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The CIAA (Confederation of the food and drink industries of the EU) view on EC Communication: “A better functioning of the food supply chain in Europe”

CIAA welcomes the publication of the European Commission’s Communication adopted in October 2009 on “A better functioning food supply chain in Europe”, as it represents a positive step towards implementing the Recommendations set out by the EU High Level Group on the Competitiveness of the Agri-Food Industry¹.

EU food and drink manufacturers consider that balanced commercial relations would not only improve the functioning of the food supply chain but would also benefit consumers. The proliferation of unfair commercial practices today is undermining the industry’s capacity to invest and innovate. To this end, we believe that the following points warrant further attention:

1. Improving relations in the food supply chain

▪ Unfair practices along the food chain

CIAA considers that unfair contractual and unfair commercial practices should be acknowledged and addressed **at Community level** in an effective and timely way. Measures taken at national level (legislation, codes of conduct, etc.) have led to the proliferation of different types of national treatment, resulting in further fragmentation of the EU Internal Market.

EU food and drink manufacturers welcome the Commission’s recommendation to ban **unfair contractual practices** within the Internal Market and request that **unfair commercial practices** are also addressed in an efficient way. The concept of contractual freedom is paramount for the EU food and drink industry: key principles and standard contracting rules should be considered, while at the same time taking care to avoid the introduction of standardised types of contracts that could restrict business operations.

▪ Reconsider the application of Competition rules

The EU food and drink industry welcomes the Commission’s investigation into the potential market power linked to ‘buying alliances’, the use of private labels and retailer size or market share, which could fall foul of current thresholds set by EU competition rules. CIAA calls for the combined impact of these three aspects to be considered in unison rather than evaluating each in isolation.

CIAA members deem that competition within the food chain is only partially addressed² in the Communication and that the analysis fails to consider the operators’ business structures and the specificities of different sectors. A more comprehensive approach taking into account all aspects of the food chain should be encouraged.

Further analysis of the potential impact of **private labels** on competition, most notably of in-store intra-brand competition and consumer choice would also be necessary.

2. Improving transparency in the food chain

¹ Launched in 2008, the High Level Group on the Competitiveness of the Agri-Food Industry released a series of 30 recommendations aiming among others, to ensure proper and optimal functioning of the food supply chain

² Reference to the staff working document “ Competition in the Food supply chain” accompanying the Commission’s Communication “ A better functioning food supply chain in Europe” COM (2009) 591.

- **Price transmission and transparency in the chain**

CIAA welcomes the fact that the low level of asymmetry in price transmission for the food industry is recognized within the Communication. Prices within the industry have decreased since August 2008, while before that, our sector had absorbed some of the agricultural commodities price increases.

Efforts to address the issue of extreme price volatility within the Communication are also a positive development. CIAA members call for the continuous market orientation of EU policies and respect of market fundamentals³.

The EU food and drink industry's overarching goal is to provide consumers with a wide choice of safe, nutritious and affordable food and drink products in Europe and beyond. To this end, the use of agricultural raw materials for food purposes should be prioritised.

- **Differences in price levels across Member States**

CIAA and its members acknowledge that differences in price levels within the EU are widespread. As indicated in the Communication, there are many factors that contribute to price dispersion. Prices are the result of supply and demand, influenced by national income, consumer behaviour, the regulatory framework, taxes and ultimately, consumer choice.

The food and drink industry considers that carefully drawn conclusions based on monitoring from publicly available data, empirical and market-based evidence are needed. This can be achieved through involving industry in the early stages of any exercise (i.e. the Impact Assessment stage).

3. Increasing harmonisation in the internal market

- **Clarification of Internal market goals needed**

Recommendations within the Communication related to certain legislative proposals are in contradiction with the aim of harmonisation within the internal market. For example, the adoption of national schemes within the context of the Food Information Proposal could, *de facto*, have an opposite effect to the one intended vis-à-vis the Single European Market and also potentially lead to consumer confusion as a result of various nutrition labelling schemes co-existing in the same Member State.

CIAA members support further harmonisation at the European level including, in particular, food safety standards and food labelling. CIAA also calls for administrative burdens placed on operators related to origin marking schemes to be alleviated.

- **EU High Level Group (HLG) Recommendations to be implemented in a timely way**

The launch of the EU Industry-Retail Platform should be a key priority in the short-term. This Platform will help identify food chain malfunctions, while giving guidance on policy initiatives (e.g. including the adoption of EU-wide measures to tackle unfair contractual clauses and commercial practices). All food chain actors should be equally represented in the Platform and other EU Institutions should be similarly involved i.e. European Parliament, European Economic and Social Committee and the European Council throughout each EU Presidency.

Finally, EU food and drink manufacturers call for industry consultation within the elaboration of Commission studies on the use of private labels and the cost structure of food chain operators in the meat sector.

³ E.g. for agricultural commodity-based derivative markets