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EU-BASHING AND OLIVE OIL : A TALE OF EU SKEPTICISM, POLITICAL OPPORTUNISM AND WEAK EU CITIZENSHIP

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How a well-intentioned EU initiative turned into a Commission's 'own goal' and why this shouldn't have not happened. A worrying combination of political self-interest, media amplification and weak trust in the EU explains the EU Commission's U-turn on its recent proposal banning refillable olive oil bottles in bars and restaurants.

Introduction

One of the many provisions proposed by the EU Commission within the framework of its [Action Plan for the olive oil sector](#) unexpectedly gained global ([media](#)) attention and suddenly came under attack. The contested provision would have required that restaurants serve olive oil in sealed, clearly labeled and nonreusable containers, instead of relying on refillable containers.

The EU adopts around 60-70 legislative acts and around 2000

acts implementing previously adopted legislation (so-called non-legislative measures, like the proposal here at stake) every year. While the former category tends to draw some public attention, the latter seldom gains media reporting.

How one of these countless EU technical regulations hit public attention?

During the last EU Summit, the UK Primer Minister, echoed by his Dutch counterpart, [publicly attacked](#) the EU Commission's adopted proposal. David Cameron dismissed the rule, by ridiculing it as "exactly the sort of area that the European Union needs to get right out of".

The conventional tale

Once the issue was framed in these terms by a couple of prominent EU leaders, the temptation to jump on the bandwagon of EU-bashing was just too great. As a result, virtually [all media](#) portrayed the rule as silly, useless and inherently wrong.

While the competent EU Commissioner initially defended its proposal as a way to promote quality olive oil and to protect consumers from fraud, he then rapidly [withdrew](#) the measure declaring that the ban was "not formulated in such a way as to assemble widespread support".

However, the Commission proposal, which by then had already been approved by the Member States and was set to enter into force at the start of next year, was originally seen by many as a scheme to promote

sales for [Europe's olive oil industry, which is currently struggling amid low prices.](#)

But, of course, if you want to kill a Commission proposal, especially when it has already been adopted, it is much easier to do that by raising the ghost of the 'EU nanny state' rather than by explaining the socio-economics behind it.

The countertale

Let's put things in perspective and start from a few basis (rhetorical) questions:

How many journalists took the time to look for the contested 5-page EU Commission proposal and actually read it?

How many political leaders (beginning from Mr. Cameron and ending with Mr. Rutte?) have actually done so?

Given the viral character of media reporting and the poorness of political analysis (due to the usual copy/paste practice generated by news agencies) generated by this policy initiative, I fear that very few examined the merits of this controversial initiative.

Well, not being a journalist nor a politician, I actually took the time to read the controversial proposal. In the improbable case my friends in media outlets and political parties would be interested to do the same, I take to liberty to provide some instructions (pro futuro) on how to retrieve such a document.

1. You go to google (yes, unfortunately EUR-LEX sucks and even high-ranked EU officials recently disclosed that google remains their privileged search tool within the EU) and start a basic search.
2. You type: European Commission – Proposal – marketing standards – olive oil.

3. You end up – in a couple of clicks – with the [text of the controversial proposal](#), which is hosted on the Comitology register (another unfortunately potentially crucial, yet useless, EU search engine).

4. Now, please, read it: it is 5-page document.

The controversial proposal

As no newspaper has reported the exact scope of the proposal and its rationale, I suspect that you are curious to learn about it now.

New proposed standard:

“Oils made available to the final consumer in hotels, restaurants and pubs and bars shall be packed in containers equipped with an opening system which cannot be resealed after it has first been opened, together with a protection system preventing them from being reused once the contents indicated on the label have been finished”.

If our friends had even quickly glanced at this 5 lines, they would have easily gathered that – contrary to what they have been conveying to the public over the last days – what the Commission does with this

proposed standard is not about introducing single servings or having to provide a new bottle for each client. Rather it's about providing a labeled bottle, even if it partly empty. In other words, what the restaurant would be

required to do under this new rule is to serve the olive oil in front of the client, from a non-refillable bottle. That way, if the client wants to, they can find out if the oil is extra virgin, its origin and expiry date, all the information that must be on the label.

You may wonder what's the rationale for introducing such a rule?

Well, unlike what has been reported, there are good reasons, drawn from current commercial practices as well as scientific research to

actually

do so. Regardless of whether you find them convincing (or not), you – as a journalist or politician – are expected to look for them and possibly report them to the public.

Why does the EU decided to impose that olive oil be packed in containers equipped with an opening system which cannot be resealed after it has first been opened, together with a protection system preventing them from being reused once the contents indicated on the label have been finished?

In search of a rationale

The EU implementation regulation provides at least 5 different and largely complementary rationales in support of its disputed measure:

1. The proposed standard aims at ensuring the quality of olive oil available in restaurants and bars.

The recitals accompanying the proposal explain that ‘Several scientific studies have demonstrated that light and heat have a negative impact on the evolution of the quality of olive oils’. It goes without saying that the actual refillable bottles do not guarantee such a result. The olive containers remain on the restaurants’ tables long time and, lacking an opening system which cannot be resealed, allow the olive oil to enter into contact not only with the light and heat but also with the air.

2. The proposed standard ensures the authenticity of oils sold to the final consumer in hotels, restaurants and pubs and bars

Unlike refillable containers, bottles equipped with an opening system which cannot be resealed after it has first been opened, together with a protection system preventing them from being reused once the

contents indicated on the label have been finished, clearly reassure consumers

that olive oil in restaurants has not been diluted with an inferior product. In

sum, the objective is to make sure olive oil containers of more expensive varieties were not refilled with cheaper varieties once they were empty.

3. The proposed measure also aims at informing the consumer through the adoption of a set of labeling provisions and, more in

general, in educating the final consumer about the quality (extra-virgin v virgin, fresh harvest vs non-fresh, etc) of the product.

Allowing restaurants and bar owners to refill the bottles by themselves clearly creates an 'information vacuum' that might incentivize them

to mislead consumers by relying on a different oil and letting them believe that they are experiencing a different product than the one they are actually

enjoying. It is only by imposing a prohibition of refillable oil containers that you ensure not only the authenticity of the product you offer to the consumer but also convey the right information about that product.

4. The proposed measure also aims at improving the respect of hygiene rules

By prohibiting the refill of olive containers you reduce the room for possible breaches of basic hygiene rules.

5. And finally this provision was also felt needed "to improve effective compliance control with these standards in order to better protect and inform the consumer" (recital 2).

Well, in the light of the above, nobody – not even a EU skeptic Primer Minister like Mr Cameron – might argue that this is an 'arbitrary' rule.

Like it or not there were very little here that seems arbitrary..

Conclusion

The misfortune of this EU Commission proposal captures many of the misperceptions surrounding the work of the EU and substantiates the readiness of EU politicians to fuel those misinterpretations depending on their immediate political calculus. In particular, this tale shows how easy is to turn the public against the EU by depicting a rule supposedly aimed at consumer protection as the umpteenth attempt to over-regulate EU citizens' lives. As such, it illustrates once more the cynicism of EU political leaders who blame the Union for systematically over-reaching the exercises of the very same regulatory powers that they have actually entrusted to the EU (yes, also the UK did!). What is worse, they trivially claimed that the EU, at times of economic difficulties, had better things to do than regulating bottles of olive oil. Yet denying multi-tasking ability to a political system, it is like suggesting that when one of us breaks a leg she should not breath anymore. This is cheaply silly and populist.

More critically, this story teaches us that even once a rule has gained the majority of Member States (even though not a qualified majority vote) and has been adopted, it is still possible to get it withdrawn if the political leaders of the loosing countries are capable of spinning that story as the latest EU attempt at 'regulating everything'. This is dirty politics and, what is worse, a very shortsighted and dangerous trend at the time of increasing disaffection towards the EU.

While this posture is obviously driven by the prospect of short-term electoral gains, its most pernicious effects are made possible

by widespread ignorance and profound lack of understanding of the basic functioning of the EU. Attacked by the disease of EU-skepticism, public opinion behaves like a human body whose immunity system is deficient. By not having the right antibodies, public opinion does not react, let the disease gain ground and even facilitates its spread.

It is the task of the EU Commission, as guardian of the Treaties and the repository of the EU interest, to promote the development of the right antibodies against this instrumental manipulation of public opinion.

In order to do so, the EU Commission should systematically engage in EU-wide stakeholder consultations while assessing the impact of its proposed rules.

Unfortunately, in the present circumstances, as conceded by the same Commissioner, the Commission could not prove, in the absence of an impact assessment of the contested provision, the possible prospective effects stemming from the proposed rule and, what is more, could not claim to have consulted with all relevant stakeholders.

In these circumstances, it is regrettable that the EU Commission did not engage into such an assessment. This would have allowed it to not only gather more data on the socio-economic as well as environmental impact of its proposed measures, but also to confer to it some more 'legitimacy' vis-à-vis the relevant actors (e.g. restaurant/bar owners, olive oil producers, distributors, etc.).

This explains why the EU Commission, who proposed the rule and gathered a majority of Member States (yet not a qualified majority vote) in support of this measure, eventually did not stand by its own (adopted) proposal.

Only evidence-based and participatory decision-making could provide the right antibody against politically driven EU skepticism. This should be the lesson learned for the EU Commission from the olive oil tale.

PS: If you follow – as I do – the [Eurobubble series](#), you are certainly worried about the emotional state of its main character (played by [Yacine Kouhen](#)), a recently recruited policy officer at the Olive Oil Association. We know that the adoption of the contested proposal, which has been strongly supported the Olive Oil Association, was largely due to the personal lobbying skills of the Eurobubble's main character. He must be tough to see your first success story in the EU public affairs circus suddenly destroyed due to the unexpected intervention of Mr Cameron, the UK Prime Minister ;-)