Commission Delegated Regulation (EU) 2015/1829 of 23 April 2015 supplementing Regulation (EU) No 1144/2014 of the European Parliament and of the Council on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries

COMMISSION DELEGATED REGULATION (EU) 2015/1829

of 23 April 2015

supplementing Regulation (EU) No 1144/2014 of the European Parliament and of the Council on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1144/2014 of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries and repealing Council Regulation (EC) No 3/2008[(1)], and in particular Article 7(2), Article 11(1), second subparagraph of Article 13(1) and Article 15(8) thereof,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008[(2)], and in particular Article 64(6)(a) and Article 66(3)(d) thereof,

Whereas:

(1) Regulation (EU) No 1144/2014 has repealed Council Regulation (EC) No 3/2008[(3)] and lays down new rules under which information provision and promotion measures concerning agricultural products and certain foods based on agricultural products, implemented in the internal market or in third countries, may be fully or partially financed from the Union budget.

(2) The rules laid down in this Regulation concern predominantly the simple programmes, managed by Member States. For multi programmes, directly managed by the Commission, Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(4)] should apply. Nevertheless, the conditions under which a proposing organisation may submit a programme, set out in Article 1 of this Regulation, should apply to both multi and simple programmes.

(3) Article 7 of Regulation (EU) No 1144/2014 establishes the list of proposing organisations. It is necessary to specify under which conditions each category of proposing organisation may submit a proposal for an information and promotion programme to be co-financed by the Union. To ensure that the proposing organisations are representative for the sector concerned, it is necessary to specify the necessary level

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of representation. When possible, the simple rule of representing the majority of the sector would be applied.

(4) Information provision and promotion measures co-financed by the Union should aim at opening new markets in third countries and should be undertaken by a wider range of organisations. In order to boost competition and ensure widest possible access to the Union promotion scheme, rules should be laid down to ensure that an organisation does not receive support for the same promotion programme more than two consecutive times.

(5) With a view to select bodies responsible for implementing simple programmes the proposing organisations must ensure best value for money. In doing so, they must avoid any conflict of interests. Where the proposing organisation is a body governed by public law within the meaning of Article 2(1)(4) of Directive 2014/24/EU of the European Parliament and of the Council[(5)], the rules provided for in that Directive and transposed into national law will apply.

(6) The Union promotion scheme should supplement and reinforce schemes run by Member States and should focus on a Union message. In that respect, information provision and promotion measures co-financed by the Union should demonstrate a specific Union dimension for which the necessary criteria need to be established.

(7) To date, in almost two thirds of the programmes carried out in the internal market, only the Member State of origin has been targeted by the proposing organisations. In addition, the origin of products may be now visible on information and promotion material under certain conditions. In order to ensure a real Union added value, the targeted markets of the programmes co-financed by the Union carried out in the internal market should be expanded and should not be limited to the Member State of origin of the proposing organisation, unless the programmes convey a message concerning the European quality schemes or proper dietary practices in line with the European Commission's white paper on a strategy on nutrition, overweight, and obesity related health issues[(6)].

(8) In order to avoid any overlaps with the promotion measures funded under Regulation (EU) No 1305/2013 of the European Parliament and of the Council[(7)], it is necessary to exclude from funding under this Regulation programmes that have only local impact and to favour programmes which will operate on a significant scale, notably in the internal market, in terms of cross-border coverage.

(9) Information provision and promotion measures co-financed by the Union should not be brand or origin-oriented but should convey a Union message. In this regard, information provision and promotion measures in the internal market covering a scheme as referred to in Article 5(4) of Regulation (EU) No 1144/2014, should convey a message on the characteristics or guarantees offered by these schemes aiming, in particular, at increasing the awareness and recognition of Union quality schemes.

(10) In order to inform consumers, it should be specified that any information on the impact on health of a product needs to have a recognised scientific basis and needs to comply with the Annex to Regulation (EC) No 1924/2006 of the European Parliament and of the

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Council[8] or be accepted by the competent national authorities responsible for public health in the country where the operations are carried out.

(11) In view of the specific nature of the promotion measures, rules on the eligibility of costs incurred by the beneficiary for the implementation of a programme should be laid down.

(12) Simple programmes should be financed on the basis of Regulation (EU) No 1306/2013. Article 19(4) of Commission Delegated Regulation (EU) No 907/2014[9] provides that charges relating to the securities should be borne by the party giving the security. According to point (a) of the second subparagraph of Article 126(3) of Regulation (EU, Euratom) No 966/2012 which should apply to multi programmes, costs relating to a prefinancing guarantee lodged by the beneficiary of the grant should be considered as eligible for Union funding. In order to ensure equal treatment of simple and multi programmes that could both be submitted by the same proposing organisations, it should be derogated from Article 19(4) of Regulation (EU) No 907/2014 and allowed for the costs of securities to be eligible for Union funding.

(13) To protect the Union's financial interests effectively, appropriate measures should be adopted to combat fraud and gross negligence. To this end, administrative penalties should be established having regard to the principles of effectiveness, dissuasiveness and proportionality. The administrative penalties under this Regulation should be considered dissuasive enough to discourage intentional non-compliance.

(14) For the sake of clarity and legal certainty, Commission Regulation (EC) No 501/2008[10] laying down detailed rules for implementing Regulation (EC) No 3/2008 should be repealed. However, it should continue to apply in respect of programmes that have been selected under its provisions,

HAS ADOPTED THIS REGULATION:

Article 1

Conditions under which a proposing organisation may submit a simple or multi programme

1 The proposing organisations as referred to in Article 7(1) of Regulation (EU) No 1144/2014 may submit a proposal for an information and promotion programme provided that they are representative of the sector or product concerned as follows:

a trade or inter-trade organisation, established in a Member State or at Union level, as referred to in Article 7(1)(a) and (b) of Regulation (EU) No 1144/2014 respectively, shall be deemed to be representative of the sector concerned by the programme:

(i) where it accounts for at least 50 % as a proportion of the number of producers, or 50 % of the volume or value of marketable production of the product(s) or sector concerned, in the Member State concerned or at Union level; or

(ii) where it is an interbranch organisation recognised by the Member State in accordance with Article 158 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council[11] or with Article 16 of Regulation (EU) No 1379/2013 of the European Parliament and of the Council[12];

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b a group as defined in point 2 of Article 3 of Regulation (EU) No 1151/2012 of the European Parliament and of the Council[13] and referred to in Article 7(1)(a) of Regulation (EU) No 1144/2014, shall be deemed to be representative of the name protected under Regulation (EU) No 1151/2012 and covered by the programme, where it accounts for at least 50 % of the volume or value of marketable production of the product(s) whose name is protected;

c a producer organisation or an association of producer organisations as referred to in Article 7(1)(c) of Regulation (EU) No 1144/2014 shall be deemed to be representative of the product(s) or sector concerned by the programme where it is recognised by the Member State in accordance with Articles 154 or 156 of Regulation (EU) No 1308/2013 or with Article 14 of Regulation (EU) No 1379/2013;

d with the exception of programmes carried out after a loss of consumer confidence, an agri-food sector body as referred to in Article 7(1)(d) of Regulation (EU) No 1144/2014 shall be representative of the sector(s) concerned by the programme by means of having representatives of that product(s) or sector among its memberships.

2 By way of derogation from points (a)(i) and (b) of paragraph 1, lower thresholds may be accepted, if the proposing organisation demonstrates in the submitted proposal that there are specific circumstances, including the evidence on the structure of the market, which would justify treating the proposing organisation as representative of the product(s) or sector concerned.

3 The proposing organisation shall have the necessary technical, financial and professional resources to carry out the programme effectively.

4 A proposing organisation shall not receive support for information and promotion programmes on the same product or scheme, carried out in the same geographical market on more than two consecutive occasions.

Article 2

Selection of bodies responsible for implementing simple programmes

1 Proposing organisations must select bodies responsible for implementing simple programmes ensuring best value for money. In doing so, they must take all measures to prevent any situation where the impartial and objective implementation of the programme is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest (‘conflict of interests’).

2 Where the proposing organisation is a body governed by public law within the meaning of Article 2(1)(4) of Directive 2014/24/EU, it must select bodies responsible for implementing simple programmes in accordance with the national legislation transposing that Directive.

Article 3

Eligibility of simple programmes

1 To be eligible, the simple programmes shall:

a comply with Union law governing the products concerned and their marketing;

b be of a significant scale, notably in terms of its foreseen measurable cross-border impact. In the internal market, this means that a programme shall be implemented in