



EUROPEAN COMMISSION

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His Excellency
Mr Antonio Tajani
Ministry of Foreign Affairs and
International Cooperation
Piazzale della Farnesina, 1
00135 Rome
Italy

Subject: Notification 2025/263/IT
Infringements of the provisions concerning the designations of milk and milk products
Delivery of comments pursuant to Article 5(2) of Directive (EU) 2015/1535 of 9 September 2015

Sir,

Within the framework of the notification procedure under Directive (EU) 2015/1535 ⁽¹⁾, the Italian authorities notified to the Commission on 26 May 2025 the draft amendment to Legislative Decree No 231 of 15 December 2017 on the “*Infringements of the provisions concerning the designations of milk and milk products*” (hereinafter “the notified draft”).

According to the notification message the notified draft aims to combat misuse of the designations of milk and milk products for products made from plant-based ingredients or for those in which dairy ingredients are wholly or partially replaced by ingredients of different origin. The notified draft *sets out the objectives, specifies the types of punishable conduct and lays down the applicable penalties, including their severity, the detailed rules governing their application, and any ancillary penalties.*

The examination of the notified draft has prompted the Commission to issue the following comments.

The notified draft provides that “*(u)nless the act constitutes an offence, any person who prepares, produces, packages, holds, sells, offers for sale, places on the market, transfers in any capacity or advertises foodstuffs by any means under names which misappropriate, imitate or evoke the designation of milk or the designations of milk product in infringement of the provisions of Annex VII to Regulation (EU) No 1308/2013 of the*

¹() Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

European Parliament and of the Council of 17 December 2013, shall be subject to an administrative fine...”.

In this respect, the Commission draws the attention of the Italian authorities to Annex VII, Part III, point 6 of Regulation (EU) No 1308/2013 ⁽²⁾ provides:

6. In respect of a product other than those described in points 1, 2 and 3 of this Part, no label, commercial document, publicity material or any form of advertising as defined in Article 2 of Council Directive 2006/114/EC (1) or any form of presentation may be used which claims, implies or suggests that the product is a dairy product.

However, in respect of a product which contains milk or milk products, the designation 'milk' or the designations referred to in the second subparagraph of points 2 of this Part may be used only to describe the basic raw materials and to list the ingredients in accordance with Directive 2000/13/EC or Regulation (EU) No 1169/2011.

The Commission draws the attention of the Italian authorities to the distinction between the wording of the Italian decree and point 6 cited above.

The Commission recalls that pursuant to Article 288 TFEU, regulations are directly applicable throughout the Union and thus in all of the Member States. Unlike in the case of directives, national implementing measures are not permitted in relation to regulations, unless the regulation itself leaves it to the Member States to adopt the necessary legislative, regulatory, administrative and financial measures to ensure the effective application of the provisions of that regulation ⁽³⁾.

Therefore, the Commission invites the Italian authorities to use the exact wording of Annex VII, Part III, point 6 of Regulation (EU) No 1308/2013.

The Italian authorities are invited to take these comments into account.

The Commission furthermore recalls that once the definitive text has been adopted, it must be communicated to the Commission in accordance with Article 5(3) of Directive (EU) 2015/1535.

Yours faithfully,

For the Commission

Kerstin JORNA
Director-General

Directorate-General for Internal
Market, Industry, Entrepreneurship
and SMEs

²() Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, OJ L 347, 20.12.2013, p. 671.

³ () Case C-606/10, ANAFE, EU:C:2012:348, para 71-73.