

Last month millions of civil servants and professionals throughout Europe were celebrating. Not because summer break indulgences had made them silly or even because mortgage rates remain low. No, it was because their fairy godmother – the European Commission – had leaked a document pointing to where CAP reform could take us in 2014. Rather than finding ways to simplify (and, by default, reduce the cost of) the support system, a package of proposals, was announced which, if adopted, would guarantee to maintain employment in the administrative and advisory sectors for a decade!

It goes without saying that the timing of the leak was no accident; their plan was to test some potentially explosive issues before publishing formal proposals this October. Some of the content has been openly discussed for years but there were one or two surprises. The key points include:

- Introducing a cap starting with a 20% cut on payments from €150,000 to €200,000 rising to a 100% reduction on payments above €300,000. The payment subject to capping will, however, exclude an “environmental element” likely to make up 30% of the total and also excludes a provision made for salaries paid to qualifying employees.
- The environmental element suggests that:
 - (i) where the arable area is over three hectares, three different crops must be grown (each crop to be not less than 5% and not more than 70% of the arable area).
 - (ii) permanent grassland established for five or more years must be maintained.
 - (iii) a minimum of 5% of the area (excluding permanent grassland) is to be placed in ecological management (e.g. fallow and buffer strips). Organic farmers would be exempt.
- Existing SPS entitlements will be abolished at 1 January 2014. An application for new entitlements will be made by 15



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CAP reform – anything worth talking about?

May in the first year of the new scheme. The new entitlements will be transferable.

It is quite right to think carefully about what these proposals could mean. Obvious questions include:

- Is capping a risk for my business?
- As a director of a limited company could I increase my salary to bring me into a lower or zero % capping band?

● If I renew my ELS scheme will that qualify me for the “environmental element”?

● Is my annual subsidy income going to fall?

However, perhaps the most important question is “Should I be taking any action now?” It would of course be dangerous to make any broad recommendations here but for the most part we have far too little

information to draw firm conclusions that could result in positive action. For example, it is possible to have a stab at which capping category a particular business might fall into but at what base rate per new entitlement do you start; €150/hectare? €300? We simply do not know. Those thinking about splitting businesses to beat the cuts will base their decisions largely on guesswork.

That said, there is one area where some action might be considered. Surprisingly, the proposals include the scrapping of

existing entitlements in favour of new ones. Assuming that these will be granted to the occupier of qualifying land it is likely that once again, some land owners will consider taking occupation of currently tenanted land to ensure that they do not miss out. At this point remembering the lessons learned in 2005 could be useful. Most Farm Business Tenancy agreements include clauses which require tenants to take whatever action is required to ensure new subsidy schemes are applied for and these usually require the resulting entitlements to be passed to the landlord in the event the tenancy ends. Where effective clauses are not in place then, where possible, landlords might consider ending tenancies before 2014 to either re-grant with relevant clauses in place or to farm in hand until the entitlements are in the bank. Tenants who could find themselves at risk might consider tackling this before any hammer falls.

This raises another issue. The definition of an “active farmer” has arisen frequently when CAP reform is discussed. Some have suggested that landowners claiming SPS subsidy without actually getting involved in farming may somehow be disqualified from the new system. However, there was no mention of this in the leak so perhaps the Commission have accepted that with so much land farmed under grazing, contract farming and other agreements across Europe it might just be a reform too far. Or is this just wishful thinking?



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