



Department
for Environment
Food & Rural Affairs

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Proposed enforcement arrangements for updated EU marketing standards on Olive Oil

Summary of responses

January 2014



Llywodraeth Cymru
Welsh Government



Department of
**Agriculture and
Rural Development**

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Background

1. This paper summarises responses to a public consultation which sought views on proposed enforcement arrangements to implement updated EU marketing standards regulations on olive oil.

2. These marketing standards regulations govern the sale of olive oil within the EU. They seek to protect the consumer by ensuring that olive oil is marketed accurately. Following media articles about potential fraud in the sector, the regulations were updated in 2013 to:

- Clarify Member State obligations;
- Introduce a risk based minimum annual sampling requirement for Member States; and
- Introduce a new requirement for operators, up to the bottling stage, to keep entry and withdrawal registers of each category of olive oil they hold.

3. The main features of the proposed enforcement arrangements for which stakeholder views were sought relate to:

- The basis of the selection of operators and products for the risk based annual sampling regime;
- The approach to penalties for breaches of the EU regulations. Specifically, it was proposed that a compliance notice be issued for breaches of the regulations. (Failure to comply with a compliance notice and obstruction would be a criminal offence);
- The approach to appeals. Specifically, it was proposed that appeals against a compliance notice would be to a First-tier tribunal in England and Wales, Sheriff's Court in Scotland and Magistrate's Court in Northern Ireland;
- Details required for the entry and withdrawal registers which must be kept by operators who hold olive oil up to the bottling stage;
- The maximum size of containers for the catering industry.

Responses to the consultation

4. A four week consultation was conducted from 25 October to 22 November. It sought the views of stakeholders on the Government's enforcement arrangements and the estimated costs as detailed in an Impact Assessment (IA).

5. Stakeholders were invited to comment via an on-line survey or directly to the 10 questions listed in Annex 1.

6. Seven responses were received in total. Three responded via the on-line survey, three replied via email and one used both methods. The table below gives a breakdown of the respondents by type of organisation.

Organisation type	Number of respondents
Olive oil bottler	3
Local Authority body	1
Retailer	1
Consumer	1
Unknown (no details provided)	1
Total	7

7. Overall there was general agreement with the Government's approach to enforcement and the related EU requirements for more official testing and improved labelling of olive oil. Respondents were also generally content with the figures provided in the IA.

8. Responses which suggested a different approach are discussed below.

Enforcement

9. One respondent requested clarification on the decision to use the Rural Payments Agency (RPA) rather than local authorities as the principal enforcement body. They also thought that official sampling could have been commissioned through the Food Standards Agency to direct funds to the Public Analysts.

10. The enforcement remit specified under the EU olive oil legislation includes the requirement for Member States to carry out an annual risk based sampling regime. This requires a co-ordinated approach to organise inspections and official sampling across the UK and ensure the results are forwarded to the European Commission. Further inspections of operators are also required in the event of failure or if a request is made by another Member State or the European Commission.

11. It was proposed in the consultation document that the Rural Payments Agency (RPA), an executive agency of Defra, would be best placed to be the principal enforcement body as they would add olive oil to existing agency agreements with the Devolved Administrations, enabling them to carry out enforcement across the UK. They would also be able to use their experience, including the people and the procedures they have in place under similar EU requirements for fruit and vegetables and bananas, to carry out risk based enforcement. This includes software that will be used to conduct the risk analysis for the annual sampling exercise.

12. Appointing local authorities as the principal enforcement body as suggested by the respondent would require setting up a team within Defra to carry out the co-ordination of the sampling across the UK with the input of the Devolved Administrations. This would include drafting inspection and stakeholder guidance; drawing up the risk analysis; sending results of conformity checks to the European Commission; and organising additional verification checks on packaging plants if a request is received from the European Commission or another Member State. This would entail significant additional administrative burden to central Government that would be difficult to justify.

13. Reassurance was provided to the respondent that RPA would liaise directly with local authorities to share intelligence about relevant non conformity issues and would ensure that RPA inspection visits were co-ordinated to minimise burdens on industry.

14. Analysis of samples will be carried out through RPA's existing contracts with Campden BRI and Eurofins Laboratories Ltd who already carry out chemical tests for other EU schemes. They would carry out the chemical analysis whilst taste tests will be sub-contracted to International Olive Council accredited taste panels. These contracts run until November 2014. It was explained to the respondent that an invitation to tender will be issued in 2014 inviting bids from any capable provider, which may include Public Analysts, to undertake the laboratory analysis from December 2014.

Maximum container size

15. One respondent asked Defra to consider increasing the maximum container size for the catering industry. Article 2 of Regulation 29/2012 specifies that no container intended for the final consumer shall be more than five litres. However, Member States have an option to set a greater maximum capacity for containers intended for use in the catering sector. The respondent suggested that, on cost grounds, there should either be no limit or that this should be 50 litres.

16. Given that all other stakeholders, through the consultation exercise and through informal discussions signalled that they were content with the maximum container size, Defra has decided not to increase the five litre limit at this time. However, Defra will take note of this request and will seek views again at the next update of the EU legislation which is expected to take place in 2015.

Next steps

17. The results of the consultation have been fully analysed. After careful consideration we have concluded that no changes are required to the proposals set out in the consultation document.

Annex 1: Stakeholders were invited to respond to following questions

Question 1: Do you agree with the implementation approach? If not, why not, and what should the Government do instead?

Question 2: Do you agree with the proposed approach to penalties? If not, why not, and what should the Government do instead?

Question 3: Do you agree with the proposed approach to appeals? If not, why not, and what should the Government do instead?

Question 4: Do you agree with our proposal for the information that is required to be included in the register? If not, why not?

Question 5: Do you agree with the approached approach to containers? If not, why not, and what should the Government do instead?

Question 6: Do you agree that there will be no additional costs to local authorities?

Question 7: Do you agree with the estimated cost to host inspection visits? If not, why not? Please give as much detail of alternative costs as you can.

Question 8: Do you agree with the calculation to determine the cost of the oil used for conformity checks? If not, why not? Please give as much detail of alternative costs as you can.

Question 9: Do you agree with the estimated cost to keep entry and withdrawal registers? If not, why not? Please give as much detail of alternative costs as you can.

Question 10: Do you agree with the calculation of the cost to industry of appeals? If not, why not? Please give as much detail of alternative costs as you can.