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uniting dairy excellence & ambition

EDA input to the public consultation on the draft Commission Delegated Regulation (EU)

supplementing Regulation (EU) 2017/625 with regard to the cases and conditions under which competent authorities may designate official laboratories which do not fulfil the conditions in relation to all the methods they use for official controls or other official activities

The European Dairy Association welcomes the *EU Commission's Delegated Regulation with regard to the cases and conditions under which competent authorities may designate official laboratories which do not fulfil the conditions in relation to all the methods they use for official controls or other official activities*, and its overarching goal of further improving the flexibility already foreseen in Regulation (EU) 2017/625 and reducing the administrative and financial burden.

The current Regulation (EU) 2017/625 authorises in article 41 some derogation to use a laboratory which do not fulfil the conditions referred to in point (e) of Article 37, which says that "lab should operate in accordance with the standard ISO/IEC 17025 and is accredited in accordance with that standard by a national accreditation body".

The objective of this new draft is to better detail in which condition this is possible, for 2 areas: (i) food contact materials, food additives, food enzymes, flavourings and feed additives and (ii) plant health. This can be justified for some emerging parameters, for which there is no laboratory accredited yet, as the parameter is emerging. This can also be the case for food contact materials where many regulated parameters do not have standardized method.

Specifically, in Regulation (EU) 2017/625:

- the Article 37(4) point (e) asks to use an accredited laboratory
- the Article 37(5) point (a) asks to have the method part of the accreditation scope (so the method must be accredited)

If the derogation refers only to Article 37(4) point (e), as it is written today, this leaves the possibility for competent authorities to use a non-accredited laboratory. **In this respect, we would suggest for the derogation to also refer to article 37(5), point (a), to allow the use of a non-accredited method only in an accredited laboratory.**

In addition, we would like to put forward the following aspects for your further consideration:

- In case of a litigation between a company and a third country, the analysis methods used has to be recognised and follow the official method validated by the authorities of the country. It will be impossible to judge between a result from an official method and a result from a non-official method.

- Regarding specifically the dairy products, a non-accredited laboratory might not have the appropriate method to analyse the dairy matrix. This may result in having positive results on some analyses that do not use routine methods.
- A list of official non-accredited laboratories used for official analysis has to be provided and be public. These laboratories shall be audited by the competent authorities. In case of litigation, an official accredited laboratory shall take the lead.
- From an export point of view, if a laboratory does not use the official accredited method this could prevent the issue of the sanitary certificate.

Overall, we would support that the official non-accredited laboratory could be used for analyses linked to the national control plan (and in case of litigation, the official accredited laboratory should take the lead), but all the analyses linked to export and to sanitary inspection of the plants shall be provided by the official accredited laboratory.

European Dairy Association (EDA)

www.euromilk.org/eda

eda@euromilk.org

Avenue d'Auderghem 22-28, 1040 Brussels, Belgium

@EDA_Dairy