

The Reform of the Common Agricultural Policy

- The on-going reform of the Common Agricultural Policy addresses a number of important issues for the future evolution of the agricultural sector, including the application of competition rules.
- In this context, the European Competition Authorities would like to reaffirm their conviction that the enforcement of competition rules helps to ensure a productive, strong and effective agricultural sector.
- The European Competition Authorities consider the generally applicable competition rules in the TFEU and their national equivalents to be appropriate instruments in all sectors, including agriculture. They have been actively enforcing competition rules in the food sector and closely monitoring the structures and functioning of food markets. The recently published "Report on competition law enforcement and market monitoring activities by European competition authorities in the food sector"¹ ("the Report") shows the work undertaken since 2004.
- The Report provides evidence of the responses by competition authorities to calls for ensuring a fair functioning of the food supply chain, including as regards the relations of the agricultural sector with the rest of the chain. The competition rules allowed European Competition Authorities to sanction processors who were agreeing among themselves on the (lower) prices that they would pay to farmers and on other contractual conditions. They have also acted against suppliers of inputs (e.g. seeds) who were imposing unfair conditions on the purchase of those inputs or who were agreeing on (higher) prices that farmers would pay for those inputs. In a limited number of cases, the competition authorities have also taken action against farmers who were acting in a way which was negatively affecting other farmers, for instance regarding access to certain facilities. As

¹ "Report on competition law enforcement and market monitoring activities by European competition authorities in the food sector", published in May 2012 and online available at <http://ec.europa.eu/competition/ecn/documents.html#reports>.

also recently acknowledged in the report by the High Level Forum for a Better Functioning Food Supply Chain, competition rules have thus benefited farmers (as well as other operators in the supply chain) and promoted supply at reasonable prices for the consumers.

- As their track record establishes, the European Competition Authorities do not ignore the problems faced by European small and medium sized enterprises, including farmers. Indeed, when they are organised in small structures and do not achieve economies of scale in procurement, storage or selling, they may feel constrained and sometimes powerless in their negotiations with (often larger) buyers.
- One answer to these problems may lie in adaptation and consolidation of the agricultural sector. Through the promotion and creation of cooperatives and other efficiency-enhancing forms of cooperation among producers, farmers can become more competitive by reducing their costs and reinforcing their bargaining position in the chain through larger scales and tailored placement on the market. In those situations where consolidation has not taken place yet, such forms of cooperation are not only allowed but encouraged by competition authorities.
- The answer should not lie in large-scale exclusion of the application of competition rules. Such exclusion would slow down the much-desired adaptation of the sector which is facing significant competition from producers outside Europe. It could also jeopardise several CAP objectives by hindering gains in productivity, increasing the instability of markets and raising prices for consumers, a particularly sensitive issue at a time when disposable incomes are being squeezed across the EU. Such an approach may also put in danger the sustainability of the whole sector in the long run. Finally, such exceptions would also prevent competition authorities from protecting and acting to the benefit of farmers as has been done in the past and continues to be done through their on-going investigations.
- The purpose of the Commission's proposal for a revised Regulation of the single Common Market Organisation made in October 2011 was to promote an efficient adaptation of the agricultural sector, and this should remain the aim of the CAP reform. This is even more

necessary as European farmers compete directly with farmers from all over the world. An efficient structure of the European agricultural sector will increase their ability to better face the challenges, and competition within the EU is a key driver for such adaptation.

- Therefore, the Competition Authorities in the European Union as well as the Croatian competition authority support the principles underpinning the Commission 2011 proposal. Where appropriate, farmers should be encouraged to form entities or organisations to create efficiencies in order to respond to market challenges in a pro-competitive way.
- In addition to existing guidance, the European Competition Authorities stand ready to give further guidance on how the competition rules apply to the agricultural sector and to engage in further advocacy i) on the benefits of the application of competition rules for farmers and European citizens, and ii) on the variety of farmers' organizations which may be set up in compliance with competition law rules. European Competition Authorities are also ready to engage as appropriate in further work with all stakeholders on these topics to ensure consistency and a common approach in the application of competition rules, including as regards market definition.