COMMISSION REGULATION (EEC) No 1037/92

of 27 April 1992

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 co-responsibility levy and on measures for expanding the markets in milk and milk products (1), as last amended by Regulation (EEC) No 1632/91 (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 again be invited 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 promotion 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 in the light of the experience gained in this area;

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 partially financed.

2. For the purposes of paragraph 1, 'measures' shall mean every publicity and promotion measure selected by the Commission in accordance with the procedure as referred to in Article 5.

3. Measures shall be carried out within one year of the signing of contracts as referred to in Article 5 (1).

4. The time limit fixed in paragraph 3 shall not prevent:

(a) 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;

(b) measures as referred to in paragraph 2 implemented with effect from the entry into force of this Regulation from qualifying for Community financing.

Article 2

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

(a) shall be proposed by organizations which have several years' experience of promoting milk and milk products, have the necessary qualifications to carry out the proposed measures and can ensure the satisfactory completion of the work;

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

(1) OJ No L 131, 26. 5. 1977, p. 6.
(2) OJ No L 150, 15. 6. 1991, p. 23.
(3) OJ No C 272, 28. 10. 1986, p. 3.

2. Such measures 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 and consumption of milk and milk products in the various regions of the Community,

— be of a generic 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 appropriate, expand them.

Proposals 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.

3. Community financing shall be limited to 90 %.

4. For the purposes of applying paragraph 3, no account shall be taken of administrative expenses incurred in carrying out the measures in question.

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 shall 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, accompanied by a summary highlighting the main features of the proposed measures.

Should the 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 June 1992. 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.

Article 4

1. Complete proposals 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 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. The implementation criteria shall be attached to the contract and form an integral part thereof.

Article 5

1. Before 1 July 1992, the competent authority shall compile 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.

The competent authority shall examine on a bilateral basis with the Commission and an expert group composed of experts on marketing, advertising and milk marketing all proposals received and any supporting documents.

After consulting the relevant interested groups and following examination of the proposals by the Management Committee for Milk and Milk Products pursuant to Article 31 of Council Regulation (EEC) No 804/68 (1), the Commission shall establish as soon as possible a list of the proposals selected for financing and determine the date by which the competent authorities shall conclude with the interested parties contracts for the measures selected. The contracts shall be concluded in as many copies as there are signatories and shall be signed by the parties concerned and the competent authority. For that purpose the competent authorities shall use standard contracts to be provided by the Commission.

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

2. The competent authorities shall inform each applicant as soon as possible of the decision taken in respect of his proposal.

Article 6

1. Contracts shall include the details referred to in Article 4 or make reference to them and supplement those details, where necessary, by additional conditions.

2. The competent authorities :

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

(b) ensure compliance with the conditions of the contract, in particular by means of the following checks :

— administrative checks and audits to verify the costs financed and compliance with financing rules,

— checks to verify that measures are implemented in accordance with the provisions of the contract,

— other on-the-spot checks, where necessary.

Contracting parties must be subject to at least two inspections during the period of validity of the contract.

Article 7

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

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

(b) at two-monthly intervals, four equal instalments each amounting to 20 % of the Community contribution, the first such instalment being paid 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 payment on account amounting to 80 % of the Community contribution ; 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 executed, the competent authority may :

— defer payment of an instalment 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 instalment and the date when the party concerned actually incurs the forecast expenditure,

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

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

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

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

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

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

However, at the reasoned request of the party concerned, the balance may be paid after the measure has been executed and the report referred to in Article 8 has been forwarded, provided that securities have been lodged which cover the total amount of the Community contribution plus 10 %.

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 this Regulation shall submit to the Commission and to the competent authority, within four months of the final date fixed in the contract 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 that report is submitted later than four months after that final date, 10 % of the Community contribution 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 effect that each contract has been performed satisfactorily together with a copy of the final report.

Article 9

This Regulation shall enter into force on 1 May 1992.

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

Done at Brussels, 27 April 1992.

For the Commission
Ray MAC SHARRY
Member of the Commission

ANNEX

In accordance with Article 3, 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 resgistered letter or by messenger with acknowledgement of receipt :

Member State	Competent authority
Belgium	Office national du lait et de ses dérivés, 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 am Main.
Greece	Direction for the management of agricultural products (DIDAGEP), 241 Acharnon Street, 104-46 Athens (Greece).
France	Office national interprofessionnel du lait et des produits laitiers (Onilait), 2, rue St. Charles, F-75740 Paris Cedex 15.
Ireland	Department of Agriculture and Food, Milk Policy Division, Floor 1 East, 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	Administration des Services techniques 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, Livestock Products Division, Fountain House, Queen's Walk, GB-Reading, Berks RG1 7QW.

Member State	Competent authority
Spain	Secretaría General de Alimentación, 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, 2º, P-1000 Lisboa.