

Copa and Cogeca contribution to the Commission's call for contributions

Competition Policy supporting the Green Deal

In order to deliver on the European Green Deal objectives, including those set out in the Farm to Fork Strategy, responsibility needs to be shared among all actors across the entire food chain. Additionally, achieving ambitious goals requires synergies between sectors and players in the value chains.

In this context, Copa and Cogeca would like to underline that cooperation among farmers is crucial to reach the economic, environmental and social goals. This cooperation allows for the implementation of innovative and sustainable actions that foster job creation in depopulated rural areas and from which everybody can benefit, from farmers to agri-cooperatives, from consumers to the value chain as a whole.

Cooperation among farmers engaged in promoting sustainability in addition to ways of ensuring a fair distribution of the added value created by sustainable products and actions with producers need to be supported. This includes addressing how the competition rules regarding collective initiatives can be clarified.

Sustainability and competition often go hand in hand. Just as competition can stimulate innovation in the form of new or improved products and processes, so can it stimulate sustainability. Consumers often see sustainability as a quality improvement of a product, and the availability of sustainable products increases their options. Investments and improved production processes that use raw materials more efficiently not only offer businesses competitive advantages but are also in the interest of sustainability.

Part 1: State aid control

If you consider that more State aid to support environmental objectives should be allowed, what are your views on how this should be implemented?

- **What are the main changes you would like to see in the current State aid rulebook to make sure it fully supports the Green Deal? Where possible, please provide examples where you consider that current State aid rules do not sufficiently support greening of the economy and/or where current State aid rules enable support that runs counter to environmental objectives.**

European farmers and agri-cooperatives are experiencing particular difficulties in complying with current State aid rules on aid for the forestry sector.

The State aid rules provide compensation only for the additional costs and income forgone resulting from the commitments made. This can lead to inefficient allocation of the resources when the programme objective is biodiversity protection. The scheme should act as an incentive or boost the element of 'biodiversity value' being protected or enhanced.

Furthermore, the requirement to submit the application before the activity beneficiary has started has led to significant administrative costs and bureaucracy when the scheme covers a large number of small individual projects/grants.

The aid scheme should be considered to have an incentive effect if the aid scheme creates an automatic right to receive the aid, where the aid scheme is declared compatible with EU rules. The criteria for allocating the aid are communicated to and known by the potential applicant, when the criteria for receiving such aid are met.

Under the current rules, agri-environment-climate measures must be undertaken for a period of five to seven years. This period should be longer for the forestry sector. Member States should be able to determine a longer period.

Besides, European farmers and agri-cooperatives would like to underline that State aid should also promote the development of European short supply chains. The State aid should be granted for cooperation relating to horizontal and vertical co-operation among supply chain actors for the establishment and development of European short supply chains and local markets.

By 2050, the EU aims to become the world's top climate-neutral continent according to the European Green Deal objectives. It is therefore essential that initiatives launched in this context are not hindered by State aid rules, e.g. to stimulate the use of biofuels (on farm level) in the agricultural and forestry sectors.

- **Should this take the form of allowing more aid (or aid on easier terms) for environmentally beneficial projects than for comparable projects which do not bring the same benefits (“green bonus”)? If so, how should this green bonus be defined?**

Copa and Cogeca believe that more aid or aid on easier terms for ecologically beneficial projects (“Green Bonus”) are absolutely necessary in order to achieve the EU climate goals (climate neutrality by 2050).

State aid rules for environmental protection and energy are important for European farmers and agri-cooperatives who would welcome the increase of certified sustainable agricultural and forestry biomass in the EU Energy mix. This would improve EU Energy security and reduce greenhouse gas emissions from fossil fuels. The EU will continue to rely on combustion engines for road transport in the foreseeable future.

Use of agricultural and forestry biomass in bioenergy and broadly in bioeconomy contributes to creating jobs and driving green growth as well as increasing added value in the EU's rural areas.

- **Which criteria should underpin the assessment of a green bonus? Could you give concrete examples where, in your view, a green bonus would be justified, compared to examples where it would not be justified? Please provide reasons explaining your choice.**

We consider that a green bonus would be justified in the following cases:

- Use of certified sustainable biogenic raw materials (e.g. due to the enrichment of atmospheric CO₂)
- Substitution of fossil / CO₂-intensive raw materials with biogenic raw materials
- Strengthening the circular economy (multi modal modes of transportation)
- Carbon sequestration in the soil
- Cooperation between farmers and agri-cooperatives regarding green investments

How should we define positive environmental benefits? Should it be with reference to the EU's taxonomy and, if so, should it be with reference to all sustainability criteria of the EU's taxonomy? Or would any kind of environmental benefit be sufficient?

Copa and Cogeca cannot support any reference to the taxonomy and technical screening criteria in this context. Any environmental benefits, especially if stemming from sectorial regulations (including the Common Agricultural Policy) should be considered.

Part 2: Antitrust rules

Please provide actual or theoretical examples of what an ideal cooperation arrangement between firms would be to support the Green Deal objectives that could not be implemented due to EU antitrust risks. In particular, please explain the circumstances in which cooperation rather than competition between firms leads to greener outcomes (e.g. greener products or production processes).

Farmers may use collective action and horizontal cooperation to achieve common interests related to their agricultural business. Collective action can cover all of the (business-related) relevant activities of farmers from production planning to the placing of products on the market. Incentives to act collectively relate to business-related or other benefits (e.g. concerning landscapes, sustainability, climate change, animal welfare) that are achieved less efficiently – or not at all - by acting alone¹.

The European Commission should take the initiative to end the confusion that currently reigns over the limits of producer cooperation in the agricultural sector. Such clarification ought to dispel the ambiguities and favour clear and workable rules over overly wrought nuances which are mainly of academic consequence. Doing so, it must be cognisant of the primacy of CAP objectives over those of competition policy as stipulated by the ECJ².

Therefore, European farmers and agri-cooperatives welcome the Commission's intention, as indicated in the Farm to Fork Strategy, to clarify the competition rules for collective initiatives that promote sustainability in supply chains. We also support the Commission's willingness to work with co-legislators to improve agricultural rules that strengthen the position of farmers (e.g. producers of products with geographical indications), their cooperatives and producer organisations in the food supply chain.

Are there any circumstances in which the pursuit of Green Deal objectives would justify restrictive agreements beyond the current enforcement practice? If so, please explain how the current enforcement practice could be developed to accommodate such agreements (i.e. which Green Deal objectives would warrant a specific treatment of restrictive agreements? How can the pursuit of Green Deal objectives be differentiated from other important policy objectives such as job creation or other social objectives?).

European farmers and agri-cooperatives consider that environmental sustainability, and a climate-neutral and resource-efficient economy should be considered in the application of antitrust rules and could justify restrictive agreements beyond the current enforcement practice. These criteria should justify exemptions to the current anticompetitive practices rules.

These exemptions could have positive effects on the agriculture and forestry sectors (upstream and downstream) and provide important economic impetus (e.g. through producer organizations).

In recent years it has become more and more evident that the EU's competition rules can conflict with other policy areas, such as environmental policy. Above all, the increasing importance of animal and environmental protection as well as sustainable economic practices should also be taken into account in competition law.

It should be noted that in order to reach the Green Deal objectives, appropriate measures must be taken in all political areas. This also includes competition law.

¹ Report of the Agricultural Markets Task Force, November 2016, page 39

² Report of the Agricultural Markets Task Force, November 2016, page 44

Part 3: Merger control

Do you consider that merger enforcement could better contribute to protecting the environment and the sustainability objectives of the Green Deal? If so, please explain how?

European farmers and agri-cooperatives believe that corporate reorganisations can contribute to raising the standard of living in the EU.

In the context of merger enforcement, we think that the EU institutions could put in place for retailers, commitments to promote European short supply chains and local markets, to source from local suppliers, in line with the Common Agricultural Policy Objectives.