



**EUROPEAN COMMISSION**

**MEMO**

Brussels, 29 November 2019

## **Improving market transparency in the agricultural and food supply chain**

The questions in this note can be divided into three broad types: (1) those related to the context for the legal text amendments<sup>1</sup>; (2) those related to the content of the legal text; and (3) those related to the impact of the amendments to the legal text.

### **(1) context**

#### **Why are improvements to market transparency needed?**

The EU's agri-food sector is increasingly market-oriented. Consumer demand patterns are becoming more complex over time, with consumers interested in different quality aspects that go beyond the price dimension alone (organic food, locally sourced food, etc.). The EU's agri-food sector is increasingly integrated into global markets and competing successfully in those markets (with a net trade surplus of over €20 billion). The EU is both the world's largest food exporter and food importer. This increased integration into global markets involves increased exposure to global trade risks and to variations in world prices. There are also high levels of economic concentration downstream from farming, especially in the processing and retail stages, with concerns that this puts farmers and small scale suppliers at a serious competitive disadvantage in relation to pricing.

In this economic context it is a priority for the EU to strengthen the resilience and adaptability of its agri-food sector. The agri-food sector employs about 44 million people in the EU. There are about 11 million farms in the EU and about 300,000 enterprises in the food and drink industry, mostly small and medium enterprises. These food processors sell their products through 2.8 million enterprises within the food distribution and food service industry. Within the food distribution sector there are often high levels of concentration. More than 100 retailers in the EU have an annual turnover of over €5 billion, and in many Member States there are high levels of concentration in the retail sector. Farmers and operators downstream from farming compete on the basis of their

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<sup>1</sup> Commission Implementing Regulation (EU) 2019/1746 of 1 October 2019 amending Implementing Regulation (EU) 2017/1185, [https://eur-lex.europa.eu/eli/reg\\_impl/2019/1746/oj](https://eur-lex.europa.eu/eli/reg_impl/2019/1746/oj).



ability to meet price and quality requirements. The income of these farmers and operators is also determined by the overall competitiveness of the food production system in which they operate. A key determinant of the ability to compete effectively is having access to timely and easily accessible information about market developments.

While there is currently a large amount of market information about developments in agricultural production (prices, volumes of production, stocks, etc.), there is much less market information about other key stages in the agri-food supply chain, namely those that operate between farmers and consumers, at the food processing and the retail level. This asymmetry and lack of transparency in information between farmers and their counterparts downstream in the food supply chain puts farmers at a disadvantage in the market and erodes trust. Small and medium enterprises downstream from farming are also typically in a position where they lack access to the levels of market information that their larger competitors hold. This lack of information on market developments downstream from farming has often been qualified as the 'black box' in the agri-food supply chain.

## **What is the legal and policy background to the amended legal text?**

In June 2016 the European Parliament called on *'on all stakeholders involved in food supply chain management to step up transparency in the overall food supply chain'* and *'for increased transparency and provision of information within the supply chain and for the strengthening of bodies and market information tools (...), with a view to supplying farmers and POs with accurate and timely market data'*<sup>2</sup>. This was in response to persistent complaints, from farmers in particular, that a lack of transparency was leading to their exploitation by more powerful actors in the food chain.

In December 2016 the Council of the European Union (EU) called on the Commission *'to address, in a reasonable timeframe and in a coordinated way, the issue of lack of transparency and information asymmetry in all levels of the food supply chain, where possible, including at consumers level'*. The Council also noted that *'in order to secure a better functioning food supply chain, it is crucial to reduce information asymmetry and increase market transparency, including at consumers level, in particular as regards timely information on prices or margins at every level of the food supply chain, where feasible, while minimizing administrative burden and costs'* and encouraged market observatories at the EU and national level to *'cooperate and exchange data in order to enhance market transparency and better assist farmers in making informed decisions'*<sup>3</sup>.

In 9 April 2019 the Council, Parliament and the Commission made a joint statement, stressing that *'the transparency of agricultural and food markets is a key element of a well-functioning agricultural and food supply chain, in order to better inform the choices of economic operators and public authorities as well as to facilitate the understanding of operators on market developments'*. The Council and the Parliament encouraged the Commission *'to continue its ongoing work to enhance market transparency at EU level. This may include the strengthening of the work on EU market observatories and*

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<sup>2</sup> EP, 2016, Unfair trading practices in the food supply chain, <http://europa.eu/!GG99Wn>.

<sup>3</sup> Council, 2016, Strengthening farmers' position in the food supply chain, <http://europa.eu/!Yc83tK> (pdf).



*improving the collection of statistical data necessary for the analysis of price formation mechanisms along the agricultural and food supply chain*<sup>4</sup>.

In 2016 the Commission set up the Agricultural Markets Task Force (AMTF)<sup>5</sup>, a group of twelve independent experts on agri-food markets, tasked with providing recommendations on how to enhance the position of agricultural producers in the food supply chain. The AMTF recommended the EU act to increase market transparency in the food supply chain, with the objective of fostering competition along the chain. The AMTF defined market transparency as *“the availability of relevant market information (e.g. concerning prices, weather, production, trade, consumption and stocks) for all market participants”*.

The legal basis for the amended legal text to increase market transparency is in the Common Market Organisation (CMO) Regulation<sup>6</sup>, which describes the rules for the operation of the markets in agricultural products and is a key legal act implementing the Common Agricultural Policy (CAP). The CMO Regulation includes provisions on market transparency, which provide the legal framework for the existing systems of market transparency for agricultural product markets at EU level. Article 223 of the Regulation states that the Commission may adopt the necessary measures for the communication of data by undertakings and MSs, including with the aim of improving market transparency and monitoring, analysing and managing the market in agricultural products<sup>7</sup>. A delegated<sup>8</sup> and an implementing<sup>9</sup> regulation currently determine these data communication requirements.

## **How will the amended legal text improve market transparency?**

The amended legal text will result in market information being published across several stages of the food supply chain (agricultural producer, food processor, retail sector). This will bring more light into the ‘black box’ of the food supply chain and how prices are formed as agri-food products move along the chain. The data will also help to track developments over time, and for all operators, including farmers and their producer

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<sup>4</sup> Council, 2019, Joint statement on transparency of the agricultural and food markets, <https://europa.eu/!FC36bm>.

<sup>5</sup> AMTF, 2016, Improving market outcomes, <http://europa.eu/!fQ94cP> (pdf).

<sup>6</sup> Regulation (EU) 1308/2013, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013R1308>.

<sup>7</sup> ‘For the purposes of applying this Regulation, monitoring, analysing and managing the market in agricultural products, ensuring market transparency, the proper functioning of CAP measures... the Commission may, in accordance with the procedure referred to in paragraph 2, adopt the necessary measures regarding communications to be made by undertakings, Member States and third countries... The information obtained may be transmitted or made available... subject to the protection of personal data and the legitimate interest of undertakings in the protection of their business secrets, including prices’.

<sup>8</sup> Regulation (EU) 2017/1183, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017R1183>.

<sup>9</sup> Regulation (EU) 2017/1185, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017R1185>. The implementing regulation lists in its annexes the products for which price and other information is required, including frequency of the data and other determinations. The regulation also sets out the procedure for reporting by MSs to the Commission, measures to guarantee data integrity over time, a clause on confidentiality of personal data and data aggregation to guarantee anonymity, and related provisions.



organisations, and small and medium sized enterprises, to observe market trends at the different stages in the chain and to evaluate their impact.

Buying and selling price differences can provide information about intermediary costs (such as transport, insurance, storage, etc.) between seller and buyer. There are provisions in place in the legislation for data to be collected on a consistent statistical basis that assures continuity and comparability over time. Greater transparency can support better business decisions, including better management of risk, and improve trust. The data will also give policy makers and researchers greater knowledge of developments in the 'black box', and these insights will help develop better policy in support of the market orientation of EU food supply chains in future. In addition, the amended legal text foresees a better coordination mechanism between Member States, stakeholders and the Commission that also facilitates the exchange of best practices and mutual learning.

### **How are the improvements to market transparency related to the work on unfair trading practices and producer organisations?**

The EU's policies towards the food supply chain have as a key objective to improve competitiveness. This objective applies to the chain as a whole, to its different stages and to the interaction between these stages. The Commission's work includes three main elements: tackling unfair trading practices, improving producer cooperation, and increasing market transparency. These three elements should be seen as a package where each element improves the effectiveness of the other elements. The new Directive on unfair trading practices bans certain anti-competitive behaviours by operators in the food supply chain holding bargaining power in negotiations that harm not only their counterparts but also the effective functioning of the food supply chain as a whole. The improvements to producer cooperation legislation strengthen the role of producer organisations, and allow them to become more competitive through efficiency gains and improved bargaining power. Market transparency allows all operators to have access to a minimum common level of market-relevant information, significantly reducing information asymmetries between (typically) smaller and larger operators, also contributing to more efficient production, marketing and investment decisions.

### **What other work is the Commission doing on transparency in the food supply chain?**

The Commission's work on market transparency is only one element of its wider initiative to improve the functioning of the food supply chain; the issues of unfair trading practices and producer cooperation have already been addressed in the work done by the co-legislators and the Commission over the last three years. To further increase market transparency in the food supply chain, the Commission has also established EU Market Observatories for dedicated sectors (milk; meat; sugar; cereal, oilseed and protein crops; fruit and vegetables, wine), it developed the Food Price Monitoring Tool, and it is continuously improving the reporting and presentation of the data on agricultural markets that it publishes (e.g. Agri-Food Data Portal, dashboards on animal products, plant products, and fruit and vegetables).



## **(2) amended legal text**

### **What sectors and products are covered by the improvements to market transparency and why?**

Improvements to market transparency are most needed in sectors where there is a higher degree of complexity, where production is highly asset-specific (where it is costly to start producing a different type of product), or where the baseline level of transparency is low. The Commission amended legal text therefore focuses on a few key agri-food sectors and products that are of greater priority, in particular in the dairy, meat, fruit and vegetables, sugar and olive oil sectors. The key products for which further transparency would be provided are a few agricultural products, in the sense of Annex I of the TFEU, including a small set of consumer-sensitive processed products which retain a 'high' agricultural content as they move down the food supply chain. Certain reporting thresholds can apply under the Commission's amended legal text, in most cases for Member States where the production or consumption of these key products is below 2% of the EU total (4% for organic products). These thresholds allow covering the major markets across the EU for each product within the EU's data systems, while ensuring proportionality.

### **Why are you not covering processing costs, margins, logistical costs, etc. in the data collection? Is much more data not needed to understand fully what is happening in the food supply chain?**

The amended legal text does not cover costs and margins, or other 'structural' aspects of the food supply chain. While the Commission acknowledges calls by some stakeholders to collect richer datasets, the approach being taken at this time is for a limited scope intervention focusing on price and some relevant quantity data. The Commission's analysis is that, at this stage and on balance, a more ambitious data collection programme at EU level is not justified. Prices are singular market variables, which capture broadly the developments in the market. Being able to observe price movements over time and along the food supply chain will already help market operators make better production, marketing and investment decisions. The forums for stakeholder discussion around factual data, such as the Market Observatories, will benefit from this type of information.

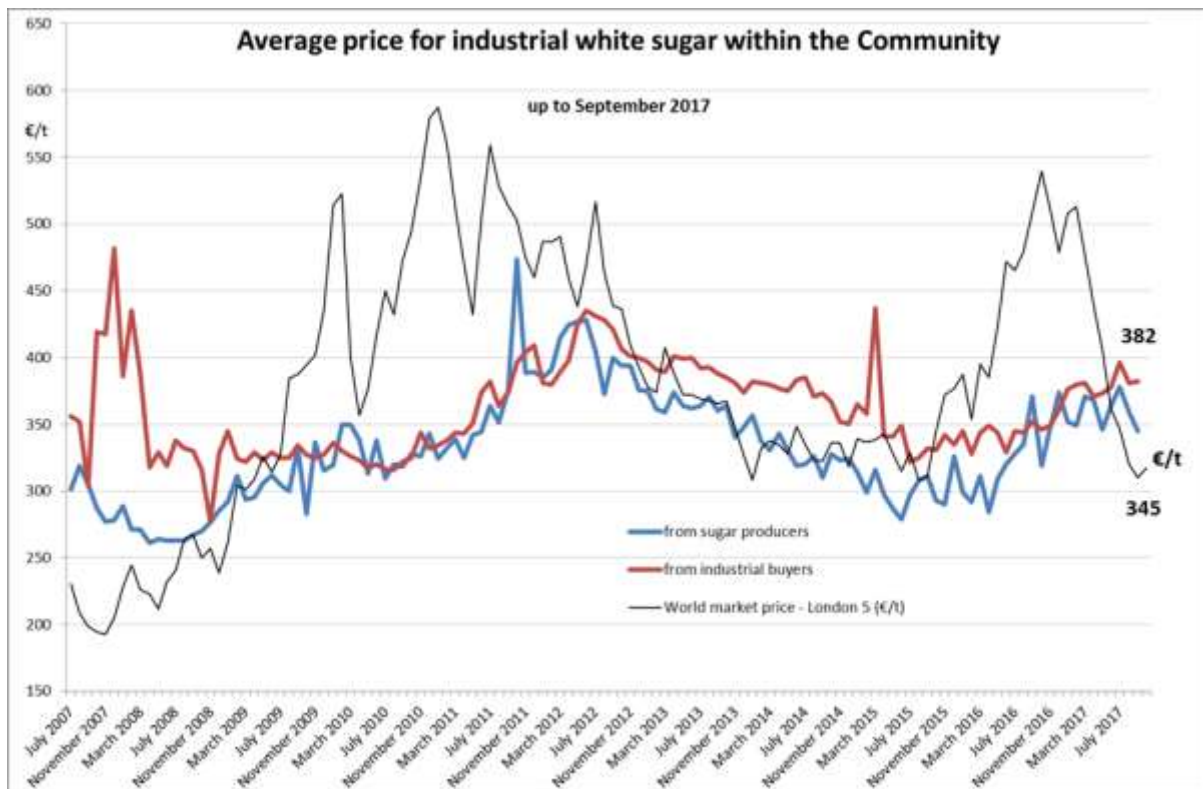
### **What is the difference between selling prices and buying prices of a product, are these not the same value?**

While not the same indicators, selling and buying prices could be seen in analogy to "free on board" (FOB) and "cost, insurance and freight" (CIF) prices in international commerce. This means buying prices are generally higher than selling prices (exceptions can be due, for example, to stock adjustments). In addition, deviations from the competitive model in the food chain can result in deviations between selling and buying prices. For an example



from the sugar sector in the EU see Figure 1. For a period both selling and buying prices for white sugar were collected and reported in the EU. At the beginning of the series the difference between selling and buying prices is significant, but there is a convergence of the prices over time, possibly due to increased transparency in the EU sugar market during this period.

Figure 1



## What are 'representative prices'?

Representative prices are prices that capture the relevant price in a market, while reducing the amount of effort needed to meet that objective. Representative prices can be contrasted with average prices. While average prices require all quantities and prices in the market to be calculated<sup>10</sup>, representative prices seek to capture market price by sampling a smaller set of the market (for example, only a few larger firms that represent most of the market). Under the amended legal text Member States continue to define what the relevant methodologies for calculating representative prices are for their specific case, as was already the case in Implementing Regulation (EU) 2017/1185 (Art. 9). These prices allow understanding the market for the underlying product, and carry information for similar products ('substitutes') both within and outside the Member State market.

<sup>10</sup> To be able to calculate the real average in the market.



**Why are retailers covered by the amended legal text, given they only sell a small share of unprocessed products? Is there a legal basis to increase transparency that far down the food supply chain?**

The food supply chain is best seen as a series of interlinked markets, and developments at different stages of the chain have effects on the other stages. About 60% of the food products sold by the retail sector are 'agricultural products', in the sense of Annex I of the Treaty on the Functioning of the European Union, which includes certain processed agricultural products. The Common Market Organisation Regulation (1308/2013) refers to communication requirements in the market for agricultural products, in which the retail sector accounts for a large amount of the trade. Accordingly, to be credible and effective, the increase in market transparency in the food supply chain needs to include a small set of buying prices of agricultural products at retail level.

**How will the amended legal text benefit smaller operators, such as farmers and SMEs? Aren't they too small to have the resources to benefit from increased information availability? Won't making prices along the food supply chain more transparent put smaller operators in a worse negotiating position?**

Smaller operators in the food supply chain, such as farmers and their producer organisations and small and medium-sized companies, have less access to information than larger companies. Larger companies can access private data sources, such as data provided by market reporting companies, and have generally a much better view of overall market developments. In markets downstream from farmers, large players know much better the general developments in buying and selling prices compared to smaller players. Where individual farmers or small companies cannot make use of the data directly themselves, producer organisations or business chambers can step in and exploit the data for them. Box 1 illustrates how smaller actors can benefit from cooperation to exploit the benefits of increased market transparency. The Commission itself continues to work to improve data communication, for example through the dashboards and the new agri-food data portal. In any negotiation, a situation where both parties are more equally informed is a situation where there is more balance in bargaining power between the parties. Larger operators should also welcome better and more transparent information as it would help address the suspicions that they profit from their greater size, resources and access to information.



### **Box 1 - Market transparency and the added value of cooperatives**

*"As minor entrepreneurs, individuals rarely know all that is going on in the market. They won't have time to keep up with market developments, or the market might literally be a long way from home. The result is that they no longer have a precise idea of what potential buyers want from them; they don't know what their product is worth, or they don't know whether the market knows what they have to offer. They must overcome these shortfalls of the market through the exchange of information from time to time, especially about prices, quality and price-quality ratios. They may also get together with others to hire specialists who can monitor the market for them and advise them on where and how to buy, sell and advertise their product. Another option for small players is to create their own individual or group market (private or public, e.g. an auction, a market, an internet site) in order to promote transparent pricing. Such a market has the added advantage of greater reach. Customers will come from farther away and larger buying or selling customers will be attracted as well".*

van Dijk G., et al. (2019) The Added Value of Cooperation. In: The Cooperative Enterprise.  
<https://doi.org/10.1007/978-3-030-16279-5>.

### **How will collecting prices on only a few products be useful, given the food supply chain is highly complex? And aren't there too many different products? How will making market information available on only a few products help operators?**

The amended legal text targets a few key products that are important for understanding the market, with a view to maintaining overall costs low while delivering information benefits to market participants and public authorities. The focus on a few products allows insights into broader developments in the food supply chain, as the products chosen are important in their sectors. The price developments of these leading products carry information for the broader market, as there is often a high degree of substitutability between different products, including across Member State borders. Information for several relevant market variables besides prices are often available from public sources and can be useful to explain price movements. The amended legal text also includes the collection of information on certain organic products, given the growing relevance of this type of product within the EU market.

### **Isn't the situation 'on the ground' between Member States too diverse to be captured at EU-level?**

There are important differences between the structure and operation of food supply chains at Member State level. The information to be collected will be published by Member State, separately, through the Commission's existing communication systems. There are already provisions in the existing legislation for Member States to communicate how they have calculated information reported to the Commission (Article 9 of Implementing Regulation (EU) 2017/1185). The amended legal text only gives a basic definition of what kind of information needs to be reported, but each Member State can then define a methodology for the data collection and to specify the products





further. While there may be differences between Member States, including between products and production systems, the agri-food products within the EU are substitutes and compete in a single internal market. Information on price developments and trends across Member State borders is already useful for market operators, even when there is currently little actual cross-border trade but there is the potential for such trade to occur (which constrains prices within Member States). There will be regular meetings with Member States and stakeholders to share best practices and develop synergies, where such coordination adds value.

### **Does the amended legal text apply to cooperatives/producer organisations?**

Yes. Cooperatives and producer organisations are treated as any other form of economic actor, such as farmers, processors, retailers or other relevant private companies, as is already the case in the existing Implementing Regulation (EU) 2017/1185. As such, both the buying and the selling prices of cooperatives are within the remit of the legal text.

### **There is already a huge amount of data available, why does the Commission not simply make better use of what exists already?**

The feedback from stakeholders and demands from Council and Parliament has confirmed that the current level of market transparency is insufficient downstream from the agricultural producer level in the EU's food supply chain (processors, retailers). Market transparency can vary between sectors, available data can be dispersed, and access to it can vary between different operators. The amended legal text therefore also aims at levelling the playing field for different operators in different sectors in different Member States. In doing so, the amended legal text is however less far-reaching than the price monitoring that is done in some Member States (France) and third countries (USA). The amended legal text strikes a balance between a more conservative approach, favoured by some stakeholders and Member States, and more ambitious models, favoured by others.

### **How can Member States best prepare for implementation?**

Implementation is the prerogative of Member States, including the definition of methodological aspects for the collection of the data. The Commission can try to assist. Article 4 of Implementing Regulation (EU) 2017/1185 sets out the minimum criteria for data sent to the Commission to be publishable. These criteria include that at least 3 operators should be covered and that no single operator can represent more than 70% of the information contained in the data. The analysis by the Commission's Joint Research Centre (JRC) shows that there is a wide scope for negligible to low cost data collection on the part of operators<sup>11</sup>. This is due, for example, to companies already having in-house market information systems (providing data into ISAMM, other public statistical purposes, to their own members, or to trade associations or (private) market data reporting companies). Taken together, these elements indicate that Member States may want to discuss with the relevant stakeholders to assess where the least cost data

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<sup>11</sup> JRC, Market transparency: Costs of external data reporting by private operators in the EU agri-food supply chain, <https://europa.eu/!xR43UC>.



collection can be made that satisfies at least the minimum requirements for data publication.

### **Can Member States use intermediaries to coordinate data collection, such as producer organisations, chambers of commerce or other business associations?**

It is possible for the collection of data to be coordinated by non-public bodies. In fact, there are already several examples of price and market information systems that are privately organised at Member State level. The Commission stresses that the way the process is organised should be transparent to market participants to ensure trust that the data is representative, that data series continuity and methodological consistency should be ensured, and that the applicable Member State competition rules should be respected, including as set out under Regulation (EU) 1308/2013.

### **What about enforcement of the regulation? What can Member State authorities do if operators refuse to provide the data?**

The already existing Implementing Regulation (EU) 2017/1185 does not include specific enforcement provisions, with Member States defining their specific rules in this area according to their specific need. The amended legal text made by the Commission maintains this approach towards enforcement. Member States are typically responsible for the enforcement of EU law, and under Article 291 of the Treaty on the Functioning of the European Union should take those measures necessary for the effective implementation of that law. The Commission remains available to assist Member States in implementing EU law, where useful.

### **What if there are only one or two large operators in the market that represent most of the market? Would it not be impossible under Implementing Regulation (EU) 2017/1185 rules to publish representative market data?**

Implementing Regulation (EU) 2017/1185 sets out the conditions under which data can be made public, in Article 4 ('Protection of personal data'). In Article 4 (3) two conditions are set out: 1 - that the data is obtained from at least 3 operators; 2 - that no single operator accounts for more than 70% of the information notified. In addition, Article 4 (4) states that the Commission shall not publish data that can lead to the identification of an individual operator. These rules ensure that data will only be published when confidentiality is maintained. Note that publication of the data is a separate issue to data collection and transmission to the Commission. The data required should be transmitted to the Commission, even where it does not meet the criteria for publication. These data can be used for the objectives set out in Article 223 of Regulation (EU) 1308/2013 that do not require publication.

### **How were stakeholders in the food supply chain involved in the making of the Commission's proposal?**

After an open public consultation in 2017 on the initiative to improve the food supply chain (including market transparency), specific questionnaires on market transparency



were addressed to stakeholders, consumers and Member States in 2018. In parallel, stakeholders were involved in the shaping of the proposal all along the process through their participation in dedicated events: an initial technical workshop with academics and other experts was organised by the Commission on the scope and nature of possible EU action to improve market transparency<sup>12</sup>. In a subsequent meeting, civil dialogue groups and Member States jointly discussed the strengths and weaknesses of the current system and possible improvements<sup>13</sup>. Finally, in February 2019, aiming at gathering feedback before taking further action, the Commission presented its draft economic analysis on market transparency to stakeholder organisations in a dedicated conference. Besides, throughout 2018 and 2019, the Commission has replied positively to about a dozen bilateral meeting and presentation requests from stakeholder organisations, and engaged with stakeholders in several civil dialogue groups. The feedback obtained through these various efforts was taken into account in the efforts to achieve a well-balanced proposal. The appendix offers an overview of the key consultation process results.

### **(3) impact**

#### **What costs will the new market transparency measures impose on economic operators? And on public administrations?**

The new market transparency measures build very substantially on existing data collection efforts, i.e. systems and procedures are already in place and used by operators and Member States to report market information to the Commission. The amended legal text only expands these data collection efforts and therefore the economic burden imposed on operators and public administrations will be marginal. Moreover, the amended legal text does not require Member States to report new average prices (which would require data collection from all operators), but to report representative prices (which can be calculated based on data from selected operators only). Defining the methodology for collecting and calculating the necessary data will be left to Member States, so they can take into account the particularities of their national sectors.

However, the Commission recommends that Member States choose the most cost-effective approach and do not target small and medium-sized enterprises. Furthermore, taking on board the comments and suggestions received from stakeholders, the Commission would only collect data from Member States whose production of a given product is above 2% of overall EU production or consumption. This reduces in particular the reporting burden for smaller Member States. Finally, the Commission followed good

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<sup>12</sup> [https://ec.europa.eu/info/events/market-transparency-2018-may-30\\_en](https://ec.europa.eu/info/events/market-transparency-2018-may-30_en);  
[http://publications.jrc.ec.europa.eu/repository/bitstream/JRC113150/utp\\_market\\_transparency.pdf](http://publications.jrc.ec.europa.eu/repository/bitstream/JRC113150/utp_market_transparency.pdf).

<sup>13</sup> [https://ec.europa.eu/info/events/market-transparency-food-supply-chain-2018-sep-11\\_en](https://ec.europa.eu/info/events/market-transparency-food-supply-chain-2018-sep-11_en);  
[https://ec.europa.eu/agriculture/civil-dialogue-groups/cap\\_en](https://ec.europa.eu/agriculture/civil-dialogue-groups/cap_en).



administrative practice and applied the standard cost model for estimating costs. The corresponding calculations are, amongst others, based on data from dedicated studies carried out by the European Commission's JRC. The estimates, presented in table 1, show that the expected additional costs – in terms of setup and of running costs and for both operators and public administrations – are indeed small<sup>14</sup>.

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<sup>14</sup> The JRC study on costs to operators in the agri-food supply chain was used to estimate the administrative burden to operators of the preferred option. The JRC used both an online survey and structured interviews to elicit estimated (additional) set-up costs of reporting to a third party as well as (additional) annual running costs for given cost ranges. MSs should aim at cost-effectiveness when defining their methodology, in their sampling strategy MSs could focus on operators whose reporting costs are below average costs. Given that the initiative to increase market transparency in the food supply chain will simply expand the range of market data that are already collected under Implementing Regulation (EU) 2017/1185, which is implemented through the Commission's ISAMM that MSs already use, no significant additional set-up or running costs are expected for MSs.



**Table 1 - Estimated costs to operators and Member States**

Amendment of Implementing Regulation (EU) 2017/1185 to improve market transparency in the food supply chain				Tariff (€/h)	Time (min.)	Price (per action)	Frequency (per year)	Entities (no.)	Actions (total no.)	Total Administrative Costs
No.	Type of obligation	Description of required actions	Target group							
1	Notification of (specific) activities or events	Producing new data	MSs	23	1,316	416	0.05	27	1	562
2	Certification of products or processes	Inspecting and checking (incl. assistance to inspections)	MSs	23	164	52	52	27	1,404	73,030
3	Submission of (recurring) reports	Submitting the information (sending it to designated recipients)	MSs	23	27	9	52	27	1,404	12,172
4	Submission of (recurring) reports	Retrieving relevant information from existing data	MSs	23	82	26	52	27	1,404	36,515
5	Cooperation with audits & inspections	Holding meetings	MSs	23	960	371	2	27	54	20,057
6	Submission of (recurring) reports	Familiarising with the information obligation	MSs	23	240	93	0.5	27	14	1,254
7	Non labelling information for third parties	Buying (IT) equipment & supplies	Operators			20,516	0.05	270	13	276,689
8	Non labelling information for third parties	Submitting the information (sending it to designated recipients)	Operators			254	52	270	14,026	3,562,594
<b>Total administrative costs (€)</b>										<b>3,982,872</b>



## **Can you give more detail on operator costs?**

There may be costs associated with increased market transparency for those having to report data to public authorities. Variables affecting operator costs include whether the operator already has a data gathering system in place (for own use or for reporting to third-parties, including public authorities or private market data reporting agencies); if the system exists, whether it can be easily adapted to new reporting obligations; what are the one-off capital and human resource costs of adapting the system or putting a new system in place; and what are the running costs of operating such a system.

A study by the JRC analyses the implications in terms of costs to operators from increased market transparency within the food supply chain<sup>15</sup>. The study is based both on an online questionnaire and on structured interviews with stakeholders in the food supply chain that have expertise in data collection and reporting, both for internal company use and to report to third parties. Respondents were asked about both set-up costs and running costs for a market data reporting system. Respondents were private companies and associations representing these companies. Overall, 73% and 53% of the respondents report negligible costs or costs below EUR 10,000 for set-up and running costs, respectively (excluding respondents that did not provide or did not know the costs).

## **Isn't this an increase in red tape for the food supply chain sector? How can this initiative fit with the overall concept of better regulation?**

The JRC study shows that for a significant share of FSC operators it is possible to report data to a third party for a negligible to low cost. Combined with the requirement to report only representative prices, and not average prices, the empirical issue is to identify those operators that can report data at a negligible to low cost for each product or sector. Costs are lower where data collection systems for own company use or to report to a third party are already in place. Typically, larger operators are those that have such systems in place, which offers guarantees in relation to having to gather data from smaller operators. In addition, the 2% threshold (4% for organics) of EU production or utilisation ensures proportionality, as smaller producing or using Member States would be exempt from reporting requirements, while the system overall would still offer EU-wide benefits.

## **What kind of impact assessment was conducted?**

Proposals that have a limited and targeted scope with no expected significant economic, environmental or social impacts require only a limited assessment according to the better regulation guidelines, following the principle of proportionality. The Commission nevertheless conducted an extensive and comprehensive analysis, including an assessment of costs and reflecting the stakeholder consultation that prepared and preceded the proposal by the Commission (see the Appendix for an overview of

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<sup>15</sup> Forthcoming, to be published by the JRC (also available in draft final form as an annex to the draft analytical report shared on CircaBC).



stakeholder consultation results). This analysis has been published as a staff working document<sup>16</sup>.

### **What effects are the new measures expected to have on competition in the food supply chain, given the often high level of concentration downstream from farmers?**

During the Commission's stakeholder consultation the issue of the impact of increased market transparency has repeatedly come to the fore. However, while in structurally imbalanced markets there can be a risk that more transparency facilitates collusion, this is only the case if the reported market information can be attributed to individual operators. Once the information is aggregated and published with a sufficient delay, the risk of collusion is addressed. In fact, as the Commission already collects market information, this issue is not new and it is covered by Article 4 of Implementing Regulation (EU) 2017/1185 on the protection of personal data and ensures its confidentiality, as well as in Article 224 of the basic act Regulation (EU) No 1308/2013 on the processing and protection of personal data. On the other hand, increased market transparency can help shed light on markets with underlying competition issues that can then be addressed by the competent authorities.

### **How will an increase in transparency in the EU's food supply chain affect the competitiveness of the EU vis-a-vis third country competitors?**

Third country large competitors mostly already have the information targeted for public disclosure, which can be sourced, at a price, from companies specialising in reporting market data and providing market analysis. Smaller operators in the EU, such as farmers and their producer organisations and small and medium enterprises, often do not have the resources to access such privately-held data. Making publicly available more data on market developments will put smaller EU producers on a better footing to compete effectively, including with third country competitors.

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<sup>16</sup> Commission Staff Working Document - Market Transparency in The EU's Food Supply Chain, <https://eur-lex.europa.eu/legal-content/it/TXT/?uri=CELEX:52019SC0360>.



## Appendix – overview of consultation process results

### **Specific questionnaire to Member States - Key results**

- 20 MSs replied to the specific questionnaire (for a total of 21 respondents – two authorities from one MS answered<sup>17</sup>).
- 95% of respondents state that market transparency is necessary for competition (to a large or some extent).
- 77% of respondents believe that the current level of market transparency has a negative impact on the food supply chain (to a large or to some extent).
- 90% of respondents consider that if the current level of market transparency is inadequate, this should be addressed.
- 95% of respondents consider that increased market transparency would benefit producers or producer organisations, 52% the manufacturing sector, and 48% public authorities.
- As main risks of providing a higher level of market transparency, respondents mention reporting costs to operators (57%) and confidentiality (43%). 33% of respondents say there are no significant risks.

### **Specific questionnaire to undertakings - Key results**

- 55 responses were obtained from various stages of the food supply chain: agriculture (22), food processing (18), wholesale (7), retail (3), other (3), other primary production (2).
- 98% of **respondents** state that market transparency is necessary for competition in the food supply chain to a large or to some extent.
- 73% of **respondents** state that the current level of market transparency has a negative impact in their sector.
- 63% of **respondents** say if the current level of market transparency is inadequate this should be addressed. This is 96% for the **agricultural sector** and 32% for the **processing sector**.
- Most respondents that believe that the current level of market transparency is not inadequate are from the **food processing** stage (78%). These are all trade, professional or business organisations.
- 71% of **respondents** that would like to see an increase in market transparency would like the EU to address this.
- Note that the figures reported exclude respondents not answering the question or stating they have no opinion.

### **Specific questionnaire to consumers - Key results**

- There were 3 responses to the consumer questionnaire, all from national consumer organisations (Spain, Greece, and Slovenia).
- All respondents believe that market transparency is necessary for competition to a large extent.

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<sup>17</sup> The specific department of the MS responsible for sending the answer to the questionnaire was left for the MS to decide.





- All respondents consider the current level of market transparency in the food supply chain to be an issue for consumers.
- All respondents consider that if the current level of market transparency is inadequate, this should be addressed.

## **Workshops**

During the evidence-gathering stages of the work on market transparency, the Commission organised two workshops that provided useful information for its analysis. The following links provide further information on each of these workshops:

- **Joint JRC / AGRI Experts Workshop (30-31 May 2018)**

This workshop gathered experts from academia, from national and international public organisations, and from stakeholder organisations to discuss the multiple aspects of market transparency in the food supply chain, from a technical perspective.

- Workshop webpage (including presentation slides):

[https://ec.europa.eu/info/events/market-transparency-2018-may-30\\_en](https://ec.europa.eu/info/events/market-transparency-2018-may-30_en)

- Presentations (webstream):

Day 1: <https://webcast.ec.europa.eu/workshop-on-market-transparency-30th-of-may-2018>

Day 2: <https://webcast.ec.europa.eu/workshop-on-market-transparency-31st-of-may-2018>

- Workshop report (by Professor Claude Ménard, Paris I: Panthéon-Sorbonne)  
[http://publications.jrc.ec.europa.eu/repository/bitstream/JRC113150/utp\\_market\\_transparency.pdf](http://publications.jrc.ec.europa.eu/repository/bitstream/JRC113150/utp_market_transparency.pdf)

- **Joint Expert Group for Horizontal Questions Concerning the CAP and Civil Dialogue Group CAP Workshop (11 September 2018)**

During the workshop, delegates discussed the strengths and weaknesses of the current system of market transparency and considered which improvements were needed along the sectoral food chains.

- Workshop webpage (including presentation slides):

[https://ec.europa.eu/info/events/market-transparency-food-supply-chain-2018-sep-11\\_en](https://ec.europa.eu/info/events/market-transparency-food-supply-chain-2018-sep-11_en)

- Agenda, documents, and minutes (11/09/2018)

[https://ec.europa.eu/agriculture/civil-dialogue-groups/cap\\_en](https://ec.europa.eu/agriculture/civil-dialogue-groups/cap_en)



## **Open public consultation**

The open public consultation ran for three months, between 25 August and 17 November 2017, and attracted a total of 1,432 responses (56% by individuals - 803 responses - and 44% by organisations - 628 responses). 71% of individuals stated they were involved in farming (570 responses), and 29% that they were not (233 responses). Organisations' contributions were mainly by private companies (38% of organisations' responses), business and professional associations (31%), and NGOs (20%). In terms of sector of activity, the organisation responses were from agricultural producers (53% of organisations' responses); the agro-food sector (22%); the trade sector (7%); civil society organisations (7%); the retail sector (4%); research organisations (1%); and 'other' (6%).

The 'private company' group can be further broken down by company size, (number of employees). Small and medium enterprises (SMEs) were 81% of private company responses). Large enterprises (those with more than 250 employees) were 19% of all private company contributions.

In terms of Member State of origin the highest participation came from Germany (29% of total), Austria (14%), France and Spain (7%). The lowest from Croatia, Luxembourg, and Cyprus (1 contribution each).

77% of respondents agreed or partially agreed that collecting and publishing information on agricultural markets at EU level brings **added value**, compared to what the national public or private systems of information collect and publish. These results were broadly similar for all stakeholder groups (78% of individuals and 74% of companies agreed or partly disagreed), with a significantly lower score in the retail sector (40% agreed or partially agreed, 36% disagreed or partially disagreed, 24% having no opinion) and among large companies<sup>18</sup> (40% agreed or partially agreed, another 40% disagreed or partially disagreed, 20% having no opinion).

On the question of **why an EU market transparency tool would be useful**<sup>19</sup>, respondents mainly considered that it would: 1) ensure greater compatibility of information on markets throughout the EU (data standardisation) (707 mentions); 2) offer more complete information on markets throughout the EU (701); 3) increase the accuracy of information on EU markets (598 mentions); 4) offer more timely and regular information to operators (568); and 5) allow data access through a single point (454).

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<sup>18</sup> Companies are divided by size in the open public consultation: small (less than 50 employees), medium (between 50 and 250 employees) and large (more than 250 employees). 45 large companies answered the open public consultation. 51% of large companies in the consultation were in the agro-food sector, 20% in trade, 18% in retail, 2% in agriculture, and 9% in 'other'. Note there is an overlap between the retailer and large company groups.

<sup>19</sup> Multiple answer question. The numbers refer to the most frequently cited reasons. Only respondents who agreed or partially agreed that collecting and publishing information on agricultural markets at EU level brings added value answered this question.



When asking the question of **why EU market transparency arrangements would not be useful**<sup>20</sup>, the main reasons given were 1) the inability to give accurate data as a consequence of agro-food products not being standard enough across the EU to be comparable (148 mentions); 2) the potential risk of providing competitors with too much information, which could lead to uniform and higher prices for the next level in the supply chain and for consumers (95); 3) the fact that such arrangements are not cost-effective as they would create an extra burden on stakeholders supplying the data (89); and 5) that smaller stakeholders are not using them as part of their daily work (65).

72% of the respondents agreed or partly agreed that **further EU market transparency arrangements complementing the existing ones would be useful**. There is no significant difference between companies and individuals overall, and no difference between individuals involved in farming or not. By key sector, the results vary from 79% (Agriculture), to 64% (Agro-Food), to 28% (Retail). Only 29% of large enterprises agreed or partly agreed.

Participants in the survey that agree or partly agree that further EU market transparency arrangements complementing the existing ones would be useful were also asked whether they would consider it expedient to introduce measures at EU level to **increase market transparency for different stages of the food supply chain**. While the number of respondents agreeing or partially agreeing was similarly high for all the indicated stages of the food supply chain (ranging between 93% and 86%), the food processing stage scores highest (i.e. 93%) and also finds the highest consensus among all sectors and enterprise sizes. There was no significant difference in the assessment between companies and individuals (and for individuals be they involved in farming or not).

The **sectors considered as being most prone to benefit from new measures** enhancing market transparency were meat (820 mentions), dairy (778), fruits and vegetables (705), arable crops (605), wine (314), olive oil (289) and other sectors (129). The assessment, be it made by individuals (involved in farming or not) or organisations of all types is largely similar. No significant divergence existed in terms of company size.

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<sup>20</sup> Only respondents who disagreed or partially disagreed that further EU market transparency arrangements complementing the existing ones would be useful answered this question.