



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
JOINT RESEARCH CENTRE

Framework for selecting and testing of food products to assess quality related characteristics:

EU harmonised testing methodology

*Developed in close collaboration with Experts from Member States' Competent Authorities
and Stakeholders of the Food Chain*

25 April 2018

Summary

This report describes a harmonised framework for selecting, sampling and testing of foods to assess their quality related characteristics. It shall be used by competent enforcement authorities in the EU Member States to perform market tests involving product comparisons across different regions and countries to assess on a case-by-case basis whether marketing practices related to differentiated products of a particular food business operator might amount to unfair commercial practices.

This EU harmonised framework forms part of the European Commission's 'New Deal for Consumers Initiative' adopted on 11 April which aims inter alia at ensuring equal treatment of consumers in the Single Market.¹

The methodology described in this report is part of a suite of measures deployed by the European Commission to tackle the issue of perceived quality differences of products offered under the same brand and packaging in several EU Member States. It was requested by the President of the European Commission to improve food product comparative tests so that Member States can discuss this issue on a sound and shared scientific basis that is similarly applicable to all. It aims to allow competent authorities to base their eventual enforcement actions on authoritative evidence.

The EU harmonised testing methodology was developed by the Directorate-General Joint Research Centre (DG JRC) of the European Commission in close co-operation with EU Member States' competent authorities, consumer organisations, various other stakeholders of the food supply chain and relevant Commission services.

The EU harmonised testing methodology builds on general principles to ensure transparency, comparability, inclusiveness, and fairness vis-à-vis all food chain stakeholders, including consumers. Furthermore, a number of key recommendations for the selection of products, sampling, testing (including sensorial aspects) and data interpretation shall be respected in the design of comparative testing campaigns to assess branded food products offered on several markets in the EU.

The correct implementation of this harmonised framework will provide the required evidence for consumer protection authorities to decide, on a case-by-case basis, whether the provisions of the Unfair Commercial Practice Directive (Directive 2005/29/EC) or relevant food laws are or have been infringed.

This framework will also be used for the execution of an EU wide testing campaign in 2018, overseen by DG JRC, to create the evidence to what extent differences in composition and sensory properties of branded foods (including private labels) exist in the Member States and how significant those differences are. The results generated will lead to a better understanding of what constitutes a significant difference of product characteristics, so that authorities in the EU Member States can enforce consumer protection legislation in a consistent manner.

¹ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE A New Deal for Consumers, COM/2018/0183 final. This harmonised framework is referred to in Recital (42) of the Commission proposal 2018/0090 (COD) to amend inter alia Directive 2005/29/EC on Unfair Commercial practices.

Scope

The EU harmonised methodology for assessing quality related characteristics of branded foods, including private labels, describes general principles to ensure transparency, comparability, inclusiveness, and fairness vis-à-vis all food chain stakeholders, including consumer organisations. It further lists a number of key recommendations for the selection of products, their sampling and testing (including sensorial aspects) and data interpretation.

It shall be used in the design of comparative testing campaigns to assess the composition and sensory properties of branded food products offered within the European Union.

Background and context

The topic and technical aspects related to the phenomenon of the so-called 'dual quality of foodstuffs' were raised in the Agriculture and Fisheries Council (AGRIFISH) meeting on 6 March 2017 by the Slovak, Czech and Hungarian delegations. They presented to the Ministers the outcome of the comparative tests of selected food products offered under the same brand and packaging on their domestic markets and the neighbouring EU Member States². Differences in composition as well as in sensory properties (taste, aroma) were observed for a significant number of products tested. However, it was stressed that the EU legal requirements for food safety and product labelling were respected for all the products tested.

In response, the European Commission invited EU Member States to report similar incidences through its Consumer Protection Cooperation network. In addition, the issue was brought to the attention of the High-Level Forum for a better functioning food supply chain (HLF) asking for support in this matter. This Commission initiative was welcomed by the European Council on 9 March 2017³.

Subsequently, the information and evidence provided in the meantime by the Member States were discussed at the Sherpa HLF meeting on 20 June 2017. The Commission had received replies from 21 Member States. The data provided by the Czech Republic, Hungary, Slovakia and Croatia highlighted differences in composition and/or sensory properties of a number of products obtained on their territory in comparison to neighbouring Member States. Consequently, at this Sherpa meeting, stakeholders identified the need for a harmonised approach to assess quality attributes of food and further testing of food products in ideally a representative number of Member States to gain evidence on such differences. This robust evidence would then allow framing the dimension of the problem and inform options for solving it.

On 13 September 2017, in his State of the Union Address, European Commission President Juncker referred to the dual quality of product issue and stressed that in a Union of Equal Citizens, it is not acceptable that *'in some parts of Europe, people are sold food of lower quality than in other countries, despite the packaging and branding being identical'*. The President moreover announced

² <http://www.consilium.europa.eu/media/22346/st07015en17.pdf>

³ <http://www.consilium.europa.eu/media/24113/09-conclusions-pec.pdf>

that the Commission will take the necessary steps to 'cut out any illegal practices wherever they exist'⁴. Among the measures adopted⁵ are:

- a Commission's guidance for national consumer protection authorities on the application of EU food and consumer protection law to issues of dual quality of products;
- a proposal for the amendment of the Unfair Commercial Practices Directive (UCPD) made under the New Deal for Consumers initiative to bring more legal certainty when assessing differentiated products⁶;
- a mandate given to the DG Joint Research Centre for developing a methodology to improve food product comparative tests so that Member States can discuss this issue on a sound and shared scientific basis that is the same for all⁷.

Comparative studies carried out by Member States in 2016/2017

Studies in some EU Member States have pointed towards differences in quality related characteristics (such as composition and sensory properties) of branded foods. However, because of the different approaches used for collecting samples, testing and data interpretation, the data are not fully comparable. Most of the studies have compared branded and private label products taken from the domestic market to their equivalents purchased mostly in one neighbouring EU Member State (Table 1).

	Year of testing	Number of products	Number of reported product differences
Bulgaria	2017	30	19 (63%)
Croatia	2017	21	13 (62%)
Czech Republic	2017	42	32 (76%)
	2015	23	8 (35%)
Hungary	2017	74	49 (66%)
	2017	31	11 (35%)
Lithuania	2017	33	23 (70%)
Romania	2017	29	9 (31 %)
Slovakia	2017	33	27 (82%)
	2016	22	13 (59%)
Slovenia	2017	32	14 (44%)

Table 1: Results of comparative tests to assess quality characteristics carried out in several EU Member States. Member States have used different ways of categorising differences; therefore, the total number of reported differences is given.

⁴ https://ec.europa.eu/commission/sites/beta-political/files/dual-food_en.pdf

⁵ http://europa.eu/rapid/press-release_IP-17-3403_en.htm

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018PC0185&from=EN>

⁷ http://europa.eu/rapid/press-release_IP-17-3403_en.htm

Comparisons between products were made based on the nutrition declaration and the list of ingredients, which are mandatory elements of the EU Food Information to Consumers legislation⁸, and sensory testing. Some studies used further physico-chemical analyses to substantiate the differences. When differences were found they were either due to the use of different ingredients, or different proportions of the same ingredients, or differences in sensory properties of the compared foods. In all the studies, the differences referred either to the composition or the sensory properties of the compared foods, but none explicitly graded the quality of the assessed foods. In this respect it should be stressed that food quality as such is not easy to describe, test or assess.

A wide range of branded and private label food products were tested including alcoholic and non-alcoholic beverages, fresh/frozen/canned food preparations, dairy products, confectionery, fine bakery ware, baby food, coffee, fats and oils, and spices and condiments. With few exceptions, the nutrition declaration agreed with the results of the laboratory tests and the food products investigated conformed to EU labelling requirements.

Dimension of food quality

The notion of food quality rests on a complex and multi-dimensional concept which is influenced by a wide range of situational and contextual factors. The characteristics contributing to food quality are depicted in Figure 1.



Figure 1: Aspects of food quality

⁸ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers

The 24th Food and Agricultural Organisation of the United Nations (FAO) Regional Conference for Europe attempted to extend the general definition of quality, which can be found in standards of the International Standardization Organization (ISO), to food quality⁹:

1. Historically, quality has been primarily understood as the absence of a defect, fraud and adulteration.
2. More recently, quality rests on expected properties such as organoleptic and nutritional characteristics or resulting benefits. This introduces the need to take the legitimate expectations of users into account and to request operators to do likewise.
3. Finally, quality designates desirable characteristics likely to justify added value; for example, forms of production (organic farming, environmental consideration, and animal welfare), production areas (designation of origin) and their associated traditions.

Food quality has an objective dimension, which is the measurable physico-chemical characteristic inherent to a food product, and a subjective dimension framed by consumer expectations, perceptions, and acceptance ('fitness for consumption') (Figure 2).



Figure 2: Dimensions of food quality

Consumer expectations are based on quality cues (information stimuli) that are either intrinsic (e.g. inferring the ripeness of fruit from its colour) or extrinsic to the product (e.g. advertising, brand image). The better the match between the expectations consumers have before purchasing (expected quality) and the experience they obtain in using the products (experienced quality), the higher the level of consumer satisfaction. It has been demonstrated that positive experience with a

⁹ Food safety and quality in Europe: aspects concerning in particular quality, nutritional balance, the importance of agricultural land and cultural heritage ("terroirs"). Twenty-fourth FAO Regional Conference for Europe, Montpellier, France, 5-7 May 2004 (<http://www.fao.org/docrep/MEETING/007/J1875e.HTM>)

brand reduces the risk of dissatisfaction and is frequently used to infer quality of the product¹⁰. Consequently, consumers often rely on well-known brand names as quality indicators¹¹.

Research has shown that consumers regard the taste and other sensory characteristics of food, health, convenience and the production process (e.g. organic, animal welfare, etc.) as the most important determinants of food quality¹². In this respect, sensory properties (taste, aroma, etc.) were rated by 96% of 30.000 respondents in a German survey as the dominating dimension of food quality, followed by 'safety' (93%); 'freshness' and 'appealing appearance' were ranked third (92%) and fourth (87%) places respectively¹³.

The 'Special Eurobarometer 389' report of 2012 showed that food quality, price and origin matter to the majority of EU citizens, but attitudes to brands can vary significantly. Furthermore, the report states that 'opinions on the importance of brands vary more widely between Member States than in the case of quality price and origin'¹⁴. The results are summarised in Figure 3.

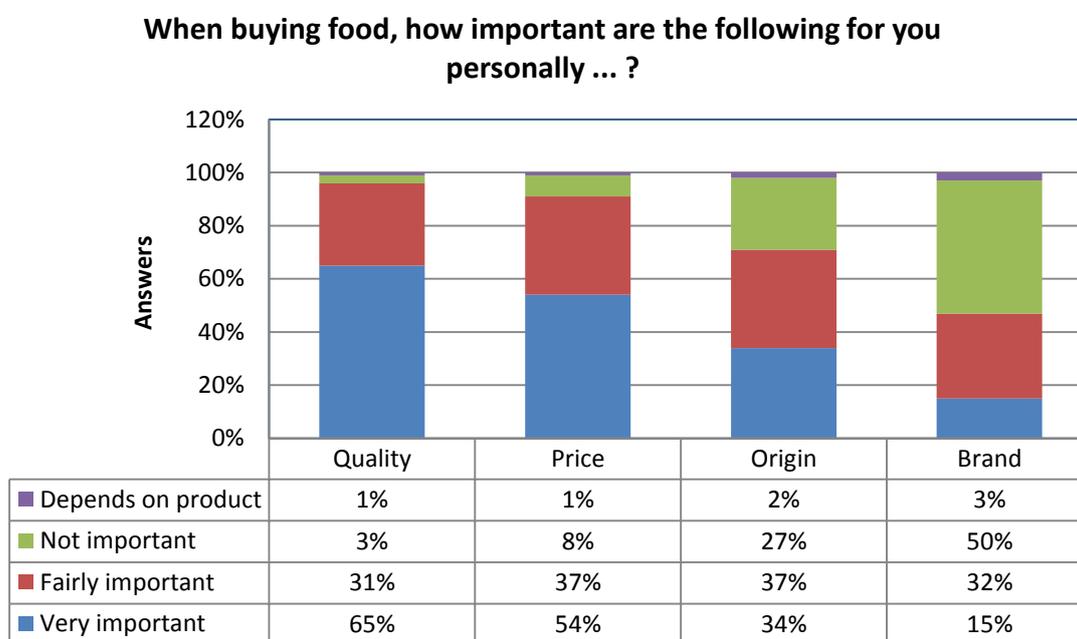


Figure 3: Consumer priorities when buying foods (based on data taken from Special Eurobarometer 389)

Food quality was rated the most important buying motive (96%), followed by price (91%). Interestingly, brand information is clearly less important for those purchasing food; 50% of EU citizens see this information as unimportant.

¹⁰ Klaus G. Grunert (2005) Food quality and safety: consumer perception and demand. *European Review of Agricultural Economics*. 32:369-391

¹¹ Vranešević T., Stančec, R. (2003) The effect of brand on perceived quality of food products. *British Food Journal* 195: 811-825

¹² Brunso K., Ahle Fjord T., Grunert K.G. (2002) Consumers' food choice and quality perception. The Aarhus School of Business, Working paper no 77, ISSN 0907 2101

¹³ Consumers' Choice '11. GfK Panel Services Deutschland und Bundesvereinigung der Deutschen Ernährungsindustrie e.V. <https://www.bve-online.de/presse/infothek/publikationen-jahresbericht/consumers-choice2011>

¹⁴ Special Eurobarometer 389: Europeans' attitudes towards food security, food quality and the countryside (2012) http://ec.europa.eu/commfrontoffice/publicopinion/archives/ebs/ebs_389_en.pdf

Relevant EU legislation

All food placed on the EU market has to comply with strict safety regulations¹⁵ and consumers must be informed about its key characteristics⁷. In addition, the EU Directive on Unfair Commercial Practices (UCPD)¹⁶ shall prevent consumers from being misled into believing that a product is identical to the same product marketed in several other Member States while those products have a significantly different composition or characteristics¹⁷. The European Commission issued a Notice to the UCPD to facilitate its interpretation and application for the assessment of quality differences between branded and private labelled foods placed on different markets¹⁸.

It states that *'marketing goods with the same packaging and branding but with different composition and sensory profile could be contrary to the UCPD if it can be demonstrated, on a case-by-case basis, that:*

- *consumers have legitimate specific expectations from a product compared to a "product of reference" and the product significantly deviates from these expectations;*
- *the trader omits or fails to convey adequate information to consumers and they cannot understand that a difference with their expectations may exist;*
- *this inadequate or insufficient information is likely to distort the economic behaviour of the average consumer, for instance by leading him or her to buy a product he or she would not have bought otherwise.*

The following criteria could be useful to characterise the 'product of reference':

- a product is marketed under 'the same packaging and branding' in several Member States;*
- that product is sold in the majority of those Member States with a given composition; and*
- consumers' perception of the main characteristics of the product corresponds to the composition of that product such as advertised in the majority of those Member States.*

The Notice, however, acknowledges that *a 'constant quality' across different geographical areas cannot always be attained due to, inter alia, variability of the composition of food ingredients, their seasonal availability, preferences for regional sourcing, product re-formulation and adaptation of recipes to consumer preferences in a specific market.*

If tests conducted identify food products with:

- a seemingly identical presentation;
- are marketed under the same brand;
- but have significant differences in composition and/or sensory profile;

¹⁵ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety

¹⁶ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market

¹⁷ Also see the Commission Staff Working Document – Guidance on the Implementation/application of Directive 2005/29/EC on Unfair Commercial Practices (SWD(2016) 163 final).

¹⁸ Commission Notice on the application of EU food and consumer protection law to issues of Dual Quality of products — The specific case of food (2017/C 327/01)

the enforcement authorities have to assess, on a case by case basis, if the differences found cause or are likely to cause the average consumer to take a transactional decision that he would not have taken otherwise.

On 11 April 2018, the Commission made a proposal (2018/0090 (COD)) to amend Directive 2005/29/EC on Unfair Commercial Practices in introducing as a potential unfair practices in paragraph 2 of Article 6 this additional indent:

(c) Any marketing of a product as being identical to the same product marketed in several other Member States, while those products have significantly different compositions or characteristics

The harmonised testing methodology

As outlined above, there is a strong need for a common and harmonised testing methodology to objectively assess whether there are differences between seemingly identical products sold on different markets. Therefore, DG JRC as the Commission's science service, has been tasked with the elaboration of a harmonised testing methodology

- as a step towards comparable and authoritative tests across the EU. This is essential to assess the magnitude of the issue, and to provide the sound evidence basis required for further actions to be taken;
- to allow enforcement authorities to perform market tests that involve product comparisons across different regions and countries in case that differentiation practices of a particular food business operator might amount to unfair commercial practices.

Process applied for establishment of the framework

To reach acceptance by all stakeholders of the food supply chain (food producers, retailers, food control and consumer protection authorities, and consumer rights organisations), DG JRC- in close collaboration with relevant Commission services - undertook the following actions:

- Engagement meetings during September 2017
 - with the competent authorities of several Member States that conducted studies related to differentiated food quality;
 - with representatives of industry associations.

The purpose of the meetings was to understand better the approaches used so far for testing, to gauge potential differences in views among stakeholders, and to understand whether consensus could be achieved.

- In October, the competent authorities of Member States, food industry associations, and consumer and trade organisations were invited to nominate experts for forming a stakeholder network.
- As a follow-up, a network of experts was created and launched with a kick-off meeting held on 10 November 2017.

The terms of reference and the main elements of the framework for selecting, sampling and testing were discussed. Moreover, it was agreed to substantiate the work by expert advice through the establishment of specific working groups.

- In November 2017, a call for nomination of experts to contribute to the working groups was launched.
- In January 2018, meetings of these working groups were held, leading to a draft version of the EU harmonised testing methodology.
- This draft version was discussed with the members of the stakeholder network on 16 April 2018 leading to this final version of the EU harmonised testing methodology as described in the following.

General principles for the design of a generic framework

The generic framework for selecting, sampling and testing of products including data interpretation and reporting (Figure 4), which shall be used by competent authorities in the Member States for organising comparative testing of quality related characteristics such as composition and sensory properties of food products, needs to be flexible such that it can be adapted to the requirements of the testing exercise.

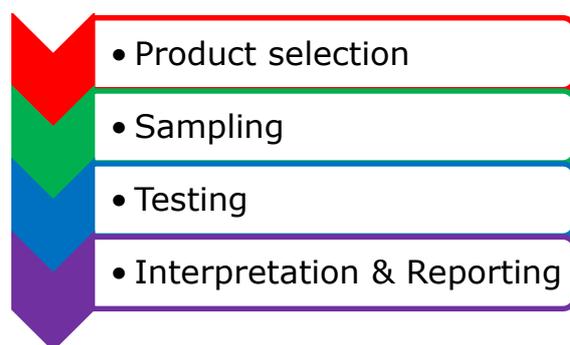


Figure 4: Building blocks for a generic framework to assess quality related characteristics of food

However, six general principles inspired by relevant FAO/WHO Codex Alimentarius documents, notably on the *Principles for the Use of Sampling and Testing in International Food Trade (CAC/GL 83-2013)*¹⁹, shall be observed in the design of the framework and should take into consideration the basic interests of all food chain stakeholders.

Their purpose is to create a level playing field for all stakeholders in a transparent and fair manner and they shall guide the development of a generic blueprint for future testing activities:

¹⁹ <http://www.fao.org/fao-who-codexalimentarius/codex-texts/guidelines/en/>



Principle 1: Transparency

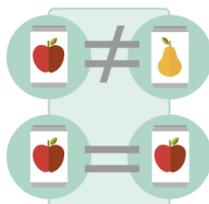
- Transparent procedures allow all parties to operate in an open way;
- Reduces the potential for disputes;
- Allows for effective communication between parties to address differences.



Principle 2: Components of an assessment procedure

Involves four components, and all of them should be duly considered;

- Selection of products;
- Sampling plan;
- Examination/analysis of the samples to produce test results;
- Criteria upon which to base a decision using the results.



Principle 3: Comparability

- Due consideration has to be given to the selection, sampling and testing of products to ensure comparability at all stages of the assessment procedure.



Principle 4: Appropriate selection, sampling and testing procedures

- Scientifically based;
- Appropriate to the commodity;
- Fit for intended purpose and applied consistently;
- Testing laboratory accredited for the applied methods where possible and appropriate; if accreditation is not possible, methods have to be at least validated;
- Practical and cost-effective.



Principle 5: Inclusiveness

- Engages involved parties (food business operators, competent authorities, consumer representatives) in a consensus oriented manner;
- Treating them fairly and equally.



Principle 6: Fairness

- Selection of brands for inclusion in testing programmes shall respect market shares of brands in different Member States without disadvantaging brand owners active in several food category sectors;
- Respects confidentiality requirements, as applicable under existing legislation.

Key recommendations for the design of a generic framework

Next to respecting the general principles, competent authorities shall consider the following recommendations in the design and practical implementation of a campaign to assess quality-related characteristics of food (a process model is provided in the Annex).

Selection of products

1. Selection of products shall respect the provisions of Commission Notice 2017/C 327/01, notably that only those products marketed under ‘the same packaging and branding’ in several of the Member States qualify for inclusion in the testing programme, regardless of differences in the language used to provide information to consumers or packaging size.
2. In case of doubts, brand owners shall be consulted to verify the equivalence of products offered on different markets.
3. The number of products to be tested shall take into account the ease of organising sampling and the complexity of the analytical testing.
4. A market basket of products shall be formed, composed of branded and private label products.
5. If available, existing information (consumer complaints, results from earlier testing campaigns) shall be used to form a list of products where differences have been found and where the brand owner did not provide plausible explanations for product differentiation.
6. This selection shall be complemented by products that have not been tested before but belong to the same product category (e.g. non-alcoholic beverages, confectionery, etc.), taking into account availability and market shares in different markets. Such information may be collected from suitable market research databases or industry sources. This set of products is intended to increase the representativeness of the market basket but it does not allow generalising the results of the testing campaign into an overall assessment of a market.
7. Comparisons of branded/private label products shall involve at least three Member States, representing a balanced geographical section of the EU Member States.
8. Brand owners shall be consulted and shall have the opportunity to provide further information regarding composition and sensory properties of the products selected. It remains the discretion of the competent authorities to take this information into consideration.

Sampling of products

1. The sampling of products may be integrated in official control activities provided this is compliant with national law.

2. In case that this is not possible, sampling shall be done by control bodies nominated by national competent authorities or service providers if, for the latter, a potential conflict of interest can be excluded. In all cases, sampling shall follow strict rules provided by the organiser of the sampling and testing campaign.
3. A sampling protocol shall be developed by the study organiser to record relevant data to ensure the traceability of products.
4. A sufficient number of retail units have to be collected so that a large enough sample amount is available for conducting the foreseen tests (chemical testing and sensory analysis).
5. Sampling shall be done at retail outlets; however, improper transportation, handling and storage during retailing may have a negative impact on sensitive products. In case that sensory testing indicates differences between seemingly identical products that cannot be explained by differences in product composition, a second sample from the same brand shall be taken at a different occasion and location. In case that the second sample results in the same difference, the brand owner shall be consulted and given the opportunity to provide samples taken at an earlier stage of the supply chain (production, whole seller) for re-testing.
6. Replicate sampling to see whether differences between production lots offered on the same market exist is recommended. However, study organisers need to be aware that this measure considerably increases the effort necessary for testing, particularly for sensory analysis.
7. Only samples with similar durability (best-before/use-by dates) shall be included in the sampling and testing campaign to ensure comparability of testing results. As a benchmark, the best-before/use-by dates shall be within a 20% margin at sampling; testing shall be carried out within the indicated durability at the same point in time.
8. If highly perishable products are included in a sampling and testing programme, special precautions have to be taken to ensure handling, transportation and storage of samples under suitable conditions. The feasibility of including such products has to be carefully considered at the planning phase of a sampling and testing campaign.

Testing of products

1. Testing of products shall be done by comparing information provided on the label (nutrition declaration and list of ingredients) and by sensory analysis (Tier-1).
2. In case a difference in composition or sensory characteristics is found, samples shall be subjected to Tier-2, where further chemical or sensory tests shall be applied to confirm the

findings of Tier-1. In case those differences are confirmed, the brand owner shall have the opportunity to react and explain the reasons for product differentiation.

3. Chemical testing to estimate the amount of an ingredient and/or its quality characteristics is, with a few exceptions, difficult. Chemical markers exist for few ingredients (butyric acid for milk fat and theobromine for cocoa solids), which can be used to estimate the amount of the ingredient in a food product. If appropriate and feasible, such methods can be applied during Tier-2 testing.
4. If the organiser of a sampling and testing campaign decides to require chemical analysis of products, such analyses shall be carried out in laboratories accredited to ISO 17025 using appropriate methods which are within their scope of accreditation, whenever feasible.
5. The European Commission Guidance Document regarding the setting of tolerances for nutrient values declared on a label shall be respected if verification by analysis of the nutrient declaration is intended²⁰.
6. In case the study organiser requests the application of specific methods for Tier-2 testing, such methods should at least be in-house validated by the accredited laboratory.

Sensory analysis of products

1. Sensory analysis shall be done by standardised methods carried out by panellists who have been trained to match the requirements of the employed sensory test. A whole suite of methods standardised by ISO exists for discrimination testing²¹ as well as for sensory profiling²².
2. The main purpose of sensory testing of products is to indicate
 - a. whether a difference between products exists;
 - b. what the nature of the difference is;
 - c. the extent of the difference.
3. Discrimination tests, e.g. the triangle test, are appropriate for comparing products from two different Member States (bilateral comparison), while for comparing products from more than two Member States (multilateral comparison) other test designs are needed.
4. A multilateral sensory comparison of a given product has to be done by a single panel to ensure comparability of testing results; however, different panels may be used for testing different product categories.

²⁰ https://ec.europa.eu/food/sites/food/files/safety/docs/labelling_nutrition-vitamins_minerals-guidance_tolerances_1212_en.pdf

²¹ Triangle test (ISO 4120:2004), Duo-trio test (ISO 10399:2017), "A" - "not A" test (ISO 8588:2017), Paired comparison test (ISO 5495:2005), Ranking (ISO 8587:2006)

²² Sensory Profiling (ISO 13299:2016)

5. Sensory profiling (descriptive analysis) is the most appropriate technique for making multilateral comparisons. The outcome of such tests would inform which products are different, identify the nature of the difference and, if properly planned and executed, rate the extent of the difference. Such tests can only be performed by panellists trained to assess a specific product or product type and the number of samples to be compared is limited, with a maximum of 10. Panels trained for a variety of products exist, and they provide sensory analysis as a service.
6. Simplified versions of sensory profiling exist (sorting, flash profiling, projective mapping, etc.) and may serve as rapid screening tests. Such screening tests may offer advantages if the study organiser has access to an in-house sensory panel.
7. The selection of a particular method for sensory testing shall take into account its effectiveness and efficiency in terms of scientific appropriateness, practicability, and costs.

Data interpretation

1. In case the composition (nutrient declaration, list of ingredients, chemical testing) and the sensory analysis of a product offered under the same brand and packaging differs significantly, the brand owner shall be consulted to provide an explanation for the observed differences.
2. Following this consultation, authorities may then decide on a case by case basis to proceed to the examination of eventual unfair commercial practices.

*N.B.: The outcome of the JRC led EU-wide testing campaign will lead to the specification of requirements for regarding differences as 'significant'.
Compositional and sensory differences cannot, per se, be translated into different levels of product quality.*

Revision clause

Based on the results of the EU wide testing campaign (expected to be finalised end 2018) and the ongoing revision of the relevant legislation under the New Deal for Consumers, this harmonised framework may be adapted and improved in the light of practical experiences made during its implementation.

Implementation of the harmonised framework in a EU wide testing campaign

The EU harmonised testing methodology developed by DG JRC in close collaboration and in agreement with all stakeholders (producers, retailers, official control authorities, and consumer organisations) will be applied for the design and organisation of comparative testing of food products purchased in a representative number of EU Member States. This exercise shall provide objective evidence whether differences in quality related characteristics of branded and private label foods exist.

DG JRC will oversee this process (to be carried out until end of 2018) and will report on the results. The JRC led survey will provide evidence about the similarity of the presentation and packaging of products obtained on different markets, which can be used to substantiate the meaning of 'seemingly identical' products mentioned in the UCPD.

Furthermore, the outcome will allow deciding at what extent a difference in product composition or sensory perception can be regarded as significant. The 'significance' of the difference in composition or sensory properties of a product, is a key element of the proposed amendment of Article 6(2) of the UCPD under the New Deal for Consumers, which is intended to provide greater legal clarity for the competent authorities to enforce consumer rights legislation in the Member States.

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EU Country	Institution/Organisation
Austria	Agentur für Gesundheit und Ernährungssicherheit (AGES)
Austria	Verein für Konsumenteninformation (VKI)
Austria	Lebensmittelversuchsanstalt LVA GmbH
Belgium	EU Specialty Food Ingredients
Belgium	Independent Retail Europe
Belgium	FoodDrinkEurope
Belgium	EuroCommerce
Belgium	AIM European Brands Association
Belgium	L'Union Européenne du Commerce du Bétail et des Métiers de la Viande (UECBV)
Czech Republic	State Veterinary Administration (SVA)
Czech Republic	University of Chemistry and Technology, Prague - VŠChT
Czech Republic	Czech Agriculture and Food Inspection Authority
Estonia	Veterinary and Food Laboratory
Finland	National Institute for Health and Welfare (THL), Nutrition Unit
Finland	Finnish Food Safety Authority (Evira)
France	Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes (DGCCRF)
Germany	Max Rubner Institut – Bundesforschungsinstitut für Ernährung und Lebensmittel
Greece	EFET – Hellenic Food Authority
Greece	Federation of Hellenic Food Industries
Hungary	National Food Chain Office (NEBIH)
Latvia	Ministry of Agriculture of Latvia, Food and Veterinary Service
Latvia	BIOR - Institute of Food Safety, Animal Health and Environment
Lithuania	National Food and Veterinary Risk Assessment Institute
Lithuania	State Food and Veterinary Service
Poland	Agricultural and Food Quality Inspection (AFQI)
Poland	Office of Competition and Consumer Protection
Portugal	Autoridade de Segurança Alimentar e Económica (ASAE)
Romania	National Authority for Consumers
Slovakia	Veterinary and Food Institute
Slovenia	Administration of the Republic of Slovenia for Food Safety, Veterinary Sector and Plant Protection
Slovenia	Slovenian Consumers' Association (ZPS)
Slovenia	Nutris Institute
Slovenia	National Laboratory of Health, Environment and Food
Slovenia	Biotechnical Faculty of University Ljubljana
Spain	Ministerio e Sanidad, Servicios Sociales e Igualdad, Centro de Investigación y Control de la Calidad - Agencia española de Consumo, Seguridad alimentaria y Nutrición (CICC-AECOSAN)
Spain	Ministerio de Agricultura y Pesca, Alimentación y Medio Ambiente, Laboratorio Arbitral Agroalimentario
The Netherlands	Ministry of Health
The Netherlands	RIKILT Wageningen University & Research

Annex: Business process model

