COMMISSION REGULATION (EEC) No 1657/91

of 14 June 1991

on the implementation of promotional and publicity measures in respect of milk and milk products

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 coresponsibility levy and on measures for expanding the markets in milk and milk products [1], as last amended by Regulation (EEC) No 3660/90 [2]. and in particular Article 4 thereof,

Whereas promotional and publicity measures for milk and milk products commenced in the Community in 1978 and have continued since then owing to their effectiveness in expanding the markets in milk products in the Member States; whereas they should accordingly be continued and duly qualified organizations should be invited again to propose detailed programmes of measures which these organizations would themselves carry out;

Whereas the organizations which will be responsible for the measures must satisfy certain conditions; whereas in particular care must be taken to ensure that milk products from the Community are promoted; whereas the guidelines to be followed in this context were laid down in Commission communication 86/C 272/03 concerning State involvement in the promotion of agricultural and fisheries products [3]; whereas the activities of the organizations concerned as a whole must not in particular be liable to clash with the aim pursued in promoting the disposal of milk products; whereas it is therefore essential that proposals from organizations whose activities also cover the production, distribution or sales promotion of products which imitate milk and milk products should be barred;

Whereas amendments should be made to the earlier Regulations, notably as regards the implementation of the Community-wide information programme, account being taken of relevant experience;

Whereas, in order to ensure that the deadline for the presentation of the report by the contractor is complied with, provision should be made where that deadline is exceeded for an amount to be withheld from the Community funds allocated;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

1. Under the conditions laid down in this Regulation publicity and promotional measures advocating human consumption of milk and milk products in the Community shall be financed wholly or in part.

2. The following may qualify as measures within the meaning of paragraph 1:

(a) seminars, courses and conferences designed to provide personnel engaged in marketing milk and milk products or in spreading awareness about the consumption of these products with information and training or to recycle such persons;

(b) the implementation of a Community-wide information programme; this measure can only be carried out after issuing an invitation to tender approved by the Commission;

(c) any other publicity and promotion measure selected by the Commission in accordance with the procedure laid down in Article 5.

3. These measures shall be carried out within one year of the signing of contracts as referred to in Articles 5 (1) (c) or 6 (1). However, a longer time limit may be agreed in exceptional cases to ensure maximum effectiveness of the measure in question.

4. The time limit fixed in paragraph 3 shall not prevent subsequent agreement to an extension of that limit where the party to a contract makes an appropriate application to the competent authority before its expiry date and provides evidence that, owing to exceptional circumstances beyond his control, he is unable to meet the deadline originally stipulated. However, this extension may not exceed six months.

5. Measures as referred to in paragraph 2 (c) carried out with effect from 1 February 1991 may qualify for Community financing.

Article 2

1. The publicity and promotional measures referred to in Article 1:

[1] OJ No L 131, 26. 5. 1977, p. 6.
[2] OJ No L 362, 27. 12. 1990, p. 44.
[3] OJ No C 272, 28. 10. 1986, p. 3.

(a) with the exception of the measure referred to in Article 1 (2) (b), shall be proposed by organizations representing the dairy sector in one or more Member States or in the Community and shall be limited to the territory of the Member State or States whose dairy sector is represented by the organization concerned ;

(b) shall be carried out as far as possible by the organization which has made the proposal or submitted the tender. In cases where that organization must use subcontractors, the proposal or tender must contain a duly justified application for a derogation ;

(c) must :

— make use of the publicity media best suited to ensure maximum effectiveness for the measure undertaken ;

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

— be of a general nature and not orientated towards particular brand names or firms ;

— promote Community milk products without reference to their country or region of manufacture ; however, this condition does not exclude the mention of the traditional name of a product which includes a specified locality, region or country of the Community ;

— not replace similar measures but, where appropriatem, expand them.

Proposals or tenders put forward by organizations 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 taken into consideration.

2. The measures referred to in Article 1 shall be carried out by bodies which :

(a) have the necessary qualifications and experience ;

(b) ensure the satisfactory completion of the work ;

(c) in the case of the measure referred to in Article 1 (2) (b), provide evidence that they have already successfully carried out promotional and publicity measures at international level.

3. Community financing is hereby limited to 90 %, with the exception of the measure referred to in Article 1 (2) (b), for which it is hereby increased to 100 %.

4. For the purposes of paragraph 3, no account shall be taken of administrative expenses incurred in carrying out the measures in question. This provision shall not apply to the measure referred to in Article 1 (2) (b).

5. Financing of general expenses incurred in carrying out the measures referred to in Article 1 shall be limited to 2 % of the total amount approved, up to a maximum of ECU 10 000.

Article 3

1. Interested parties are invited to forward to the competent authority designated by the Member State in which the head office of the organization concerned is situated, hereinafter referred to as the 'competent authority', detailed proposals concerning the measures referred to in Article 1 (2) (a) and (c).

Should be proposed measures be carried out wholly or partly in the territory of one or more Member States other than that in which the head office of the organization concerned is situated, the organization shall send a copy of its proposal to each of the competent authorities in those other Member States.

Proposals must reach the competent authority before 1 July 1991. Where this date is not complied with, proposals shall be considered null and void.

2. Further rules for the submission of proposals shall be as set out in the Annex.

3. The tendering procedure concerning the measure referred to in Article 1 (2) (b) shall be opened by the publication in the C series of the *Official Journal of the European Communities* of a notice setting out in particular the final date for the submission of tenders.

Article 4

1. Complete proposals or tenders shall include :

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

(b) all details concerning the measures proposed together with detailed descriptions and considerations, indicating the time required for completion, the expected results and any third party who may be involved ;

(c) a detailed presentation of the planned strategy for the whole programme ;

(d) the price asked for these measures, net of taxes, expressed in ecus, giving an itemized breakdown of this amount and showing the corresponding financing plan ;

(e) the desired form of payment of the Community financing in accordance with Article 7 (1) (a), (b) or (c) ;

(f) The most recent report available on the party's activities, unless this is already in the possession of the competent authority.

2. Proposals or tenders shall be valid only where they are accompanied by a written undertaking to comply with the provisions of this Regulation and the implementation criteria laid down by the Commission departments and put at the disposal of the parties concerned by the competent authority or the Commission. The implementation criteria shall be attached to the contract referred to in Article 5 (1) (c) or that referred to in Article 6 (1) (c) and form an integral part of those contracts.

Article 5

1. In the case of the measures referred to in Article 1 (2) (a) and (c):

(a) before 1 August 1991, the competent authority shall complie a list of all the proposals received and forward it to the Commission together with copies of each proposal, including any supporting documents, and a reasoned opinion indicating whether the proposal complies with the provisions applying;

(b) before 1 October 1991, the competent authority shall examine on a biliteral basis with the Commission and an expert group composed of experts on marketing, advertising and sales techniques all proposals received and any supporting documents;

(c) after consulting the relevant interested groups and following examination of the proposals by the Management Committee for Milk and Milk Products in accordance with Article 31 of Council Regulation (EEC) No 804/68 (1), the Commission shall establish before 1 November 1991 a list of the proposals selected for financing and determine the date by which the competent authorities must conclude contracts for the measures selected with the interested parties. The contracts shall be concluded in at least two copies signed by the party concerned and the competent authority. For that purpose the competent authorities shall use standard contracts to be provided by the Commission.

2. In the case of the measure referred to in Article 1 (2) (b), the Commission, within the period laid down in the call for tenders, after consulting the relevant interested groups and following examination of the tenders by the Management Committee for Milk and Milk Products in accordance with Article 31 of Regulation (EEC) No 804/68, shall select the successful tender.

3. The competent authority or the Commission shall inform each applicant as soon as possible of the decision taken in respect of his proposal or tender.

(1) OJ No L 148, 28. 6. 1968, p. 13.

Article 6

1. The contract referred to in Article 5 (1) (c) and that concluded on completion of the tendering procedure shall include the details referred to in Article 4 (1) and (2) or make reference to them and supplement those details, where necessary, by additional conditions.

2. In the case of the measures referred to in Article 1 (2) (a) and (c), the competent authority:

(a) shall send a copy of the contract to the Commission forthwith;

(b) ensure compliance with the agreed conditins, in particular by means of on-the-spot checks.

Article 7

1. Payment to the party concerned shall be effected in accordance with the choice indicated in the latter's proposal or in the tender:

(a) within six weeks of the date of signature of the contract, a single advance payment amounting to 60 % of the Community contribution or financing; or

(b) at two-monthly intervals, four equal instalments each amounting to 20 % ot the Community contribution or financing, the first such instalment being payable within six weeks of the date of signature of the contract; or

(c) within six weeks of the date of signature of the contract, a single advance payment accountin to 80 % of the Community contribution or financing; however, this form of payment may be stipulated only for measures which will be fully completed within a maximum of two months of the date of signature of the contract.

However, while a contract is being peformed, the Commission or the competent authority may:

— defer payment of an advance either wholly or in part where it finds, in particular during the checks referred to in Article 6 (2) (b). Irregularities in carrying out the measures concerned or a substantial interval between the due date for payment of the advance and the date when the party concerned will actually incur the forecast expenditure;

— in exceptional cases, bring forward the payment of an advance either wholly or in part if the party concerned submits a reasoned application and shows that he must incur a substantial part of the expenditure significantly earlier than the date laid down for payment.

2. The payment of each advance shall be conditional upon the lodging with the Commission or the competent authority of a security equal to the amount of the advance, plus 10 %.

3. Securities shall be released and the balance shall be paid subject to :

(a) the forwarding to the Commission or the competent authority of the report referred to in Article 8 (1) and to verification of the details contained in that report ; and

(b) confirmation by the Commission or the competent authority that the party concerned has fulfilled his obligations as laid down in the contract ; and

(c) the competent authority finding that the party concerned or any third party named in the contract has spent his own contribution for the purposes laid down.

4. In so far as the conditions set out in paragraph 3 are not fulfilled, securities shall be forfeit. In that event, the amount in question shall be deducted from the European Agricultural Guidance and Guarantee Fund, Guarantee Section, expenditure and more particularly from that arising out of the measures referred to in Article 4 of Regulation (EEC) No 1079/77.

Article 8

1. Each party responsible for one of the measures referred to in Article 1 shall submit to the Commission and to the competent for execution of the measures, a detailed report on the utilization of the Community funds allocated and on the foreseeable results of the measures in question, in particular as regards the trend in sales of milk and milk products, if the report is submitted later than four months after the final date, 10 % of the Community contribution or financing shall be withheld for each month commenced after expiry of that time limit.

2. The competent authority concerned shall forward to the Commission a statement to the effectd that each contract has been performed satisfactorily together with a copy of the final report.

Article 9

This Regulation shall enter into force on the third day following 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, 14 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX

In accordance with Article 3 (3) of Commission Regulation (EEC) No 1657/91 of on the implementation of promotional and publicity measures in respect of milk and milk products, interested parties are hereby informed that proposals are to be sent, within the time limits laid down, to the following competent authorities, in one original and five copies by registered letter or by messenger with acknowiedgement of receipt :

Member State	Competent authority
Belgium	Office national du lait rue Froissart 95-99 B-1040 Bruxelles
Denmark	EF-Direktoratet Frederiksborggade 18 DK-1360 København K
Germany	Bundesanstalt für landwirtschaftliche Marktordnung (BALM) Adickesallee 40 D-6000 Frankfurt a. M.
Greece	Service for the management of agricultural products (YDAGEP) 5 Aharnonstreet Athens
France	Office national interprofessionnel du lait et des produits laitiers (ONILAIT) 2, rue St. Charles F-75740 Paris Cedex 15
Ireland	Department of Agriculture Dairying Division Floor 2 Centre Agriculture House Kildare Street IRL-Dublin 2
Italy	Azienda di Stato per gli interventi sul mercato agricolo (AIMA) Via Palestro 81 I-00198 Roma
Luxembourg	Service technique de l'agriculture 16, route d'Esch L-1470 Luxembourg
Netherlands	Produktschap voor Zuivel, Sir Winston Churchilllaan 275 NL-2288 EA Rijswijk (ZH)
United Kingdom	Intervention Board for Agricultural Produce Fountain House 2 Queens Walk GB-Reading RG1 7QW

Member State	Competent authority
Spain	Dirección General de Política Alimentaria Ministerio de Agricultura, Pesca y Alimentación Paseo Infanta Isabel 1 E-28014 Madrid
Portugal	Instituto Nacional de Intervenção e Garantia Agrícola (INGA) Rua Camilo Castelo Branco, 45, 2° P-1000 Lisboa