

Department for Environment, Food and Rural Affairs

Dairy Industry:

Summary of responses to the consultation for Producer Organisations, the reporting of milk volumes and other EU Dairy Package options

March 2013

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Introduction

The purpose of this consultation was to seek views on proposals for the implementation in England of EU Regulation 261/2012 (the EU Regulation) which is directly applicable in all Member States.

The EU Regulation enables milk producers to set up Producer Organisations (POs) and seek formal recognition; permits recognised producer organisations to negotiate contracts for the delivery of raw milk on behalf of their members; provides for certain reporting requirements on raw milk production; and includes other provisions which are optional for Member States to implement if desirable.

On the 11 December 2012 Defra launched this consultation, writing to 21 key industry stakeholders and publishing the associated documentation on the Defra Website. A series of Public meetings were held between the 7 and 11 January 2013 and the consultation closed on 21 January 2013.

The consultation applied to implementation in England only. However, we recognise that the dairy industry operates across borders in the UK, particularly in Great Britain. The consultation stage and final impact assessments that accompanied this consultation¹ are therefore UK-wide and provide background information on the current situation in the UK, detailed analysis of the problem under consideration, the policy options considered and the Government's preference for implementation in England. The Final Impact Assessment has now been published².

For each proposal raised in the consultation, this document provides a brief summary of: (a) the consultation proposal; (b) the analysis of responses; (c) how Defra has responded to consultation suggestions. It then provides the way forward for implementation.

Analysis of Responses

A total of 14 written responses were received. Please see list of respondents at Annex 1.

There were several questions and observations raised on matters which fall outside the specific consultation proposals. Defra has not responded to these directly in this document as they do not affect the outcome of the consultation.

Key discussions and points on the consultation that were raised at the public meetings have been taken into account and were repeated in many of the written responses received.

Defra offered to run at least one further public consultation meeting for the benefit of dairy farmers in particular. However this offer was declined. Defra remains in close contact with key stakeholder groups as we move towards implementation in England.

¹ The original consultation documents including the consultation stage impact assessment are available at <http://www.defra.gov.uk/consult/>

² The Final Impact Assessment can be found here: www.defra.gov.uk/consult/2012/12/11/eu-dairy-1211/

Proposal on Producer Organisation (POs)

Consultation proposal: The EU Regulation allows Member States to set a minimum number of members and/or a minimum volume of raw milk that must be represented in order for a PO to be formally recognised. Whilst we do not wish to add barriers to the formation of producer organisations, there may be a scale below which they can have no real impact for their members. Views were sought on the following two questions:

Q1: In order for a Producer Organisation to be able to seek recognition should the minimum number of members required for a Producer Organisation be set at 10 dairy farmers?

Q2: In order for a Producer Organisation to be able to seek recognition should the minimum total volume of raw milk produced annually by its members be set at 6 million litres per annum?

Analysis: In summary it seems that the proposed minima are reasonable although some preferred higher or lower limits be applied. There were also suggestions for building-in flexibility within the guidance for industry and competent authorities that enables smaller POs to become recognised if there is sufficient justification of the need and their potential for success.

Defra Response: Defra welcomes the general agreement that Producer Organisations should be able to form and notes the varying views on minimum scale and the request for flexibility in guidance. Ultimately it is quite likely that the markets will determine the effective size of any POs.

Proposal on Compulsory contracts / industry code of practice on contracts

Consultation proposal: Following the agreement by industry in Great Britain on 31 August 2012 and publication on 21 September 2012 of their code of best practice on contractual relationships, our preference is to allow sufficient time for it to take effect, rather than immediately implementing compulsory contracts that cover less detail and are more restrictive than the code. We do not therefore propose to introduce legislation to make contracts compulsory at this stage. We reserve the right to review, including with industry, the situation of contractual relationships, and if necessary to reconsider the introduction of legislation on contracts if after a reasonable time the desired changes in contractual relationships have not been achieved by the industry. Views were sought on the following question:

Q3: Do you agree on this basis that the industry code of practice should be given time to take effect and therefore that contracts should not be made compulsory at this time?

Analysis: Despite concerns about the slow implementation of the industry code of practice, the consensus was that Defra is right to allow the code to be implemented and take effect in the first instance, but that Defra must keep this under review: initially whether it is being properly implemented; and then whether it is delivering the desired outcomes. There was

significant support for Defra maintaining the real possibility of compulsory contracts being introduced if the code fails to deliver desired changes.

Defra Response: Defra welcomes the general agreement with this proposal and notes the calls for reviewing the success of the industry code of practice on contracts. The industry is responsible for the effective operation of the code which includes agreed annual reviews by industry, to check amongst other things its effectiveness and compliance levels. This would clearly inform any future considerations by Defra.

The Government maintains its stated position that if the code fails to deliver desired outcomes then the possibility of legislating for compulsory contracts will be seriously considered.

Proposal on Interbranch Organisations (IBOs)

Consultation proposal: We do not propose to make it possible for IBOs to seek recognition for a number of reasons. Similar organisations that include membership spread along the length of the supply already exist. They and other existing organisations carry out several of the possible functions of IBOs which are set out in the EU Regulation. Formal recognition and monitoring of IBOs would require additional administrative burdens and therefore costs to both industry and the competent authority. We are not aware of any interest in the formal recognition of IBOs. We therefore prefer that the industry continues to work together through existing organisations and other voluntary and industry-wide initiatives such as Dairy2020 and the Dairy Roadmap to ensure the best possible coordination of all existing work and information from across the supply chain. Views were sought on the following question:

Q4: Do you agree that we should not make it possible for the formal recognition of Interbranch Organisations?

Analysis: This view was generally agreed. On balance it is not considered that the weight and feeling of comments in this regard require a change of policy however Defra should continue to review the situation if circumstances change. From a couple of the responses it is clear that Defra with industry help should circulate an explanation of what an IBO can actually do.

Defra Response: Defra welcomes the general agreement with this proposal and will not at this time make it possible for Interbranch Organisations to seek recognition, but notes requests to keep this under review in case industry interest grows.

Proposal on Control of supply of PDO/PGI cheeses

Consultation proposal: The UK Government is opposed to any group of producers having the power to manage the supply of goods onto the market, such as cheeses benefitting from a protected designation of origin (PDO) or a protected geographical indication (PGI). This was the formal UK position during the negotiation of the new EU Regulation. Allowing such controls carries a high risk of distorting the market and creating barriers to new entrants. We therefore do not propose to lay down any binding rules that would permit the regulation of supply of cheese benefitting from a PDO or PGI. Views were sought on the following question:

Q5: Do you agree that we should not lay down any binding rules allowing for the control of supply of PDO/PGI cheeses?

Analysis: Total agreement by all respondents. Whilst allowing controls of supply might appear to have some short term benefits, in the long term they could cause serious harm to operators and the overall market. We note requests for Defra to review the situation in future following the recent review of the PDO/PGI regulations and in case circumstances change.

Defra Response: Defra welcomes the total agreement with this proposal and will not at this time make it possible for any organisation to obtain supply control rules for PDO/PGI cheeses.

Evidence / assumptions

Consultation point: If any of the data or assumptions in the (consultation stage) impact assessment³ are inaccurate to the degree that there is a significant impact on the overall analysis, the balance of costs and benefits, and in particular to the decision on the preferred option, then evidence and explanation should be provided to us to demonstrate this. Views were sought on the following question:

Q6: Do you have any comments on any of the assumptions and do you expect any significant impact on the price paid by consumers or received by producers under the proposals?

Analysis: There remains a strong expectation from farmers that POs will achieve a higher farmgate price, but because of the influence of retailers there was no expectation that consumer prices would increase. This suggests an expectation that either retailers or processors will lose margins as a result of POs. We note requests for Defra to consider the impact of price increases in individual dairy products and in individual regions, and to consider the impact of POs on efficiency.

Defra Response: Defra welcomes the general agreement that the assumptions and balance of costs and benefits in the impact assessment are broadly accurate. The Final Impact Assessment discusses the potential impact of price increases to consumers in specific dairy products. We acknowledge that the influence that POs have on milk prices may vary in different regions. We do not consider this in detail because the Final impact assessment already looks at the impact of a range of milk price increases on individual producers, processors, retailers and consumers. We discuss the potential for POs to increase efficiency in the 'non-monetised benefits' section, but do not quantify this.

The Way Forward

The Rural Payments Agency will continue to develop the application and guidance process and documents in liaison with industry representative organisations so that farmers may apply for recognition of dairy Producer Organisations as soon as practicable in spring 2013.

³ The original consultation documents including the consultation stage impact assessment are available at <http://www.defra.gov.uk/consult/2012/12/11/eu-dairy-1211/>

The Government will continue to seek processors' full adoption of all relevant aspects of the industry Code of Practice on contracts without undue delay.

In order to provide a degree of certainty to operators in the dairy industry, the current implementation plan for the EU Dairy Package in England will change only if there is significant justification to do so. However, we also recognise there are many calls for keeping this implementation policy for England under review.

We will take account of ongoing annual reviews by industry of the industry code of practice on contractual relationships. We will also contribute to and take account of the wider European Commission reviews in 2014 and 2018 which will consider the implementation of the Dairy Package across Europe.

Annex A – List of Respondents

List of Respondents
EFFP
British Growers Association
RABDF
Selkley Vale
FDF
Dairy Crest Direct Ltd
Dairy Crest
Dairy UK
TFA
NFU x 2
3 Independent farmers

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www.defra.gov.uk/consult/2012/12/11/eu-dairy-1211/

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