical cases, the share of the respondents that identified those cases was higher (17%). However, interviews with EU-level business associations did not reveal any significant practical cases of abuse by market players (e.g. adoption of discriminatory practices towards suppliers and/or customers) that can be clearly identified as unexpected or unintended effects of EU marketing standards. On the contrary, EU marketing standards have effectively helped to prevent those practices.

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<sup>47</sup> One of the competent authorities surveyed who identified such effects actually referred to a decrease in the number of caged hens due to the introduction of stricter animal welfare requirements in the EU: this is clearly not an unintended/unexpected effect of EU marketing standards on animal welfare.

Very few of the Member States' competent authorities consulted on the matter and none of them identified any practical cases of unexpected or unintended effects of EU marketing standards in terms of potential abuse by market players. One of the competent authorities consulted observed that the greatest pressure by large-scale retailers on suppliers to comply with very demanding private standards is often targeted at quality requirements / products not covered by EU marketing standards.

The public consultation provided additional information on this: 36% of 79 respondents found that the implementation of the EU marketing standards had some unexpected or unintended effects on the sustainability of the food chain, while 35% found that it did not and 35% did not have an opinion.

#### Coherence between the various instruments of EU marketing standards

The assessment found that **both business stakeholders and national competent authorities perceived a high degree of internal coherence of EU marketing standards.**

Overall, stakeholders perceived the general objectives of EU marketing standards as being consistent, and there is also a similar widespread perception that the operational objectives of EU marketing standards are consistent within each covered sector. Very few of the stakeholders consulted identified specific issues<sup>48</sup> with internal coherence<sup>49</sup>.

An ample majority (70%) of the 123 business associations surveyed did not identify any potential conflict with the general objectives pursued through EU marketing standards; nevertheless, the share of respondents that identified potentially conflicting objectives is significant (30%). None of the EU-level business associations interviewed highlighted any potential conflict with the general objectives pursued through EU marketing standards. One of the competent authorities consulted observed that EU marketing standards can sometimes limit the introduction of innovative production and/or marketing practices, or new product typologies.

A wide majority (77%) of the 123 business associations surveyed considered the operational objectives of EU marketing standards within each covered sector to be fully consistent with one another.

#### Coherence with other EU rules

Over one third (35%) of the 123 business associations surveyed did not express a judgement due to a lack of specific knowledge on the issue. Even with that limitation, over half of the surveyed business associations (56%) did not identify any significant conflict between i) the general and operational objectives of EU marketing standards and

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<sup>48</sup> Two of the competent authorities consulted hinted at the following potential issues, without however providing concrete evidence: i) possible limitations to innovative production and/or marketing practices, or to new product typologies deriving from EU marketing standards, which would conflict with the objective of helping to improve the economic conditions for producing and marketing agricultural products, as well as improve their quality; ii) the challenge of meeting consumers' expectations while also facilitating trading, since consumers and business operators can have conflicting preferences in terms of, for instance, information on the origin of products/ingredients.

<sup>49</sup> It should be noted that no significant issues with coherence were identified for EU marketing standards for the following products covered by the evaluation: table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk; honey.

ii) the business and consumer-related objectives of relevant EU rules other than those concerning food safety<sup>50</sup>, the provision of food information to consumers<sup>51</sup>, geographical indications<sup>52</sup> and organic products<sup>53</sup>. Only 9% of the business associations surveyed identified potential conflicts. Interviews with EU-level business associations did not reveal any significant horizontal or sector-specific issues.

The Commission departments consulted did not identify any significant issues, and considered EU marketing standards to be fully complementary to legislation on food safety.

Only a minority of the competent authorities consulted provided inputs on the matter: they identified very few potential conflicts between EU marketing standards and the relevant EU rules on food safety, on the provision of food information to consumers and on organic products.

A **potential ‘cross-sectoral’ issue** highlighted by some national competent authorities and by an EU-level association representing the interests of retailers arises from **EU marketing standards combining requirements on product quality, food safety** (e.g. requirements on storage temperatures, or minimum durability (best before) date for eggs) **and the provision of food information to consumers** (product labelling requirements). Those stakeholders considered that such a combination could result in some overlaps and inconsistencies, and could pose challenges for enforcement and controlling activities. Those stakeholders would therefore welcome EU marketing standards exclusively focused on quality requirements, whereas safety-related and information-related provisions should be included in the relevant EU legislation.

Some (relatively minor) **sector-specific issues** were also identified:

- the requirements for marketing poultry and eggs as ‘free range’ or ‘organic’ had an inconsistency following compliance with EU legislation aimed at addressing outbreaks of avian influenza; eggs cannot be marketed as ‘free-range’ if laying hens have to be confined indoors for more than 16 weeks (as prescribed following the avian influenza outbreaks in 2017);
- the promotion of free range farming systems through EU marketing standards might be in conflict with the objective of ensuring food safety, since free range

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<sup>50</sup> 82% of the 123 business associations surveyed acknowledged the coherence with the objectives of EU rules on food safety. In the public consultation, 34% of 67 respondents found that the EU marketing standards were strongly consistent with EU rules on food safety, while 21% found them consistent, 14% moderately consistent, 6% not consistent and 25% did not have an opinion.

<sup>51</sup> 78% of the 123 business associations surveyed acknowledged the coherence with the objectives of EU rules on food information to consumers. In the public consultation, 31% of 68 respondents agreed that the EU marketing standards were strongly consistent with food information to consumers, while 40% found them consistent, 18% moderately consistent, 10% not consistent and 1% did not have an opinion.

<sup>52</sup> 85% of the 123 business associations surveyed expressed a positive opinion on the coherence with EU rules on geographical indications. In the public consultation, 55% of 64 respondents found that the EU marketing standards were strongly consistent with geographical indications, while 14% found them consistent, 20% moderately consistent, 5% not consistent and 6% did not have an opinion.

<sup>53</sup> 78% of the 123 business associations surveyed acknowledged the coherence with the objectives of EU rules on organic products. In the public consultation, 34% of 68 respondents found that the EU marketing standards were strongly consistent with organic products, while 12% found them consistent, 17% moderately consistent, 6% not consistent and 31% did not have an opinion.

poultry for meat production and free range laying hens are subject to more serious risks in terms of both animal health and food safety;

- there could be a potential conflict between requirements on minimum sugar or fat content for using reserved product names laid down in EU marketing standards, and the objective of promoting healthier diets; however, the assessment revealed that several Member States took advantage of the possibility offered by Directive 2001/113/EC to derogate from the minimum sugar content established for jams by the same Directive;
- it may sometimes be difficult for certain types of geographical indications and organic fresh fruit and vegetables to comply with the minimum quality and/or size requirements set out by the relevant EU marketing standards.

Despite of these issues, most of the stakeholders consulted were of the opinion that **the regulatory framework establishing EU marketing standards was generally consistent with EU legislation on food safety, on the provision of food information to consumers, on geographical indications and on organic products.**

#### Coherence with international marketing standards

According to the analysis most of the stakeholders consulted considered **EU marketing standards to be fully consistent with international marketing standards.**

**International marketing standards** developed by the Codex Alimentarius Commission, by the United Nations Economic Commission for Europe (UNECE) and by the International Olive Council (IOC) **pursue general objectives that are similar to the general objectives pursued by EU marketing standards.** The EU and its Member States have actively contributed to the development of these international standards, and this has helped to ensure consistency between EU and international marketing standards. However, **some of the general and operational objectives of EU marketing standards may be more ambitious than those of international marketing standards,** since the former aim at addressing needs specific to the EU, or in any case specific to an advanced food production, distribution and consumption model, such as ensuring a high level of consumer protection, or a level playing field for operators within the EU market.

A significant number of competent authorities consulted did not comment on the matter. Most of the other competent authorities pointed to full consistency. One of the competent authorities consulted underlined the importance of frequently updating EU marketing standards to follow the changes in the relevant international standards, with a view to further improving the consistency between the two frameworks. A significant share (28%) of the 123 business associations surveyed did not express a judgement due to a lack of specific knowledge on the issue. The majority of the business associations surveyed (54%) expressed a positive judgement on the coherence between i) the general and operational objectives of EU marketing standards and ii) the objectives of international marketing standards. A 17% share of the business associations surveyed, however, identified potential conflicts<sup>54</sup>.

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<sup>54</sup> The objectives of international marketing standards are mainly aimed at addressing more basic needs, which are especially relevant for less advanced food production, distribution and consumption systems, such as ensuring minimum safety and quality levels for food, preventing fraud and facilitating international trade in agricultural and food products.

The public consultation provided additional information: 16% of 68 respondents found that **the EU marketing standards were strongly consistent with the Codex Alimentarius (CODEX)**, while 19% found them consistent, 18% moderately consistent, 4% not consistent and 43% did not have an opinion.

Also, 21% of 66 respondents found that **the EU marketing standards were strongly consistent with the United Nations Economic Commission for Europe (UNECE)** while 17% found them consistent, 14% moderately consistent, 4% not consistent and 44% did not have an opinion.

#### Coherence with private marketing standards

According to the analysis most of the stakeholders consulted considered **EU marketing standards to be fully consistent with private marketing standards**.

**Private marketing standards mainly pursue different objectives than those pursued by EU marketing standards**, even if they also have implications also for the marketing of agricultural and food products. In principle, **a private standard cannot derogate from compliance with the applicable EU and national legislation**: this should automatically ensure consistency between EU marketing standards and private marketing standards. However, the uptake of private standards is always voluntary, and **private standards can set more demanding requirements than EU marketing standards**.

The public consultation provides additional information: 16% of 67 respondents found that **the EU marketing standards were strongly consistent with private marketing standards**, while 15% found them consistent, 21% moderately consistent, 8% not consistent and 40% did not have an opinion.

#### 5.4. Relevance

The relevance of marketing standards was addressed by assessing the extent to which **the current framework for marketing standards corresponds to the actual needs of stakeholders**: producers, processors, traders, retailers, consumers, Member State administrations.

The assessment revealed that **stakeholders** (operators, consumers and competent authorities) generally considered **the objectives of EU marketing standards to respond to the originally identified needs, problems and issues**. By contrast, their judgement was **less positive** for the **new needs, problems and issues that have emerged since the adoption of the EU marketing standards**, as discussed in detail below.

Nevertheless, a significant minority of the stakeholders consulted identified the **limitations of EU marketing standards in addressing the originally identified needs, problems and issues of stakeholders that were originally identified**. The most significant **limitations** the competent authorities highlighted concern in particular:

- Issues arising from non-homogeneous and sometimes inconsistent approaches to the implementation/enforcement of EU marketing standards at national level. The concrete example most frequently quoted is the issue already mentioned of non-homogeneous enforcement at Member State level of the national list of products exempted from the prohibition of using protected dairy terms for the marketing of

non-dairy products (EU Commission Decision 2010/791/EU of 20 December 2010). The issue is discussed in more detail below.

- The need for a simplified and modernised system of controls for compliance with EU marketing standards. However, few of the competent authorities consulted provided product-specific indications in that respect.
- The capacity to address the challenges arising from the ever-increasing importance and the proliferation of private marketing standards. However, none of the competent authorities consulted provided concrete examples.
- The absence of a harmonised EU definition for cheese, which is discussed in more detail below.

A limitation highlighted by stakeholders representing the interests of **consumers** is the absence of mandatory origin labelling in EU marketing standards (see Chapter 5.1).

As for the **new<sup>55</sup> needs, problems and issues that have emerged since the adoption of EU marketing standards**, the most significant **limitations** highlighted by competent authorities concern the capacity to follow the changes in technology, marketing strategies and consumer preferences, without impeding innovation. The most significant examples relate to poultry meat and olive oils, and are discussed in more detail below.

A specific assessment found that thanks to provisions on minimal sugar content in jams and the possibility for Member States to make derogations in that respect (Directive 2001/113/EC), a satisfactory balance has been achieved between the consumer's interest in ensuring product preservation and the need to consider specific national characteristics, as well as policy priorities of promoting healthier diets (low-sugar jams).

A number of **sector-specific<sup>56</sup> limitations of the relevance of EU marketing standards** emerged from the assessment:

- **Fruit juices sector:** the assessment identified an issue related to labelling provisions for fruit juices under Directive 2001/112/EC, as amended by Directive 2012/12/EU. The 2012 amendment established – among –other things – that the addition of sugars to fruit juices was not (no longer) allowed; this was done, mainly to follow the changes in consumer preferences and to respond to emerging trends towards a healthier diet. Since 28 October 2016<sup>57</sup>, producers are no longer allowed to include on a fruit juice pack the statement ‘no added sugar, in line with the legislation’, or similar statements referring to the fact that all fruit juices do not contain added sugar. However, the fact that competing beverages, such as juice containing drinks, are still allowed to use the claim ‘with no added sugar’ may create confusion among consumers, and may result in unfair competition.

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<sup>55</sup> This section concerns the new needs as opposed to the current needs stated before.

<sup>56</sup> It should be noted that no significant issues of relevance were identified for EU marketing standards for the following products covered by the evaluation: table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk; honey.

<sup>57</sup> The transitional measures under Article 3 of Directive 2012/12/EU established that the statement ‘from 28 October 2015 no fruit juices contain added sugars’ could appear on the label until 28 October 2016, to inform consumers about the exclusion of added sugars from the list of authorised ingredients.

- **Poultry meat sector:** it emerged from a specific assessment that provisions on water content<sup>58</sup> and alternative production systems<sup>59</sup> could be updated to follow the changes in technology, marketing strategies and consumer preferences, without impeding innovation. A specific assessment revealed that the definition of ‘foie gras’ was perceived as having some limitations in preventing fraudulent practices, because there was no EU definition for processed foie gras (France is alone in having a national definition). However, introducing such a definition would be contentious given the opposition from some NGOs to the production of foie gras using gavage (force-feeding). The proportionality of introducing a definition for processed foie gras could also be questioned when only five Member States produce the foie gras, although it is consumed more widely.
- **Dairy sector:** Two main issues emerged from a specific assessment: the improper use of protected dairy terms such as ‘milk’, ‘butter’ and ‘cheese’ in marketing plant-based competing products was found to cause issues in terms of unfair trading practices and of providing misleading information to consumers. Even if no evidence is available to quantify the extent of those implications, the views of the stakeholders consulted on the issue are generally aligned. The potential implications for stakeholders of there being no EU definition of cheese were found to be more disputed: unlike with the previous issue, the stakeholders’ views are not aligned on the matter (the views of the competent authorities consulted are especially divided). The analysis of the state of play of national legislation-based definitions of cheese in the EU revealed significant differences especially in the definition of the raw materials from which cheese can be made, and in the definition of the ingredients that can be used in its production. The assessment identified a potentially substantial aspect in the use of reconstituted dried milk and of concentrated milk as a raw material for producing cheese: this is neither explicitly prohibited nor explicitly allowed in most cheese-producing Member States that have a national definition of cheese in place (and also in the Codex General Standard for cheese), whereas the use of reconstituted dried milk to produce cheese is explicitly prohibited in Italy (the use of reconstituted dried milk and concentrated milk to produce cheese is explicitly allowed in the United Kingdom). According to an Italian sectoral association consulted, the prohibition creates a competitive disadvantage for Italian cheese producers on the domestic market, and has negative implications for a level playing field<sup>60</sup>.

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<sup>58</sup> According to one EU-level sectoral association that was consulted, the scope and requirements of EU marketing standards for poultry meat would need to adapt further to the evolution of genetics, as well as to that of animal feeding solutions. Poultry genetics have evolved since EU marketing standards were established: this translates into problems for the water content control of poultry meat. Animals of recent poultry strains hold more water than 15 or 20 years ago.

<sup>59</sup> An EU-level sectoral association that was consulted suggested that the age of chickens at slaughter in the different farming systems could be lowered; for instance, the age of slaughter of free range chickens could be lowered from the current 56 days to 50 days, to follow the evolution of genetics and rearing techniques. It also observed that more flexibility would be needed on the aspects being labelled, to follow technological innovation in the sector and the changes in consumer preferences: for instance, the possibility of labelling chickens produced using electricity from solar panels as ‘environmentally friendly poultry production’ should be considered.

<sup>60</sup> Whereas Italian operators cannot produce cheese from reconstituted milk powder, operators in other Member States are allowed to do so, and can lawfully market their products on the Italian market.



- **Olive oil sector:** the most significant limitations emerging from the assessment are related to: the organoleptic assessment<sup>61</sup> and the lack of uniformity of results deriving from tasting panels; an excessive number of quality parameters that must be determined; redundant information on labels; a relatively limited set of positive attributes that can be optionally reported on labels for virgin olive oils<sup>62</sup>. An assessment also revealed that the different categories of olive oils defined by Member States showed significant limitations in reflecting the needs of the market<sup>63</sup>.

From the findings of the assessment of the different aspects presented above, it can be concluded that the **current framework setting EU marketing standards generally corresponds to the actual needs of stakeholders**, with **some limitations** mainly deriving from a non-homogeneous enforcement/implementation of marketing standards at national level.

By contrast, the current framework is affected by:

- **more significant limitations in addressing the new needs, problems and issues of stakeholders that have emerged since the setting of marketing standards;** the framework is especially limited in its capacity to follow the changes in technology, marketing strategies and consumer preferences without impeding innovation;
- a number of sector-specific limitations especially affecting the fruit juices, poultry meat, dairy and olive oil sectors.

#### Details on assessment of business operators

The majority (76%) of the 123 business associations surveyed considered that the current legislative framework setting EU marketing standards **still responds to the actual needs, problems and issues of business operators**. A minority – although significant nonetheless (24%) - considered that the current legislative framework was affected by serious limitations<sup>64,65</sup> in practice.

However, a majority of respondents (76%) considered that such a framework had addressed those needs, problems and issues. In addition, 30% of the business associations

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<sup>61</sup> Besides the alleged subjectivity of the method which some of the sectoral associations consulted perceived, one of the sectoral associations consulted believed that tasting panels had shown clear limitations in addressing technological changes in fraudulent practices. For instance, tasting panels are usually unable to detect deodorised oils marketed as extra virgin olive oils. According to that association, the organoleptic assessment should be combined with traceability systems and with other analytical methods that technological innovation may offer in the future to effectively address more and more sophisticated fraudulent practices in the marketing of olive oils.

<sup>62</sup> According to one of the sectoral associations consulted, the set does not fully cover the extremely rich variety of scents and flavours of virgin olive oils, and also includes attributes ('bitter' and 'pungent') that are often not appreciated by consumers.

<sup>63</sup> One of the business associations consulted observed that it was of paramount importance to adapt the categories of olive oil to follow evolving market needs, also considering that large volumes of marketed extra virgin olive oils in certain Member States (and especially in Italy) meet much more demanding quality requirements than the minimum ones.

<sup>64</sup> Some limitations were mentioned in the relevance criterion. Additional limitations affecting the olive oil sector were found to be related to the tasting methods and the lack of uniformity of results deriving from tasting panels....

<sup>65</sup> It should be noted that 19 of the 25 associations highlighting those serious limitation cover the farming stage of the supply chain (exclusively or in combination with other stages).

surveyed were of the opinion that the current legislative framework had failed to address new needs, problems and issues.

The overall positive outcome of the business survey is consistent with the additional information obtained from the public consultation, according to which 21% of 81 respondents found that the EU marketing standards fit very well with the needs of the supply chain in these sectors (i.e. producers, processors, traders, retailers), while 46% found that they fit well, 26% moderately well, 5% found they did not fit and 2% did not have an opinion.

#### Details on assessment of competent authorities

The majority (79%) of the 19 **competent authorities** surveyed considered that the current legislative framework setting marketing standards **still responded to the actual needs, problems and issues of stakeholders** (producers, processors, traders, retailers, consumers, and Member State' administrations). A significant minority (21%) pointed to serious limitations, highlighted above. In addition, 32% considered that the legislative framework had failed to address new needs.

This overall positive assessment is consistent with the outcome of the public consultation, according to which 24% of 82 respondents found that the EU marketing standards fit the needs of Member State administrations very well, while 41% found that they fit well, 20% moderately well, 1% found they did not fit and 13% did not have an opinion.

#### Consumers

An EU-level consumer association that was interviewed expressed a generally positive judgement on the relevance of EU marketing standards for **consumers**, with the sole significant exception of the absence of mandatory origin labelling in EU marketing standards for a number of products. The association underlined the importance for consumers of knowing the place where agricultural products are farmed, rather than – for instance - the place of where they are packaged.

This is in line with the outcome of the public consultation, according to which 28% of 81 respondents found that **the EU marketing standards fit with the needs of consumers** very well, while 33% found that they fit well, 25% moderately well, 11% found they did not fit and 2% did not have an opinion.

### **5.5. EU added value**

The EU added value of marketing standards was addressed by assessing the extent to which **separate EU marketing standards are justifiable and provide added value in addition to international and private standards.**

#### Added value in addition to international marketing standards

The majority of the business stakeholders (83%), the 123 business associations<sup>66</sup> and the national competent authorities consulted considered that **separate EU marketing**

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<sup>66</sup> Only 8% of the business associations surveyed expressed a negative judgment in that respect (9% of respondents did not express a judgment).

**standards were justifiable and provided added value to international marketing standards.** The main **strengths of EU marketing standards** in relation to international marketing standards were identified in:

1. The **mandatory nature of EU marketing standards**, which is especially important in ensuring a homogeneous level of consumer protection, fair trading practices and a level playing field for operators within the EU market.
2. The fact that **the objectives and requirements of EU marketing standards have been tailored to the specific needs of the EU market**, and have often been adapted to changes in those needs.

However, a minority of the stakeholders consulted (especially national competent authorities) considered EU marketing standards (and especially those for fresh fruit and vegetables) to generally not be justifiable given the existence of analogous international marketing standards that are recognised on a global scale, and to provide little/no added value to them.

The competent authorities consulted that are in favour of separate EU marketing standards underlined that mandatory legislation-based marketing standards, tailored to the conditions applying on the EU market, are an essential condition to ensure adequate levels of consumer protection, and can help to improve the average quality levels of agricultural and food products marketed in the EU. These results would not be achieved by solely relying on international marketing standards, mainly because their uptake is voluntary.

#### Added value in addition to the applicable private standards

Most of the business stakeholders (80% of the 123 business associations surveyed<sup>67</sup>) and national competent authorities consulted also considered **separate EU marketing standards to be justifiable and to provide added value to the applicable private marketing standards**<sup>68</sup>.

The competent authorities consulted who are in favour of separate EU marketing standards had the same for international standards.

The main **strengths of EU marketing standards** in relation to private standards that were identified were:

1. The **mandatory nature of EU marketing standards** versus the voluntary nature of private ones. This ensures the achievement of objectives - a homogeneous level of consumer protection, fair trading practices and a level playing field for operators within the EU market – that could not be ensured through sole reliance on voluntary private standards.
2. The fact that EU marketing standards establish minimum quality requirements, as well as requirements for providing information about the products to business

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<sup>67</sup> Only 6% of the business associations surveyed expressed a negative judgment in that respect (14% of respondents did not express a judgment).

<sup>68</sup> It should be noted that the private standards most widespread in the EU are often based on requirements concerning the means (practices, procedures, organisational solutions, resources, etc.) to be used by operators in their production, storage and marketing activities. By contrast, EU marketing standards mainly set requirements concerning results, i.e. quality parameters to be met in products and specific information items to be provided about the products.

partners and/or final consumers, which must be complied with across the EU. For many products, those **minimum requirements are already based on relatively high standards**. From a farmer's or processor's perspective, this leaves less room for the 'quality gold plating' strategies pursued by large-scale retailers whose own private standards have particularly demanding quality requirements. Since most of the added value generated by 'quality gold plating' strategies goes to retailers, with farmers and processors bearing the often high costs of complying with private standards, **EU marketing standards contribute to a fairer allocation of added value among the different stages of the supply chain**.

By contrast, **no significant weaknesses of EU marketing standards** in relation to the applicable private marketing standards emerged from the assessment.

## 6. CONCLUSIONS

### Scope and limitations of the evaluation

Since the early days of the common agricultural policy (CAP), marketing standards have been a feature of the policy on agricultural and food product quality. EU marketing standards have usually been defined by sectors or products; they serve the purpose of taking into account consumer expectations and helping to improve the quality and economic conditions for producing and marketing agricultural products. In the current framework, EU marketing standards are aimed at ensuring that the market can be easily supplied with products of a standardised and satisfactory quality; these standards concern technical definitions, classification, presentation, marking and labelling, packaging, production method, conservation, storage, transport, related administrative documents, certification and time limits, restrictions of use and disposal.

In force since 2014<sup>69</sup>, the reform of the common market organisation included the adoption of marketing standards by sectors and products. These standards were further developed in secondary legislation governing the common market organisation<sup>70</sup>. The marketing standards of the ‘Breakfast Directives’<sup>71</sup> had been drafted under different conditions and times for several products or sectors. They predated the current Common Market Organisation Regulation.

The evaluation analysed to what extent EU marketing standards for food products were enabling the EU to achieve the objectives set and if they were useful and sufficient in this sense for the stakeholders (producers, processors, traders, retailers, consumers, Member State administrations).

The evaluation is limited in that it only covered marketing standards adopted since the entry into force of the current common market organisation (2014), unless otherwise specified. Also, the level of detail of the analysis is uneven across sectors, making it difficult to establish general conclusions on marketing standards. This is due to the wide range of sectors analysed, the greater reliance on qualitative, rather than quantitative, sources and the lack of reliable data.

### Conclusions for the five evaluation themes

The evaluation concluded that EU marketing standards have generally been **effective** in achieving their intended objectives, without causing significant unintended/unexpected effects (including ‘deadweight’<sup>72</sup>). EU marketing standards appeared to have limited

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<sup>69</sup> Regulation 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organization of the markets in agricultural products

<sup>70</sup> On olive oil, fruits and vegetables and processed fruits and vegetables, bananas, eggs, hatching eggs poultry chicks, poultry meat, bovine meat, hops and spreadable fats, milk products

<sup>71</sup> They concern: coffee and chicory extracts, cocoa and chocolate products, sugars intended for human consumption, fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption, dehydrated milk, fruit juices and honey.

<sup>72</sup> ‘Deadweight’: effects that would have arisen even if the intervention – i.e. the establishment EU marketing standards - had not taken place.

effectiveness in only a few cases in certain specific sectors and for specific aspects, mainly due to the lack of robust quantitative data. The assessment identified a number of **success stories illustrating the effectiveness of EU marketing standards**, such as rules on the optional reserved terms (types of farming) for poultry meat and the rules for indicating the farming methods applied for laying hens.

Although neither **costs** nor **benefits** are fully quantifiable, the majority of the business associations and operators consulted across all sectors, as well as Member States, considered the costs of EU marketing standards to be justifiable and proportionate to the benefits achieved. Overall, limited potential was found for simplifying EU marketing standards, including the certification procedure for hops and the marketing standards for fresh fruit and vegetables and olive oil. Consumers seemed insufficiently aware of marketing standards and their benefits, to make a robust assessment from their point of view of the proportionality of costs versus benefits of EU marketing standards.

There is some room for improving the **relevance** of EU marketing standards. Even if EU marketing standards were found to be generally pertinent to the original needs identified by stakeholders, the assessment revealed that the standards could be improved in order to better address the new needs, problems and issues of stakeholders which emerged after the standards were set. In particular, the assessment identified some limitations of EU marketing standards in keeping up with changes in technology, marketing strategies and consumer preferences without impeding innovation, and in addressing potential side effects in terms of food waste in certain sectors.

The evaluation concludes positively that EU marketing standards show **coherence**, within the related regulatory framework (internal coherence) and are consistent with other EU rules that are relevant for the production and marketing of agricultural and food products, and are consistent with international and private marketing standards (external coherence). There is however a significant cross-sectoral issue of coherence due to the combination of various requirements under EU marketing standards that are related to product quality, food safety (e.g. storage temperature requirements, or minimum durability ('best before') date required for eggs) and the provision of food information to consumers (product labelling requirements). According to some of the national competent authorities consulted, such a combination may result in overlaps and inconsistencies, and may pose challenges for enforcement and verification and inspection.

EU marketing standards also provide significant **added value** to international and private marketing standards. This mainly stems from their mandatory nature (i.e. the related requirements must be complied with across the EU), from the fact that requirements are tailored to the specific operational and market situation of the EU, and is due to the rather demanding quality requirements set by EU marketing standards for many products.

## ANNEX 1: PROCEDURAL INFORMATION

### 1. Lead DG, Decide Planning/CWP references

Lead DG: Directorate-General for Agriculture and Rural Development (DG AGRI).

Decide planning: PLAN/2017/925

### 2. Organisation and timing

This evaluation was included in the DG AGRI evaluation plan. It followed the Better regulation guidelines for evaluations. The evaluation work was carried out through an external evaluation study, conducted in conformity with the DG AGRI procedure for organising and managing policy evaluations by external contractors. The work was supervised under the technical and the contractual management of DG AGRI's unit C.4 in charge of monitoring and evaluation.

The Commission set up an inter-service steering group on 05 July 2017, with the mandate of providing information, preparing the terms of reference, monitoring the work of the external study team, discussing and giving advice on the approval of the final report, commenting on the draft evaluation staff working document.

The ISG was composed of the Secretariat-General of the Commission and Directorate-General for Agriculture and Rural Development (DG AGRI), Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW), Directorate-General for Health and Food Safety (DG SANTE) and the Secretariat-General (SG). The ISG started its meetings on 05 July 2017, and held several meetings throughout the evaluation process.

The evaluation roadmap was published on 29 June 2017. It set out the context, scope and aim of the exercise. The roadmap presented the questions to be addressed under the five criteria of effectiveness, efficiency, relevance, coherence and EU added value. During the period in which feedback could be provided on the roadmap (29 June 2017 – 27 July 2017), 18 contributions were received<sup>73</sup>. These did not require any change to the approach towards the evaluation.

The evaluation support study<sup>74</sup> carried out by the external contractor started on 3 December 2018 and finalised on 2 November 2019. An open public consultation was launched on 22 July and closed on 14 October 2019<sup>75</sup>. Its aim was to gather the views of public authorities, stakeholders and members of the public. The external support study,

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<sup>73</sup> <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1457-Evaluation-of-marketing-standards-Regulation-EU-No-1308-2013->

<sup>74</sup> Evaluation support study of the marketing standards contained in the common market organisation (CMO) regulation, the 'Breakfast directives' and CMO secondary legislation: [https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/cmef/products-and-markets/cmo-regulation-breakfast-directives\\_en](https://ec.europa.eu/info/food-farming-fisheries/key-policies/common-agricultural-policy/cmef/products-and-markets/cmo-regulation-breakfast-directives_en)

<sup>75</sup> <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1457-Evaluation-of-marketing-standards-Regulation-EU-No-1308-2013-public-consultation>

together with the outcome of the public consultation provided the basis for this staff working document.

### **3. Exceptions to the better regulation guidelines**

There were no exceptions to the better regulation guidelines. This evaluation was not selected for scrutiny by the Regulatory Scrutiny Board.

### **4. Evidence, sources and quality**

Relevant data and information from the European Union, national and local levels had to be gathered for the evaluation. The overall approach therefore combined these three main sources with three types of evidence: (i.) EU level data and information gathering, review and analysis; (ii.) case studies in selected Member States; (iii.) quantitative and qualitative analysis, with focus on the qualitative dimension.



## ANNEX 2: STAKEHOLDER CONSULTATION

A wide range of consultation methods and activities were planned. They can be grouped as follows:

- 1) consultation activities carried out by the external evaluator (e.g.: surveys, stakeholder interviews or workshops),
- 2) consultation activities carried out by the Commission (e.g. contacts with member of relevant civil dialogue groups).

### Consultation activities carried out by the external evaluator

The following targeted consultation activities were carried out by the external evaluator:

- case studies/workshops
- surveys
- focus groups
- interviews.

### Consultation activities carried out by the Commission

#### **Roadmap feedback**

The Commission services organised a four-week consultation to obtain feedback for the roadmap of this evaluation<sup>76</sup>. There were 18 contributions, mainly from different organisations linked to various sectors (e.g. fruits and vegetables, hops, cider, fruit juices, poultry meat, and eggs, dairy...). These contributions were taken into account in design the evaluation questions.

#### **Public consultation**

The Commission services asked civil dialogue groups to provide information on possible relevant activities at Member State level and in particular to participate in the public consultation for this evaluation. A specific public consultation for this evaluation was conducted. It was launched on 22 July and closed on 14 October 2019. Its aim was to gather the views of public authorities, stakeholders and members of the public. The Commission drafted a specific summary report with the analysis of the open public consultation<sup>77</sup>. The outcome of the different questions has been provided in Chapter 5, in the analysis and answers to the evaluation questions.

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<sup>76</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1457-Evaluation-of-marketing-standards-Regulation-EU-No-1308-2013-/feedback?p\\_id=32647](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1457-Evaluation-of-marketing-standards-Regulation-EU-No-1308-2013-/feedback?p_id=32647)

<sup>77</sup> <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1457-Evaluation-of-marketing-standards-Regulation-EU-No-1308-2013-/public-consultation>

The open public consultation provided a significant amount of input on the different sectors especially in the position papers uploaded.

### **Open questions**

In the open question on **what could be simplified, and how, in order to improve the management and implementation of the EU marketing standards**, the following suggestions for simplification or improvement were made:

**Fruits and vegetables:** the main qualitative contributions related to:

Digitalisation	Digitalisation and new techniques for labelling; ‘use of QR-Code’ for tracking information and achieving the maximum traceability of the product.
Harmonisation	Harmonisation of marketing standards for different sectors to reduce the administrative burden; alignment of the specific marketing standards for fresh fruit and vegetables with UNECE standards; harmonisation among authorised packagers; continued European harmonisation of the rules.
Recognition	The need to facilitate recognition as authorised economic operators in order to ensure better management and enforcement of the rules.
Quality	The need to ensure that EU marketing standards continue to focus on the quality aspects of the products.
Administrative requirements	Simplification of administrative requirements, currently included in the standards.
Compliance	The performance of regular public reporting on inspections carried out to check compliance with EU marketing standards by the various competent authorities.
Simplification	Simplification of texts; identification with commercial language and consumer; However, simplifying should not be synonymous with eliminating existing marketing standards for different fruit and vegetable products. The removal of common EU standards would lead to the proliferation of different private standards: different for each Member State, and for commercial operators.
Sector specificities	The obligation in the EU for citrus to mention the preserving agent or other chemical substances used at the post-maturity stage is discriminatory as this requirement is not obligatory for any other fruit.

**Eggs:** For the eggs sector, the main qualitative contributions related to:

Simplification	Simpler rules, clear wording, consistency, tighter control. However, other stakeholders claim:
Compliance	The lack of any need for simplification. Controls in firm.
Safety, monitoring	The monitoring of products on the food safety website, the raw material being incorporated into a product that has been used, so that the consumer is provided with a clear indication of the source of origin of the product and the quality of the raw material;

	Effective, frequent monitoring.
Sector specificities	The lack of any need for simplification, keeping the standards unchanged, with a few points, in particular concerning the controls on the methods of rearing laying hens.

**Poultry meat:** For the poultry meat sector, the main qualitative contributions related to:

Status quo	The claim by many respondents that there is no need for simplification - 'keep the standards unchanged'- and that the management and implementation of the current marketing standards is adequate.
Awareness	The need to maintain current standards without simplification and make them known.
Sector specificities	The idea that laboratory analysis procedures could in some cases be simpler and more harmonised. For example, the procedure for checking the water content of poultry is complex and unnecessarily costly for producers.

**Olive oil and table olives:** the main qualitative contributions related to:

Sector specificities	The need to simplify official organoleptic testing for virgin olive oils. Without harmonisation between official control tasting panels, operators marketing virgin olive oils are subject to serious legal uncertainty.
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### **Uploaded position papers by sectors**

Below is a summary of the main points expressed in the position papers by sectors. The type of stakeholder appears (e.g. consumer organisation, producer organisation, national or regional authority, etc.) but the names have been anonymised. If there is a campaign, the number of documents appear as well.

#### **Fruit juice**

One **association of producers** sent a position paper to comment on Council Directive 2001/112/EC to state that EU producers of fruit juices and nectars are strongly in favour of maintaining the Directive. Based on surveys in several EU Member States, the producers observe a lack of public awareness on the fact that, except for nectars, sugar cannot be added to the products covered by the Directive. Consequently, those products suffer from unfair competition compared to other drinks that are allowed to use the claim 'with no added sugar'.

#### **Fruits and vegetables**

In total, 6 position papers on the fruit and vegetables sector have been received.

The **cooperatives of a Member State** jointly expressed concerns that specific standards could be, as it was the case in 2008, reduced and replaced by general standards. They are of the view that instead of simplifying the situation, general standards would actually imbalance the market for producers and result in more bureaucracy, higher costs, more restrictions, greater complications in the manufacturing, classification and labelling process. The management of goods would be complicated by the clients deciding arbitrary and unilateral changes in conditions.

An **organisation representative of farmers and cooperative** similarly recalls that specific standards provide a common language between operators and therefore help the single market run smoothly. Specific standards guarantee the market transparency by allowing each link in the food chain, from producers to consumers, to ensure the security of transactions; this is done by providing uniform parameters and objectives which make it possible to attribute characteristics to the marketed products. The organisation would like the Commission to do an impact assessment on the 26 marketing standards abolished in 2008 and would like the EU to maintain the current specific marketing standards.

A **national organisation representing the citrus sector** would like the EU to revision of the marketing standards for citrus so that it is no longer mandatory to the preservatives or chemical substances used for post-harvest treatments.

An **international association of producers** is globally in favour of maintaining the current specific marketing standards and complaining about the abolishment of 2008, asking the Commission to reinstate them and even to consider new ones for new products that have appeared or are growing in importance. This association also proposes to improve labelling for greater consumer awareness (e.g. for the origin of fruits and vegetables).

A **national inter-professional association** also in favour of marketing standards for fruit and vegetables, similarly to other stakeholders intervening in the survey reminded The Commission that contrary to the preconceived idea, marketing standards help to reduce food loss and waste.

An **international (EU & non-EU) consumer association** pleads for harmonized and permissive legislation that is adapted to local needs and left to the appreciation of national authorities.

## **Dairy**

In total, 5 position papers concerning the dairy sector were received.

The **three main stakeholders in the dairy supply chain (the representatives of producers and cooperatives; the representative of the processing industry; the representative of traders and wholesalers)** are broadly in favour of a status quo for dairy products: that means maintaining the protection of dairy terms and marketing standards for spreadable fats, drinking milk and dehydrated milk; not modifying the list of linguistic exceptions in Commission Decision 2010/791/EU. It is worth noting that the representatives of producers and cooperatives not only represent the interests of milk producers but also the agricultural sector as a whole (several dairy companies also produce plant-based drinks).

The **EU-level organisation of traders and wholesalers** makes a clear distinction between protected terms and marketing standards. They state that if additional standards were developed for products traded in large volumes such as whey powder or certain cheese categories such as Edam, Gouda, Cheddar, Emmental and Mozzarella, they should be fully in line with the existing Codex Alimentarius standards for these products.

For products where there is no Codex standard, the priority should always be to develop any additional standards via the Codex route (e.g. for whey protein concentrates). They write that some additional guidance to Member States on applying marketing standards would be welcome in order to ensure a uniform implementation of standards across the EU.

According to the **EU-level organisation of producers and cooperatives**, terms related to dairy should remain protected in EU legislation and be respected by all supply chain partners and fully enforced by all competent authorities of the EU Member States at all times. In the case of other terms linked to products of animal origin (e.g. meat or eggs) this protection should be granted by EU legislation. Products that do not contain meat should not refer to meat in the name of the product. For the sake of protecting genuine meat products from imitations, it is therefore necessary to better enforce the existing legislation and provide clearer labelling rules in this respect.

The **EU-level organisation representing vegetarians** questions the rules on the protection of dairy terms in particular with regard to ‘growing food sectors which deserve similar consideration as the dairy industry’ and adding to the list of exceptions in Commission Decision 2010/791/EU to include new traditions that have emerged since the protection of dairy terms was introduced.

A **national federation of food producers** would like certain exceptions already listed in Commission Decision 2010/791/EU to be harmonised in order to avoid different linguistic rules (at least for four specific products: cocoa butter, peanut butter, coconut milk, almond milk).

## **Honey**

In total, 2 position papers concerning the honey sector were submitted.

An **EU-level organisation of farmers and cooperatives** submitted a position paper in reaction to the results of the Commission’s coordinated control plan for the honey sector. The paper proposes a multi-level action plan, with a number of measures to be taken on the farm, at packing stations as well as at borders but also in supermarkets, focusing on measures to increase the traceability of the honey’s origin. The paper considers this important in ensuring the sector’s profitability and restoring trust in the products. The paper also calls for the development of reliable and harmonised analytical methods at EU level that can be applied by a larger number of laboratories and would like a European authentication centre for honey to be set up. At international level, the paper suggests increased cooperation with China (the main supplier of imported honey to the EU) on scientific projects to prevent fraud and would also like to see EU visits to China to check veterinary residues and analyse honey production methods.

Current EU legislation contains a precise definition of honey. The second position paper by an **EU-level organisation of farmers and cooperatives** suggests also providing definitions for other bee products, such as royal jelly and bee venom.

### **Poultry**

In total, 4 position papers concerning the poultry sector in general were submitted. The practically identical wording of the papers suggests that the positions were coordinated to form one campaign.

**An EU-level association of alternative poultry producers** considered that the current provisions of the marketing standards for poultry meat (Regulation 543/2008) has encouraged the development of differentiated poultry production in the EU over the last 25 years, resulting in a clear segmentation of the poultry market. It therefore argues for maintaining the current rules on the types of farming for poultry. In particular, it is in favour of maintaining the rules and definitions on the indication of different farming methods, maintaining the obligation of controls of farming methods with defined frequencies, and maintaining the possibility of additional national rules to indicate types of farming that allow a certain flexibility in tailoring EU rules to country-specific conditions. **One national producer organisation** submitted a position with exactly the same wording.

Similar positions were submitted by **1 national producer organisation** and **1 regional producer organisation.** They both argue for maintaining the current rules on the type of farming for poultry as laid down by Regulation 543/2008.

### **Foie gras**

In total, submissions were received from 21 stakeholders concerning the foie gras marketing standard under Regulation 543/2008.

**A position paper with the same wording** was submitted by **16 individual stakeholder groups**, comprising one EU-level association of foie gras producers and 15 national or regional producer organisations or companies involved in the production, processing or trade of foie gras from the Member States producing foie gras.

Firstly, the position paper calls for maintaining the definition of raw foie gras in the current marketing standards for poultry meat (as laid down in Article 1 of Regulation 543/2008), a definition that is based on the legal requirement for minimum liver weights of duck and geese, respectively. It argues that due to the high value of foie gras as a product and

the consequent risk of fraudulent practices fixing minimum liver weight is an appropriate criterion to ensure product quality. It recalls that foie gras remains a prestigious and high value product recognised in France as ‘protected gastronomic and cultural heritage’ and in Hungary, as ‘hungaricum’.

It explains that the scientific studies confirmed a direct relationship between the weight of a duck/goose liver and its fat content; thus without reaching the minimum weight set in the poultry meat marketing standards, the fatty livers would not be sufficiently fattened and final product would not have the desired organoleptic qualities. It adds that these minimum weights are the only available means for the national competent authorities to control the product in a simple way.

In relation to the presence on the market of other similar products, such as ‘mousse de foie’ or ‘foie fin’ (lean liver), the position paper argues that it would be misleading to make consumers believe that a product other than foie gras could have the same intrinsic characteristics.

Secondly, the paper calls for introducing a definition for processed foie gras, which is claimed to account for 80% of the foie gras market in EU legislation. The paper argues that the EU market is the largest world market for foie gras (75% of all foie gras is said to be consumed in the EU) with ample room for fraudulent practices in this market segment. Moreover, the paper also sees the introduction of an EU definition of processed foie gras as a protection against unfair competition from imports of foie gras produced by new non-EU foie gras producers.

**Another position paper with identical wording** was **submitted by 4 stakeholder organisations**, including a regional administration, a regional chamber of agriculture and two regional producer organisations.

This position paper calls for maintaining the current definition of raw foie gras based on the minimum liver weights of duck/geese livers (as provided for in Article 1 of Regulation 543/2008). It argues that minimum weights lower than those fixed in Regulation 543/2008 would lead to insufficiently fattened livers and would ultimately mislead consumers. The paper stresses that the definition of minimum liver weights ensures fair competition within the EU and helps to fight potential fraudulent practices. It further adds that the foie gras sector creates a significant number of jobs and generates an important source of income in agriculture and related agro-tourism in the region.

A position paper **on animal welfare** submitted by a **national non-governmental organization** calls on the EU to delete the reference to minimum liver weights in the definition of foie gras in Regulation 543/2008. The paper refers to the use of force-feeding to produce foie gras, claiming this practice leads to liver weights well above their normal natural size and causes severe health problems and a higher mortality rate for the birds during the force-feeding period. It notes that not all foie gras producers force-feed their animals, relying on the natural feeding behaviour of the birds before the migratory season to produce larger livers. It argues, however, that the minimum liver weights for ducks and geese currently set in EU legislation cannot be reached without force-feeding the animals and therefore the EU rules would de facto encourage producers to force-feed their animals in order to market their products under the term ‘foie gras’. On the other hand, the alternative producers of foie gras, that do not use force-feeding, are allegedly forced to use other denominations for their products, such as ‘foie fin’ or ‘faux gras’ and therefore are losing their market share to the foie gras producers using force-feeding.

## **Eggs**

Altogether 6 position papers concerning the egg sector were received.

A **national egg trade association** highlighted several issues. Firstly, it is concerned that the imported eggs and egg products do not comply with the same rules as those in the EU (while the paper is not specific, this may concern mainly the rules on how the animals are kept, but could also relate to certain environmental rules or controls). Secondly, it considers that the eggs and egg products of EU and non-EU origin are not distinguishable according to the applicable rules. Thirdly, it argues in favour of introducing labelling for

different egg-housing systems, including for processed egg products. Fourthly, it points to inconsistency in the requirements for marketing eggs as ‘free range’ or ‘organic’ following compliance with EU legislation aimed at addressing outbreaks of avian influenza. Egg marketing standards (Regulation (EC) No 589/2008) provide for a derogation period to market eggs as ‘free range’ in cases of restricted access to open air due to housing restrictions to protect animal health for a period of no more than 16 weeks. The situation in the organic egg sectors is different, since eggs being marketed as ‘organic’ can continue to be marketed as such irrespective of how long birds may have to be kept indoors to protect public and animal health. Lastly, it argues for the marking of eggs directly on the farm to avoid potential fraud.

In its contribution, **an EU-level association of alternative poultry producers** acknowledged that the increasing trend of keeping hens in alternative systems was made possible thanks to the current EU marketing standards for eggs (Regulation 589/2008). It therefore supports maintaining the rules on the different types of farming. However, it proposes more stringent controls of farming methods for eggs by introducing an annual inspection of all alternative farming methods (an annual control frequency is applied for organic eggs as well as for alternative poultry meat under Regulation 543/2008). Finally, it proposes adding an obligation to mark eggs on the farm (unless a Member State has defined and authorised exceptions) to avoid potential fraud in indicating the respective code of the farming method on the egg shell.

**The exact same position** (using identical wording) was also expressed in the 3 other position papers received: **two from national producer organisations** and **one from a regional producer organisation** (thus, forming a campaign with the EU-level producer association mentioned above).

**A national poultry producer organisation** provided a long list of changes that it proposes should be made to the egg marketing standards. These include changes in the marking of egg boxes and labelling of eggs from non-EU countries; changes in the grading for size categories and for the classification of eggs (a third class C is proposed in addition to the current classes A and B); and no longer allowing exemptions from washing and marking eggs in certain cases of intra-EU trade.

## **Meat**

**An EU-level non-governmental organisation that is focused on animal welfare** called for mandatory labelling of the method of production informing consumers of the farming method used to raise the animal whose meat or products are being marketed. It considers that the absence of this mandatory labelling poses two risks: the risk of private operators providing consumers irrelevant, misleading or false information or the risk of a proliferation of voluntary labelling initiatives, each with differing standards based on national conditions, which it argues ultimately prevents the EU market from functioning properly and creates consumer confusion because of multiple labels on the market. A good model for such a mandatory labelling system would be the existing EU mandatory farming method labelling applied for eggs.

**A group of 6 EU-level organisations** – comprising organisations representing poultry processors and traders, meat processors, farmers and cooperatives, animal breeders, butchers, and livestock and meat traders – would like EU legal protection to be granted to



meat-related terms. They claim that in recent years, many plant-based products on the market have been found using the names of products of animal origin while some food business operators devised strong marketing strategies, which they say can be misleading for consumers because they seek to market plant-based products as substitutes for products of animal origin. The paper argues that dairy terms are already protected in EU legislation and similar legal protection should also be granted for other products of animal origin. The paper includes a non-exhaustive list of meat-related terms, which the organisations proposed should be protected.

**A national organisation of the meat and poultry industry** suggests a review of maximum limits of water content in poultry meat as laid down in Regulation 543/2008. Further, it would be in favour of the legal protection of denominations for poultry carcasses and cuts to be used only for the products of animal origin. It is also calling for a review of the definition of mechanically separated meat, as laid down in Hygiene Regulation 852/2008, arguing that the techniques for separating meats from bones has evolved and the quality of mechanically separated meat has improved. Finally, in a more general way, they would welcome consolidation of the sector-specific legal provisions for marketing standards; these provisions are currently spread across several regulations and they would like them to be consolidated into fewer legal texts so that the legal requirements are easier to understand.

### **Olive oil**

One position paper was submitted for the olive oil sector by a **business association representing farmers and agro-cooperatives in the EU**.

In its opinion, EU marketing standards for olive oil play a major role in supplying the market with products of standardised and satisfactory quality and thus in providing adequate and transparent information to consumers and creating a climate of trust of producers.

The association expresses the view that there is a potential for improving the control and reporting requirements.

It suggests that the obligation for the HORECA sector of having sealed caps for extra virgin olive oil should be extended to the whole EU in order to ensure that quality as well as the nutritional characteristics of olive oil are preserved. In addition, they support the adoption of specific marketing standards for table olives to avoid fraud and boost the quality and knowledge of the product. It also suggests a review of the existing provisions on health claims, particularly as regards polyphenols, in order to ensure that consumers are correctly informed about the benefits of olive oil consumption.

### **Other consultations on a product outside the scope of this evaluation**

In addition to the information above, there have been other consultations on marketing standards for a product falling outside the scope of this evaluation (wine). They are provided as an illustration<sup>78</sup>.

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<sup>78</sup> Source : Agrosynergie, Evaluation of the CAP measures applicable to the wine sector, OP, Brussels, 2019. <https://op.europa.eu/en/publication-detail/-/publication/21c4fc5f-5064-11e9-a8ed-01aa75ed71a1>

## Wine

In addition to the open public consultation on marketing standards for the CMO Regulation, the 'Breakfast Directives' and the CMO secondary legislation, marketing standards for wine were addressed in a specific open public consultation organised from 7 March to 7 June 2019 on the CAP measures applied to the wine sector<sup>79</sup>. This consultation, together with the evaluation support study on the CAP measures applied to the wine sector<sup>80</sup> that also includes a dedicated consumer survey, will serve as input to the staff working document on CAP measures applied to wine.

Producers and traders gave the following opinions on the speed adapting to EU rules:

Since 2009, when a new resolution on oenological practices was adopted by the International Organisation of Vine and Wine (OIV), the European Commission has consulted Member States on revisions of enactments and ensure that new oenological practices comply with EU criteria. It usually takes 6 to 12 months to amend European regulations for processing aids. But the procedure is longer for food additives, because it includes assessment by the Directorate-General for Health and Food Safety<sup>81</sup>.

According to traders and producers, the changes in marketing standards to adapt EU production to the market are made in a timely manner, especially in Spain and Sicily (IT); according to certain producers of La Rioja (ES), this remains true even if a certain slowness remains, due to the International Organisation of Vine and Wine (OIV) processes. In the other case-study Members States, producers and traders do not see any particular problem with the amendments of oenological practices or with the time it takes to implement them in the European regulations. The process has been streamlined and the response is now faster thanks to the dialogue between the Commission and the International Organisation of Vine and Wine (OIV).

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<sup>79</sup> <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1182-Evaluation-of-the-CAP-measures-applicable-to-the-wine-sector/public-consultation>

<sup>80</sup> <https://op.europa.eu/en/publication-detail/-/publication/21c4fc5f-5064-11e9-a8ed-01aa75ed71a1>

<sup>81</sup> For instance, the use of glutathione - an additive - adopted at the OIV's General Assembly on July 2015 is presently being assessed by the Directorate-General for Health and Food Safety, whereas the clarification of enzymatic preparations of beta-glucanase - a processing aid- was adopted by the OIV in June 2010 and integrated in in EU Regulation 53/2011 six months later.

### ANNEX 3: METHODS AND ANALYTICAL MODELS

The evaluation methods and analytical models used are described below. The evaluation used quantitative and qualitative analyses, which fed into the evaluation. Also, information from different sources was triangulated, ensuring that the answers to the evaluation questions were based on solid, cross-checked evidence.

#### Evaluation criteria and analysis of questions

The **overall approach to answering evaluation questions** is based on the following elements:

- Interpretation and comprehension of the **key terms** of the evaluation questions and provision of appropriate **definitions** of these terms.
- Indication of the **judgement criteria** for answering each question, and of the related **set of indicators** (as well as, wherever opportune, the quantitative level to be reached by such indicators).
- Explanation of the **validity** of the quantitative and qualitative information used, and indication of the related limitations.
- Description of the **methods used for answering each question** and indication of their limitations.
- Detailed description of the **reasoning followed in the analysis**, indicating in particular the underlying hypotheses and validity limits.
- **Conclusions for each question**, to be drawn directly from the analysis.

The above approach is applied for answering each of the 12 evaluations questions, including the related sub-questions.

#### Data collection strategy and methodology

The **data collection strategy** made use of a **combination of multiple data collection methods and tools** to gather the vast and varied evidence base needed for the evaluation. In particular, the use of multiple data collection methods and tools for collecting the same information items was aimed at improving the robustness of the overall data collection system, at addressing potential failure of specific methods/tools, and at managing the related risks for a successful completion of the assignment. The combination includes:

<b>Desk research</b>	<p><b>It covered:</b></p> <ul style="list-style-type: none"> <li>a. collection of the relevant legislative texts;</li> <li>b. collection of the relevant documentation;</li> <li>c. collection of the relevant background information;</li> <li>d. review of the available scientific and technical literature (of both a general and specialist nature);</li> <li>e. collection of the relevant datasets and mining of the available databases.</li> </ul>
<b>In-depth</b>	With competent authorities, stakeholders and independent experts. It

<b>structured interviews</b>	aimed at collecting evidence to: <ul style="list-style-type: none"> <li>a. identify key sources of information;</li> <li>b. complement the quantitative and qualitative evidence collected via desk research, surveys and focus groups;</li> <li>c. cross-check the validity and reliability of the evidence collected;</li> <li>d. understand the observed dynamics and phenomena, and interpret the results of the analysis under the five evaluation themes;</li> <li>e. get insights for the judgements to be elaborated for the 12 evaluation questions.</li> </ul>
<b>Stakeholders' surveys</b>	Three different surveys were carried out, targeting different respondents and collecting from primary sources an important part of the evidence base needed for the evaluation: <ul style="list-style-type: none"> <li>a. Member States competent authorities.</li> <li>b. Business associations both at EU and Member State level.</li> <li>c. Consumer associations.</li> </ul> <p><b>Each survey was tailored to the specific category of recipients.</b></p>
<b>Thematic case studies</b>	They focused on specific aspects/issues related to the implementation of marketing standards through regulations or directives, or arising from the lack of marketing standards: <ul style="list-style-type: none"> <li>a. The case study on Directive 2012/12/EU amending Directive 2001/112/EC relating to <b>fruit juices and certain similar products</b> intended for human consumption, aimed to investigate more in depth the effectiveness of the provisions on the minimum Brix level for reconstituted juices in creating a level playing field for producers.</li> <li>b. The case study on Directive 2000/36/EC, aimed to investigate more in depth the effectiveness of marketing standards covering <b>cocoa and chocolate products</b> (marketed for both industrial and final consumer use) in creating a level playing field for producers.</li> <li>c. The case study on Commission Regulation (EC) No 543/2008 (<b>poultry meat sector</b>) with a focus on optional reserved terms, aimed to explore the implications of these terms for a level playing field/coherence/EU added value (also because some Member States have put in place national schemes to define alternative production systems in the sector).</li> <li>d. <b>Absence of an EU definition for cider.</b> This case study on the different national requirements for cider (in particular the apple juice content used in its production) aimed to explore the difficulties in and the possible added value of establishing an EU standard for cider (cider is an agricultural product covered by Regulation (EU) No 1308/2013; it is not listed in</li> </ul>

	<p>Article 75.1, but it could be included in accordance with Article 75.6).</p> <p><b>Thematic case studies</b> were aimed at collecting additional evidence to assess:</p> <ul style="list-style-type: none"> <li>• the effectiveness of EU marketing standards, and in particular their contribution to creating a <b>level playing field for producers, traders and retailers</b>;</li> <li>• the <b>strengths and weaknesses of regulations and directives</b> as instruments to establish <b>marketing standards for the sectors/products currently not covered</b>.</li> </ul>
<b>Focus groups</b>	<p>Three configurations:</p> <ol style="list-style-type: none"> <li>a. <b>Focus groups with business associations, consumer associations and independent experts.</b> These were used for collecting relevant information from primary sources (associations of business operators directly impacted by the implementation of marketing standards; consumer associations; academics and consultants boasting high-profile expertise on marketing standards).</li> <li>b. <b>Focus groups with producers, processors, traders/retailers and consumer associations</b> were carried out in the form of a <b>multi-stage consultation process</b>, aimed at feeding qualitative and especially quantitative evidence for replying to evaluation questions on the efficiency of EU marketing standards.</li> <li>c. <b>A focus group with independent experts and sectoral experts</b> was aimed at exploring to what extent <b>establishing EU marketing standards for the sectors/products currently not covered</b> would create <b>EU added value</b>. It was carried out towards the end of the data collection phase, in order to benefit from the findings of the assessment of the other four study themes, and the findings of the four thematic case studies.</li> </ol>

## ANNEX 4: CURRENT COMMON AGRICULTURAL POLICY LOGIC FOR INSTRUMENTS AND MEASURES – LEGISLATION OVERVIEW

### Legislation:

- *Common Market Organisation (CMO) Regulation*
  - **Regulation (EU) No 1308/2013**
- *Secondary CMO legislation*
  - **Olive oil – Regulation (EU) No 29/2012 and Regulation (EEC) No 2568/91**
  - **Fruits & Veggies – Regulations (EC) No 543/2011 and (EC) No 1666/1999**
  - **Bananas - Regulation (EU) No 1333/2011**
  - **Eggs - Regulation (EC) No 589/2008**
  - **Hatching eggs and poultry chicks - Regulation (EC) No 617/2008**
  - **Poultry meat - Regulation (EC) No 543/2008**
  - **Bovine meat - Regulation (EC) No 566/2008**
  - **Hops – Regulation (EC) No 1850/2006**
  - **Spreadable fats, milk products – Regulation (EC) No 445/2007**
  - **Protection of designations for milk – Regulation (EEC) No 1898/87<sup>82</sup>**
  - **Commission Decision 2010/791/EU**
- *Breakfast Directives*
  - **Coffee and chicory extracts – Directive 1999/4/EC**
  - **Cocoa and chocolate products – Directive 2000/36/EC**
  - **Sugars intended for human consumption – Directive 2001/111/EC**
  - **Fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption – Directive 2001/113/EC**
  - **Dehydrated milk – Directive 2001/114/EC**
  - **Fruit juices – Directive 2001/112/EC**
  - **Honey – Directive 2001/110/EC**

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<sup>82</sup> Please note that this regulation is no longer in force

## ANNEX 5: OVERVIEW OF THE KEY FINDINGS OF THE EVALUATION BY PRODUCT

### Overview of the key findings of the evaluation by product (source : evaluation support study)

Product	Relevant legislation *	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Olive oil	CMO Regulation Reg. (EU) No 29/2012 Reg. (EEC) No 2568/91	✓	Some limitations of EU marketing standards in addressing the issue of degradation of the quality of olive oils over time → the main issue is related to the degradation of the quality of olive oil over time when inadequate preservation techniques are applied during storage.	The proportionality of costs to benefits was questioned by some operators, due to the high costs involved.  Costs are higher in other sectors, as enforcement involves expensive laboratory tests and specific control activities for verifying analytical and organoleptic parameters.  Limited potential for simplification was identified.	The most significant limitations emerged are related to: organoleptic assessment and the lack of uniformity of results deriving from tasting panels; the excessive number of quality parameters that must be determined; redundant information on labels; the relatively limited set of positive attributes that can be optionally reported on labels for virgin olive oils.	No significant issues identified	EU marketing standards are justifiable and provide added value to the applicable international and private standards
Table olives	CMO Regulation	=	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	No significant elements to draw product-specific conclusions

Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Fruit & vegetables Processed fruit & vegetables products	CMO Regulation Reg. (EU) No 543/2011 Reg. (EC) No 1666/1999	✓	The implications of replacing specific marketing standards for 26 types of fresh fruit and vegetables by a general marketing standard: views of farmers mostly unfavourable, those of distributors generally favourable. However the transition had neither significant negative impacts on the overall performance of intra-EU trade, nor a significant influence on the evolution of price volatility.	Proportionality of costs to benefits particularly highlighted for the fresh fruit & vegetable sector. Limited potential for simplification was identified for the fresh fruit & vegetable standards.	No significant issues identified	Unintended effect: potential implications in terms of increased food waste/loss volumes, even though some of the competent authorities consulted and some studies suggest that fruit & vegetable standards would help to reduce food waste/loss volumes.	EU marketing standards are justifiable and provide added value to the applicable international and private standards
Bananas	CMO Regulation Reg. (EU) No 1333/2011	=	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	No significant elements to draw product-specific conclusions



Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Live plants	CMO Regulation	=	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	No significant elements to draw product-specific conclusions
Eggs	CMO Regulation Reg. (EC) No 589/2008	✓	Rules for indicating the farming methods applied for laying hens (Regulation (EC) No 589/2008) have been effective in promoting animal welfare friendly production methods for eggs, and alternative uses of egg production in the EU.	Proportionality of costs to benefits particularly highlighted for the sector.	No significant issues identified.	Unintended effect: potential implications for increased food waste/loss volumes.	EU marketing standards are justifiable and provide added value to the applicable international and private standards

Summary of sector-specific conclusions							
Product	Relevant legislation*	Part of the evaluation scope**	Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Poultry meat	CMO Regulation Reg. (EC) No 543/2008	✓	<p>Rules on the optional reserved terms for indicating on the label the types of poultry farming (Regulation (EC) No 543/2008) perceived as an effective instrument for promoting alternative production systems for poultry meat production in the EU.</p> <p>Provisions on classification of poultry meat in terms of product definitions and of quality and weight grading (Regulation (EU) No 1308/2013 and Regulation (EC) No 543/2008) have adequately reflected the current market reality.</p>	<p>Proportionality of costs to benefits particularly highlighted for the sector.</p> <p>Some potential for simplification was identified mainly by business stakeholders → implementation of standards for water absorption in Regulation (EC) No 543/2008 is said to lead to unnecessary delays in placing poultry meat products on the market. However, it was not possible for competent authorities or business stakeholders to identify the costs and losses associated to these delays.</p>	<p>Provisions on water content and alternative production systems could be updated to follow the evolution of technology, marketing strategies and consumer preferences, without impeding innovation.</p> <p>Perceived limitations of the definition of <i>foie gras</i> in preventing fraudulent practices, related to lack of a harmonised definition for processed <i>foie gras</i>.</p> <p>However, introducing such a definition would be contentious given the opposition to gavage (force-feeding) in <i>foie gras</i> production, and considering that only five Member States produce <i>foie gras</i>.</p>	<p>Potential negative animal welfare implications of the need for force-feeding (gavage) of ducks or geese destined for the production of <i>foie gras</i>, to effectively achieve the liver weights set out by the definition of <i>foie gras</i> (Article 1(3) of Regulation (EC) No 543/2008).</p> <p>The scientific evidence regarding the effects of gavage on animal welfare is not conclusive.</p>	<p>EU marketing standards are justifiable and provide added value to the applicable international and private standards.</p>

Summary of sector-specific conclusions							
Product	Relevant legislation*	Part of the evaluation scope**	Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Spreadable fats intended for human consumption	CMO Regulation Reg. (EC) No 445/2007	✓	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	EU marketing standards are justifiable and provide added value to the applicable international and private standards
Hops	CMO Regulation Reg. (EC) No 1850/2006	✓	Effectiveness of the provisions on the certification of hops (Regulation (EC) No 1952/2005 and Regulation (EC) No 1850/2006) in creating a level playing field for producer organisations/producer groups, traders and retailers: overall positive judgement of the stakeholders concerned, and absence of significant issues.	Proportionality of costs to benefits particularly highlighted for the related standard.  In the case of hops certification, the additional costs incurred by operators were found to be fully justifiable and proportionate to the quality benefits achieved.  Limited potential for simplifying the certification procedure was identified.	No significant issues identified	No significant issues identified	EU marketing standards are justifiable and provide added value to the applicable international and private standards

Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Beef and veal	CMO Regulation Reg. (EC) No 566/2008	x					
Wine	CMO Regulation	x					

Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Milk and milk products intended for human consumption	CMO Regulation Reg. (EC) No 445/2007	✓	Improper use of protected dairy terms (e.g. milk, butter, cheese, yogurt) for marketing plant-based substitutes for dairy products → deriving from a non-homogeneous enforcement at Member State level of the list of national exemptions (EU Commission Decision 2010/791/EU of 20 December 2010) from the prohibition to use protected dairy terms for marketing non-dairy products.	Proportionality of costs to benefits particularly highlighted for the sector.	The improper use of protected dairy terms such as 'milk', 'butter' and 'cheese' in marketing plant-based substitutes for dairy products was found to cause issues of unfair trading practices and the provision of misleading information to consumers.  Potential implications of the absence of an EU definition of cheese for stakeholders were found to be disputed.	No significant issues identified	EU marketing standards are justifiable and provide added value to the applicable international and private standards  Possible development of an EU definition of cheese: views of stakeholders are divided over its need and the related benefits.  Differences between national definitions are especially significant for the use of raw materials to produce cheese and for the ingredients allowed.

Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Hatching eggs and poultry chicks	Reg. (EC) No 617/2008	✓	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	No significant elements to draw product-specific conclusions
Coffee and chicory extracts	Directive 1999/4/EC	✓	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	EU marketing standards are justifiable and provide added value to the applicable international and private standards
Cocoa and chocolate products	Directive 2000/36/EC	✓	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	No significant elements to draw product-specific conclusions
Sugars intended for human consumption	Council Directive 2001/111/EC	✓	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	EU marketing standards are justifiable and provide added value to the applicable international and private standards

Summary of sector-specific conclusions							
Product	Relevant legislation*	Part of the evaluation scope**	Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
			Fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption	Council Directive 2001/113/EC	✓	No significant issues identified	Proportionality of costs to benefits particularly highlighted for the sector.
Dehydrated milk	Council Directive 2007/61/EC	✓	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	EU marketing standards are justifiable and provide added value to the applicable international and private standards

Summary of sector-specific conclusions							
Product	Relevant legislation*	Part of the evaluation scope**	Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Fruit juices	Council Directive 2001/112/EC	✓	Effectiveness of the provisions on a minimum Brix level for reconstituted fruit juices (Directives 2001/112/EC, 2009/106/EC and 2012/12/EU) in creating a level playing field for producers: overall positive judgement and absence of significant issues.	No significant issues identified; no significant potential for simplification identified.	Directive 2012/12/EU established that the addition of sugars to fruit juices was not (no longer) allowed; after 28 October 2016 the use of the 'no added sugar, in line with the legislation' statement (or similar ones) for fruit juices is no longer allowed, whereas it continues to be allowed for competing beverages → this may create confusion among consumers, and result in unfair competition	No significant issues identified	EU marketing standards are justifiable and provide added value to the applicable international and private standards



Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Honey	Council Directive 2001/110/EC	✓	No significant issues identified	Proportionality of costs to benefits particularly highlighted for the sector.	No significant issues identified	No significant issues identified	EU marketing standards are justifiable and provide added value to the applicable international and private standards

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Secondary CMO legislation

**Breakfast Directives**

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✓: included in the scope of the evaluation; main focus;

= : included in the scope of the evaluation;

✗: not included in the scope of the evaluation.