

**FAX TO THE PERMANENT REPRESENTATION OF
THE CZECH REPUBLIC**

**Subject: State aid / The Czech Republic
Aid No. N 506/2006
Support for the promotion and advertising of agricultural
products**

By letter of 26 July 2006, registered on the same day, you notified to the Commission pursuant to Article 88(3) of the EC Treaty the above mentioned aid scheme. Additional information was provided by letters of 3 November 2006 and 1 March 2007, registered on the same days as received.

The examination of the supplementary information submitted by the Czech authorities has shown that further information or modification of the notification would be necessary for the proper assessment of the aid scheme. I would therefore be very grateful if you could clarify with your authorities the following question.

1. Please provide full and updated version of the legal basis, i.e. of the draft *Zásady* and *Smlouvy o poskytnutí finančního příspěvku*.
2. The measure at hand is planned to cover the new programming period 2007 – 2013. In your application you specify that the present measure *complements* the measures envisaged under the Rural Development Plan 2007 – 2013 (RDP). Please explain how the compatibility is ensured and overlapping avoided. You should motivate your answer by pointing to common/differing features of the State aid measure at question as compared to the relevant measures under the RDP (as regards beneficiaries, eligible expenses, aims etc.).
3. As regards the fisheries products, please note that as of 1 January 2007 the Community Advertising Guidelines (OJ C 252, 12.9.2001, p. 5) are not applicable. The Commission will assess the measures concerning advertising in fisheries sector according to the rules laid down in its Guidelines for the examination of State aid to fisheries and aquaculture (OJ C 229, 14.9.2004, p. 5), in conjunction with Block Exemption Regulation (EC) No 1595/2004 (OJ L 291, 14.9.2004, p. 3) and the new Regulation (EC) No 1198/2006 on the European Fisheries Fund (Art. 40; OJ L 223, 15.8.2006, p.1) repealing Regulation (EC) No 2792/1999. Please adjust the measure accordingly and provide the copy of the amended version.
4. In your letter from 1 March 2007 you declare that the present measure will be modified to exclude references to the regional/national origin of the advertised products. Please confirm that no identification of producing country/region neither by word nor by symbol will be allowed.

5. You are kindly requested to provide samples and/or mock-ups of the advertising material to enable Commission's services to assess the compliance with the prohibition under Article 28 of the Treaty. In case this is not possible for objective reasons, please, provide list of messages that will be communicated in the subsidized campaigns together with examples of envisaged quality labels and logos.
6. In your application you specify that the measure covers promotion of all organic products. It seems to cover also specific types of products (such as dairy and meat products from sheep and goats as well as root crops and their products and honey), regardless whether they are results of organic farming or not. You indicate that the scheme subsidizes promotion of high quality products or under-exploited products. You also envisaged subsidizing campaigns advertising certain not specified agricultural sectors.

Please provide further details on the scope of the measure, together with a clear and coherent overview of the types of products, their characteristics/qualities and sectors covered in line with the Community Advertising Guidelines (OJ C 252, 12.9.2001, p. 5).

7. Please clarify whether the scheme also covers national quality controls. Should that be the case, please demonstrate that the relevant conditions under the Community Advertising Guidelines are met (namely those laid down in points 47 and 49 thereof); i.e. the products meeting particular quality requirements meet standards or specifications which are clearly higher or more specific than those which are laid down in the relevant Community or national legislation; the constant control of the compliance with the specific quality criteria is being maintained; access to scheme is open to all producers in the Community meeting objective criteria; and the system of mutual recognition of results of comparable controls carried out in other Member state is in place.
8. The recipients of the present grant are legal entities established for non-business purposes, such as citizens' associations, organizations representing general interest and interest groups. Please, provide further information specifying the members, areas of activities and interests of the potential recipients.
9. Where the aid is granted to producers' organizations, you should provide the assurance that all producers will benefit from the aid in the same manner whether or not they are members of the organization in question.
10. Since the conduct of publicly financed advertising activities is entrusted to private firms, in order to exclude aid to the firms carrying out the campaigns, the Commission must verify that the choice of the private firm concerned has been made on market principles, in non-discriminatory way and respecting tendering procedures where necessary. You are requested to give assurances that you will comply with the provisions of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, 30.4.2004, p. 114.), or if that Directive

does not apply, that the entities entrusted with carrying out the works will be selected on the basis of an open, transparent and non-discriminatory procedure (point 30 of the Community Advertising Guidelines).

Considering the time factor, the need to take appropriate measures to bring the present scheme once approved in compliance with the new legislation by 31 December 2007 as well as the need to ensure coherence with the new Rural Development Plan, and keeping in mind the application of the new legal framework for advertising in the fisheries sector from 1 January 2007, the Czech authorities are invited to consider, for reasons of legal certainty, the option of re-submitting the present scheme under the new rules that are in force as of 1 January 2007 and using the new forms.

As this information is indispensable to enable my staff to examine the above-mentioned scheme under Articles 87 to 89 of the EC Treaty, I wish to inform you that the period of two months referred to in Article 4 of Council Regulation (EC) No 659/1999 for the examination of notifications will begin to run from the date on which the above details reach the Commission.

I would be grateful if you could send your replies within two months at the latest.

The Czech version of this letter will follow.

R. MOEGELE
Director
(signed)