



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

The Director-General

Brussels,  
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Dear Mr Abate,

Thank you for your note of 9 October 2017 (your reference: note n.0072969) regarding the labelling of organic branded products. Please accept my apologies for the late reply.

In the above mentioned note, you explain that Italy has an issue in relation to the interpretation of Article 24(1)(a) of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products<sup>1</sup> concerning the indication of the Control Body's code number in the labelling of an organic product in the case where the same labelling includes the private brand of a distributor entrusting the labelling activity to another operator.

You therefore inform the Commission authorities about the intention of the Italian authorities to consider distributors entrusting the labelling activity to other operators as operators involved in the preparation of organic products and, as a consequence, to allow the use of the code number of the control body or control authority of such distributors in the labelling of organic products unless the Commission services take a different position on this issue.

This labelling issue was addressed by the Commission in an Interpretative Note (*RIPAC note n° 2012-01 rev*) and discussed at the last Committee on Organic Production on 1<sup>st</sup> December 2017.

Article 28(1) of Regulation (EC) No 834/2007 provides that: "*Any operator who produces, prepares, [...] or who places such products on the market shall, prior to placing on the market of any products as organic [...] (a) notify his activity to the competent authorities of the Member State where the activity is carried out; (b) submit his undertaking to the control system [...].*" The third subparagraph of the same Article states that "*where an operator contracts out any of the activities to a third party, that operator shall nonetheless be subject to the requirements referred to in points (a) and (b), and the subcontracted activities shall be subject to the control system*".

<sup>1</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1513071047424&uri=CELEX:02007R0834-20130701>

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Article 28(2) of that Regulation provides that: "*Member States may exempt from the application of this Article operators who sell products directly to the final consumer or user provided they do not produce, prepare, store other than in connection with the point of sale or import such products from a third country or have not contracted out such activities to a third party.*"

Thus firstly, according to the above provisions and taking into account the interpretation given by the Court of Justice in the case C-289/16<sup>2</sup> of the exemption above, a distributor of its own branded products who contracts out to various suppliers the processing, preparation and labelling of such branded products is subject to the control system and thus has to submit its undertaking to the organic control system.

Article 24(1)(a) of Regulation (EC) No 834/2007 states that it is compulsory to indicate "*the code number of the control body/control authority to which the operator who has carried out the most recent production or preparation operation is subject.*"

Article 2(i) of Regulation (EC) No 834/2007 defines "preparation' as *the operations of preserving and/or processing of organic products, including slaughter and cutting for livestock products, and also packaging, labelling and/or alterations made to the labelling concerning the organic production method.*"

The purpose of this compulsory indication is that consumers, operators and competent authorities are able to directly identify by which control body/control authority the last step in the production chain has been controlled or certified. A distributor of its own branded products who contracts out to various suppliers the processing, preparation and labelling of such branded products does not carry out per se any production or preparation activities within the meaning of Article 24(1) of Regulation (EC) No 834/2007. Therefore, the Commission reaffirms its position set out in the *RIPAC note n° 2012-01 rev* that using the control authority's or control body's code number of a distributor on its own branded products in the case where such distributor entrusts the labelling activity to other operators is not in line with Article 24(1) of Regulation (EC) No 834/2007.

In your note, you also inform the Commission of your intention to set out rules at national level requiring in the labelling of organic products to include, in addition to the control body's code number of the operator who has last carried out the most recent production or preparation, the control body's code number of the distributor.

In this regard, it is relevant to point out that Article 24 of Regulation (EC) No 834/2007 sets out rules on compulsory indications on organic products. Only the code number of the control authority or body to which the operator who has carried out the most recent production or preparation is subject must appear in the label. Other compulsory indications would not be in line with the referred provision. However, the referred provision does not contain rules on additional information that is provided by operators on a voluntary basis. All voluntary food information is subject to the requirements of the FIC Regulation and notably to its Chapter V related to voluntary food information. In particular, food information provided on a voluntary basis shall not mislead the consumer and shall not be ambiguous or confusing for the consumer.

Under these conditions, it is therefore possible to add to the compulsory information required under Article 24 of Regulation (EC) No 834/2007 other information on the

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<sup>2</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1513071139785&uri=CELEX:62016CA0289>

labelling on a voluntary basis, including information about the control authority's or control body's code number of another stage of production or preparation than the most recent production or preparation operation. However, this information should be voluntary for operators and the labelling has to make it clear to the consumer that the additional code number refers to a different stage of production or preparation than the one indicated according to Article 24.

The present opinion is provided on the basis of the facts as set out in your note of 9<sup>th</sup> October 2017 and expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union.

Yours sincerely,



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