



JOINT EAPF and ENSA POSITION PAPER ON DAIRY DESIGNATIONS

Amendment 171 of the EP Position on the Common Organisation of Markets Proposal

Brussels, 10 November 2020

Representing the different constituencies of society promoting/supporting the plant-based food value chain, the European Alliance for Plant-based Foods (EAPF) and the European Plant-based Food Association (ENSA) would like to address the upcoming interinstitutional negotiations between the European Parliament, the Council of the EU and the European Commission on the proposal amending Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products (CMO Regulation).

On 23 October 2020, the European Parliament adopted its position on the CMO Regulation, including Amendment 171 (see Annex) on the use of dairy terms for non-dairy products. We believe Amendment 171 would fail to provide for a legal framework conducive to a positive shift towards balanced and sustainable diets, where consumers can easily find and choose between animal-based and plant-based options. Such a framework needs to:

- Facilitate consumer understanding while addressing misleading practices
- Be aligned with the EU's climate change commitments under the Paris Agreement, and the sustainability ambitions of the EU Green Deal and Farm to Fork Strategy;
- Contribute to the prevention of non-communicable diseases;
- Ensure fair competition between products, to foster food innovation in Europe;
- Be proportionate to the attainment of the above mentioned objectives;
- Be coherent and consistent.

The following document explains in detail why amendment 171 would generate the above impacts and should thus be rejected by the European Council and the European Commission in the inter-institutional negotiations.

We call on the European Commission and on the Member States in the Council of the EU to oppose Amendment 171 proposed by the European Parliament.

There is strong scientific consensus on the urgency to move towards more plant-based diets for our food systems to be able to operate within planetary boundaries. Consumers themselves are increasingly turning towards plant-based foods out of health, environmental or ethical concerns. It is thus essential to enable them to make informed choices, to readily find plant-based products in the store and to integrate them in their eating habits. The average consumer should be able to understand available options, with clear, simple, user-friendly information, using words, descriptors and denominations providing a clear reference framework.

Names such as 'rice milk', 'oat yoghurt' or 'soy cream' are already prohibited in the EU. Amendment 171 would further restrict the use of dairy designations for plant-based foods as it aims to ban 'evocations' of dairy products. Such ambiguous phrasing would leave room for extreme interpretations and prohibit **any direct or indirect reference to dairy** – both in terms of labelling and packaging, as well as imagery used to market plant-based foods.

Amendment 171 is unsuitable for the following reasons:

- **Undermining consumer protection**

Achieving sustainable food systems requires diversity in sustainable food choices. Consumers intentionally seek plant-based food products for various (medical, environmental or ethical) reasons. Clear food denominations are thus crucial in their decision-making. Yet, and if interpreted in its most restrictive form, Amendment 171 would ban terms such as 'creamy' or 'vegan alternative to dairy cheese', as well as commonly recognised packaging that has been used for decades (both by producers of plant-based foods and dairy foods).

It could also put at risk the provision of essential health and allergen information such as 'lactose-free alternative to dairy milk' upon which consumers rely to make food choices that meet their dietary requirements. The amendment would make it impossible to communicate that a product does not contain dairy milk if the word 'milk' is banned entirely. This is not in the interests of the consumer.

Moreover, the ways in which plant-based foods are packaged – and the visuals used on-pack and in marketing materials – help consumers recognise the format, function and texture of the products. Removing these cues would make it more difficult for them to easily understand how plant-based foods should be used. For example, plant-based desserts are often packaged in pots similar to dairy yoghurt. This is how consumers understand that the product can be prepared and consumed in a similar way as another product (in this case, dairy yoghurt).

As such, Amendment 171 would undermine consumer protection by prohibiting informative and descriptive terms supporting consumers' decisions¹. As the current rules already effectively prohibit misleading practices, consumers themselves see no valid justification to introduce additional restrictions that would make plant-based products less identifiable.²

¹ [BEUC Report 'One Bite at a Time: Consumers and the Transition Towards Sustainable Food'](#), June 2020

² [BEUC: Plenary vote on meat and dairy denominations for plant-based products](#), October 2020

- **Is an obstacle to reaching the climate goals of the Paris Agreement and contradicts the sustainability ambitions of the EU Green Deal and Farm to Fork Strategy**

The way we produce and consume food must change in order to tackle climate change challenges. Greenhouse gas (GHG) emissions linked to the agricultural sector represent over 10% of the EU's total GHG emissions, of which livestock contributes to over 80%³. Shifting towards more plant-based diets is widely recognised as a way to lower the carbon footprint of the agri-food sector⁴. Amendment 171 would hinder this transition towards more environmentally friendly food systems, thereby jeopardising the EU's climate targets under the Paris Agreement.

Furthermore, the European Commission has set the ambitious goal to become the first carbon-neutral continent by 2050. As a result, the EU Farm to Fork Strategy sets the path towards sustainable food systems, and explicitly recognises the need to move towards more plant-based diets for environmental and health reasons⁵. Amendment 171 goes against this progressive change by adding extra restrictions on plant-based food products and creating hurdles for consumers to access them. The Strategy also foresees the harmonisation of science-based and substantiated green claims as an essential enabler of a shift in consumption patterns. If interpreted in a restrictive way, Amendment 171 could even ban statements such as 'half the carbon emissions of dairy butter'. Communication about the environmental impacts of plant-based foods within their broader food category would thus be prohibited. Such far-reaching implications are out of the scope of the CMO Regulation.

- **Conflicts with the EU's public health ambitions to promote healthy diets**

Consumption of more plant-based foods is considered as a healthy nutritional habit that would help in the prevention of non-communicable diseases, such as cardiovascular diseases, certain cancers⁶, type-2 diabetes and obesity. These ailments are the leading cause of death globally and bring about societal and economic costs⁷.

The Commission recognises healthy lifestyles as key in preventing diseases and improving quality of life⁸. The Farm to Fork Strategy also specifically expresses the ambition to provide

³ Peyraud J.-L. (INRAE) and MacLeod M. (SRUC), [Report](#) on the "Future of EU livestock: How to contribute to a sustainable agricultural sector?" European Commission, DG Agriculture, July 2020

⁴ IPCC Report "Climate Change and Land", Section 5, August 2019; Poore J. and Nemecek T., "Reducing food's environmental impacts through producers and consumers", *Science* 360, June 2018, 987-992; Springmann M., Wiebe K., Mason-D'Croz D., Sulser T.B., Rayner M. and Scarborough P., "Health and nutritional aspects of sustainable diet strategies and their association with environmental impacts: a global modelling analysis with country-level detail", *The Lancet*, 2018 (2), 451-461; Willet W. et al., "Food in the Anthropocene: the EAT-Lancet Commission on healthy diets from sustainable food systems", *The Lancet*, January 2019, 1-147.

⁵ [A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system](#), 20 May 2020, page 13.

⁶ [Inputs of the Special Committee on Beating Cancer \(BECA\) to influence the future Europe's Beating Cancer Plan](#), 27 October 2020, page 4.

⁷ McEvoy CT, et al (2012) Vegetarian diets, low-meat diets and health: a review. *Public Health Nutr*;15(12):2287-94; Melina V, et al (2016) Position of the Academy of Nutrition and Dietetics: Vegetarian Diets; *Journal of the Academy of Nutrition and Dietetics*;116(12):1970 – 1980; Springmann, M, et al (2016) Analysis and valuation of the health and climate change cobenefits of dietary change. *PNAS*; 113 (15): 4146-4151.

⁸ [Proposal for a Regulation establishing the EU4Health Programme](#), 28 May 2020, page 13.

‘clear information that makes it easier for consumers to choose healthy and sustainable diets’. Restricting the provision of clear information for plant-based foods works against this principle. Amendment 171 also contradicts the national dietary guidelines of Member States (e.g. the Netherlands, Sweden, Slovakia, Germany and Belgium)⁹, which include plant-based alternatives to dairy¹⁰.

Amendment 171 would reduce the understanding and availability of plant-based products and, consequently, reduce consumers’ access to foods which are part of a healthy diet and at the basis of disease prevention.

- **Creating market distortions and stifling innovation**

The plant-based sector provides solutions and new products that contribute to greater availability of healthy food for consumers. The sector – both alternatives to meat and dairy – is projected to become a €7.5 billion market in the EU by 2025, with retail sales having grown by almost 10% per year between 2010 and 2020¹¹. This comes along with substantial investments in research and innovation (including from EU research funds) that offer new opportunities for economic growth and employment in the EU agri-food sector. This creates opportunities for crop farmers which are supplying the plant-based food sector with high-quality raw materials, for which they often receive a premium.

The plant-based food sector is currently at a disadvantage in terms of market access, pricing and taxation compared to animal-based products. Amendment 171 would create more barriers for innovative companies, especially start-ups and SMEs. Product branding and communication towards consumers would be significantly impacted by those additional restrictions, limiting the plant-based food sector’s potential to advance research and innovation towards healthier and more sustainable foods. It would also send mixed signals to crop farmers who are encouraged to develop the cultivation of plant proteins in the EU.

- **Disproportionate in relation to its objective and inconsistent with current legislations**

According to the Treaty on the Functioning of the European Union (Protocol n°2), measures adopted by EU institutions should not exceed the limits of what is appropriate and necessary in order to reach the objectives pursued by the legislation¹². Amendment 171 is not only disproportionate in relation to consumer protection, but also directly contradicts many of the objectives of the EU on a range of policies. The Parliament – rightfully – rejected another amendment (Amendment 165) that aimed to ban the use of names such as ‘veggie burger’ or ‘vegan steak’ for plant-based food products, on the basis that consumers are not misled by

⁹ Dutch [Schijf van Vijf](#); Swedish dietary guidelines; Slovak [Na Vasom Tanieri](#); [Guidelines from The German Nutrition Society and Technical University of Munich](#); [La Pyramide Alimentaire Belge](#).

¹⁰ ‘Dairy replacements or analogues have an important role to play in shifting to sustainable diets as they reduce the complexity of plant-based eating and are highly compatible with existing food habits [...] plant-based milks can be used much like dairy milk’. Behaviour change, public engagement and Net Zero, A report for the Committee on Climate Change. October 2019, Dr Richard Carmichael, Centre for Energy Policy and Technology (ICEPT) and Centre for Environmental Policy (CEP), Imperial College London.

¹¹ [Growth of meat and dairy alternatives is stirring up the European food industry](#), ING Report, October 2020

¹² Official Journal 115 , 09/05/2008 P. 0206 - 0209.

such terms if the nature of the product is clear. Regulation 1169/2011 (FIC Regulation) already includes provisions meant to ensure that consumers are not misled: this common framework guarantees consistency in the way meat-related terms and dairy-related terms can be used to best inform consumers. Amendment 171 would introduce unjustified and confusing rules for dairy alternatives, at odds with common market practices and general food law.

EAPF and ENSA call on the European Commission and the Member States in the Council of the EU to stick to their initial position and oppose amendment 171 proposed by the European Parliament.

The European Alliance for Plant-Based Foods (EAPF) brings together like-minded organisations in the plant-based value chain around a unique mission: To put plant-based foods at the heart of the transition towards more sustainable and healthy food systems. The Alliance represents companies and organisations supporting and promoting plant-based foods.

The European Plant-based Foods Association (ENSA) represents the interests of plant-based food manufacturers in Europe. ENSA is an association of internationally operating companies, ranging from large corporations to small, family-owned businesses with a combined annual turnover of over €1 billion. ENSA members produce high-quality plant-based alternatives to dairy and meat products. Since its establishment in 2003, ENSA has been raising awareness about the role of plant-based diet in moving towards more sustainable and healthier food consumption patterns.

Annex – Amendment 171 as adopted by the European Parliament on 23 October 2020

“(32a) In Part III of Annex VII, point 5 is replaced by the following:

5. The designations referred to in points 1, 2 and 3 may not be used for any product other than those referred to in that point.

Those designations shall also be protected from:

(a) any direct or indirect commercial use of the designation;

(i) for comparable products or products presented as capable of being substituted not complying with the corresponding definition;

(ii) in so far as such use exploits the reputation associated with the designation;

(b) any misuse, imitation or evocation, even if the composition or true nature of the product or service is indicated or accompanied by an expression such as “style”, “type”, “method”, “as produced in”, “imitation”, “flavour”, “substitute”, “like” or similar;

(c) any other commercial indication or practice likely to mislead the consumer as to the product’s true nature or composition.

However, this provision shall not apply to the designation of products the exact nature of which is clear from traditional usage and/or when the designations are clearly used to describe a characteristic quality of the product.”