



9 February 2021

We call on the European Commission and the Member States in the Council of the EU to be consistent with their initial position and oppose amendment 171 proposed by the European Parliament in the context of the revision of the CMO Regulation.

Amendment 171 would add extra restrictions on the use of dairy denominations for non-dairy products, which are unnecessary and excessive given that the current EU regulatory framework already sets clear rules protecting the use of dairy terms. If adopted, Amendment 171 would prevent consumers from making informed choices on plant-based foods, while hindering the development of a sector which would bring opportunities to the whole EU agri-food supply chain. The Amendment would also jeopardise EU climate ambitions and commitments and be inconsistent with international trade rules.

Dear Ministers of Agriculture,

Dear Member States representatives,

Re: Views on the Proposal for a Regulation amending Regulation (EU) No 1308/2013 (“CMO Regulation”) in the context of the interinstitutional negotiations between the Council, the European Parliament and the European Commission

We write to you in relation to the ongoing interinstitutional negotiations on the Proposal for a Regulation amending Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products ("CMO Regulation"). This proposal is an important part of the ongoing reform and modernisation of the common agriculture policy¹.

The European Parliament on 23 October 2020 adopted Amendment 171 (see full text in Annex) as part of its official position on the proposal for amending the CMO Regulation. We believe the Amendment adds unnecessary restrictions to the use of dairy terms for non-dairy products, which would be detrimental to consumers and to the sustainability and growth of the EU agri-food sector. Indeed, new restrictions on dairy-related designations were not included in the European Commission’s proposal for a revised CMO, and thus Amendment 171 was not subject to an impact assessment.

The current EU regulatory framework provides clear rules, in place for over 30 years, on the use of dairy terms.

The current legislative framework already prohibits the use of dairy designations to define non-dairy products: Names such as ‘soy milk’ or ‘vegetarian cheese’ are not allowed in the EU. These rules have been in place for over three decades, and were recently confirmed by the European Court of Justice (ECJ) ruling on case C-422/16 (“TofuTown case”). While clarifying the prohibition to use dairy denomination for non-dairy products, the judgment of the ECJ allows the use of dairy terms in descriptive commercial communication, provided that these are not misleading. This interpretation has been consistently applied by the national courts of several

¹ The European Commission proposed a regulation "amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union and (EU) No 229/2013 laying down specific measures for agriculture in favour of the smaller Aegean islands" (COM(2018)0394).

Member States, which validated the use of terms such as “plant-based alternatives to yoghurt”² or “cheese alternative”³. We believe that the current rules are satisfactory and there is no need for overregulation, which would be the case if Amendment 171 was adopted.

Amendment 171 would add extra restrictions depriving consumers of important information for making conscious dietary choices.

Amendment 171 is not a mere codification of existing rules. It would add extra restrictions to the current status quo, by prohibiting any “direct or indirect use” or “evocation” of dairy terms. The ambiguity of the Amendment may give rise to broad interpretations, which may lead to ban informative elements (factual and non-misleading) that consumers use to assess and choose food products more suitable to their needs. It could prohibit expressions such as:

- *"This product is suitable for persons suffering from milk intolerance";*
- *"This product does not contain milk".*

If interpreted in the strictest sense, it may even impact widely accepted commercial practices such as:

- Using wordings such as *"creamy"* and *"buttery"* to inform the consumer about the texture and flavour of a plant-based food;
- Using *illustrations* (e.g. a picture of a plant-based white beverage being poured in a glass) and *packaging* for plant-based foods that are also used for dairy products.

These elements support consumers’ decision and help them understand that the plant-based product can be prepared and consumed in a similar way as another product (e.g. dairy milk, dairy yoghurt). Current rules already effectively prohibit misleading practices. Introducing additional restrictions would make plant-based products less identifiable for consumers⁴. Further, this amendment would impose a complex regulatory structure around designations for plant-based foods – the Parliament voted to *reject* an amendment seeking to ban phrases like “veggie burger,” leading to inconsistency with plant-based alternatives to dairy.

The growth of the plant-based sector offers opportunities to EU farmers and to the EU food industry.

Amendment 171 would negatively impact a growing sector which would provide opportunities across the whole EU agri-food supply chain. In its conclusions on the Farm to Fork Strategy, the Council clearly calls for an EU Protein Transition Strategy to encourage the production of plant protein crops for food and feed, allowing farmers to diversify their agricultural crops⁵. Likewise, food business operators – including producers of dairy products – are widening their products’ portfolio including plant-based alternatives to dairy, to respond to rising consumer

² Court of Appeal, Den Bosch (The Netherlands), 19 December 2017, case no. 200.165.890_01, ECLI:NL:GHSHE:2017:5731 and Court of Appeal, Brussels (Belgium), 10 March 2015, 6th Chamber, Registry No. 2014/AR/1274.

³ Oberlandesgericht, OLG Celle, Decision of 06.08.2019, 13 U 35/19. "Wettbewerbsverstoß: Bewerbung eines pflanzlichen Produktes als „Käse-Alternative““.

⁴ BEUC: Plenary vote on meat and dairy denominations for plant-based products, October 2020

⁵ [Council's conclusions on the Farm to Fork Strategy](#), October 2020

demand for such products. Amendment 171 would introduce barriers to the development of the whole supply chain.

Amendment 171 would jeopardise Member States' climate commitments under the Paris Agreement and the EU sustainability ambitions of the Farm to Fork Strategy.

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%⁶. 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 reasons⁷. The Council also acknowledges the importance of developing the EU plant protein production and alternative sources of animal protein as a way of effectively addressing environmental and climate challenges⁸. Amendment 171 would hinder this transition towards more environmentally friendly food systems by adding extra restrictions on plant-based food products and creating hurdles for consumers to access them. This would jeopardise Member States' climate commitments under the Paris Agreement⁹ as well as the EU's climate neutrality goal.

The signatories call on your support to ensure that the revised CMO Regulation will allow consumers to access clear information on plant-based food products, empowering them to make more sustainable food choices while supporting the growth of a sector that represents an opportunity for the whole EU agri-food supply chain. We also call on you to align the CMO Regulation with the EU sustainability goals of the Farm to Fork Strategy as well as with Member States' commitments to combat climate change.

Signed by:

- 50by40 | Contact person: Mr. Lasse Bruun, Executive Director
- Abbot Kinney's | Contact person: Ms. Paloma Aguado, Marketing Director
- Alfabio | Contact person: Mr. Jacob Lunther, Business Development Director
- Alpro | Contact person: Ms. Ann De Jaeger, VP General Counsel and Head of Corporate Affairs
- Anima International | Contact person: Ms. Sabina Sosin, Head of People and Development
- ASSITOL | Contact person: Ms. Carlotta Trucillo, Legal Area
- Association Vegetarienne de France | Contact person: Ms. Elodie Vieille Blanchard, President

⁶ 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

⁷ A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system, 20 May 2020, page 13.

⁸ [Council's conclusions on the Farm to Fork Strategy](#), October 2020

⁹ Clark, M. A., Domingo, N. G., Colgan, K., Thakrar, S. K., Tilman, D., Lynch, J., ... & Hill, J. D. (2020). [Global food system emissions could preclude achieving the 1.5° and 2° C climate change targets](#). *Science*, 370(6517), 705-708.

- BA Foods IKEA | Contact person: Ms. Francesca Lotta, Regulatory and Product Compliance Manager Business Area Food, Ikea of Sweden and Ms. Roberta Dessi, Director of Regulatory Affairs, Ikea of Sweden
- Beyond Meat | Contact person: Mr. Bram Meijer, Regional Marketing Director EMEA
- Better Nature | Contact person: Mr. Christopher Kong, Co-founder and Head of Business Development
- Biocoop | Contact person: Mr. Pol Picazos, Sales and Marketing Director
- Biogran | Contact person: Ms. Paloma Aguado, Marketing Director
- Brige2Food | Contact person: Mr. Gerard Klein Essink, Founder and CEO
- Bunge | Contact person: Mr. Andreas Sommer, Director Government Affairs
- CheWow | Contact person: Mr. Federico Krader, CEO
- Compassion in World Farming | Contact person: Ms. Olga Kikou, Head of EU Office
- CSM Europe | Contact person: Ms. Kerstin Schmidt, VP Marketing and R&D
- Czech Association for Branded Products | Contact person: Mr. Jan Levora, Executive Director
- Danish Plant-Based Food Organisation – Plante Branchen | Contact person: Mr. Frederik Madsen, Director
- Devon Garden | Contact person: Mr. Cesar Torres, CEO and Founder
- Donau Soja | Contact person: Mr. Matthias Krön, Chairman/Managing Director – Donau Soja
- DRYK | Contact person: Mr. Christian Christensen, CEO
- Eco Cesta | Contact person: Ms. Paloma Aguado, Marketing Director
- Ecotone | Contact person: Mr. Klaus Arntz, Executive VP Marketing and Sustainability
- EFKO | Contact person: Mr. Andrei Zyuzin, CEO
- Ethics Coffee | Contact person: Mr. Arthur Vignaud, Founder and CEO
- European Alliance for Plant-based Foods, EAPF | Contact person: Ms. Siska Pottie, Secretary General
- European Medical Association, EMA | Contact person: Dr. Vincenzo Costigliola, President
- European Plant-Based Food Association, ENSA | Contact person: Ms. Vinciane Patelou, Secretary General
- European Vegetarian Union | Contact Person: Ms. Ronja Berthold, Head of Public Affairs
- EUVEPRO | Contact person: Ms. Nuria Moreno, Secretary General
- E.V.A. GmbH | Contact person: Mr. Dirk Herrmann-Bürk; Head of Research & Development
- Ful Foods | Contact person: Ms Cristina Prat, Co-founder

- Green Food Lab | Contact person: Ms. Isabel Boerdam, Founder
- Green Protein Alliance | Contact person: Mr. Jeroen H.A. Willemsen, MSc, Founder
- The Good Food Institute Europe | Contact person: Mr. Alexander Holst, Policy Manager
- HealthyProteins | Contact person: Mr. Arnauld van Hees, CEO
- Heura | Contact person: Mr. Bernat Anaños Martinez, Co-Founder
- Humane Society International/Europe, HSI Europe | Contact person: Dr. Joanna Swabe, Senior Director of Public Affairs
- IMACE, European Margarine Association | Contact person: Ms. Siska Pottie, Secretary General
- Isola Bio | Contact person: Ms. Paloma Aguado, Marketing Director
- Jez Pre Zem | Contact person: Mr. Marian Milec, Program Manager
- Just Plants | Contact person: Mr. Anders Nørgaard, Chairman
- L214 | Contact person: Mr. Olivier Morice, Public Affairs Manager
- Lebo Kaas | Contact person: Mr. Bert Rijk, Sr. Account Manager Industry
- Les Nouveaux Fermiers | Contact person: Mr. Guillaume Dubois, CEO and Co-founder
- Liquats | Contact person: Ms. LauraErra, CEO
- Max & Bien | Contact person: Ms. Jobien Groen, Co-founder
- Mia&Ben Organic GmbH | Contact person: Mr. Daniel Auner, Founder
- McCarther | Contact person: Mr. Milan Pasmik, Chairman of the Board
- Mill Life | Contact person: Mr Lars Asmussen, CEO
- Mommus | Contact person: Ms. Cristina Quinto, Manager
- Mushlabs GmbH | Contact person: Dr. Guido Albanese, Chief Operating Officer
- Nationale Week Zonder Vlees | Contact person: Ms. Isabel Boerdam, Founder
- Naturlí | Contact person: Mr Henrik Lund, CEO
- New Roots | Contact person: Ms. Alice Fauconnet, Marketing and Integrity Manager
- Nova Meat | Contact person: Mr. Giuseppe Scionti, CEO
- Nutrition & Santé | Contact person: Mr Luis Uribe, CEO
- Oatly | Contact person: Ms. Cecilia McAleavey, Director Sustainable Eating and Public Affairs
- Obrador Sorribas | Contact person: Mr. Ignaci Aguiló, CEO
- Petit Veganne | Contact person: Ms. Mélissa Strauss, Communication Officer
- Pink Albatross | Contact person: Mr. Luke Saldanha, Co-Founder
- Plant-based Events and Expo | Contact person: Ms. Abigail Stevens, Manager
- Planted. | Contact person: Mr. Lukas Böni, Co-Founder
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- Proveg International | Contact person: Ms. Jasmijn de Boo, Vice-President
- Puratos NV | Contact person : Mr. Pierre Tossut, Chief Commercial Officer
- Pure Italy | Contact person: Ms. Melissa Valaguer, Sales and Merchandising
- Roquette | Contact person: Ms. Marie-Laure Empinet, Public Affairs Senior Manager Global Public Affairs
- Rosie & Riffy | Contact person: Mr. Steven Rifkin, Co-founder
- Seamore | Contact person: Mr. Willem Sodderland, CEO
- Simple Feast | Contact person: Ms. Caroline Sandø, Senior Communication and PR Manager
- Slovak Vegan Society | Contact person: Ms. Kristina Chaparo, CEO
- Slovenske Zdruzenie pre Znackove Vyroby (Slovak Brand Goods Association) | Contact person: Mr. L'ubomír Tuchscher, CEO
- Sojasun | Contact person: Mr. Olivier Clanchin, CEO
- Swing Kitchen | Contact person: Ms. Irene Schillinger, CEO
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- Unilever | Contact person: Ms. Julie Paquay, Deputy Head of External Affairs Europe
- Upfield | Contact person: Dr. Jeanette Fielding, Chief Corporate Affairs and Communications Officer
- Uplegger Food Company | Contact person: Mr. Konstantin Uplegger, CEO
- Väckä | Contact person: Ms. Ana Luz Sanz, Co-founder
- Valsoia | Contact person: Mr. Andrea Panzani, CEO
- Växtbaserat Sverige | Contact person: Ms. Cecilia McAleavey, President
- Vegane Gesellschaft Österreich | Contact person: Mr. Felix Hnat, President
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- Vegetaleso | Contact person: Mr. Alejandro Álvarez, Manager
- Veggo | Contact person: Mr. Arvydas Godliauskas, General Manager
- Vereins Soja aus Österreich | Contact person: Mr. Karl Fischer, President
- VIVERA BV | Contact person: Mr. Willem van Weede, CEO
- Vly | Contact person: Mr. Nicolas Hartmann, Co-founder
- Yerba | Contact person: Mr. Walter Marskamp, Co-founder
- Yoghurt Barn | Contact person: Mr. Wouter Staal, CEO
- Willcroft | Contact person: Mr. Brad Vanstone, Founder
- World Animal Protection | Contact person: Mr. Dirk-Jan Verdonk, Director

For more information about this joint action, please contact: Siska Pottie, Secretary General of the European Alliance for Plant-based Foods (EAPF), info@plantbasedfoodalliance.eu, +32 2 786 30 42.

ANNEX – TEXT OF THE AMENDMENT

Amendment 171 (EP Position , 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.”