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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	30 January 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2014) 31 final
Subject:	Proposal for a COUNCIL REGULATION amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products

Delegations will find attached the Commission document COM(2014) 31 final.

Encl.: COM(2014) 31 final



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2014/0013 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

General context

Regulation (EU) No 1308/2013 of the European Parliament and of the Council provides for a legal and financial framework governing the distribution of selected agricultural products to children in schools through the School Milk Scheme (SMS) and the School Fruit Scheme (SFS).

Council Regulation (EU) No 1370/2013, adopted on the basis of Article 43(3) of the TFEU, fixes the amount of Union aid under the SFS and the SMS as provided for by the Regulation (EU) No 1308/2013, and provides for the measures on the aid to be allocated to Member States in the case of the SFS and for the maximum quantity of products eligible for aid in the case of the SMS.

This proposal is presented in conjunction with the proposal of the Commission to amend the Regulation (EU) No 1308/2013 in respect of the provisions pertaining to the school schemes. The proposal provides for a new framework for the support of distribution of fruit and vegetables, bananas and milk to children in educational establishments, including the provisions on the amount of the Union aid, and how aid should be allocated within Member States.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

n.a.

3. LEGAL ELEMENTS OF THE PROPOSAL

In the interest of legal certainty, it is proposed to delete Articles 5 and 6 of Council Regulation (EU) No 1370/2013, as they would become obsolete with the proposed amendment of the Regulation (EU) No 1308/2013.

4. BUDGETARY IMPLICATION

Budgetary implications are presented in the financial statement accompanying this proposal and a proposal [COM(2014) 32 final] to amend Regulation (EU) No 1308/2013.

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Articles 5 and 6 of Council Regulation (EU) No 1370/2013¹ fix the amount of Union aid under the school fruit and vegetables scheme (SFS) and the school milk scheme (SMS) as provided for by Regulation (EU) No 1308/2013 of the European Parliament and of the Council², and provide for the measures on the aid to be allocated to Member States in the case of the SFS and for the maximum quantity of products eligible for aid in the case of the SMS.
- (2) Section 1 of Chapter II of Title I of Part II of Regulation (EU) No 1308/2013 as amended by Regulation (EU) No xxx/xx of the European Parliament and of the Council [*new school scheme*] provides for a new framework for the support of distribution of fruit and vegetables including bananas and milk to children in educational establishments, including the provisions on the amount of the Union aid, and how aid should be allocated within Member States. Articles 5 and 6 of Regulation (EU) No 1370/2013 have therefore become obsolete as from the date of application of Regulation (EU) No xxx/xx [*new school scheme*]. In the interest of legal certainty such articles should be deleted.
- (3) Regulation (EU) No 1370/2013 should be amended accordingly,

¹ Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products (OJ L 346, 20.12.2013, p.12).

² Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common market organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Regulation (EU) 1370/2013

Articles 5 and 6 of Regulation (EU) No 1370/2013 are deleted.

Article 2

Entry into force and application

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 August xx [same as for the Council/EP Regulation amending Regulation (EU) No 1308/2013].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
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1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Regulation of the European Parliament and of the Council amending Regulation (EU) No 1308/2013 and Regulation (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in the educational establishments

Council Regulation amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products

1.2. Policy area(s) concerned in the ABM/ABB structure³

1.3. Nature of the proposal/initiative

☐ The proposal/initiative relates to **a new action**

☐ The proposal/initiative relates to **a new action following a pilot project/preparatory action**⁴

☐ The proposal/initiative relates to **the extension of an existing action**

☒ The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objective(s)

1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

The proposal aims to sustainably increase the share of fruit & vegetables (F&V) and milk products in the diets of children, thus contributing to the objectives of the common agricultural policy (CAP) of stabilising the markets and ensuring the demand in the long run. It also aims to contribute to the wider public health objectives of reducing overweight and obesity, and diet-related diseases by shaping the sustainable healthy eating habits.

³ ABM: activity-based management – ABB: activity-based budgeting.

⁴ As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

Specific objective: To improve access to food for sensitive social groups

ABM/ABB activity(ies) concerned: 05 02 "Interventions in agricultural markets"

1.4.3. *Expected result(s) and impact*

The proposal is expected to change the knowledge, attitudes and preferences of young citizens towards food and its source, and their perceptions of agriculture and its products.

It is also expected to increase the cost-effectiveness of the distribution of products by better targeting the EU aid.

Moreover it would increase the part of the budget spent on accompanying measures thus improving their impact on the target group consumption and bridging the gap between the educational dimensions of the School Fruit Scheme (SFS) and School Milk Scheme (SMS).

Finally it would also lead to a common framework per Member State and to increase the visibility of the EU intervention.

1.4.4. *Indicators of results and impact*

Three levels of indicators have been set regarding the objectives:

Impact indicators:

- Change in direct and indirect consumption of fresh F&V by children after 5 years of intervention
- Change direct and indirect consumption of drinking milk by children after 5 years of intervention
- Improvement in overall dietary quality

Main results indicators:

- % of the budget available spent on accompanying measures
- % of supporting measures implemented related to agriculture and agricultural products
- Efficiency level of spending for the promotion of consumption of agricultural products in schools

Main output indicators:

- Number of accompanying measures implemented in Member States (MS)
- Number of children involved in accompanying measures and share of total participating
- MS Number of agri-related accompanying measures
- Cost per portion
- Number of participating MS, schools and children
- Volumes of products distributed at school (number of portions of F&V and milk)

1.5. **Grounds for the proposal/initiative**

1.5.1. *Requirement(s) to be met in the short or long term*

The needs underpinning the proposal are the need to sustainably increase the consumption of fruit and vegetables and milk in children and the need to shape their healthy eating habits.

CAP school schemes as currently implemented have certain weaknesses in their design and deficiencies in their functioning that need to be addressed, which limit their potential in achieving the objectives of promoting the consumption of agricultural products (market objective) and healthy diets with school children (health objective).

The problems identified concern the gap between the design of the schemes and their objectives (different educational tools under the two schemes), the lack of coordination and consistency between the two schemes and the deficiencies limiting the immediate impact of spending (high administrative and organizational burden on both schemes, budgetary under-execution of 30% in SFS, potential deadweight effect and low cost-benefit ratio in SMS).

The drivers are mainly linked to the regulatory failures, different financial framework, different implementation in Member States and to some external factors.

1.5.2. Added value of EU involvement

The action at EU level provides the funding necessary for initiatives across EU and additional sources of financing which permit Member States to expand the scope of their actions and increase their effectiveness. If Member States would have to rely exclusively on their own financial resources, most of them would not be in a position to implement ambitious initiatives. It also contributes to greater credibility of the schemes in Member States and improvement of the EU image and awareness. An EU framework has an added value in facilitating continuous knowledge, transparency, experience transfer and exchange.

1.5.3. Lessons learned from similar experiences in the past

There are currently two EU-funded school distribution programmes under the remit of the EU's Common Agricultural Policy (CAP) that specifically target children in school settings, namely the School Milk Scheme (SMS) and the School Fruit Scheme (SFS). Both schemes share a mutual aim to increase, on a lasting basis, the share of these products in children's diets at an early stage when their eating habits are being formed, thus contributing to the CAP objectives, in particular stabilising markets and ensuring the demand in the long run. Additionally, the schemes are in line with the wider public health objectives as they contribute in shaping the sustainable healthy eating habits.

However, despite this positive embedding in schools and recognition of their potential, conclusions drawn from different reports - in particular the external evaluations of the SFS and the SMS, initiated by the Commission, and the special report No 10/2011 of the European Court of Auditors - and experience after years of implementation, have identified the need to make further improvements to both schemes to increase their management efficiency and effectiveness. The recent agreement on the reform of the CAP already addressed also some of the problems identified.

1.5.4. Compatibility and possible synergy with other appropriate instruments

Taking into due account sectorial specificities the proposal is compatible with the promotion of agricultural products. It is also in line with public health objectives (weight management, health inequalities), simplification and with principles and targets as formulated in the Europe 2020 Strategy.

1.6. Duration and financial impact

☐ Proposal/initiative of **limited duration**

- ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☐ Financial impact from YYYY to YYYY

X Proposal/initiative of **unlimited duration**

- Implementation with a start-up period from YYYY to YYYY,
- followed by full-scale operation.

1.7. Management mode(s) planned⁵

☐ **Direct management** by the Commission

- ☐ by its departments, including by its staff in the Union delegations;
- ☐ by the executive agencies;

X **Shared management** with the Member States

☐ **Indirect management** by delegating implementation tasks to:

- ☐ third countries or the bodies they have designated;
- ☐ international organisations and their agencies (to be specified);
- ☐ the EIB and the European Investment Fund;
- ☐ bodies referred to in Articles 208 and 209 of the Financial Regulation;
- ☐ public law bodies;
- ☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
- ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

⁵ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

In the new scheme monitoring and evaluation are included in the costs eligible for the EU aid due to their importance for sound management and assessment of its effectiveness/efficiency towards the objectives identified. The link with a multiannual (6 years) national/regional strategy is also established.

The monitoring will be carried out on the basis of the annual MS reports containing information on the budget used, the number of school/children participating and the share of the total number of school/children of the target group, the distribution frequency, duration, time and system, the average weight and price per portion, the average consumption per child and the total quantities distributed. Furthermore, the accompanying measures will be also monitored as concerns the methods used and their cost, frequency, participating school/children, involvement of stakeholders, products distributed.

The evaluation process will consist of MS evaluation reports after 5 years of implementation of the scheme to measure medium-term impacts, followed by an external EU wide evaluation one year after the MS evaluations, to assess the implementation of the scheme at MS and EU level and assess overall effectiveness, efficiency, coherence and relevance in accordance with Commission evaluation standards and guidelines. Moreover, an external study on long-term impact indicators could be envisaged.

The external evaluations of the SFS and SMS and the Court of Auditors Special report No 10/2011 on these schemes have been clearly taken into due consideration for the design of the monitoring and evaluation processes relating to the new scheme.

2.2. Management and control system

2.2.1. Risk(s) identified

The general risk that can be identified relates to the effectiveness of the scheme, i.e. that the EU aid reaches the final beneficiaries of the scheme and effectively contribute towards reaching the scheme's objectives.

Based on the current experience from the SFS, particular attention should be given to the selection of aid applicants and to procurement procedures used for awarding contracts for distribution, publicity, monitoring and evaluation. Control provisions shall also cover the implementation of the said contracts. Public procurement is a potential issue for the School Scheme.

For other risks, as the possible deadweight effect and excessive cost of products distributed or margin for suppliers, provisions can be foreseen (e.g. on the level of EU-aid per portion).

As concerns the accompanying measures, there could be a risk of overlapping with educational measures provided in schools and with promotion of agricultural

products. To avoid this, the definition of these measures will involve an EU scientific expert group and their link with the objectives of the new scheme will be clearly stated. Control provisions related to accompanying measures shall address the genuineness of expenditure in general, providing assurance also where those measures are outsourced.

2.2.2. Information concerning the internal control system set up

Paying agencies and delegated control bodies at Member State level form the control system.

MS annual reports on controls and checks, based on those already in use for the current SFS and SMS, will be necessary, to provide details on the administrative management and on-the-spot checks implemented.

Moreover, the internal management and control system will make use of the monitoring and evaluation reports from Member States and of the EU-wide evaluation. Finally, an EU scientific expert group will provide MS and the Commission with advice on implementation, monitoring and evaluation.

2.2.3. Estimate of the costs and benefits of the controls and assessment of the expected level of risk of error

The school scheme will be covered by the existing system of management and control for EAGF expenditure.

It is considered that the proposal will not lead to an increase in the error rate for the EAGF.

2.3. Measures to prevent fraud and irregularities

The Horizontal Regulation on the financing, management, and monitoring of the CAP will apply.

In general, control systems provide for exhaustive administrative controls of 100% of aid requests, cross-checks with other databases where this is considered appropriate, as well as on-the-spot checks before payment for a minimum number of transactions, depending on the risk associated to the regime in question. If these checks reveal a high number of irregularities, additional checks must be carried out.

The legislative package to reform the CAP further provides that Member States shall prevent, detect and correct irregularities and fraud, impose effective, proportionate and dissuasive penalties, in accordance with Union legislation or national law and recover any irregular payments plus interests. It includes an automatic clearance mechanism for irregularity cases, which provides that where the recovery has not taken place within four years from the date of the recovery request, or within eight years if legal proceedings are initiated, the amounts not recovered shall be borne by the Member State concerned. This mechanism strongly encourages Member States to recover irregular payments as quickly as possible.

At the initial stage of the new scheme and although a formal EU approval is not foreseen for the MS strategies, provisions on their content (and possibly a template) will allow for possible early fraud risk identification and prevention.

During the implementation, requests for legal interpretation or advice from the Commission and/or the EU scientific expert group will also help MS to avoid fraud.

In addition, ex post checks and a robust follow-up of any allegations of fraudulent abuse of the scheme will be performed.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
		Diff./non-diff. ⁽⁶⁾	from EFTA countries ⁷	from candidate countries ⁸	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
2	05 02 08 12 – School Fruit Scheme	non-diff.	NO	NO	NO	NO
2	05 02 12 08 – School Milk	non-diff.	NO	NO	NO	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
		Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	NA		NO	NO	NO	NO

⁶ Diff. = Differentiated appropriations / Non-Diff. = Non-differentiated appropriations.

⁷ EFTA: European Free Trade Association.

⁸ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

Heading of multiannual financial framework	2	Sustainable growth: natural resources
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DG: AGRI			2014 ⁹	2016 ¹⁰	2017	2018	2019	2020	TOTAL
• Operational appropriations									
05 02 08 12- School Fruit Scheme	Commitments	(1)	122	0	0	0	0	0	0
	Payments	(2)	122	0	0	0	0	0	0
05 02 12 08 – School Milk ¹¹	Commitments	(1a)	75	0	0	0	0	0	0
	Payments	(2a)	75	0	0	0	0	0	0
TOTAL appropriations	Commitments	=1+1a	197	0	0	0	0	0	0
	Payments	=2+2a	197	0	0	0	0	0	0
• TOTAL operational appropriations	Commitments	(4)	197	0	0	0	0	0	0
	Payments	(5)	197	0	0	0	0	0	0
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)	0	0	0	0	0	0	0
TOTAL appropriations	Commitments	=4+ 6	197	0	0	0	0	0	0

⁹ The Budget 2014 amounts are given for information only.

¹⁰ For comparison reasons, the implementation is assumed to start in 2016. Moreover, the increase in the envelope for school fruit agreed in the CAP reform (Council Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products) will be implemented as from school year 2014/2015 and the amount is assumed to be used in full.

¹¹ For the milk scheme, the proposal foresees to fix an envelope of EUR 80 million per school year. This corresponds to the expected level of budget execution and is in line with the overall amounts for market-related expenditure and direct aids taken into account in the Multiannual Financial Framework 2014-2020.

for HEADING 2 of the multiannual financial framework	Payments	=5+ 6	197	0	0	0	0	0	0
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Heading of multiannual financial framework	5	" Administrative expenditure "							
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EUR million

				2016	2017	2018	2019	2020	TOTAL
DG: AGRI									
• Human resources				0	0	0	0	0	0
• Other administrative expenditure				0	0	0	0	0	0
TOTAL DG AGRI	Appropriations			0	0	0	0	0	0

TOTAL appropriations for HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)	0	0	0	0	0	0
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EUR million

			2016	2017	2018	2019	2020	TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments		0	0	0	0	0	0
	Payments		0	0	0	0	0	0

3.2.2. Estimated impact on operational appropriations

- ☒ The proposal/initiative does not require the use of operational appropriations
- ☐ The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million

Indicate objectives and outputs			2016		2017		2018		2019		2020		TOTAL	
	REALISATIONS (outputs)													
	Type ¹²	Average cost	Nº	Cost	Nº	Cost	Nº	Cost	Nº	Cost	Nº	Cost	Nº	Cost
SPECIFIC OBJECTIVE			To improve access to food for sensitive social groups											
Output	Nº of accompanying measures													
Output	Nº of children in accompanying measures													
Output	Nº of agri-related accompanying measures													
TOTAL COST														

¹² Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.3.1. Summary

- ☐ The proposal/initiative does not require the use of appropriations of an administrative nature
- ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million

	2016	2017	2018	2019	2020	TOTAL
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HEADING 5 of the multiannual financial framework						
Human resources	0	0	0	0	0	0
Other administrative expenditure	0	0	0	0	0	0
Subtotal HEADING 5 of the multiannual financial framework	0	0	0	0	0	0

TOTAL	0	0	0	0	0	0
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The human resources appropriations required will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

3.2.3.2. Estimated requirements of human resources

- ☐ The proposal/initiative does not require the use of human resources.
- **X** The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

		2016	2017	2018	2019	2020
XX 01 01 01 (headquarters and Commission's representatives)		4	4	4	4	4
XX 01 01 02 (Delegations)						
XX 01 05 01 (Indirect research)						
10 01 05 01 (Direct research)						
XX 01 02 01 (CA, SNE, INT from the "global envelope")						
XX 01 02 02 (CA, LA, SNE, INT and JED in the delegations)						
XX 01 04 yy	- at headquarters					
	- delegations					
XX 01 05 02 (CA, SNE, INT – indirect research)						
10 01 05 02 (CA, SNE, INT – direct research)						
Other budget lines (specify)						
TOTAL (*)		4	4	4	4	4

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	Managing legislation, policy making, economic analysis and advice, inter-service coordination and consultation, internal communication and public information, institution representation and negotiation, statistical data handling,
External staff	

3.2.4. *Compatibility with the current multiannual financial framework*

- ☒ Proposal/initiative is compatible with the current multiannual financial framework.
- ☐ Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.
- ☐ Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework.

3.2.5. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties.
- ☒ The proposal/initiative provides for the co-financing estimated below:

The Union financial contribution for this scheme is indicated in point 3 of Article 1 of the draft regulation. In addition, the level of Union aid (flat rate) towards the cost of the portion for fruit and vegetable and milk will be decided by delegated acts.

The level of the EU contribution towards the cost of products will be limited through a maximum EU aid per portion for products of both fruit & vegetables and milk. Member States will have the option to provide national top-ups or to attract private funding in order to enlarge the scope and/or intensity of their intervention of the school schemes. At this stage it is not possible to quantify the total amount of third parties' contribution, in view of the diversity of third parties (public and/or private) and in the absence of the relevant information at present.

3.3. **Estimated impact on revenue**

- ☒ Proposal/initiative has no financial impact on revenue.
- ☐ Proposal/initiative has the following financial impact:
 - ☐ on own resources
 - ☐ on miscellaneous revenue