

1. INTRODUCTION

1.1 What is the name of your organisation?

Hungarian Seed Association

1.2 What stakeholder group does your organisation belong to?

Breeder of S&PM; Supplier of S&PM; Company operating on national level; Other

1.2.1 Please specify

Hungarian Seed Association representing the interests of those active in research, breeding, production and marketing of seeds of agricultural, horticultural and ornamental plant species. At present Hungarian Seed Association represents more than 750 seed enterprises.

1.3 Please write down the address (postal, e-mail, telephone, fax and web page if available) of your organisation

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2. PROBLEM IDENTIFICATION

2.1 Are the problems defined correctly in the context of S&PM marketing?

No

2.2 Have certain problems been overlooked?

Yes

2.2.1 Please state which one(s)

As to question 2.1: We are of the opinion that at least part of these problems have not been correctly identified. We have the following comments: Complexity and fragmentation of the legislation: The problem definition also states that "more fundamental changes may need to be considered". HSA has always been supporting the "modify" scenario because needs some improvements to make the system more effective. However, fundamental changes are not needed in the legislation. High level of administrative burden in particular for public authorities: According to the problem definition of the paper the administrative burden needs to be lowered for the public sector. We think that the review should not only look at public burdens the system has to be cost effective for everyone, public and private. Room to strengthen sustainability issues: We agree with the Commission that strengthening sustainability is an important issue. However we do not agree with the Commission's analysis of sustainability and of related impacts throughout the paper. First, it has to be underlined that the Commission seems to have an over simplistic perception and understanding of the meaning of productivity. As also shown above, productivity is a relation between input and output (including also processing and quality aspects). The problem definition states that the current legislation is focused on productivity which is still an important factor. We would like to underline that productivity is THE key factor in variety testing non the least because it already takes care of important sustainability criteria. Sustainable intensification means raising yields, increasing the efficiency with which inputs are used and reducing the negative environmental effects of crop production. Therefore, sustainability is optimised when the amount of natural resources (land, water, fuel, fertiliser) used per unit of useful crop production is the lowest, i.e. via the most productive varieties.

2.3 Are certain problems underestimated or overly emphasized?

Overestimated

2.3.1 Please indicate the problems that have not been estimated rightly

1. The problem described as "room to strengthen sustainability issues" is not correctly estimated. In this respect we refer back to our answer provided under question 2.1 2. The problem defined as "room to strengthen sustainability issues" makes a reference to specific markets for organic crops which are increasing their market shares. As a matter of fact the issue of niche markets is

overestimated throughout the paper. We are of the opinion that such varieties are important for the genetic pool and breeding work but such markets are going into the direction of extensified agriculture. To produce them is not a sustainable solution and therefore is not consistent with the environmental goal sought by the Commission. 3. The problem defined as “high level of administrative burden” underestimates the high public benefit of the Member State’s investment into the testing of both varieties and seed. It also seems to only concentrate on the wish to reduce the administrative burden on the side of public authorities and underestimates the need to also reduce such burdens on companies.

2.4 Other suggestions or remarks

We would like to comment on some statements made in point 2.4 of the “Options and analysis paper”: - “The relative inflexibility of the current variety registration system does not help innovation ensuring access to the market for new varieties giving a higher yield on a same land surface with less need for irrigation, fertilisers or pesticides.” This statement is not true. All these sustainability goals are already taken care of by breeders in their breeding programs. Land use, water use, nutrient use efficiency etc. are all key for achieving the sustainability goal but these can be best measured in terms of yield. We do not agree with the statement that the current variety registration would be inflexible and that it does not help innovation towards sustainability. The following examples show how the abovementioned important sustainability criteria are taken care of already today in variety testing: - DUS protocol for vegetables – rootstock varieties to overcome soil-born problems; disease resistances; low input (as regards nitrogen, pesticides, some quality criteria, no irrigation) - the VCU system in certain Member States already considers other environmental criteria – e.g. - “provisions contained in the EU S&PM marketing legislation on registration of varieties and on certification of individual S&PM lots are strict and time-consuming” The impact of this issue is overestimated by the Commission. We agree that there is room for improvement in this respect but ESA members are satisfied with the general criteria of variety registration and seed quality control as laid down in EU S&PM legislation. These criteria must not be questioned as such but they must be maintained and further improved. It is clear from the national lists and the Common catalogue that the current system already allows for a wide choice of varieties including also conservation and amateur varieties.

3. OBJECTIVES OF THE REVIEW

3.1 Are the objectives defined correctly in the context of S&PM marketing?

No

3.2 Have certain objectives been overlooked?

Yes

3.2.1 Please state which one(s)

As to question 3.1: We are of the opinion that the following objectives have been incorrectly defined and placed in the “Options and analysis paper”: It seems that the objective of fostering innovation is placed into the context of sustainability which is too restrictive and interpretation. As already explained under questions 2.1 and 2.3 it is indeed very important to select sustainable varieties but the main focus of breeding and innovation in breeding should be on productivity which is the best way of taking care of sustainability matters. It has to be underlined that innovation in plant breeding, the creation of new and more varieties also contributes to biodiversity (to the gene pool). Having said that, we consider that innovation is a separate and overall objective of the S&PM legislation and as such it has to be identified as an individual objective by itself. As to question 3.2: The following objectives have been overlooked: - Fulfilling the EU’s global responsibilities for food security and globally sustainable agriculture. - The intervention/ existence of regulation is important for agricultural crops with regard to a possible market failure in using the best varieties for sustainable productivity as well as with regard to access to innovation. - In respect of the Common Catalogue the objective is not only to improve the level of information provided but also to improve accessibility of the Common Catalogue by making it a real-time, user-friendly web-based application.

3.3 Are certain objectives inappropriate?

Yes

3.3.1 Please state which one(s)

The objective which reads “improve farmers’ choice and access to a wide diversity of plant varieties” is inappropriate. Wider diversity is not a goal in itself in the framework of the seed marketing legislation. The improvement of farmers’ choice is indeed an important goal of the S&PM legislation but this choice should focus on varieties which are beneficial, fit for use and fit for sustainable intensification

3.4 Is it possible to have a regime whereby a variety is considered as being automatically registered in an EU catalogue as soon as a variety protection title is granted by CPVO?

No

3.5 If there is a need to prioritise the objectives, which should be the most important ones? (Please rank 1 to 5, 1 being first priority)

Ensure availability of healthy high quality seed and propagating material

Secure the functioning of the internal market for seed and propagating material

Empower users by informing them about seed and propagating material

Contribute to improve biodiversity, sustainability and favour innovation

Promote plant health and support agriculture, horticulture and forestry

3.6 Other suggestions and remarks

As to question 3.5: - All the objectives listed in the table are all equally important As to question 3.4: Our answer given to question 3.4 is justified by the following reasons: - not all varieties that are applied for listing are protected - not all varieties that are protected are placed on the market (this is, in particular, the case for hybrid parent lines) - plant variety protection is only based on DUS whereas registration of agricultural crops also should involve VCU testing - in some cases breeders only apply for national plant variety protection and not protection on EU level

4. OPTIONS FOR CHANGE**4.1 Are the scenarios defined correctly in the context of S&PM marketing?**

No

4.2 Have certain scenarios been overlooked?

Yes

4.2.1 Please state which one(s)

We believe that none of the scenarios as defined in the “Options and analysis paper” can achieve the desired goals. A combination of elements presented in the different scenarios might lead to a better scenario therefore HSA welcomes the possibility offered by the Commission to execute such a combination. We can imagine a combination of elements from scenarios 2 and 5 with the addition of some new elements. A detailed description of our preferred scenario is provided under question 6.1.

4.3 Are certain scenarios unrealistic?

Yes

4.3.1 Please state which one(s) and why

Scenario 1: As full cost recovery will lead to shift of cost burden from (some) Member States to stakeholders which is not 'compensated' by increased efficiency or flexibility in scenario 1 we are of the view that there is no justification for this scenario per se. Furthermore, scenario 1 only focuses on one of the identified objectives but none of the others and it is therefore inconsistent with the overall aims of the review. Scenario 3: We believe that scenario 3 is unrealistic and detrimental to almost all policy goals. It introduces the possibility of registering agricultural varieties without proper performance testing and certification which leads to massive disharmonization and creates a double market. It is complex for users and confusing for consumers and the reactions the market may produce in case of such a scenario have been incorrectly assessed. Scenario 4: We believe that scenario 4 is unrealistic and detrimental to almost all policy goals. It is complex for users and confusing for consumers and the reactions the market may produce in case of such a scenario have been incorrectly assessed. This scenario seems to focus on extending possibilities for niche markets. As already stated before the issue of niche markets is overestimated by the Commission. We can support the current system (Directives 2008/62 and 2009/145) which has been put into place for conservation and amateur varieties with some production and marketing restrictions for such varieties which restrictions are in line with the goal of conservation as defined in those Directives and are necessary also in order to prevent market failure with regard to sustainable productivity.

4.4 Do you agree with the reasoning leading to the discard of the "no-changes" and the "abolishment" scenarios?

Yes

4.5 Other suggestions and remarks

5. ASSESSMENT OF OPTIONS

5.1 Are the impacts correctly analysed in the context of S&PM marketing?

No

5.2 Have certain impacts been overlooked?

Yes

5.2.1 Please state which one(s)

The impact on consumer information and protection (consumers cover the actors of the whole chain including farmers, growers, processors) – also with a view to traceability - of each scenario should also be considered. If certain elements of the legislation are taken away, there is less information to consumers and with that also reduced protection of consumers which would also be contrary to the trend in other policy areas.

5.3 Are certain impacts underestimated or overly emphasized?

Underestimated

5.3.1 Please provide evidence or data to support your assessment:

Scenario 1. As it can be anticipated that this scenario would lead to a shift of cost burden to private sector operators it can also be anticipated that those costs will be incorporated into the price structures of companies which in the end will result in higher prices for the final consumer. Scenario 2. Impact on plant health and quality of S&PM: If there are good quality standards that apply we see no risks for plant health and quality of S&PM even if tasks are transferred to the industry if those tasks remain under official supervision. Impact on administrative burden for private sector operators: In our opinion this will improve efficiency and will save costs as tests that are in any case carried out by companies would not have to be redone for a high amount of money. This system will be more beneficial for the bigger companies, however the overall cost saving for the private sector is rather positive than negative. Environmental impact: According to

the paper of the Commission no positive impacts are foreseen as regards sustainability since no “environmental VCU” is foreseen. In reality, breeders do not need an extra stimulus by a so-called “environmental VCU” to breed for ‘sustainable intensification’. This trend is already there and will not be more or less with the implementation of an ‘environmental VCU’ test for sustainability elements

Scenario 3. Impact on administrative burden and costs for authorities: Already the split market here makes the system more complicated for authorities. Member States still have to keep the system functional but less applications will be made since VCU and certification are optional

Impact on administrative burden and costs for private sector: The costs will be higher than today for those who wish to go for the testing. Medium and small sized companies will suffer (because either they go for VCU which will be more expensive or they don’t but then more investment will be needed for marketing promotions).

Impact on competitiveness, markets, trade: We wonder whether it is really a benefit for farmers to have a choice between more varieties where no reliable information whatsoever is provided on what they can expect from the varieties on the market since performance testing would not be obligatory any more.

Environmental impact: If there are less performing varieties put on the market that need more land and resources it is clearly contrary to the sustainability objective sought. The assessment of impact on environment should be negative

Scenario 4. Impact on administrative burden and costs for authorities: Already the split market here makes the system more complicated for authorities. Member States still have to keep the system functional but less applications will be made since VCU and certification are optional

Impact on administrative burden and costs for private sector operators: Since with this scenario in case of tested varieties VCU criteria would be introduced as an obligation also for vegetable it will lead to an increase of administrative burden and costs for vegetable breeding companies.

Impact on competitiveness: It appears that in case of tested varieties the mandatory VCU criteria will also apply to vegetable crops. This will have a negative impact on competitiveness of vegetable breeding: it will lead to much higher costs for breeders and to delays in market introduction. The category of ‘non-tested varieties’ may be perceived as a 2nd class of products, products that may lead to unfair competition with the “tested varieties”. The assumption of the Commission that a lower seed price will lead to less FSS is highly speculative.

Environmental impact: Access to market for non-tested (conservation) varieties is rated as positive for environment. Maybe it is for biodiversity conservation on a limited level. However, it is not the aim of the S&PM legislation to increase agro-biodiversity and marketing more varieties does not increase biodiversity in itself. It can be an objective to support the conservation of agricultural biodiversity via some specific regimes foreseen for varieties which are important for biodiversity conservation. This is currently done via the legislation on conservation varieties.

Impact on consumer information / protection: This scenario provides for a two-level market with a different set of criteria applying to the two levels. It introduces a lot of complexity and confusing systems for the consumer. It can also be anticipated that there will be increased unfair competition from “look-alike” varieties and since there will be no official testing or examination on the non-tested varieties there will be no credible information available for the users on the qualities possessed by these varieties.

Scenario 5. Impact on burden and costs for private sector operators: From the graphical presentation of this scenario we understand that VCU applies for everything which would mean a big increase of burden and costs for vegetable breeding companies.

Impact on innovation: Some savings in costs so some more money potentially invested in innovation. However, in respect of vegetable breeding companies cost saving are not likely to materialize since in case obligatory VCU is imposed on them they will have no cost savings compared to the present situation.

Impact on consumer information / protection: This scenario foresees more harmonization in respect of VCU testing which could improve consumer information. It also provides for an enhanced, web-based Common Catalogue which would also be a further step towards better consumer information. A minimum requirement could be set up in the Member States, but there is no need for total centralization. Accreditation could be a solution as it already began with the DUS test.

5.4 How do you rate the proportionality of a generalised traceability/labelling and fit-for-purpose requirement (as set out in scenario 4)?

5 = not proportional at all

5.5 How do you assess the possible impact of the various scenarios on your organisation or on the stakeholders that your organisation represents?

Scenario 1

Rather negative

Scenario 2

Fairly beneficial

Scenario 3

Very negative

Scenario 4

Very negative

Scenario 5

Neutral

5.5.1 Please state your reasons for your answers above, where possible providing evidence or data to support your assessment:

Scenario 5 has some interesting elements but we don't understand how it would work in practice. For the other scenarios please see the reasoning under Q 5.3

6. ASSESSMENT OF SCENARIOS

6.1 Which scenario or combination of scenarios would best meet the objectives of the review of the legislation?

Scenario with new features

6.1.1 What are your views with regards to combining elements from the various scenarios into a new scenario?

6.1.1 Please explain the new scenario in terms of key features

As already stated under question 4.2 we are of the opinion that a combination of some elements from scenarios 2 and 5 can be taken as a basis for a new scenario together with some new elements. Listing of the variety 1. The applicant submits an application for the listing of a variety of a defined agricultural or vegetable species to the national competent authority. 2. A testing body tests the variety by growing it. 2.1 The testing body can either be an official body or private body acting under official supervision. Both official and private bodies have to be accredited. For this purpose the Community Plant Variety Office (CPVO) sets standards, performs audits and accredits those private and public testing stations which meet the well-defined accreditation criteria based on quality. 2.2 The testing refers to 2.2.1 in the case of all crops: identity (distinctness, uniformity, stability - DUS) (at least over 2 growing cycles) following official protocols. 2.2.2. in the case of all crops: suitability of the proposed variety name by CPVO 2.2.3 in the case of agricultural crops: value for cultivation and use (VCU) as additional tests 2.3. Testing results from one accredited body shall be accepted by all other bodies and also in applications for plant variety protection ("one key several doors"). 3. If the variety fulfils the requirements for its listing the competent authority lists the variety in the national catalogue. As from this time the seed of this identifiable and well performing variety is marketable in this Member State as well as in other Member States provided the seed fulfils also the quality requirements VCU testing is not needed for vegetables. The structure of the market in the case of vegetables is very different from the market structure for agricultural crops. The relationship between the supplier and the growers is direct making it possible for the customer to receive first hand information on the performance and quality of the specific variety and to give direct feedback to the supplier. It implies that there is no real need for a system which generates the same set of data in respect of all varieties in order to provide objective information to the customer. Also having regard to the fact that the market of vegetables is very segmented it is not

even possible to define a set of criteria for performance testing. Last but not least the dimensions of production are also very different meaning that while in case of agricultural crops it amounts to millions of hectares, for vegetables it means “only” thousands of hectares. This element is relevant regarding the impact the production has on environmental and other elements. Quality of the seed Agricultural crops Option 1: Authority competent for certification a) receives an application for certification form the supplier b) performs inspections on growing S&PM crop and on lots prepared for marketing, including sampling and laboratory testing. Criteria are crop-specific and depend on marketing category. c) issues certification label ? lot eligible for marketing d) performs random post-control on lots of S&PM on the market OR Option 2: Supplier performs some or all of the steps identified under Option 1 a) –c) under the conditions that the following criteria are met: - supplier is accredited according to well defined (EU) quality criteria by National Competent Authority - supplier performs these tasks under official supervision (spot check controls) - there is verification by random post-controls (as in Option 1.d.) Compared to the present situation the possibility of suppliers to carry out these tasks should be extended to all agricultural crops from pre-basic to commercial seed. Furthermore, it should be an obligation for Member States to provide for this (easy to handle) option. In both cases marketing is done under an official label. Vegetable crops Step 1: Supplier a) performs inspections on growing S&PM crop and on lots prepared for marketing, including sampling and laboratory testing. Criteria are crop- specific and depend on marketing category b) markets the listed variety under a suppliers’ label Step 2: Competent authority performs random post-controls on lots of S&PM on the market. Marketing is done under a Supplier’s label (it also means that it is the responsibility of the supplier to comply with the legislation). Optional possibility for marketing of (OECD) certified seeds should remain for vegetables for exports to 3rd countries requiring such certification.

6.2 Do you agree with the comparison of the scenarios in the light of the potential to achieve the objectives?

No

6.2.1 Please explain:

- We have realized that unfortunately the assessment presented in the individual tables after each scenario under Chapter 5 of the “Options and analysis paper” and the assessment presented under Chapter 6 are on several occasions contain important mistakes or typing errors. - Also - as extensively explained under question 5.3 - we are of the view that certain impacts have been incorrectly identified.

7. OTHER COMMENTS

7.1 Further written comments on the seeds and propagating material review:

7.2 Please make reference here to any available data/documents that support your answer, or indicate sources where such data/documents can be found:

