Guidelines on ensuring producer sustainability agreements are not anti-competitive

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Commission guidelines on sustainability agreements of agricultural producers [Communication - C(2023)8306 – direct download]

What is changing and why?

The EU generally does not allow producers to conclude agreements between each other, as this may prevent competition on the market. However, since January 2021, producers have been allowed to reach agreements that aim specifically to achieve higher sustainability standards. This derogation (exception) allows farmers to work together to achieve the EU's sustainability goals, without being at risk of breaching EU competition law.

The Commission has developed guidelines to help producers make agreements that correctly apply the derogation from competition law. This rule and guidelines also apply to sustainability agreements between non-EU suppliers and EU buyers.

The guidelines must be strictly applied. For example, sustainability agreements must aim for higher sustainability standards than required by the EU or the relevant EU Member State, and must be indispensable for achieving these goals.

Actions

Any sustainability agreements involving non-EU producers concluded between 8 December 2021 and 8 December 2023 must be urgently reviewed to ensure that they are in line with the new Commission guidelines. If an agreement or practice does not comply, producers and operators may be prosecuted and fined for infringement of EU competition law.

Producers or associations in non-EU countries should explore the potential of sustainability agreements to maximise their efforts to introduce higher sustainability standards. The guidelines offer several examples, including reducing the use of pesticides.

Timeline

Date of publication: 8 December 2023.

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