

EXECUTIVE SUMMARY

EU marketing standards: an overview

Marketing standards have been a feature of agricultural and food product quality policy in the overall framework of the Common Agricultural Policy (CAP) since its early days. EU marketing standards have usually been defined by sectors or products; they serve the purpose of taking into account the expectations of consumers and of contributing to the improvement of the economic conditions for the production and marketing of agricultural products, as well as to the improvement of their quality¹. In the current framework, EU marketing standards aim at enabling the market to be easily supplied with products of a standardised and satisfactory quality, and 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 disposal².

The existing EU marketing standards are set out in three main bodies of legislation: i) the Common Market Organisation (“single CMO”) established by Regulation (EU) No 1308/2013³; ii) a number of Regulations (“secondary CMO legislation”) setting up product-specific marketing standards⁴; iii) a number of Directives establishing rules on description, definition, characteristics and labelling of a number of agricultural and food products usually consumed for breakfast⁵ (those Directives are hence known as the “Breakfast Directives”).

Evaluation methodology

The overall approach to the evaluation was structured around four main tasks, i.e. structuring, observing, analysing and judging. The five evaluation themes - effectiveness, efficiency, relevance, coherence and EU added value of the current applicable marketing standards for food products – were assessed through twelve evaluation questions: some of these included specific sub-questions, which were often sector- or product-specific, standard-specific or even focused on specific elements of well-defined marketing standards. Conclusions drawn from the replies to the evaluation questions were aimed at: i) assessing which marketing standards can be considered as good practices, or bad examples, independently from the sector, but with regard to their type and targeted stakeholder; ii) identifying needs, problems and issues which have not been adequately addressed by EU marketing standards, and which would hence need to be addressed; iii) identifying the needs for intervention (or lack thereof) in the sectors currently not covered by EU marketing standards. The final goal of the evaluation was to provide insights for policy recommendations aimed at addressing the identified issues through the improvement of existing provisions or the design of new ones. A combination of multiple data collection methods and tools⁶ was used to gather the vast and varied evidence base needed for the evaluation.

¹ Regulation (EU) No 1308/2013, recital 65.

² Regulation (EU) No 1308/2013, recital 71.

³ The “single CMO” Regulation sets out: A) marketing standards for: olive oil and table olives; fruit and vegetables; processed fruit and vegetable products; bananas; live plants; eggs; poultry meat; spreadable fats intended for human consumption; hops; B) definitions, designations and sales descriptions for: beef and veal; wine; milk and milk products intended for human consumption; poultry meat; eggs; spreadable fats intended for human consumption; olive oil and table olives; C) optional reserved terms for: poultry meat, eggs and olive oil.

⁴ Secondary CMO legislation establishes marketing standards for: olive oils; fresh and processed fruits and vegetables; bananas; eggs; hatching eggs and poultry chicks; poultry meat; bovine meat; hops; spreadable fats; milk and milk products.

⁵ 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; honey.

⁶ Desk research; in-depth structured interviews with competent authorities, stakeholders and independent experts; surveys targeted at business stakeholders, consumer associations and competent authorities; focus groups with business associations, consumer associations and independent experts; four thematic case studies.

Conclusions for the five evaluation themes

Effectiveness

The evaluation concluded that **EU marketing standards have generally been effective in achieving their intended objectives**, and **have not caused significant unintended/unexpected effects** (including “deadweight”⁷). The few limitations of EU marketing standards in terms of effectiveness were found to affect specific sectors, and to be related to specific aspects⁸. The assessment identified a number of **success stories in terms of effectiveness of EU marketing standards**.

The **rules on the optional reserved terms for indicating on the label the types of poultry farming** (Regulation (EC) No 543/2008) are perceived by operators as an effective instrument for promoting alternative production systems for poultry meat production in the EU. Operators also deem that **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. The assessment found that the **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, albeit with some potentially negative implications, mainly related to the so called “standard inflation” issue⁹. A specific assessment focusing on the effectiveness of the **provisions on classification for fresh fruit and vegetables** (Regulation (EU) No 543/2011) in supporting the interests of producers and traders and in facilitating trade confirmed the overall satisfaction of business stakeholders. A specific assessment focusing on the effectiveness of the **provisions on 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 confirmed the overall positive judgment and the absence of significant issues. Also the specific assessment focusing on the **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 confirmed the overall positive judgment of the concerned stakeholders, and the absence of significant issues.

A partial exception to the overall conclusion is the **replacement of specific marketing standards for 26 types of fresh fruit and vegetables by a general marketing standard**, whose implications in terms of effectiveness were found to be controversial in the eye of stakeholders: however, no adverse effects of such replacement on intra-EU trade and price volatility of the concerned products were observed.

Efficiency

The overall judgment about the efficiency of EU marketing standards¹⁰ emerged from the assessment **was also positive**. Nonetheless, a limitation may be that consumers were found to be not really aware of marketing standards and of their benefits: this may limit the robustness of the assessment of the proportionality of costs versus benefits of EU marketing standards from a consumer standpoint. The evaluation found that the **potential for simplification of EU marketing standards** (including the certification procedure for hops and the marketing standards for fresh fruit and vegetables and olive oil) **is generally**

⁷ “Deadweight”: effects that would have arisen even if the intervention – i.e. the establishment EU marketing standards – had not taken place.

⁸ Besides the implications in terms of effectiveness of the replacement of specific marketing standards for 26 types of fresh fruit and vegetables by a general marketing standard, which are discussed below, the assessment identified some limitations of EU marketing standards in effectively addressing: i) the issue of degradation of the quality of olive oils over time; ii) the issue of improper use of protected dairy terms (e.g. milk, butter, cheese, yogurt) for marketing plant-based substitutes for dairy products.

⁹ Decreasing market advantage for barn eggs produced in more costly animal welfare-friendly rearing systems, which could reduce the economic incentive for producers to switch from enriched cage production to barn production.

¹⁰ I.e. the proportionality of costs versus benefits for the various stakeholders affected by the standards (producers, processors, intermediate operators/traders, retailers, competent authorities, final consumers).

limited, except in the case of the standards on water absorption in poultry meat, where some potential in that respect was identified¹¹.

Relevance

The evaluation concluded that there is some **room for improving EU marketing standards in terms of relevance**. Even if EU marketing standards were found to be **generally pertinent to the original needs identified by stakeholders**, the assessment revealed that their **capacity to address new needs, problems and issues of stakeholders emerged after their setting could be improved**. In particular, the assessment identified some limitations of EU marketing standards in following the evolution of technology, marketing strategies and consumer preferences without impeding innovation, in addressing potential side effects in terms of food waste in certain sectors (eggs and fresh fruit and vegetables), as well as a number of sector-specific limitations affecting the fruit juices¹², poultry meat¹³, dairy¹⁴ and olive oil¹⁵ sectors.

Coherence

The findings of the assessment allowed to **judge positively the coherence of EU marketing standards**, both within the related regulatory framework (internal coherence) and vis-à-vis other EU rules that are relevant for production and marketing of agricultural and food products, as well as vis-à-vis international¹⁶ and private¹⁷ marketing standards (external coherence). The only significant cross-sectoral issue in terms of coherence identified in the assessment is the **combination in EU marketing standards of requirements that are related to product quality, to food safety** (e.g. those concerning storage temperatures, or minimum durability (best before) date for eggs) **and to provision of food information to consumers** (requirements concerning labelling

¹¹ The Commission has carried out two studies into the processing technologies used and the absorption of water in poultry meat; issues around these are dealt with comprehensively in these reports: 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, those studies were not concerned with simplification *per se*.

¹² The assessment identified an issue related to labelling provisions concerning fruit juices under Directive 2001/112/EC, as amended by Directive 2012/12/EU. The 2012 amendment established – among others - that the addition of sugars to fruit juices was not (longer) allowed, mainly to follow the evolution of consumer preferences and to respond to emerging trends towards a healthier diet. 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. After 28 October 2016, putting on a fruit juice pack the “no added sugar, in line with the legislation” statement, or similar statements referring to the fact that all fruit juices do not contain added sugar, is no longer permitted. 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.

¹³ A specific assessment found that 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.

¹⁴ Two main issues emerged from a specific assessment. Improper use of protected dairy terms such as “milk”, “butter” and “cheese” in the marketing of plant-based substitutes for dairy products was found to cause issues in terms of unfair trading practices and provision of misleading information to consumers. The potential implications of the absence of an EU definition of cheese for stakeholders were found to be more disputed. The analysis of the state of play concerning 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 of the ingredients that can be used in its production. The assessment identified a potentially crucial aspect in the use of reconstituted dried milk and of concentrated milk as raw material for cheese production.

¹⁵ The most significant limitations emerged from the assessment are related to: organoleptic assessment of olive oils and the lack of uniformity of results deriving from tasting panels; excessive number of quality parameters that must be determined; redundant information on labels; relatively limited set of positive attributes that can be optionally reported on labels for virgin olive oils. A specific assessment also revealed significant limitations of the different categories of olive oils defined by Member States in reflecting the needs of the market.

¹⁶ The evaluation assessed EU marketing standards against the voluntary international product-specific standards developed by the Codex Alimentarius Commission (CAC), by the United Nations Economic Commission for Europe (UNECE) and by the International Olive Council (IOC).

¹⁷ The evaluation assessed EU marketing standards against some voluntary private standards with wide uptake in the EU, plus some private sector-specific standards.

of products): according to some consulted national competent authorities, such combination may result in some overlaps and inconsistencies, and may pose challenges for enforcement and controlling activities.

EU added value

EU marketing standards were found to provide **significant added value vis-à-vis international and private marketing standards**, mainly stemming from their mandatory nature (the related requirements must be complied with across the EU), from requirements tailored to the specific operational and market situation of the EU, and from the fact that the minimum quality requirements for many products set by EU marketing standards are already rather demanding. The **main potential advantages stemming from the establishment of EU marketing standards for the sectors/products currently not covered** were identified in the **opportunities for tackling unaddressed needs**, and in **increased benefits for stakeholders**¹⁸. This view specifically in relation to **possible development of an EU definition of cider** was reinforced and confirmed by a Focus Group discussion, which also noted how beneficial the introduction of EU marketing standards had been in a range of sectors now covered by such standards. By contrast, no perceived need to develop EU marketing standards emerged from the Focus Group discussion for such products as potatoes (fresh and for processing), fruit spreads and processed fruit and vegetables. As for the **possible development of an EU definition of cheese**, the consulted sectoral association deemed that it would address the potentially negative implications of different definitions applying at Member State level¹⁹; however, the views of the consulted national competent authorities on whether the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector were found to be divided. In any case, according to the consulted business stakeholders, the elaboration of an EU definition of cheese would be a challenging task, mainly due to significant differences in the relevant national legislation, while it can be argued that Member States would probably ask for derogations in order to keep some flexibility with respect to special ingredients currently included in their national definitions of cheese.

Recommendations

Recommendations aimed at improving the effectiveness and relevance of marketing standards

1. Sectoral associations and several Member State competent authorities highlighted the issue of **improper use of protected dairy terms** (e.g. milk, butter, cheese, yogurt) **for marketing plant-based substitutes for dairy products**. The issue was found to derive from a non-homogenous 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 the marketing of non-dairy products. The assessment found that the issue has implications in terms of consumer protection, fair competition and level playing field for operators, as well as in addressing the needs of the market. However, **no evidence allowing to appreciate the actual magnitude of the economic implications of those marketing practices for the dairy sector** (e.g. in terms of erosion of market shares of the affected dairy products by the concerned plant-based products) **could be retrieved. A deeper investigation on the nature and extent of the implications of the issue for both consumers and business stakeholders is hence recommended**, with a view to understanding whether some regulatory adjustments should be made.

¹⁸ More specifically: improved market access for producers; improved transparency on the market; promotion of intra-EU trade in the products concerned stemming from harmonisation of varying national legislation (i.e. removal of technical barriers to trade); definition of minimum quality standards for the products concerned, to the benefit of both consumers and business stakeholders; contribution to improved average quality of the products concerned; provision of improved and more homogeneous information on the concerned products to consumers.

¹⁹ According to the consulted business stakeholders, and in line with the outcomes of the discussion in the Focus Group, the process of developing an EU definition of cheese (beyond the one deriving from the protected definitions, designations and sales descriptions for dairy products) should take the Codex General Standard for cheese as a basis. Indeed, several legislation-based definitions of cheese currently in force in the most significant cheese-producing Member States are rather similar to the one provided by the Codex, at least for what concerns the production process; less so for what concerns the raw materials to be used for cheese production and the allowed ingredients.

2. The assessment revealed some **sector-specific limitations of EU marketing standards in following the evolution of technology, marketing strategies and consumer preferences without impeding innovation.** More specifically:

- a. In the **poultry meat** sector, it emerged from a specific assessment that provisions on water content²⁰ and alternative production systems²¹ could be updated to follow the evolution of technology, marketing strategies and consumer preferences.
- b. In the **olive oil sector**, the assessment identified limitations related to organoleptic assessment²² and the relatively limited set of positive attributes that can be optionally reported on labels for virgin olive oils²³. Furthermore, a specific assessment also revealed significant limitations of the different categories of olive oils defined by Member States in reflecting the needs of the market²⁴.

Also considering that sectoral stakeholders have made (or are elaborating) concrete proposals in that respect, it is recommended to **consider whether the aforementioned provisions should be updated.**

3. The assessment revealed that **consumer organisations, and even more so consumers, have limited awareness of EU marketing standards.** This implies that any effort for improving awareness of EU marketing standards among consumer associations and consumers, in order to involve them more actively in the related policy-making process, can contribute to a better adaptation of the provisions in EU marketing standards targeting consumers and business-to-consumer relationships to the needs of the consumers themselves. In practical terms, this would entail the **organisation of events (workshops, seminars) dealing with the role of EU marketing standards in the framework of the CAP and of EU food policy**, and the **elaboration and dissemination of informative material on the topic in a language accessible to a wider, non-specialist audience**, such as the representatives of consumer associations and individual consumers.

Efficiency of marketing standards

The evaluation did not identify any significant limitations of EU marketing standards in terms of efficiency²⁵. Some potential for simplification of EU marketing standards was identified mainly by business stakeholders in relation to the implementation of Commission Regulation (EC) No 543/2008, which is said to lead to unnecessary delays in placing poultry meat products on the market. However, competent authorities and

²⁰ According to one consulted EU-level sectoral association, the 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 water content control of poultry meat. Animals of recent poultry strains hold more water than 15 or 20 years ago.

²¹ A consulted EU-level sectoral association suggested that the age of chickens at slaughter in the different farming systems covered by optional reserved terms could be lowered; for instance, the age of slaughter of free range chickens could be lowered from the current 56 to 50 days, to follow the evolution of genetics and rearing techniques. It also observed that more flexibility may be considered on the aspects being labelled, to follow technological innovation in the sector and the evolution of consumer preferences: for instance, the possibility of labelling poultry produced using electricity coming from solar panels as “environmentally friendly poultry production” should be considered.

²² Besides the alleged subjectivity of the method in the views of some consulted sectoral associations, according to one of the consulted sectoral associations tasting panels have shown clear limitations in addressing technological evolution in fraudulent practices. For instance, tasting panels are usually unable to detect deodorised oils marketed as extra virgin olive oils. According to that association, 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.

²³ According to one of the consulted sectoral associations, the set would 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.

²⁴ A consulted business association observed that the adaptation of the categories of olive oil to follow the evolution of market needs is of paramount importance, 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.

²⁵ The assessment found that the current cost of compliance to EU marketing standards incurred by operators is justifiable, i.e. proportionate to the results achieved, and that EU marketing standards contribute important benefits that by far outweigh the costs involved.

business stakeholders were unable to identify the costs and losses associated to these delays. In all other sectors, the potential for simplification was found to be limited. In the absence of concrete evidence on the extent of the potential benefits from addressing the issues related to the standards on water absorption in poultry meat under Commission Regulation (EC) No 543/2008, the evaluation team sees no scope for the elaboration of a specific recommendation.

Recommendations aimed at improving the coherence of marketing standards

4. The most significant issue in terms of coherence identified in the assessment is related to the **combination in EU marketing standards of requirements that are related to product quality, to food safety** (e.g. those concerning storage temperatures, or minimum durability (best before) date for eggs) **and to provision of food information to consumers** (requirements concerning labelling of products). A possible solution to this issue may be to **enhance the efforts in clarifying to national competent authorities the hierarchical relationship among the concerned provisions in the three legislation bodies** (marketing standards, food safety, provision of food information to consumers). In practical terms, this would entail the **organisation of events (workshops, seminars)** to provide the needed clarifications to national competent authorities.
5. The assessment identified potential implications of EU marketing standards for eggs and fresh fruit and vegetables in terms of increased food losses and waste. More specifically:
 - a. **Increased food waste volumes for eggs** at packing centres, retail outlets and at home were related by some consulted national competent authorities especially to provisions on sell-by date (Regulation (EC) No 853/2004) and also to those on minimum durability of eggs (Article 13 of Regulation (EC) No 589/2008). However, no consulted CA 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 the aforementioned effect and EU marketing standards for eggs. The reviewed literature²⁶ suggests that there is a linkage between increased waste and date marking in the case of eggs, even if the underlying reasoning is not backed by specific concrete evidence.
 - b. As for the potential implications in terms of increased waste stemming from **“aesthetic requirements”** (concerning colour, shape, size, grading) set out in the remaining **10 product-specific EU marketing standards for fresh fruit and vegetables**, whereas the consulted business stakeholders did not identify any negative implications, the reviewed literature²⁷ suggests a linkage between increased waste and “aesthetic requirements”, even if very limited concrete evidence is available to substantiate the underlying reasoning. By contrast, some consulted CAs and some studies²⁸ suggest that **EU marketing standards for fresh fruit and vegetables would instead contribute to reduced food waste and losses**, and that **most of the grading losses²⁹ for fresh fruit and vegetables would derive from particularly demanding private standards**, rather than from EU marketing standards.

²⁶ 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.

²⁷ See for instance: European Court of Auditors (2016), *Combating Food Waste: an opportunity for the EU to improve the resource-efficiency of the food supply chain*, Special Report No 34, European Union; 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; De Hooge et al. (2018), “Cosmetic specifications in the food waste issue: Supply chain considerations and practices concerning suboptimal food products”, *Journal of Cleaner Production*, 183 (2018), pp. 698-709.

²⁸ 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.

²⁹ Fruits and vegetables diverted to alternative outlets (e.g. processing) or disposed of in the grading phase because they do not meet quality requirements.

In the light of the **limited evidence available on unintended/unexpected effects** of the concerned provisions - and more in general **of EU marketing standards** - in terms of **increased (or reduced) food losses and waste**, any initiative aimed at **promoting empirical research on the matter would help to appreciate the actual nature, extent and severity of those effects**, with a view to understanding whether some regulatory adjustments should be made to address the issue.

Possible development of EU marketing standards for sectors/products currently not covered (EU added value)

6. Even with some limitations deriving from the limited awareness among the consulted stakeholders of the relevant topics, the evaluation identified the **main potential advantages stemming from the establishment of EU marketing standards for the sectors/products currently not covered** in the **opportunities for tackling unaddressed needs** and in **increased benefits for stakeholders**. Whereas the views of the consulted stakeholders on the need to elaborate an EU harmonised definition of cheese were rather divided³⁰, the case of **cider** was found to present a more favourable environment. The consulted business stakeholders deem that the **development of an EU definition for cider** (and pear cider/"perry") would respond to unaddressed needs in terms of more homogeneous levels of consumer protection, more level playing field and removal of barriers to intra-EU trade. A Focus Group discussion held for the purposes of the evaluation specified that **the key element of a standard would be the confirmation that to be called "cider" or "perry", the product needs be derived from apples or pears "by fermentation only"**: this issue was not contentious. A "light" marketing standard established through EU legislation was hence considered to be relatively easily achievable; however, the issue of the minimum content of apple (pear) juice in the product called "cider" ("perry") was found to be more complex to address, due to the differing national standards in this regard. Also considering that sectoral stakeholders have already undertaken initiatives aimed at elaborating a proposal for a harmonised EU definition of cider, it is deemed that any initiative aimed at **investigating more in depth the possible benefits of establishing such definition**, as well as at **promoting dialogue among the concerned stakeholders** (business operators and competent authorities) on the matter, would be beneficial.

³⁰ A consulted EU-level sectoral association would welcome the establishment of a harmonised definition establishing the essential characteristics that would entitle a dairy product to be denominated "cheese"; by contrast, the consulted CAs were equally split in two groups: one deeming that the absence of a harmonised EU definition of cheese has left some specific sectoral needs unaddressed, and one deeming the contrary.