

Martijn van Gruijthuijsen (NL/Renew)
Regional Minister of North Brabant
European Committee of the Regions / ECON Commission

Caroline Costongs, Director
EuroHealthNet – European Partnership for health equity and wellbeing

RE: Input for consultation on the CoR opinion on the future of the Single Market and the EU's competitiveness

Brussels, 12 September 2024

Dear Martijn van Gruijthuijsen,

I am reaching out to you as rapporteur for the opinion on the **future of the Single Market and the EU's competitiveness** and to contribute to your consultation in writing. The EuroHealthNet partnership is concerned about the fact that regional and local authorities currently do not have the legal instruments **to ban fast-food companies from settling in local areas such as near schools**. We would like to see more legal possibilities for regional and local authorities to create zoning policies to limit the growing offerings of unhealthy foods. This letter is therefore a call for EU rules to **allow public health-based exemptions to the European Services Directive**.

Please allow me to provide more information below.

Obesity epidemic and competitiveness

European societies are facing and obesity epidemic, with **one in three school-aged children**, one in four adolescents and almost 60% of the adult population now living with overweight or obesity. These rates are worrying especially for children. When obesity is developed so early in life, it is likely to be carried through adolescence and to be continued in adulthood. Furthermore, if current policy status quo is maintained, this rate is going to skyrocket in the coming years, with scientific forecast describing by 2035 a 61 % increase in the number of boys living with obesity and a 57 % increase in the number of girls living with obesity. From a public health perspective, this is extremely problematic, as obesity is connected to a higher likelihood of developing (preventable) chronic diseases such as diabetes, cancer and cardio-vascular diseases, which are responsible for up to 80% of the global burden of disease and **cost up to €610 billion per year to the**

European economy alone. In addition, a working population with a high level of people that suffer from chronic diseases, is less capable to boost competitiveness in Europe.

Unhealthy food environments

When investigating the causes of this problem, a historical perspective helps to shed light on the fact that the main causes of this epidemic are systemic, and not related to individual characteristics. That is, obesity rates have steadily increased since the 70s, so considering that the people's genetics have not drastically changed, the explanation can only be found in **changes in the food environments to which citizens are exposed.**

In other words, rather than making sure that the 'healthy choice is the easy choice for all', the **context in which citizens take their nutritional decisions favours the consumption of ultra-processed foods (UPFs) and foods high in fat, sugar, and salt (HFSS)**, two categories of food that according to the scientific literature have clear negative impact on the people's health.

How this happens is of course complex, but definitely not impossible to explain. Some of the most important (but not the only ones) evidence-based points are:

- i. Food marketing (traditional and digital media, food package, influencers, etc.) is mainly focused on unhealthy products;
- ii. Public procurement of food often focuses on offering the cheapest option rather than the healthiest one;
- iii. Fruit, vegetables, wholegrains, healthy fats and sustainable proteins are often expensive, while UPFs and HFSS foods are cheaper, more available, and faster to get and consume;
- iv. **The number of fast food restaurants has increased enormously over this period, with a clear social gradient for which poorer areas are increasingly becoming food deserts, namely places where it is difficult to find healthy foods.**

Given these points, it is no surprise that strategies focused on individual behaviour have so far failed to give the results expected. Citizens do not fail due to intrinsic biases, but the unhealthy option is too often the rational choice for many, especially groups that face a high costs-of-living. Therefore, unless we change the food system that currently traps individuals into a spiral of poor health, there is no way to successfully tackle the obesity epidemic.

Zoning laws

With this letter, we would like to point out the need to improve the food environments and enabling people to choose healthy food options, by enacting zoning laws and **preventing an excessive number of fast food restaurants from opening in certain suburbs or specific areas such as near schools.**

This need emerges from the fact that European, national, and local governments have a responsibility to protect citizens' right to life. To do so, municipalities must have the power to enact special planning regulations that limit the ability of service providers to settle in the community and/or carry out their activities if these latter are clearly damaging to citizens' health.

At the moment this power would create **tensions between spatial planning and the rules adopted at European level on the free movement of services** and the freedom for services to settle anywhere they want.

That said, we are not left powerless with no solution available. **On the contrary, the solution can come from implementing EU legal measures to allow exceptions to the prohibition on the restriction of these services on public health grounds as part of the [European Services Directive](#).**

A healthy single market policy

Important here is **the article 15(3)**, which specifies the three conditions to apply a justified restriction:

1. **The prohibition of discrimination.** The requirements should not discriminate, directly or indirectly, between nationality or place of registered office;
2. **The condition of proportionality.** The requirements must be appropriate for attaining the objective pursued. They must not go beyond what is necessary to achieve that objective and the objective cannot be with less far-reaching limitations;
3. **The condition of necessity.** The requirements must be justified on the grounds of overriding (compelling) reasons relating to the public interest.

Looking at these three points, it is clear that there are good grounds to maintain that preventing unhealthy food retailers from establishing can be justified on grounds of public health and the protection of the human right to health.

Solving this infringement of the internal market policy for the whole of Europe, **also gives the food industry some guidance and it saves industry as well as municipal authorities a lot of individual legal cases and costs for legal action.**

The need is now to move all together in this direction and the EuroHealthNet Partnership is keen to **raise awareness about this issue and by responding to your consultation.**

Opinion and EU leadership

We hope you will be able to include this important issue in your opinion on the **Future of the Single Market and the EU's competitiveness** and support the **on health grounds justified exemption of the internal market policy for healthy urban planning measures.**

This issue has not yet been addressed at EU level before. We realise that it is political sensitive and that this calls **for bold leadership**. As the Letta report states *"investing in health is not only morally imperative but crucial for economic stability and political resilience within Member States (page 78)"*

Europe could once again set itself as the leading guide to the rest of the world's cities and local authorities in spatial planning legislation, proving that the EU considers **public health as a resource for its economy and human capital key for a competitive Europe.**

Many thanks for your consideration of our letter. We are keen to further provide you with evidence and literature on the topic, and/or to have an exchange in person. We would also appreciate further advice how to proceed and any other valuable response you may have.

Yours sincerely,



Caroline Costongs

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