

*Resolution of the Meeting of Heads of the European competition authorities
of 17 November 2010*

**The recommendation of the High Level Group on Milk aimed at improving the
bargaining power of dairy farms**

In its Report of 15 July 2010, the High Level Group on Milk (HLG) recommended the Commission to consider a legislative proposal to allow producers' organisations of dairy farms to negotiate contract terms, including price, jointly for some or all of its members' production with a dairy, subject to a quantitative limit expressed as a percentage of EU milk production.

This recommendation does not reflect the unanimous opinion expressed by the Competition Authorities of the Member States within the HLG¹, which strongly warned against any legislative proposal that would enable dairy farms to jointly fix milk prices without appropriate limits established by reference to the relevant markets, and without requiring any corresponding efficiency-enhancing forms of cooperation between agricultural holdings.

It should be recalled that competition authorities undertook an in-depth analysis regarding the causes of the milk crisis and the interplay between competition rules and the common agricultural policy. In this respect, they concluded that competition law provides farmers with a solid legal framework for developing sustainable forms of cooperation and strengthening their bargaining power, while preserving their incentives to become more efficient, innovative and better-equipped to face competition both within and outside the EU².

Absent any efficiency-enhancing structural reorganisation of the dairy sector, any such legislative initiative would inevitably reduce the economic incentives for all milk producers to progress with the necessary adjustments following the CAP reform, while worsening the competitive handicap of SMEs and local milk processors whose ability to switch to alternative

¹ The HLG included, based on discussion in the ECN, representatives of the French and German competition authorities.

² See Explanatory Brochure on "How EU competition policy helps dairy farmers in Europe", and the Working Paper on "The interface between EU competition policy and the CAP: competition rules

and cheaper sources of supply will remain much more limited than for multinational dairies. Moreover, any such legislative initiative might force larger dairies and retailers to search for more competitive prices outside the existing milk collection areas thereby exacerbating regional and structural imbalances along the supply chain, due to reduced demand and increased surplus of milk production in some areas, and higher marginal production costs at the individual firm level.

As a result of the likely market-efficiency losses at both the milk production and processing stages, the retail prices for a variety of dairy products (fresh drinking milk, UHT milk, yogurt, among others) could significantly increase, thereby causing substantial damage to final consumers, especially to low-income families whose demand for such products is relatively inelastic.

Therefore, any measure granting milk producers' organisations the power to jointly fix milk prices would shift the balance of bargaining powers in favour of one category of market players, and thereby not only risk to be detrimental to the aim of rebalancing the commercial relations along the supply chain, but also set a critical precedent for other agricultural sectors and hamper the ultimate objective of the CAP reform which is to promote the long-term competitiveness of the European agro-food sector and its incentives to innovate.