

PRESS RELEASE

The CNMC (Spain's National Authority for Markets and Competition) publishes its report on the Draft Royal Decree on compulsory declarations to be made by manufacturers of packaged liquid cow's milk.

- CNMC makes a series of recommendations from the perspective of effective competition and efficient economic regulation.
- Recommends coping with structural factors that have led to this so-called dairy crisis in order to guarantee long-term sustainability of undertakings.

Madrid, 15 of March 2016- The Draft regulates the obligation of manufacturers of packaged fluid cow's milk of declaring monthly its sales transactions to retailers. Information provisions requirements would reach every chain of the dairy value chain.

This measure stems from the Agreement for the stability and sustainability of cow's milk value chain, signed on 23rd of September by representative organizations of the sector and the Spanish Ministry of Agriculture, Food and Environmental Affairs.

CNMC reminds that EU and national competition authorities have repeatedly manifest the necessary enforcement of European and National competition law to every economic sector, including agri-food and the dairy subsector.

Such a view has been confirmed, without prejudice to few specialities, by the current [Regulation EU nº 1308/2013](#) establishing a common organization of the markets in agricultural products. One of such specialities is the one related to information provisions requirements to certain types of dairy sector undertakings through the obligation of first buyers of cow milk of declaring the quantity of raw milk delivered to them.

However, the Draft extends the provisions of information requirements to manufacturer's delivery prices and for packaged liquid milk instead of raw milk, in a way not specifically provided by EU regulations.

CNMC asses these provisions of information requirements established in the Draft from two perspectives:

- i) From the perspective of the risks of breaching competition rules and the increase of the risk of collusion between undertakings.

The regulation introduces excessive information requirements which may affect to sensitive business information of dairy sector undertakings. Formal guarantees of confidentiality and respect for the rules of competition do not eliminate the risks of coordination and reduction of competitive pressure, which are high. Harmful effects are borne by new entrants and undertakings of related industries but also, and ultimately, by consumers in the form of inefficient prices and a reduction in the products' quality and variety.

Specific indications of the limits of competition law and a scrupulous respect for them by undertakings and public bodies' authorities are recommended.

- ii) From the perspective of efficient economic regulation and minimum distortion to competition principles.

The measures contained in the Draft raise doubts as to their appropriateness and proportionality to the objective of ensuring the sustainability and the future of dairy sector undertakings.

- The Draft does not address the structural factors behind this recurrent dairy crisis nor guarantees long-term sustainability of undertakings.
- Any measure pursuing a better functioning of food supply chain should be compatible with short, medium and long term efficiency.
- Over-regulation and administrative interventionism will result in an entry barrier for new undertakings, not favouring price competition and innovative production and business processes.
- It does not enable any improvement of Spanish economy's competitiveness nor the transmission of the positive competition effects to consumers.

CNMC recommends the introduction of a series of incentives to undertakings in order to modify the structural drivers behind the precarious situation correctly reported by the sector. Promotion of cooperativism, strengthening the surveillance of possible abuses and the orientation to new forms of production are some of the ways of improvement that could be strengthened.

CNMC is the independent regulator of markets which ensures and promotes an effective competition. This report is issued at the request of the Ministry of Agriculture, Food and Environmental Affairs, in the exercise of its advocacy powers, according to article 5.2 of the Law 3/2013, of 4th June, creating the CNMC.