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Joint Copa — Cogeca — EDA — Eucolait position supporting the protection of dairy terms, the common product definitions and marketing standards in the European Union

The protection of dairy terms and EU wide product definitions and marketing standards support the dairy dynamics. The protection of dairy terms, EU product definitions and marketing standards are crucial for the whole European dairy sector and assure the smooth functioning of the internal market for the dairy products.

EU product definitions and marketing standards are essential to ensure high quality production, to facilitate trade by setting common references, to improve competitiveness and profitability of the whole dairy sector and to inform consumers about product characteristics and to protect them from deception.

Protection of Dairy Terms in the Single Market

At European level, the protection of dairy terms guarantees that all dairy products are made out of milk and milk products. Indeed, EU legislation¹ stipulates that “milk” shall mean exclusively the normal mammary secretion obtained from one or more milkings without either addition thereto or extraction therefrom. Consequently, “milk products” mean products derived exclusively from milk including: whey, butter, buttermilk, butteroil, caseins, anhydrous milk fat, cheese, yogurt, kephir, koumiss, viili/fil, smetana, fil, rjaženka and rūgušpiens.

In June 2017, a Judgement of the EU Court of Justice² increased the legal certainty. The Court concluded that according to European legislation, the terms milk, whey, cream, butter, buttermilk, cheese and yogurt may not be used to designate any plant-based product. This protection of dairy terms is accompanied by a list of product names³ in various EU languages which contain a protected dairy term but which designate a non-dairy product. This limited number of exemptions is permitted on the basis of a common understanding among consumers due to a long history of use.

Even if the ruling of the Court of Justice further increased the legal status of the EU scheme for the protection of dairy terms, many misuses can still be identified in the market, not only on the labels but also, and above all, in the B2C communication on the product.

¹ Annex VII of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17th December 2013 establishing a common organisation of the markets in agricultural products

² Full text of the Judgement: <http://curia.europa.eu/juris/documents.jsf?num=C-422/16>

³ Commission decision of 20th December 2010 (2010/791/EU) listing the products referred to in the second subparagraph of point III(1) of Annex XII to Council Regulation (EC) No 1234/2007

Copa, Cogeca, EDA and Eucolait believe that dairy terms must 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. These terms must not be made available to substitute products that wish to exploit the attributes of dairy products whilst challenging consumer confidence in them. This is necessary to avoid any confusion for the consumer between dairy products and other products that are different in terms of origin, ingredient composition and nutritional value.

Market participants that use, names specific to the dairy sector to designate plant-based products must clearly be seen as acting illegally, particularly considering that this will also have an adverse effect on the interests of consumers, other market participants or competitors. Consumers should not be misled about the real characteristics of food.

We believe that it is of paramount importance that dairy terms continue to be protected under the future CAP and used exclusively for milk and dairy products. The list of exemptions should not be lengthened in order to avoid more misleading practices.

Marketing Standards

Next to the protected dairy terms, **the marketing standards**, laid down in the single CMO regulation for spreadable fats and drinking milk and in the specific directives for dehydrated milks and casein(ates), **set out basic product specifications that have to be respected by all supply chain actors in the interest of ensuring high quality products and fair competition.** These have proven over time to be an effective means of guaranteeing the functioning of the single market for dairy products and should therefore be maintained in their current form.