COMMISSION REGULATION (EEC) No 728/87

of 13 March 1987

continuing the promotional and publicity measures in respect of concentrated butter for direct consumption which are provided for in Regulation (EEC) No 1152/86

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1079/77 of 17 May 1977 on a co-responsibility levy and on measures for expanding the markets in milk and milk products (1), as last amended by Regulation (EEC) No 1338/86 (2), and in particular Article 4 thereof,

Whereas Commission Regulation (EEC) No 3143/85 (3), as amended by Regulation (EEC) No 569/87 (4), introduced measures for the disposal of intervention butter at reduced prices in the form of concentrated butter for direct consumption; whereas consumers in the Community are not well acquainted with this product and its possible uses; whereas publicity measures should therefore be carried out in the Member States in order to ensure rapid and lasting success for the disposal measure;

Whereas the promotion and publicity measures first carried out under Commission Regulation (EEC) No 1152/86 (5), as last amended by Regulation (EEC) No 3668/86 (6), have proved an effective means for expanding the markets for concentrated butter in the Community; whereas they should therefore be continued during the 1987/88 milk year;

Whereas it is advisable, so that these measures can be carried out as rapidly as possible, to entrust their organization to the Member States;

Whereas the operators who will be responsible for the measures must satisfy certain requirements; whereas the activities of such operators must not be liable to clash with the aim pursued in promoting the disposal of concentrated butter for direct consumption; whereas it is therefore essential that operators whose activities also cover the production, distribution or sales promotion of products which imitate milk and milk products should be barred from the implementation of the measures;

Whereas, in order to make the disposal measure more effective, one proposal only should be selected in each Member State;

Whereas, as far as financing is concerned, the expenditure on these measures should be regarded as expenditure on measures covered by the first indent of Article 4 (2) of Regulation (EEC) No 1079/77;

Whereas the total sum available must be allocated among the Member States on the basis of production and consumption of butter and of potential demand for concentrated butter for cooking;

Whereas the other rules can, for the most part, be drawn from the previous Regulation, account being taken of relevant experience;

Whereas the Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. Publicity and promotional measures in respect of concentrated butter for direct consumption put up for sale pursuant to Regulation (EEC) No 3143/85 shall be encouraged under the conditions laid down in this Regulation.

2. The measures referred to in paragraph 1 shall be carried out before 1 April 1988 by bodies or undertakings possessing the necessary qualifications and experience and offering the necessary guarantees that the operations will be properly carried out.

3. Where the implementation of the measures proposed requires the intervention of subcontractors, the proposal must contain a duly justified request establishing that the subcontractors satisfy the requirements referred to in paragraph 2.

4. Proposals put forward by bodies or undertakings as referred to in paragraph 2, whose activities are exclusively or in part concerned with the production, distribution or sales promotion of products which imitate milk and milk products shall not be considered.

Article 2

Publicity and promotional measures must:

— make use of the publicity media best suited to ensure their maximum effectiveness,

— take account of the particular conditions obtaining with regard to the marketing and consumption of milk products in general and of butter in particular in the various regions of the Community,

(1) OJ No L 131, 26. 5. 1977, p. 6.
(2) OJ No L 119, 8. 5. 1986, p. 27.
(3) OJ No L 298, 12. 11. 1985, p. 9.
(4) OJ No L 57, 27. 2. 1987, p. 26.
(5) OJ No L 105, 22. 4. 1986, p. 15.
(6) OJ No L 339, 2. 12. 1986, p. 15.

— focus on the product and not be guided by the commercial interest of a particular firm.

Article 3

1. The publicity and promotional measures shall be the subject of restricted invitations to tender or, in duly justified cases, of directly negotiated contracts issued by the competent authority appointed by the Member State and hereinafter referred to as 'the competent agency'.

2. The parties concerned shall submit to the competent agency detailed proposals concerning the measures to be carried out. These proposals shall include:

(a) the name and address of the party concerned;

(b) all necessary details relating to the conditions laid down in Article 1 (2), (3) and (4);

(c) all details concerning the measures proposed, indicating the communication media used, the criteria on which their choice was based, the time required for completion and the expected results;

(d) the price charged for the measures, net of tax, expressed in the currency of the Member State in whose territory the measures are to be carried out, giving an intemized breakdown of the amount;

(e) the financing plan, including the maximum Community contribution applied for;

(f) an undertaking to observe the provisions of this Regulation and, in the event of subcontractors being employed, to ensure that the said provisions are observed.

Article 4

The competent agency shall examine the proposals received to check that they are in the correct form and contain the information required. It shall ensure that they comply with this Regulation and shall request those concerned to supply further details, if necessary.

Article 5

1. After examining the proposals, the competent agency shall select a proposal and shall conclude the contract for the measure selected on the basis of the details referred to in Article 3 (2).

2. The contract referred to in paragraph 1

— shall contain the details referred to in Article 3 and in particular the terms of payment, taking Article 6 into account,

— shall be supplemented, if necessary, by additional information resulting from the application of Article 4.

3. The competent agency shall, before 1 July 1987, forward to the Commission a copy of the contract signed by itself and by the party concerned.

4. The competent agency shall ensure compliance with the agreed conditions, in particular by means of on-the-spot checks.

Article 6

1. The Community contribution to the measures selected may not exceed the amount set out in the Annex per Member State. Conversion of the Community contribution into national currencies shall be made at the representative rate valid on the day when the contract is concluded.

2. The competent agency of the Member State shall pay to the contractor two advance payments of 40 % each of the contribution agreed to in the contract. Payment of each advance payment shall be subject to the lodging of a security equal to the amount of the advance payment plus 10 %.

The first of these advance payments shall be payable within six weeks of the date of signature of the contract. The second shall be payable after the measure has been started and is well under way.

The balance shall be payable when the technical and financial report referred to in Article 7 is presented to the competent agency.

Release of the security shall be subject firstly to the competent agency having established that the contractor has fulfilled his obligations as laid down in the contract and, secondly, to the Commission having approved the report referred to in Article 7.

Article 7

The Member State shall, before 1 July 1988, forward a technical and financial report to the Commission on the results of the measure, drawn up by the contractor and accompanied by a reasoned opinion from the competent agency. The Commission shall approve the report by 1 September 1988 at the latest. Failing this, it shall decide in what proportion the security is to be released.

Article 8

As far as financing is concerned measures carried out under this Regulation shall be considered as measures covered by the first indent of Article 4 (2) of Regulation (EEC) No 1079/77. In the event of a security being forfeited, its amount shall be deducted from the expenditure of the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) and more particularly from that arising from measures as referred to in Article 4 of Regulation (EEC) No 1079/77.

Article 9

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 March 1987.

For the Commission
Frans ANDRIESSEN
Vice-President

ANNEX

Ceilings referred to in Article 6 (1)

(in ECU)

Member States	Ceiling
Belgium	256 000
Denmark	182 000
Germany	1 380 000
Greece	13 000
France	1 430 000
Ireland	255 000
Italy	155 000
Luxembourg	15 000
Netherland	426 000
United Kingdom	875 000
Spain	13 000
Total	5 000 000