Review of the Balance of Competences between the United Kingdom and the European Union
List of Evidence

Animal Health and Welfare and Food Safety

This document is a record of all of the evidence submitted to the Department for Environment, Food and Rural Affairs and Food Standards Agency call for evidence on animal health, animal welfare and food safety. A summary of this evidence can be found in the Animal Health and Welfare and Food Safety Report at: www.gov.uk/government/consultations/call-for-evidence-animal-health-welfare-and-food-safety-review

The Report is part of the UK Government's Review of the Balance of Competences between the United Kingdom and the European Union.

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Workshops

Aberdeen City Council

Thank you for the opportunity to comment on the Balance of Competency Review.

Having considered the terms of the review, my colleagues within Environmental Health who deal with Food and Animal Health enforcement are satisfied that the competency requirements for those areas are balanced.

On the Feed side, which is enforced by Trading Standards, the situation is different. In Aberdeen City, we have sufficient numbers of staff who hold the required qualification. However, we cannot meet the competency requirements because there is not enough work in this area within the city to meet the experience criteria. To address this we are entering into an agreement with Aberdeenshire Council Trading Standards to cover this area of work for us. I realise this isn't a comment on the competency levels themselves but rather how predominantly urban authorities will struggle to meet them. This in turn suggests a regional approach to Feed enforcement needs to be examined.

Advisory Committee on Animal Feedingstuffs

Balance of Competences Review – Comments from the Advisory Committee on Animal Feedingstuffs

Additives, Hygiene, and Labelling

Bringing competencies back to the UK on labelling, additives or hygiene may well cause difficulties to small and medium-sized enterprises (SMEs) particularly in the pet and companion animal sector where differences in requirements may limit their access to EU market (and vice versa).

I suppose one advantage would be the ability to permit certain additives to continue to be used in UK production.

Assurance Schemes

The value of the UK farm assurance schemes should also be recognised in the areas of animal health, welfare and feed safety as part of the 'Balance of Competences Review'.

Centralised applications

I think the centralised applications for feed/food additives, biocides, chemicals, etc is of benefit to industry. This allows full market access and saves approaching Member States individually. I think the disadvantage is that it is expensive for small companies, or small local markets.

Harmonisation with EU requirements

Obviously, this could be avoided by ensuring all UK feed law is harmonised with any EU requirements, but this seems rather a pointless exercise and no doubt there would be delays in implementation which could impact on UK businesses.

I think the biggest challenge is demonstrating that all Member States are applying and enforcing the law to the same degree. This is particularly relevant and is being seen currently in relation to animal welfare with the lack of compliance to the Welfare of Laying Hens Directive that came into existence on 1st January 2012 and the Regulation on the Group Housing of Sows on 1st January 2013. As regards the latter, it is estimated that only 75% of sows in the EU comply.

There are examples of where EU legislation has been created as a 'knee-jerk' reaction which was disproportionate to the situation. This happened in the case of Regulation 225/2012 (dioxins in fats) where the UK argued for, and eventually got, more proportionate legislation.

There are situations especially in relation to the authorisation of GM events where EFSA, and hence the scientific evidence, supports approval but political decisions are taken by some Member States. One would hope that UK law-making would be more objective.

Northern Ireland

This might be a particular problematic for Northern Ireland due to their land border with the Republic of Ireland.

Perception of Risk

The review of applications by other Member States may rely on scientists with little experience of risk assessment, or a perception based only on local experience. There are efforts being made to standardise the training of risk assessors throughout Europe and the European Register of Toxicologists has reviewed its application procedures leading to a more robust demonstration of training. They now also offer targeted courses and encourage cross-border training courses (http://www.eurotox.com/), so I think eventually this will be less of a problem.

Trade

I think that the main consideration with regard to this would be the effect on UK businesses operating across borders, both importing and exporting.

Agricultural Biotechnology Council

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards.

1. What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

The single market for food has had notable benefits for the UK. Increased competition and access to the free market has aided the growth of the industry and facilitated a more beneficial export market. However, the single market is currently distorted in the agricultural biotechnology sector by the action of certain Member States of the European Union. The legislation in this area is adequate, but its unequal and incomplete implementation has negative consequences for farmers and researchers, and ultimately consumers, here in the UK.

R&D sector

Developing a new GM crop requires a significant investment both in terms of time and resources, and companies naturally focus their investments in areas of the world with predictable and workable approval systems. The ban on most GM cultivation in Europe therefore puts European agriculture and science at a competitive disadvantage, as academics and new investments move to those parts of the world more inclined to fostering innovation.

The UK is therefore facing growing competition from countries like Brazil and China, who are better positioned to attract investment. China, for example, has a target for biotech revenues of between five and

eight per cent of GDP by 2020, and Brazil is reaping huge benefits from its positive and effective regulatory approval system, having been officially opposed to GM technology less than a decade ago.

The high cost of taking a new crop technology through field trials is already extremely high. The prohibitive delays and associated cost of the malfunctioning European regulatory system therefore present a significant further barrier to innovative UK companies developing and ultimately commercialising their discoveries.

Farming sector

Farmers are also denied access to the economic and environmental benefits associated with the cultivation of biotech crops:

• A recent Swedish study has shown that European farmers could increase their annual revenues by 1 billion Euros if they were allowed to cultivate GM crops such as maize, soybeans and sugar beet (the last crop would be of particular relevance to the UK).

• Before Romania's accession to the EU in 2007 (when EU regulations essentially forced an end to their cultivation) herbicide tolerant GM soya beans accounted for nearly 70% (about 137,000 ha) of all soya beans planted in the country, and averaged 30% higher yields

Around the world, GM crops continue to grow in popularity with farmers. According to figures released by the International Service for the Acquisition of Agri-biotech Applications (ISAAA), global adoption of genetically-modified (GM) crops reached 170.3 million hectares in 2012, an increase of 10 million hectares from the previous year. There was also a notable increase in the number of farmers using GM crops, with 17.3 million farmers now using biotechnology, up by 600,000 from 2011,

However, no GM crops have yet been commercialised by the EU which are suitable for cultivation by farmers in the UK.

2. What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

Trade in commodities is almost by definition a global activity and one where regulations should be harmonised wherever possible and practical. The regulations around biotechnology, for example and essentially equally stringent around the world but the EU system has an unnecessary political overlay which has the effect of interrupting free trade of previously demonstrated-to-be-safe products. This can distort the availability and price of commodities such as maize, and vegetable proteins and oils to the detriment of European farmers and consumers.

3. Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

The EU has one of the world's strictest approval procedures for GM products. In 2011, the European Commission released a compendium of 50 research projects on the safety of GMOs. The Commission funded research from 130 research projects, involving 500 independent research groups, over 25 years, concluding that; "There is, as of today, no scientific evidence associating GMOs with higher risks for the environment or for food and feed safety than conventional plants and organisms."

Whilst the current regulatory system in the agricultural biotechnology sector is a suitable science-based and evidence-based system, it is not being properly applied due to political interference.

The European Food Safety Authority (EFSA) makes an initial extensive scientific risk assessment, and if it finds a product to be as safe as its non-GM counterpart, it is then subject to a political decision. This is administered by the European Commission and involves the Member States, and it is at a political level that

the system malfunctions. This failure to properly apply existing regulations is having a detrimental impact on the economic sustainability of EU and UK food and feed operators.

In cases where decisions on GM crops have reached EU legal action, the European Court of Justice enforced existing regulations; the recent ECJ ruling against a French ban on the cultivation of GM maize being a good example of this.

4. Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

5. What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

Existing regulation with regards to agricultural biotechnology ensure consumer and environmental safety, but there are concerns about its implementation, and we would like to see regulations more rigorously applied.

The current ad-hoc management of GM-related matters, including the management of the regulatory process, has led to severe financial impact for many sectors. This is particularly apparent in the form of the multitude of delays suffered by the industry.

The EU system for approvals of GMOs has resulted in a huge backlog which is threatening to disrupt Europe's supplies of agricultural commodities. This backlog would take almost 15 years to clear at 2012 approval rates – that is, if no new applications were to enter the system. The backlog means that the EU is not allowing certain varieties of commodities (including crops which are hardly grown in the EU, but massively consumed) to enter the EU market, despite abundant evidence of their safety. This has led to major trade disruptions in the past and will do so again.

A study published by the EU Commission in 2010 estimated that the overall cost to the economy of such disruptions could total nearly €10 billion. Added to this is the substantial costs involved in having GMOs approved in Europe, predominantly accrued from the large number of studies which applicant companies have to present to EFSA, which has been estimated at €7-10 million per event.

Therefore, the backlog of EU authorisations for GM imports, combined with the fact that European farmers are not given the choice to grow most GM crop varieties:

• Contributes to rising food prices and undermines the competitiveness of European farmers and;

• Creates a blockage to the commercialisation and export of agricultural innovations by the UK research sector.

6. What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?

7. How might the UK benefit from the EU taking more or less action on food law in the future?

It is not a case of more or less action being required, but rather that current regulations should be applied and adhered to. Any action that the EU does decide to take in the future should be strategic and long-lasting, should be based on scientific evidence, with a full impact assessment to understand any consequences of such an action.

8. Could action be undertaken differently e.g. are there ways of improving EU food law?

The current approval system for GM crops does not need changing, but it does need to be properly implemented. Adhering to existing regulations in the EU authorisation system would expedite GM

applications and reduce the backlog in the authorisation system. This would enable the UK to benefit from increased spending on R&D for a range of products for farmers to employ in their push for a sustainable intensification of agriculture. This would allow the UK to take advantage of the growth potential in a similar way to the gains that have been made in healthcare biotechnologies and other science based sectors.

In addition, the 'technical solution' currently applied to feed imports should be extended to food. Swift approaches should be considered regarding the difficulties faced by food and feed business operators. The feed-only approach is not coherent with the realities of the commodity and food manufacturing markets. An extension of the technical solution to include food is crucial to accommodate the fact that the food and feed chains are closely interlinked.

A similar testing and sampling protocol for seed as is used for feed and food is also urgently required. Additionally, long-lasting comprehensive and robust policies are needed to deal with Low-Level Presence of EU unauthorized GM products in feed, food and seed.

Agricultural Industries Confederation

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

There have been two high profile examples of how EU action on animal welfare has disadvantaged the UK. The Welfare of Laying Hens Directive (WLHD) came into effect on 1st January 2012 and EU Regulations on Group Housing of Sows a year later on 1st January 2013.

In both cases, the UK was either already 100% or very close to compliant prior to implementation of EU Regulations. It is well known that many member states were not compliant with the WLHD several months after it was meant to have been implemented. Despite this non compliance, there were no instruments in place to ban the import of eggs from illegal production systems. Despite the fact that producers had invested millions of pounds in converting conventional cages to enriched ones, the industry had to mount a name and shame campaign and rely on "gentlemen's agreements" to ensure that eggs produced from illegal battery cages were not sold or used in the UK.

As many feared, history is repeating itself with the Regulations on the Group Housing of Sows. Estimates indicate that many member states are not 100% compliant and at the time of writing only 75% of sows in the EU comply. Nine countries have been sent Letters of Formal Notice by the EU asking them to take steps to achieve compliance. Once again, the industry has to rely on campaigns with retailers and food service companies to ensure that meat is not imported which has been produced in production systems that have been illegal in the UK for over a decade and now in the EU from 1st January 2013

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

It is important for the EU to act appropriately on animal health as the EU offers little barrier for the movement of stock between countries.

All EU regulations must be implemented to the same degree in all Member States for it to be effective.

The UK would benefit from the EU enforcing regulations to ban the import of food that has been produced from production systems that have been made illegal by the EU's own regulations.

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

Member States should be able take action to ban the importation of food from other Member States that does not meet either UK or EU welfare standards. Food labelling should indicate country of origin.

What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

The main challenges we face on animal health (and therefore welfare) are to prevent the risk of exotic diseases such as swine fever and foot and mouth disease.

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

Country of origin labelling has been beneficial for the UK.

Food and feed products imported from other EU countries should all conform to the same safety standards which should be seen as an advantage.

Contaminants legislation has benefited the food and feed industries, however the single market is only effective and 'fair' if all Member States implement EU legislation to the same degree.

Being in a single market makes it is easier to export goods to other EU Member States.

Being in a single market makes countries that join the EU implement the single market standards which should ensure a high standard for food and feed safety and quality.

What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

CODEX by its nature could be seen as too much of a compromise as it has to take into account the views of a large number of countries. The EU could be criticised in a similar manner, but to a lesser extent.

However, in some cases, international standards may work for macro level issues of common interest such as the setting of feed/food contaminant maximum levels. The setting of standards at EU or international level for micro issues are less likely to be in the national interest and may disadvantage it.

Having national standards would allow local agronomic and production conditions specific to the UK to be taken into account.

Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

On occasions scientific decisions have been overtaken by political intervention negatively affecting the competitive performance of UK and EU farmers. One example of this would be the slow authorisation of GM events.

Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

The example of the Commission response to the dioxin issue in Germany would be an example of over-reaction that adds cost to the animal feed industry. In our view the national authority may have taken what we would see as a more proportionate response.

As mentioned before legislation and the way it is implemented means EU agriculture is held back compared to countries outside the EU. An example would be the ability to feed and grow GM crops.

What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

We would consider the majority of the scientific decisions made by bodies such as EFSA as appropriate. However, once made we would not expect the decisions to be altered/amended/enhanced by legislators before feed/food law is implemented.

What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?

It dilutes UK interests as it has to be a compromise of all EU countries interests, therefore our interests may be best served by being represented directly at CODEX.

How might the UK benefit from the EU taking more or less action on food law in the future?

The UK has a good track record of basing actions/decisions on scientific evidence and would like to see this approach more consistently applied at EU level.

Could action be undertaken differently e.g. are there ways of improving EU food law?

If all decisions were science based and not altered before entering law that would be an improvement.

Having EU legislation implemented to the same standards in all Member States would be beneficial to feed and food safety in the EU.

We feel that on occasion Commission officials take too high a profile in setting new legislation without taking appropriate note of comments made by officials from Member States.

EU feed and food law should apply to imported food and feed products. For example, animal products produced from feed ingredients that are banned in the EU should not be imported.

What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

Continued 'knee-jerk' reactions that adversely affect the competitive position of EU agriculture.

Taking different positions to other major agricultural nations on non-scientific grounds may prejudice the competitiveness of EU agriculture.

Agriculture and Horticulture Development Board

Response to the call for evidence examining the impact of EU competences on animal health, welfare and food safety in the UK

In general, there is a sufficient and mainly harmonised regulatory framework within the EU to address the need, and also largely society’s expectation, so as to provide acceptable levels of consumer protection, safe food and animal welfare. What is lacking is clear communication and consistent application of existing requirements not just in the UK but across the EU.

The result is a commercially-driven race to the bottom to see who can be most successful in avoiding the letter of the law and to ever reduce input costs in an attempt to gain competitive advantage often at a detriment to the industry overall.

The European Commission needs to consider how it can turn this around and create market conditions which reward compliance and penalise non-compliance in a timely manner.

Governmentally issued or recognised Codes of Practice and Guidance should increasingly be harmonised and mutually recognised on a pan-EU basis, with significant input being required from industry bodies. Government and industry must work together to develop effective voluntary strategies (e.g. cost and responsibility sharing and better farming industry engagement by the Animal Health and Welfare Board for England). However, Government needs to maintain independence and has a significant role in providing robust verification.

Protection of animals

For the UK to compete in Europe it is important that animal welfare law and its enforcement is on a harmonised EU basis.

Historically the UK Government has been an early adopter and enforcer of more stringent welfare legislation than that in force in most other Member States, and this has resulted in a competitive disadvantage for UK producers - resulting in meat and milk from other Member States being sold in the UK at lower prices due to lower costs of production associated with lower welfare standards.

EU legislation has been "catching up" with UK legislation in this area and this has reduced, subject to proper implementation and enforcement, the competitive disadvantage of UK producers. A clear example in this area is the ban on the use of stalls and tethers for breeding sows. However, failures of the governments and industry in certain other Member States to ensure prompt compliance has maintained an unfair competitive advantage for the operators concerned and it is not legally possible for the UK authorities to prevent pigmeat from such operations from entering and distorting the UK market. There are concerns over the length of time for which this and various other unfair advantages resulting from failures to implement and enforce Community legislation will be maintained.

If the UK industry wants to take a leadership position on the welfare of animals reared for food, then it should be on a voluntary market driven basis.

Some legislation dates quickly and some is significantly out of date. For example, the scientific basis of the requirements for heat treatment of products and intra-community trade restrictions during outbreaks of CSF and FMD is questionable. There is a need for the EU and/or its Member States to be both capable and willing to respond quickly to changes and update old legislation and to carry out risk assessments on disease control legislation, in order to minimise the risk of spread and loss of control.

More EU FVE inspections should be unannounced and targeted across all Member States with the power to visit at random as well as in accordance with announced inspection programmes.

Following the Lisbon Treaty, decision making at the Standing Committee on the Food Chain and Animal Health (SCoFCAH) became less effective and less capable of reacting quickly because officials were unsure of the decision making boundaries of SCoFCAH, the European Parliament and the Council.

Consumer protection

We feel that EU legislation is robust, but in some instances excessively rigid, in safeguarding public health. By its nature EU law rightly tends to target those practices of food preparation presenting the highest risk but in doing so it sometimes fails to provide appropriately so as to avoid placing unwarranted burdens on other businesses. This imposes unnecessary additional and often significant costs and burdens on those businesses.

An example of this is the rules imposed on the production of minced meat by Regulation (EC) 853/2004. The rules are based on the accepted needs in Member States where minced meat is normally consumed raw or without thorough cooking, but are not scientifically justifiable for the production and supply of minced

meat that is to be thoroughly cooked before consumption, which is the case in the UK. This significantly increases the burdens on the industry and costs to consumers, to no purpose.

That Regulation (EC) 853/2004 imposed considerable burdens and costs on the UK industry – inter alia significantly devaluing the trim from matured meat primals. Such Regulation in future should be drafted so as to permit appropriate flexibility – e.g. if minced meat and its products are clearly labelled to be cooked thoroughly prior to consumption then a risk-based approach [which existed in the predecessor directive] would permit less stringent rules to apply to these, compared with such products that are not so marked as requiring thorough cooking.

The EU structure can have both advantages and disadvantages for incident handling. Where a problem arises in another Member State (take the recent horse meat scandal as an example) then the ability to continue trading (albeit here in contravention of food labelling law and unless, for example, a human health risk is identified) can damage consumer confidence, distort the market, embarrass the government and industry, and be costly for enforcement authorities. On the other hand, the EU Rapid Alert system can effectively enable product withdrawal to take place rapidly across the Community when an issue is identified in any Member State.

Accurate and consistent labelling is important for consumers. It is important to find a balance that is practical in terms of traceability.

Intra-EU Trade

Trade with other Member States is vital to the economic sustainability of UK animal agriculture. This is facilitated by having harmonised law on health, welfare and food safety. If this was done on a national basis, there would remain a requirement for national law to protect health, welfare and safety, and we would anticipate that this would be unlikely to be significantly less rigorous than the current EU law, albeit there are areas of such law as indicated by examples where the EU provisions could be improved. In addition the administrative burden to both UK Government and industry or achieving and maintaining mutual recognition would be substantial.

Restrictions on intra-community trade of product produced in illegal systems are inadequate e.g. pigmeat produced in systems that still use stalls and tethers should not be allowed to enter intra-Community trade and should as a minimum be permitted to be excluded from entry onto the territories of individual Member States in their own competence (This could be one of the types of non-compliance penalty referenced in paragraph three of this response)

Additional testing requirements beyond notifiable diseases leading to exclusion from a Member State's territory should be permitted for maintaining freedom from endemic diseases of significant economic and/or welfare impact in that territory, e.g. high pathogenic PRRS strains not present in the UK.

Trade with 3rd Countries

There are both advantages and disadvantages of the EU having exclusive competence for trade agreements with third countries. On the one hand the EU has greater negotiating power to gain access to markets and agree mutual recognition of standards. On the other hand, it can limit the potential of the UK to gain marketing advantage from its international reputation, including for example its "island status".

In general the disadvantages of the EU having exclusive competence for trade agreements with third countries outweigh the advantages. Negotiations will tend to be more prolonged and cumbersome as many 3rd countries recognise that there are not homogeneous standards across the EU and continue to harbour doubts over biosecurity controls. A single negotiating position means that any disputes have a direct impact on the UK's own trading position and where there are biosecurity issues in one part of the Union these can result in restrictions being imposed on the entire territory. Furthermore we would be bound in our setting of priorities to those that are seen as 'common' across the EU. For example the UK would see market access

for sheep meat to 3rd countries as a priority given our predominant position as a producer within the EU, but this may rank far down the priorities on an EU basis.

Economics, growth and innovation

Prescriptive legislation is necessary in some areas but generally outcome-focussed legislation allows for more innovation, and reduces the delay to the introduction of new tools and technologies. The recent approval of lactic acid treatment of beef carcases is a good example. This has had slow progress through the decision-making apparatus of the EU following the opinion from EFSA that it was safe. A more outcome-based legislative framework would have allowed for food businesses to adopt the technology as soon as EFSA had declared it safe (i.e. the outcome was the production of safe food). Obviously outcomes need to be carefully defined to avoid perverse consequences. The process of approval of lactic acid treatment for beef carcases also illustrates a lack of common sense in EU procedures. It would have been sensible to consider the potential for lactic acid to be used on all red meat carcases not just beef. The process is likely to have to be repeated before the use of lactic acid could be approved for use on carcases other than beef carcases.

Scientific risk-based approaches

Legislation on animal and human health, welfare, food and feed is intended to be drafted based on the application of scientific principles. It usually starts with the intention to control risks but consumer and political preferences may influence the final legislation without regard to, or even contrary to, scientifically justifiable provisions.

An example of this in action is the removal of spinal cord from sheep aged over 12 months: The EFSA Committee on BSE/TSE infectivity in small ruminant tissues (2010) was quite clear that to date, there has been no report of naturally occurring BSE in sheep in the commercial situation. The requirement to remove the spinal cord is in place to reduce the (at worst extremely small) risk from possible BSE-infected sheep and goats, there being no known risk to human health of scrapie. Applying and perhaps over-applying the precautionary principle, the controls remain in place which include the splitting of sheep over 12 months to remove the spinal cord at considerable cost to the industry.

Another example is that there is clear evidence that the UK is free of Trichinella but Community procedures for recognition of this allow other individual Member States to block recognition of freedom.

Differential interpretation

UK Government has a reputation for interpreting and enforcing some EU legislation more strictly than national governments in other Member States.
The example of sheep spinal cord removal given above is an illustration of this. It is known that removal techniques that suck the spinal cord from the unsplit carcase are allowed in some Member States (e.g. France), although these are known to be less than 100% effective.

All Party Parliamentary Group for the Replacement of Animals in Medical Experimentation

Questions in relation to animal health and animal welfare:

1. What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

In relation to the regulation of animal experimentation, none.

In December 2012, the Animals (Scientific Procedures) Act 1986 Amendment Regulations 2012 were approved by Parliament, which amended the original 1986 Act to transpose European Directive 2010/63/EU on the protection of animals used for scientific purposes into UK law.

2. How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The UK will benefit from the transposition of the Directive into the UK legislation, and it is not envisaged that any further legislation will be needed for a considerable time. The Home Office has consulted widely on the new requirements, and will now produce a Guidance document and a Code of Practice to assist all interested parties. Precisely how the Directive is applied in the different Member States will inevitably vary, but this is not expected to lead to any significant problems for the UK.

3. What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

Trade agreements may be involved in relation to the animal testing of certain products, such as drugs and cosmetics, but this is already effectively taken into account in relationships between the Member States and European Commission bodies, such as the European Medicines Agency.

4. How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

The Directive allows for the Member States to retain stricter controls on animal experimentation than those laid down by the Directive. The UK has taken advantage of that provision in relation to a small number of issues, when amending the 1986 Act. For example, the use of great apes would be permitted by the Directive under certain conditions, but is explicitly banned by the amended UK 1986 Act.

5. Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

Yes, the amendments to the 1986 Act received support from across the spectrum of views on animal experimentation.

6. Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

The UK will be free to use its experience and expertise to improve animal health and welfare in relation to scientific use, and there will be opportunities for positive discussion and interaction at the EU level.

7. What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

In the opinion of the Group, the main challenge is to reduce the reliance of biomedical research and safety testing on procedures involving living vertebrate animals, by replacing such procedures with modern alternative methods of more-direct relevance and benefit to human and animal health and welfare.

8. What impact might any future enlargement of the EU have on animal health and welfare?

It is likely that any new Member States would have little difficulty in transposing the requirements of the Directive into their own legislation, especially as they could benefit from the experience of the existing Member States.

Anaphylaxis Campaign

The Anaphylaxis would like to submit the following evidence:

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

4. Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

As far as food allergy is concerned, the European Food labelling regulations have helped to protect allergic families within the UK and when travelling within Europe through consistent labelling of major allergens on pre-packaged foods.

8. What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

The new Food Information Regulation (Regulation 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers) has allowed for the adoption of implementing acts relating to the possible and unintentional presence in food of substances or products causing allergies or intolerances:

"3. The Commission shall adopt implementing acts on the application of the requirements referred to in paragraph 2 of this Article to the following voluntary food information:

(a) information on the possible and unintentional presence in food of substances or products causing allergies or intolerances;"

In our view, if this voluntary information on the possible and unintentional presence in food of substances or products causing allergies or intolerances (i.e. "precautionary" or "may contain" statements) were to become a legal requirement, this is likely to have a significant impact on both food companies and allergic consumers. It could have a positive impact in as much as allergic consumers could be reassured that if a product does not have a warning there is no risk of the allergen in question being present as a possible contaminant. It could however, if used indiscriminately, lead to an even greater number of products carrying unnecessary precautionary warnings, resulting in even less choice for food allergic consumers. Therefore food companies should be required to make decisions on applying precautionary labelling only after there has been a thorough risk assessment exercise. Furthermore any legal changes in this area should only be implemented once threshold levels for food allergens have been agreed at European level (a threshold level being defined a dose or exposure concentration of an agent below which a stated effect is not observed or expected to occur.

Blue Cross

1. What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

Current EU legislation applying to pet animals concentrates primarily on controlling the risk of disease spreading as people move around Europe with their pets, and with protecting the human food chain from being infiltrated by veterinary medicines. The pet passport scheme is designed to ensure that all cats and dogs travelling within the EU have an up to date rabies vaccination and can be identified by microchip and identification documents. Although there is evidence to suggest that this system is working to make the movement of pet animals through the EU easier and safer, we would argue that the pet passport system could be improved by the establishment of a single European database, accessible to all those needing to check the status of a microchipped animal. A database could contain up to date details of pet passports

issued throughout Europe, allowing the quick and easy confirmation of a stray or abandoned animal's rabies status and reassuring any agency dealing with the animal that they are in the country legally.

Blue Cross welcomed the publication of the EU Strategy for the Welfare and Protection of Animals (2012-2015), which included pet animals. We consider that a more proactive approach towards the welfare of cats and dogs at an EU level could deliver tangible benefits to the UK from both a health and welfare perspective.

2. How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The UK would benefit from the EU taking more action on animal health and welfare in the future, provided that action was above and beyond the current baseline established in the UK (Animal Welfare Act 2006 and secondary legislation as well as various legislation in the devolved administrations). Currently there is very little EU legislation which deals specifically with companion animals. We feel that a joined up approach on pet animal welfare across the EU will have significant benefits for member states.

There are a number of ways we feel the EU could take further action in the future. Firstly, by looking at the possibility of compulsory permanent identification for dogs within the EU. For the full welfare benefits of this policy to be realised the requirement should be linked to the establishment of an EU wide database. There would be many benefits to this type of system - including the ability to trace lost pets across borders, vets being able to identify where a pet has come from and deal effectively with any resulting disease risk, and it could discourage the illegal trafficking of pets across borders.

We also feel that the EU could impose legislation on member states requiring them to have a licensing system for the breeders of cats and dogs. Some member states already have requirements for the licensing of breeders; however European legislation would help to bring up standards across the EU. Blue Cross feels that this would help to deal with the overpopulation of pets in Europe and the resulting problem of abandoned and straying animals, which has a financial and welfare related impact on member states.

The EU could also expand the work they already do to deal with the risk of disease spreading when pets cross borders. Much of the current work concentrates on rabies however there are other diseases such as canine Leishmaniasis which can be fatal to humans and dogs. Preventative measures need to be in place to ensure that the risk of spread of diseases is managed properly especially as the EU continues to enlarge.

3. What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

We would like to answer this question in reference to our work with horses. The tripartite agreement is a trade agreement between France, Ireland and the UK, it allows for the free movement of horses between the three countries. This agreement was originally intended to help assist with the movement of high value horses but is now being used by irresponsible dealers to import and export low value animals adding to an already significant overpopulation issue in the UK, and welfare issues across Europe.

We have highlighted this particular trade agreement to demonstrate that there are disadvantages and problems with trade agreements agreed upon at a national level and can see that there would perhaps be less of an opportunity for trade agreements to be misused in this way if they were agreed upon at a European level. This of course would have to be assessed in further detail by the government.

We would argue strongly that DEFRA should look closely at the tripartite agreement at this present time to ensure that the agreement is working as was intended and to prevent abuse by unscrupulous traders.

4. How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

When action on animal health and welfare is taken at a regional or national level in the UK we are able to raise already high standards of animal welfare. It is important to note however that the situation with regards to animal welfare in other EU countries can have a direct impact on the UK. For example there are concerns about the potential for puppies to be imported to the UK with fraudulent paperwork and without the correct or necessary vaccinations. This represents both a health and welfare problem.

We feel that action must be taken at an EU level if we are ever to ensure consistency in standards of pet animal welfare across Europe.

5. Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

As an animal welfare organisation Blue Cross is unable to comment on UK business interests however we feel it is important to point out that a more equal balance has to be struck between work to protect human health and work to deal with animal welfare more generally.

As already mentioned currently much of the EU work on pet animals is focussed on preventing the spread of zoonotic diseases. Although we agree that this is vital work we feel the EU also has an important role to play when it comes to addressing problems of welfare, both in individual member states and across the EU as a whole. We feel this could be achieved by harmonizing animal welfare policy across Europe, provided that the baseline was equal or above that of the UK currently.

6. Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

An evidence and risk based approach to animal health and welfare policy within the EU needs to strike the right balance between managing the risk of the spread of zoonotic diseases; improving animal welfare; and allowing people the right to freedom of movement with their pets.

We feel that EU animal health and welfare policy could be better informed and supported by the establishment of a European network of reference centres. Such centres could monitor and research animal welfare issues throughout the EU, and provide for knowledge capture and information sharing across borders. If implemented and resourced effectively, this network could play a key role in the collection, analysis and dissemination of data on animal welfare within Europe, thus leading to better informed policies that are measurable against an increasing standard of welfare.

7. What future challenges or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

The inclusion of pet animals in the European Union Strategy for the Protection and Welfare of Animals (2012-2015) provides a real opportunity to make significant steps forward in this area.

We feel that the EU must take this opportunity to deal with the key health and welfare issues which we see as commercial breeding, trade, and movement of pets across borders. As previously mentioned there are a number of key actions that could be taken to improve welfare. These include the compulsory permanent identification and registration of dogs, the licensing of breeding establishments in EU member states, and better preventative measures to deal with potential health risks from diseases spread by cats and dogs, including an accessible database.

An obvious challenge ahead is the accession of further member states into the EU. There is already a huge variation in the animal welfare legislation across different member states. With the accession of Bulgaria

and Romania imminent, and the prospect of further expansion, we feel that the EU would be best served by adopting a harmonized policy whereby all new members were forced to amend national legislation to bring them up to an agreed standard. Provided that standard was as high or higher than that of the UK.

8. What impact might any future enlargement of the EU have on animal health and welfare?

Enlargement of the EU has an obvious effect on animal welfare when it comes to controlling the risk of disease spreading. Accession states such as Romania and Bulgaria have specific animal health and welfare issues which vary greatly to the issues here in the UK. It will be important to ensure that the EU has a robust contingency plan in place to deal with any potential health issues should they occur following the accession of these states and the movement of animals freely across borders.

As we expect dog breeding legislation to be tightened up in the UK we may see more puppies coming into the UK from commercial breeding operations in Eastern Europe where there are fewer restrictions. Animal welfare policy in these countries is not of the same standard of that in the UK, and we would have concerns about the health and welfare of puppies being transported and then imported to the UK from commercial breeding establishments in these countries. This again highlights the need for an overarching EU led strategy on pet animal welfare.

9. Are there any general points you wish to make which are not captured above?

Blue Cross is one of the UK's leading pet charities. Every year we rehome thousands of pet animals through our network of rehoming centres across the UK. In addition, Blue Cross offers free veterinary treatment to pet owners on low and reduced incomes.

Following the announcement by the government in 2013 on compulsory microchipping of dogs Blue Cross will be offering free microchipping for dogs and cats at all our centres and hospitals.

Blue Cross is pleased to respond to the DEFRA consultation on assessing the EU's impact on the UK in relation to animal health and welfare.

British Soft Drinks Association

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

1. What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

EU legislation allows a level of consistency between Member States and therefore free movement of goods within the market.

2. What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

The national interest would be less well served by Codex, the process for decisions at Codex is very slow and decisions will revert to the lowest common denominator. This could mean "lower quality" compared to national or EU legislation and imports would have to be accepted.

3. Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

UK business can suffer from inconsistent application/enforcement of the law in all member states allowing unfair trade benefits.

Most legislators have little understanding of how industry works on practice so make the legislation then work out how to make it work in practice.

4. Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

There is difficulty in reaching acceptable agreements leading to compromise. EU legislation can force retrograde steps for consumers e.g. allergen labelling under FIR 1169/2011.

5. What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

EFSA provides a consistent approach for risk assessment which should be immune from potential local politics - having a central EU body should prevent duplication at national level.

Problems seem to occur when scientifically approved opinion is then passed to the European Parliament and emotions and politics get involved - e.g. Nutrition & Health claims legislation

6. What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?

This will be dependant on the views of other Member States which may not be accordance with UK views.

7. Could action be undertaken differently e.g. are there ways of improving EU food law?

Trying to achieve consensus slows the process down - there needs to be a mechanism to speed up the legislative process.

There should be more of a risk based approach & legislation should not be reactive.

The precautionary principle should be used appropriately.

8. What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

Exposure assessments from EFSA are sometimes based on very limited consumption data from some Member States - this leads to conservative assessments which may then penalise countries with more robust data.

9. Are there any general points you wish to make which are not captured in any of the other questions?

The EU can be slow to produce legislation, it is difficult to get involved in the legislation process and it lacks consultation.

British Veterinary Association

1. The BVA is the national representative body for the veterinary profession in the United Kingdom and has over 13,000 members. Its primary aim is to protect and promote the interests of the veterinary profession in this country, and it therefore takes a keen interest in all issues affecting the veterinary profession, be they animal health, animal welfare, public health, regulatory issues or employment concerns.
2. BVA supports an agreed, consistent and consistently applied framework for animal health, welfare and food safety standards across the EU. A legislative framework is needed in some areas (especially

related to animal welfare and food safety) to ensure minimum standards can be set with the goal of consistent compliance.

3. In this regard, there should be clear guiding principles set on minimum standards for animal health (and its monitoring) in relation to safeguarding health through intra-community trade, animal welfare (sufficient to ensure the "life worth living" standard proposed by FAWC) and agreed levels of food safety.

4. The Precautionary Principle should be invoked only on a clearly risk-based strategy and there should be no gold plating by UK Government. Specific examples of where there is evidence on inconsistent interpretation of current EU Regulations should be sought from industry groups who are able to compare this interpretation across the wider EU market.

5. The powers delegated to the Commission to regulate without recourse to the European Parliament is a concern as it places a great deal of power with the Commission. This can lead to disproportionality at Member State level without Parliamentary discussion and is something we have raised in the development of the new consolidated EU Animal Health Law. While legislation may need to be made urgently to deal with outbreaks of disease or the emergence of new diseases, the position of MSs to negotiate must not be diminished.

6. Fundamentally, this consultation is about whether law should be made in Brussels or whether law should be made in the UK i.e. England and the Devolved Administrations (the making of Animal Health and Animal Welfare law is delegated to the Devolved Administrations). In the Animal Health and Welfare arena EU legislation is principally concerned with the trade in live animals and their products such that public health, animal health and the welfare of animals is safeguarded. As a Member State of the EU, the UK can trade with other MSs with the minimum of bureaucracy. Compliance with EU conditions also aids our exports to third countries.

7. The UK played a full part in negotiating the EU law. If the UK were no longer a Member State then it could still trade with the EU bloc but it would still have to have equivalent laws and administrative systems to do so and we would no longer have a part in negotiating what the laws were in principle.

8. For the most part therefore the balance of competence is right in order to safely trade animals and animal products within the EU and give adequate protection to the consumer. It should also be remembered that we are a global trader with respect to trade in live animals and their products. As such we are under an obligation to comply with the World Animal Health Organisation (OIE) rules on international trade.

9. If we were to act unilaterally with regard to the law in animal health and animal welfare we run the risk of disadvantaging our producers.

10. We should not confuse poor enforcement or implementation of EU law with incompetence on the part of EU law making. It is the case that if there is to be a level playing field, public services including state veterinary services need to be strengthened for the public good, and not eroded as is happening in the UK.

Disease control

11. Consistency and a joined-up approach to disease control and prevention across MSs strengthen control measures and surveillance. However, care must be taken to ensure that any new requirements for surveillance are risk-based and proportionate. In the case of the Foot-and-Mouth Disease outbreak in 2007, BVA argues that disproportionate surveillance demands were made for the reinstatement of disease-free status. It is therefore important that the UK has a strong presence in the Standing Committee on the Food Chain and Animal Health (SCFCAH), with technically proficient and respected negotiators.

12. Following the experience of Bluetongue, the EU adapted its thinking and adopted a risk-based approach to Schmallenberg. The EU took no legislative action with respect to Schmallenberg because the disease did not meet the criteria for government intervention – this was an example of good practice on the part of the EU and proportionate handling of this new infection.

13. In relation to bovine TB, the EU supports the UK in its attempts to eradicate the disease. However, the conditions imposed by the EU are usually based upon a very strict interpretation of the legislation. It is important that the Commission fully understands the significance of local circumstances (for example the presence of a significant wildlife reservoir for bovine TB in the UK) and the need for some discretion in the application of these rules.

14. In terms of exotic disease, there is a clear mechanism for a MS to improve its animal health status by controlling or eradicating an animal disease. For endemic diseases, however, the Commission has indicated that ensuring trade is uninterrupted should be the paramount consideration. Member States should have the right to attempt to eradicate endemic diseases within their boundaries and as such, any power to override that the Commission has should be governed by a principle of reasonableness.

15. Any enlargement of the EU will have implications for disease control due to increased movement of people, animals and animal products. We are already seeing some problems in relation to the risk of incursion of exotic disease – FMD in the Balkans; risk of incursion of diseases like lumpy skin disease, BTV, Epizootic Hermorrhagic Disease (EHD) – as the EU expands to be nearer countries where these are endemic and borders may be less secure. There is a need to safeguard the level playing field, as noted above.

Pet Travel (Regulation No 998/2003)

16. The UK needs to be able to take action or increase their action at a national level (which means in certain circumstances the EU taking less action) in the following areas:

    a. Better border controls. The number of illegal puppies seized by the City of London rose by 400% in 2012 compared to 2011 following the changes made to PETS.

    b. Better biosecurity for rabies and tick and tapeworm treatment.

    c. Limit the maximum number of animals able to travel under 998/2003 to 5. There is a move to increase this for people travelling to shows/ dog events and this is a potential loophole for commercial gain.

    d. Permanent Identification and registration on an authorised database linked to Europetnet. It is not uncommon to come across an animal in the UK with a foreign microchip which poses two challenges- tracing the owner and establishing if they have entered the country legally.

17. In relation to Pet Travel, welfare is compromised due to the biosecurity risk and the ease of smuggling litters of puppies into the UK. Puppies are being bred in Eastern Europe and transported huge distances at a very young age due to the ease of movement through Europe.

18. In terms of future health and welfare challenges, we have already seen a 60% increase in dogs and cats travelling into the UK and a significant rise in the seizure of illegal puppies which is likely to be the tip of the iceberg. There is a resultant significant welfare implication for those smuggled puppies and a threat to the UK biosecurity, not just rabies, but Echinococcus and diseases not covered by PETS.

Animal Welfare

19. As noted above, a European-wide legislative framework is needed in some areas to ensure minimum standards can be set with the goal of consistent compliance. However, in cases where implementation and enforcement varies across the EU, the UK farming industry can be put at a commercial disadvantage by complying with EU legislation. For example, this is the case with recent legislation

relating to sow stalls, battery hens and the welfare of animals during transport. The UK is often criticised domestically for gold plating and strict interpretation of EU legislation when the Commission seems to be failing in its duty to ensure compliance across all MS by having robust enforcement measures in place. Therefore although the legislation itself may be sound, there seems to be a lack of willingness from the Commission to apply sanctions to those that do not comply.

- *Welfare at Slaughter*

20. The BVA believes that the new EU Regulation (1099/2009) on welfare at killing and slaughter is a positive step forward in helping to raise standards across the EU and beyond. It is also designed to have the flexibility to be able to take on board new scientific and technical developments.

Veterinary Medicines

21. The BVA provided input (via the FVE) into the European Commission's consultation on the Better Regulation of Veterinary Pharmaceuticals in June 2010. Our response is attached which we hope will be useful. Issues of particular importance to the BVA include:

    a. Improving the availability of medicines.

    b. Authorisation procedures within the EU. We have supported a system which calls for one dossier, one application and one approval throughout the EU and we also support a single market so each product would become automatically available throughout the community.

    c. Harmonisation of systems for data collection on the sales and use of medicines in the EU.

    d. Harmonisation of the distribution channel for medicines within the EU.

    e. Preserving the rights of veterinary surgeons to prescribe in line with their clinical judgment.

22. While we would be encouraged to see centralisation of the authorisation process for veterinary medicines, thereby facilitating an increase in availability, we would be concerned by the imposition of a system of prescribing and dispensing that would be alien to veterinary practice in the UK. In this area, we feel that there should be some flexibility to allow for different models of veterinary practice in different Member States.

Professional Standards

23. The principle of mutual recognition of professional qualifications and accredited training is a good one, but it is important that qualifications and training can be accessed and assessed to ensure that standards are truly equivalent across Member States. If standards are not equivalent, then there could be a negative impact on animal health and welfare. The issue of equivalent qualifications for paraprofessionals originating inside and outside the UK is a real welfare concern.

Working Time Directive

24. The Royal College of Veterinary Surgeons' (RCVS) Code of Professional Conduct stipulates that veterinary surgeons provide 24-hour emergency first aid and pain relief to animals according to their skills and the specific situation. It is therefore difficult for veterinary surgeons to comply with their obligations under the code and with the Working Time Directive.

25. We support the RCVS' endeavours to develop proposals for the introduction of a fair and transparent system for the selective testing of the English language competence of EU registrants.

Brussels and Europe Liberal Democrats

Questions in Relation to Section B: Food Safety (Including Feed Safety) Labelling, Food Quality, and Compositional Standards

What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?
A single market is predicated on uniform rules which currently derive from the EU's General Food Law. This Regulation arose as a direct result of the BSE outbreak in the UK where the national response was weakened by the failure to separate food safety from food production. The EU response was to ensure this separation which was fundamentally responsible for the recovery of the beef sector and the general improvement of food & feed safety. The remaining beef problem (with the US) has recently been solved by the Commission's negotiation of a MoU with the US which is predicated on quality (based on the EU's food standards).

What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?
These various levels of action are not mutually exclusive. Subsidiarity should be the guiding principle. A good example is the work done by Codex on supplements and food safety which of course feed in to the work carried out by EFSA.

Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?
In the case of uncertain risks, EU action is based on the precautionary principle (Article 7). However, the Commission has ensured (through its Communication on the precautionary principle that any precautionary action is dependent on proportionality. Overall, the balance seems right in most sectors of the food industry.

Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?
N/A

What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?
First, see the response to the first question above. Secondly, the EU's Rapid Alert System for Food and Feed has been remarkably successful (e.g. with BSE, aflotoxins in pistachio nuts, dioxins in food, melamine in pet food, etc.). Such an EU wide scheme is essential for consumer protection.

What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?
It has been broadly beneficial - strengthening the UK voice in food safety rather than diminishing it.

How might the UK benefit from the EU taking more or less action on food law in the future? Could action be undertaken differently e.g. are there ways of improving EU food law?
Industrial experts are often the only genuine experts in specialised food sectors. However, they are excluded from EFSA panels. This could be improved by using the same mechanism as Codex. Namely by allowing "observers" to attend relevant expert advisory panels in EFSA. Of course the formal panel members remain responsible for the ultimate advisory process, but by providing them with additional expert views from "observers" the eventual advice should be improved.

What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?
The GMO situation in the EU has to be improved.

Are there any general points you wish to make which are not captured in any of the other questions?
N/A

Cats Protection

Questions in relation to animal health and animal welfare

1. What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

For information about Cats Protection see Q 9

EU action on animal welfare benefits the UK

Although the UK did not sign the European Convention for the Protection of Pet Animals (1987), EU action on the Protection of Animals kept for Farming Purposes (Directive 98/58/EC) in 1998 did place pressure on the then UK Governments to update the law in respect of the welfare of companion animals.

The Directive on Protection of Farmed animals sets out “Five freedoms” and contains a duty to ensure welfare and to prevent harm. In 2006 the Animal Welfare Act (and its equivalents in the devolved UK jurisdictions) was passed and it included the “Five Needs”, a duty to ensure welfare and provisions on the prevention of harm. The Animal Welfare Act repealed the Protection of Animals Act 1911; the first major revision of statutory provision on companion animal welfare in the UK in nearly 100 years.

We and many others in the UK believe that improved standards of animal welfare are beneficial to society as a whole. Under the Protection of Animals Act 1911 it was only possible to prosecute once there was evidence that unnecessary suffering had occurred; the current welfare legislation contains provisions aimed at preventing harm before it occurs. That is evidence of progress in standards of welfare in the UK which may not have come about without EU action on farmed animal welfare.

The Treaty on the Functioning of the European Union (TFEU) recognises and acknowledges animals as sentient beings and the need to pay regard to the welfare of animals when formulating policy. This puts animal welfare on equal footing with other key principles mentioned in the same title i.e. promote gender equality, guarantee social protection, protect human health, combat discrimination, promote sustainable development, ensure consumer protection, protect personal data.

That principle informs policy in the making of EU Regulations such as Council Regulation (EC) No 1/2005 on the Protection of Animals during Transport which is directly applicable in the UK and improves animal welfare in the UK.

Similarly, Directive 2010/63/EU on the Protection of Animals used for Scientific Purposes allowed the UK to transpose provisions of the Directive into existing UK legislation. Directives such as these do act as a barrier to lowering of standards and reinforce commitment to the underlying principles of refinement, reduction and replacement at a time when the numbers of animals, including cats, used in scientific procedures is on the increase in the UK.

EU action on animal welfare disadvantages the UK

Regulation (EC) 998/2003 governing the health requirements applicable to the non-commercial movement of pet animals represents a lowering of standards that previously existed in the UK. In doing so, this increases the risk of rabies and other exotic diseases being introduced into the UK. This is particularly so as tick and tapeworm treatment is no longer a requirement of entry to the UK for cats and some member

states have endemic rabies. This means that individual animals may be incubating rabies on entry to the UK.

We would like to see more rigorous border control and a an approved UK database which is linked to an EU database recording the microchip details of all cats entering the UK plus individual pet checks to prevent illegal/diseased animals entering the country.

At least once a month, Cats Protection gets a stray or abandoned cat handed in with a foreign microchip, whose owner cannot be traced. Currently there is no central record kept of cats that have entered the UK legally so it is impossible to know whether these cats have entered illegally or not and thus whether they pose a risk to our staff and volunteers. Therefore, in the majority of cases, we feel that the only option is to put the cat in quarantine at the Charity's expense. The guidance received from local trading standards officers is highly variable and the national guidance from Defra to them is inadequate. With the large increase in illegal imports it is not possible to assume that any cat with a foreign microchip has entered legally. It is imperative that the microchip numbers of all legal entries is recorded centrally and that all animals entering must have their current details recorded on a recognised database (including the name and address details of the current and previous owners).

In the absence of an existing EU Regulation requiring of member states that cats (and dogs/ferrets) are registered on an approved database accessible across the EU (see Q2 re EU Action) we call on National Departments (Defra and devolved equivalents) to:

1. Set up a National database to register details of all companion animals that have entered the UK legally, linked to an EU database which is accessible across the EU and would provide EU-wide traceability.

2. Issue guidance to Local Authorities, trading standards officers, welfare charities etc. on procedures to follow if a cat is suspected of being an illegal import and specific guidance on when to quarantine.

2. How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

<u>EU action required</u>

At present, very little EU legislation exists in respect of the welfare of companion animals. There are plans in the current EU Strategy for the Protection and Welfare of Animals (2012-2015) for the Commission to consider the feasibility of introducing a simplified EU legislative framework with animal welfare principles for all animals kept in the context of an economic activity including where appropriate companion animals.

We would welcome action by the EU to introduce such a framework and to include principles of animal welfare in relation to companion animals. We are part of the Eurogroup for Animals and would like to see action by the EU in the following respects:

• The compulsory permanent identification and registration of cats (and dogs) on an appropriate database, which is linked to an EU database. This would allow traceability so that new owners know where their new kitten (or puppy) was bred. It would allow vets to know where a sick animal they are treating has come from, and it would also allow animals to be traced in the event of a disease outbreak.

• EU legislation requiring the licensing of cat (and dog) breeders and traders by Member States. Licensing conditions should be based on breeding guidelines agreed by experts.

• EU legislation to prevent the breeding of cats (and dogs) in a way that is likely to result in exaggerated conformations and inherited disorders which cause suffering.

• Improved standards for the showing and pedigree registration of cats (and dogs) so that animal welfare is prioritised.

• EU legislation requiring all cats (and dogs) to have a fully completed pet passport, which is registered on a database which is accessible across the EU

Entry of companion animals into the UK from EU countries has been made easier for the pet owner as a result of the introduction of the current Pet Travel Scheme introduced in accordance with Regulation (EC) 998/2003. This Regulation removed the need for quarantine if the animal complies with the terms of the PETS scheme and introduced the Pet Travel Scheme rules for non-commercial movement of pet animals.

Cats Protection is concerned (see Q1) that Regulation (EC) 998/2003, as currently implemented in the UK, has significantly increased the risk of rabies or certain other exotic diseases occurring in the UK as a result of entry of a pet cat (or dog, or ferret).

There is an opportunity for the EU to take action to strengthen Regulation (EC) 998/2003 through COM (2012) 89 which intends to repeal and replace Reg. 998/2003 and protect human and animal health. We are disappointed that this proposed Regulation did not go out for consultation to relevant NGOs so they were not formally able to contribute their expertise and experience prior to a vote in the European Parliament (vote scheduled we believe for April 2013).

The new proposal needs strengthening to improve protection of human and animal health in the UK and Europe. It also needs clarifying to ensure non-commercial movement is better defined and distinguished from commercial trade and importation and to enhance traceability. Cats Protection has submitted amendments to COM (2012) 89 calling for:

-clarification of the definition of non-commercial movement so that charities moving animals for animal welfare reasons (and not with an aim of financial gain) are clearly not regarded as being involved in commercial movement of pet animals or in any commercial activity more generally (para 12, art 3)

(we support Eurogroup's suggestion that the definition of non-commercial movement is amended to a maximum of five animals to help distinguish commercial from non-commercial movement)

- derogations to be removed so that animals can only be moved non-commercially once they are old enough to get a rabies vaccination and not before (Article 6(20))

-the Commission to publish and maintain a list of member states who are free of rabies and therefore benefit from derogation of the rabies vaccine (Art 7(21))

-the Commission to clarify the details of how health status is assessed for member states (Para 21(7))

-the Regulation must be expanded to require compulsory registration of companion animals and their passport details on an approved database accessible across the EU. This will improve traceability (linked to a National database- see Q1).

-microchipping to remain the recommended identification method for permanent identification of cats. Tattooing of cats ears is not practical (too small) and requires a cat to be sedated/anaesthetised

Cats Protection seeks confirmation that the UK Government, through Defra, will support the above suggested amendments in order to maximise companion animal (cat) health and welfare in the UK in future. We should be pleased to provide more information.

3. What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

As stated, UK law regulating the sale of companion animals is outmoded and in need of updating. We support the position of the Eurogroup for Animals that the EU should define commercial breeding as breeding of one or more offspring for financial reward and that all commercial breeders should be licenced. We would also support development of EU guidance for breeding best practice and production of guidance for vendors of bred cats. We would also encourage national guidance to be produced on breeding best practice as well as for purchasers of commercially bred companion animals.

Where cats are bred commercially for import/export we would have the same concerns as for non-commercial movement .i.e. that the EU imposes and encourages member states to have full registration, that an EU database and border check systems are in place to minimise the risk of rabies and other

disease spreading from infected countries into countries that are disease free. Safeguards should include the necessity for animals to be old enough for vaccination if entering the UK from a member state with endemic rabies. (see Q2).

4. How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

We refer to our response to Q1 and would also add concerns for animal welfare as a result of selective cat breeding.

Selective breeding of cats: Nationally we would call on the UK to support the “Council of Europe’s Convention for the Protection of Pet Animals”, and if it is not supported to explain the reasons why. Cats Protection is concerned where selective breeding practices have implications for a cat's health. Cats Protection wants to prevent any selective breeding which would compromise the health and welfare of a cat – such as breeding that results in one or more conformational defects that may result in compromised welfare for the cat, e.g. hairlessness (Sphynx), cartilage defects (Scottish fold), chondrodystrophoid disorders (e.g. Munchkin- osteoarthritis) or genetic disorders such as polycystic kidney disease in Persians. Currently there are no controls on cat breeding in the UK and the EU could help regulate breeding practice. We support Eurogroup for Animal's position on the need for EU Law to be developed in this area (potentially through an EU Animal Welfare Law) and for that Law to specifically cover selective breeding. Additionally, there is a need for regulations to be introduced in the UK under the Animal Welfare Act (2006) and devolved equivalents to regulate the breeding and sale of companion animals, including cats and kittens.

EU Animal Health Law: Cats Protection welcomes the announcement of a new Animal Health Law for the EU. It is essential that this covers companion animals and consolidates and strengthens measures that would address the concerns we have raised about risks of spread of rabies and other exotic disease via the non-commercial (and commercial) movement of companion animals between member states.

We would welcome any provisions from the EU in the future that strengthen the requirement for member states to educate the public about animal health and animal welfare issues specific to companion animals.

5. Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

Please see earlier comments regarding the need for UK (and EU legislation) to update and review UK legislation regulating the sale of companion animals (e.g. the Pet Animals Act 1951).

We welcome the Commission study (reporting 2014) on the "welfare of dogs and cats involved in commercial purposes" which we assume would cover welfare in pet shops, breeding catteries and boarding establishments for cats. Cats Protection is involved with national work to improve welfare standards in dog and cat homes as a member of the Association of Dogs and Cats Homes. We are also contributing to important work to produce revised model licensing conditions for issue to Local Authorities when licensing pet shops that sell cats/kittens and when licensing commercial boarding establishments

6. Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

We refer to the risks outlined in Q2 as an example of how a risk based approach by EU law (in this example Regulation 998/2003) could be of greater benefit to national interests. For countries such as the UK (rabies free currently) account should be taken of the risks posed by EU legislation of introducing disease where it had not existed previously.

7. What future challenges or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

Future challenge -Cats Protection sees the enlargement of the EU as a challenge in respect of the on-going need to limit the inter-member state spread of rabies and infectious disease. Enlargement will inevitably result in increased cross border commercial and non- commercial transportation of companion animals

8. What impact might any future enlargement of the EU have on animal health and welfare?

See earlier answers re threats from cross border movement of companion animals in terms of spread of rabies/infectious disease to the UK

9. Are there any general points you wish to make which are not captured above?

Cats Protection is the leading feline welfare charity in the UK and has helped more than a million cats over the last 5 years. We have around 6,200 cats in our care at any one time and rely on the support of our network of 9,000 volunteers and staff. In 2011 our volunteers gave around 4.5 million hours of time to Cats Protection and our submission here, particularly with relation to minimising the risk of rabies/disease entering the UK, seeks to minimise any risks to the health of our willing volunteers through their work with cats alongside the obvious health and wellbeing of the cats themselves.

Cats Protection has a focus on homing, neutering and education and supports all EU and national initiatives that help ensure that the UK cat population is healthy and that owners understand a cat's welfare needs and act responsibly. Cats Protection is an Associate Member of the Eurogroup for Animals.

Cats Protection is happy to provide more information on this submission.

Please contact : advocacy@cats.org.uk

More information about our work can be found at

www.cats.org.uk

Centre for Environment, Fisheries & Aquaculture Science

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

The context is disease and welfare of aquatic animals (fish, shellfish and crustacea).

The current EU legislation (notably EC directive 2006/88) effectively does not provide a basis for welfare legislation (for example, methods of slaughter are not regulated) and therefore this paper focuses on aquatic animal health.

There is an inevitable tension between free trade and the international spread of disease. Thus the single EU market, which was intended to increase trade, may be seen to have increased the risk of disease spread. However, there is relatively little trade in live animals for aquacultural production. Imports of products (e.g. eviscerated carcasses) has increased. Recent research has shown that this is potentially an important route for disease introduction. Before 1991 the UK had strict rules on the introduction of live aquatic animals which had been in place since the 1930s. This regime had resulted in a high health status for the UK compared with most of continental Europe (we are for example free of the major notifiable diseases affecting salmonids). Thus the UK had less to gain from action at the EU level on aquatic animal health compared with other MS.

With regard to current legislation (EC directive 2006/88) MS have not put resources into aquatic animal health necessary to comply with the spirit of the directive. Notably, the legislation was designed with the

intention that MS undertook surveillance to determine disease status for diseases listed in the legislation. This has not been achieved across the EU. If the EU wishes to ensure a increase in the health status across the Union then more prescriptive legislation and better enforcement (by the FVO) is required.

The EU provides a single response to the OIE. This effectively means that the EU is able to be highly influential. Within the EU the UK often takes the lead in responding to OIE initiatives and changes to standards and guidance. Thus working through the EU enables the UK to be more effective than if it were acting independently.

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The key problem with current EU legislation is that there are onerous requirements on MS (e.g. inspection / disease surveillance in endemically infected areas). The FVO / EU have done little to enforce and audit MS to demonstrate effective implementation of the legislation. The UK would benefit from more uniform and effective implementation and enforcement across the EU to ensure a harmonised approach (level playing field).

The EU has been slow in updating its listed diseases, susceptible species based on scientific knowledge - perhaps caused by resource constraints within the EC. In a recent case the EU objected to UK's efforts to protect our status against an emerging disease because it infringed free trade within the EU. The existing EU legislation only allows member states to take action when they have an emerging disease. Thus UK action to protect itself against an emerging disease was limited and slow.

The EC now adopt a very light touch approach to scrutinising applications for disease free status (at MS, zone or compartment level). Essentially they now rely on MS undertaking scrutiny. Furthermore recent examples point to a lowering of standards (criteria for establishing free areas have been more loosely interpreted). In the long term these changes present a threat to the disease free status of the UK.

There is an argument to allow member states to have greater discretion (based on sound scientific principles and validation of control measures) in assessing the real health status of animals being imported into the UK. Such a dispensation might overcome in the short term the lack of prescriptive legislation.

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

There are issues associated with this and currently EU and Canadians are working on certification.

The EU is less reactive and slower than UK in meeting the requirements of 3rd countries. This may in part be due to a lack of specialists in the EC. In some cases certification for trade is inappropriate.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

Aquatic animal welfare is not covered by current EU legislation, although the UK has a competence in this area which it uses in when implementing EU health legislation.

Protection against emerging diseases could be more rapid when revising lists of notifiable disease and lists of susceptible diseases.

Because of the traditional high health status of fish in the UK, the UK is likely to take action to maintain that high health status if trade threatens its status. Example: the UK had to force the listing of Olive Flounder from Korea as VHSV susceptible to prevent trade in live susceptible animals - this was successful but a slow process.

There is an argument for regional control perhaps looking at communality with Eire.

Any BIP in an EU member state can clear imports officials should apply the standards required by the MS of ultimate destination of the consignment. At present this is not consistently done. Better enforcement by MS would make application of the legislation more effective across the EU.

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

There is a tension between the needs of free trade and the principles of minimising disease spread. In England and Wales, the major interests for businesses are focused on wild fish interests where there is no benefit for EU trade. Salmon and sea trout angling is potentially highly profitable but is potentially threatened by weakening of disease controls (for example, diluting the criteria for establishment of disease free areas). The commercial interests in E&W is not on aquaculture but more on wild fisheries and angling so at present the legislation brings little advantage to businesses in England and Wales. Nevertheless, it can be argued that at present the balance between protection health and promoting trade is about right. This is because we have been able to implement the directive (EC 2006/88) into UK legislation so that we have been able to ensure that our high health status is protected (for example all cold water ornamentals are imported on 'open' licences to ensure that we can require health certification). There is a risk under the Animal Health Law that this flexibility will be lost. It is possible that live carp could be traded as food opening the door to illegal imports for angling and aquaculture and consequent disease spread.

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

Risk based approaches are embedded in aquatic animal health legislation but the EU have done little to promote the systems that need to be put in place and there is little evidence that they are in use across the EU. There is a need to make more efficient use of FVO as a mechanism for policing implementation.

EU have moved away from the ambition of eradicating major infectious disease and member states have not shown the will or given resources to such eradication. Thus there is at least a tacit admission of the economic reality of the costs and benefits of disease control. In taking action the EC should consider economic realities when developing legislation. Specifically legislation needs to recognise that across much the EU there is no political or economic driver to raising health standards.

What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

Emerging diseases are, to some extent, associated with climate change producing a shift in the distribution of diseases. The emergence of new diseases requires a rapid response by EU and /or the capacity of member states to react appropriately. New legislation needs to reflect this need.

New species are likely to be brought into aquaculture in the new future. Similarly novel production systems (i.e. development of land-based recirculation systems will develop further).

These developments present challenges in terms of new disease threats. At an EU decisions around how to tackle these diseases will need to be taken.

What impact might any future enlargement of the EU have on animal health and welfare?

The enlargement of the EU could lead to even greater variation in methods of production and standards of management. This makes consistent application of a single set of animal health regulations across the EU even more difficult and carries with it the risk that standards are lowered to allow participation of all MS. In the long term this may mean that the risk of spread of exotic notifiable diseases to the UK increases.

Are there any general points you wish to make which are not captured above?

The application of EU legislation is generally in line with OIE standards although there are some deviations (e.g. movement of commodities). If the UK were operating unilaterally we could adhere to OIE standards which are generally higher. Trade measures have been put in place to suit the majority of member states with the flexibility to meet needs of countries with high health standards. Example: For SVC the UK requirements are unusual but we will have less flexibility when the EU legislates by regulation not directive where there are increased risks.

New animal health legislation is intended to raise standards for terrestrial animals and the inclusion of aquatic animals is a lower priority. There is therefore a risk that overall standards for aquatic animals will be reduced

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

Our context is seafood and particularly live bivalve molluscs.

From the public health aspect there has been significant advantage to UK from EU membership in that we have addressed issues that were not, and arguably could not have been addressed in the UK alone. Example: prior to 1992 there was no systematic monitoring of bivalve production areas for E. Coli (an indicator of faecal pollution) in the UK and in approximately a 1/3 of areas were more polluted than was acceptable for human consumption. These were hazardous to human health and led to procedures to manage public health risks. Subsequent a number of initiatives have been initiated by the EU which would not have been taken up by the UK alone. Examples: noroviruses analysis and risk assessment; general and systematic biotoxin monitoring which revealed significant risks to public health which are now controlled well under EU legislation. The EU block is big enough to put sufficient resources to effectively address issues which would not be possible if the UK were funding the initiative alone. It also enables the EU block to negotiate effectively with large trading partners (e.g. USA) which would not be possible for the UK alone.

What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

The single market has been advantageous for the UK. The export of molluscs and crustacea has been economically profitable for the UK. The EU lead is often adopted by Codex so it is advantageous to the UK to maintain EU membership in order to influence Codex and hence subsequent legislation.

Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

Prior to the single market, the UK was weak in protecting the consumer from food health risks. During the subsequent years, it is difficult to know if the UK would have put legislation in place to manage the public health risks from shellfish consumption that have been adequately addressed by the EU. Membership has led to better consumer protection for the UK public and the EU has facilitated and led this process by initiatives, legislation and directives. The UK has benefited from having significant public health legislation which has, in turn, benefited UK export businesses. The EU standards set for shellfish are seen as conferring public health safety on those countries importing from the UK.

Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

See above. Legislation at the EU level gives a significant advantage to UK exports as the legislation is seen internationally as strong, effective legislation preserving public health- an advantage for exports and the shellfish consuming public in EU member states. Common legislation provides a level playing field for UK business to access export markets. EU standards are acceptable worldwide and the UK industry benefits from this. If UK were not in the EU, the UK would be forced to negotiate separate trade agreements with all its trading partners agreeing public health standards.

What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

The key concern is that insufficient resources are available at the EU level to adequately deliver the scope of work required by for adequate management of risks across the EU. In comparison with the USA, the EU is vastly understaffed to develop resource and tackle emerging issues to public health.

What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?

Food law is an EU competence. Consequently this is a European endeavour and therefore the influence of the UK is not a pertinent question. We are not aware of any issues of the UK representing its own issues that have not been harmonised at the EU level. We cannot identify any issues where codex has acted against the UK national interest.

How might the UK benefit from the EU taking more or less action on food law in the future?

Moving towards greater harmonisation at the EU level will benefit UK industry and public health protection. Example: there is considerable benefit in EU legislation providing a more detailed specification of the requirements rather than broad principles to be achieved, as occurs at present. Being more prescriptive would remove any scope for different interpretations by different member states. By comparison, the US FDA clearly states the exact specification required to achieve the standard and does not give broad principles.

Could action be undertaken differently e.g. are there ways of improving EU food law?

More prescriptive requirements rather than broad principles. The UK tends to fully enact the principles laid out in EU directives which, given the non prescriptive nature of the legislation, could put UK businesses at a competitive disadvantage in comparison with industry in other members states, who might interpret the broad principles in a more relaxed manner.

What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

Emerging challenges include climate change, managing norovirus to minimise the risk to public health, new algal toxins, vibrios in the marine environment. At present the EU is considering the necessary consumer protection required faced with these risks. These are important topic for public health in the UK and for UK businesses to show that their products are safe for export.

Are there any general points you wish to make which are not captured in any of the other questions?

In summary we believe that EU food law is important for the UK national interest. Our national interests are best served by endeavouring to improve enforcement, application, and harmonisation and to meet emerging challenges within the EU.

Channel Islands Brussels Office

The Channel Islands are part of the EU for the purposes of trade in agricultural products by virtue of Protocol 3 of the UK Accession Treaty. The exercise of the balance of competences between the EU and UK in this field is therefore an important issue for us.

Access to EU wide standards for consumer and animal protection is overall beneficial to the Channel Islands, as is access to EU wide networks for sharing information on animal and plant diseases, and on food safety issues. However the administrative burden of implementing relevant EU legislation can be quite onerous for such small jurisdiction. The Channel Islands are committed to implementing diligently and efficiently all relevant EU legislation and have skilled and experienced staff. The problem is administrative capacity. Public administrations in small jurisdictions have to have multi-hatted roles. On food law, for example, the small team in Guernsey and Jersey is covering the range of responsibilities that in the UK would be done by a mix of DEFRA, the Department of Health, the Food Standards Agency, and local authorities.

The Channel Islands would therefore support any reduction of the administrative burden that could be achieved by better or simpler regulation. One example of how we might benefit from this is EU Regulation 1069/2009 and accompanying implementing Regulation 142/2011 concerning animal by-products. Together these two Regulations are almost 300 pages. However of the business types or operations controlled by these Regulations, only a very small number are actually present in the Channel Islands and it is extremely unlikely that many of the other business types ever will be. Nevertheless, Guernsey and Jersey are obliged to have administering and enforcing legislation in place for the entirety of the regulation. While we fully accept the need for jurisdictions to avoid “cherry picking”, we think this is an example of legislation where greater flexibility could be given on implementation.

We hope that this is helpful and are grateful for the opportunity to contribute to the report.

City of London Corporation

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

Benefits the U.K. by standardising rules and therefore shouldn't be any 'gold plating'.

However, lack of correct enforcement across the EU diminishes the effectiveness of any action

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The only benefit of taking less action would be short term financial, as less action would lead to increased risk with regards to animal welfare likelihood of disease outbreak.

More action would increase animal welfare and decrease the likelihood of disease outbreak, which should have long term financial benefits. However, it is difficult to ascertain the financial benefits of taking action on animal health and welfare.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

This will negate the benefits of a level 'playing field' and drive business to areas of low intervention, disadvantaging those areas, nations that apply higher animal welfare standards. It will also lead to an increase in the likelihood of disease outbreak and subsequent costs.

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

Currently it does a reasonable job, but this will always be a difficult balance. One disease outbreak can very quickly negate any benefits to business in relaxing regulations.

The implementation and update to legislation can be slow in relation to what is happening.

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

In some instances an outcome based approach could be relevant. However, with disease control, you will always be dealing with a post disease outbreak event, rather than taking a pro-active approach to stop it happening in the first place.

What impact might any future enlargement of the EU have on animal health and welfare?

Any accession country takes a long time to reach the original EU MS standards. Evidenced by Polish pig farms. Even the US are investing in Polish pig farms which produce cheap pork by being poorly regulated. (Pers Comm Churchill Foundation study 2012). Therefore, they attract big business which moves production from more expensive areas. This is in detriment to animal welfare and disease control.

Compassion in World Farming

Here are the responses from Compassion in World Farming to Defra's consultation on the balance of competences between the UK and the EU.

We make our response based on the requirement in Article 13 of the TFEU for Member States (MS) to "pay full regard to the welfare requirements of animals" since "animals are sentient beings".

Our prime consideration is the best state of welfare for the maximum number of animals. Our prime inclination therefore is for EU competence to be extensive, thus extending welfare legislation to all MS. Where welfare legislation seems to us inadequate to protect the wellbeing of farm animals we would aim for MS to have competence (and desire) to take measures to enhance EU requirements.

The consultation refers to "the UK" as an entity. We shall take it primarily as meaning "the welfare of farm animals in the UK" and presume that the UK government sees high welfare standards for animals as a "public good".

Whilst we have not answered the specific questions on Food Law, we believe it urgent that the EU should adopt mandatory labelling of animal products as to method of production. This will enable consumers to choose the higher welfare product and avoid the lower welfare. The majority of citizens want to support higher welfare systems, but say they are confused by current labelling. We hope the UK Minister will argue for this at the Council of Ministers.

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

Where the UK has had pre-existing, higher welfare legislation as in the case of calves and sow housing, then one could see that UK farmers might be at a disadvantage due to lower welfare imports. However that has to be balanced by acknowledging with pride the leading role which previous UK governments (and Parliaments) took in adopting national welfare laws which have had huge influence in achieving welfare amendments to the Calf and Pig Directives. This can be seen most obviously with the UK ban on narrow

veal crates, dating from 1990 and the EU Directive provision banning veal crates which came into force in 2007 (after a long phase-out). Similarly the UK phase out of narrow stalls and tethers for pregnant sows began in 1991 and came into effect in 1999. By 1996 the EU had acted on tethers and the 12 year phase out of narrow sow stalls has come into force in Jan 2013 (with a first 4 weeks exemption).

Where the UK has failed to take unilateral action, then EU action, such as the Directive banning the barren battery cage as from Jan 2012 has had a highly positive welfare impact in the UK with thousands of hens now being housed in better systems. The Pigs Directive also requires provision of manipulable material and a ban on routine tail docking of pigs. Both these provisions have (where implemented) improved the lives of UK pigs, as well as pigs in other MS.

The adoption of the Protocol recognising animals as “sentient beings” in the Treaty of Amsterdam 1997 was of course proposed by the UK government. That Protocol has now been enhanced and enshrined in Article 13 of the TFEU. This wonderful UK initiative has changed the “ground” for all species-specific EU legislation and has helped create global recognition of animals as sentient beings, with mention of this in documentation from the FAO, the OIE and the International Finance Corporation.

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

There are still many areas of farm animal welfare which need tackling by legislation, such as the welfare of dairy cows, turkeys and other species. It would be good if the EU developed Directives for these species, as then animals in all MS would benefit. Should the EU fail to do so, it would be positive if the UK government went ahead unilaterally to at least improve the lives of those species within the UK.

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

The EU is already incorporating discussions on animal welfare into its bilateral trade agreement negotiations. They are far more likely to be successful at doing this than the UK on its own. Where they are successful in incorporating welfare into these agreements, then animals in the other country should benefit, which is of course a very good thing.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

We can see that this could improve the welfare of the animals in the country or area, but the overall impact would be less than if similar EU laws were adopted. However we do believe that where national or EU legislation is hampering local pro-welfare action, as is the case where Thanet District Council wanted to ban the export of live animals through Ramsgate, then Councils should be empowered to take such action.

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

Yes, we think on the whole it does. UK Businesses which do not meet EU legislation should not be in business anyway!

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

Although outcomes are vital, we believe that some of the rearing methods used in industrial farming are essentially unethical in themselves due to their restriction on natural behaviour etc. Hens can of course live in barren battery cages – but research shows that they will choose otherwise if given the opportunity. But if

one is solely looking at mortality statistics, then one might mistakenly think that barren cages were a suitable environment for hens.

What future challenges or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

One big challenge is getting proper enforcement of EU Directives and Regulations across all MS. The UK has an opportunity at the Council of Ministers to argue forcefully for more resources to be devoted to enforcement.

What impact might any future enlargement of the EU have on animal health and welfare?

It is vital that the UK argues for no unreasonable concessions to be made to candidate countries. They should all be informed well in advance of how they need to update their own farming practices to come into line with EU law and their progress should be monitored.

Are there any general points you wish to make which are not captured above?

(As above): We make our response based on the requirement in Article 13 of the TFEU for Member States (MS) to "pay full regard to the welfare requirements of animals" since "animals are sentient beings".

Our prime consideration is the best state of welfare for the maximum number of animals. Our prime inclination therefore is for EU competence to be extensive, thus extending welfare legislation to all MS. Where welfare legislation seems to us inadequate to protect the wellbeing of farm animals we would aim for MS to have competence (and desire) to take measures to enhance EU requirements.

The consultation refers to "the UK" as an entity. We shall take it primarily as meaning "the welfare of farm animals in the UK" and presume that the UK government sees high welfare standards for animals as a "public good".

Consumers for Health Choice

1. What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

The EU provides a good coordinating role and ensures that the same food standards are applied consistently and across the board throughout the EU Member States. As a consumer organisation, CHC welcome this.

However, Regulations that are agreed upon at a European level are often difficult for manufacturers and businesses to adhere to and consumers to understand. The sheer volume of legislation produced at the European level can obstruct innovation, hinder development and confuse consumers.

In addition, in an effort to harmonise rules, the EU legislation does not always takes into account the different dietary patterns across the EU. An example could be the Food Supplements Directive of 2002 which seeks to set harmonised maximum permitted levels in vitamins and minerals in food supplements.

Intelligence has long suggested that these levels would be set much lower than are currently seen in the UK. In the name of harmonisation this would end consumer access to safe, higher-potency food supplements that have been available on the market for many years.

Therefore, EU legislation occasionally has the perverse impact of actually limiting the choices of safe products available to consumers.

2. What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

Actions at the EU or international level are only appropriate in specific areas where cross-border co-operation is identified at the most efficient and cost efficient solution to deal with particular problems. Such actions should therefore always be based upon thorough impact assessments.

As an example, while it is beneficial for both consumers and businesses that the same food safety standards apply across the EU, it is also essential that food legislation takes into account of the particularities and different consumers need across the continent.

3. Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

EU action on food law has often been too blunt, legislating for all 27 Member States and refusing to take into account the nuances that exist between different Member States: the dietary needs of the average person in Southern Spain are very different to those in Scotland, for example.

This has meant that well-intentioned legislation has often, as noted above, restricted consumer access to information about products (as with the Nutrition and Health Claims Regulation) or even safe products that have been used for many years with no harmful effects (as the Food Supplements Directive threatens to do so).

4. Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

In theory, legislating at an EU level has proven advantageous to UK consumers, who are now secure in the knowledge that they can access safe products, well labelled, across all Member States.

As noted above, however, legislating for consumer protection at an EU level has often proven disadvantageous to the UK national interest, failing to take into account the particularities of our market and consumer needs, all in the name of harmonisation. As result, many safe products that have been used for many years with no harmful effects are currently at threat.

5. What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

Although theoretically at the heart of food legislation, CHC has observed that too much legislation is not based on scientific principles.

The proposed setting of maximum permitted levels for vitamins and minerals in food supplements under Article 5 of the Food Supplements Directive 2002 is, for example, not based on science: higher potency supplements have long been available in the UK and other Member States with no negative impact on safety.

Similarly, the authorisation of health claims under the Nutrition and Health Claims Regulation has been based on science, but there has been little guidance on what sort of scientific evidence businesses need to submit when applying for claims. This has resulted in a large number of rejected claims and less information available to consumers.

6. What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?

N/A

7. How might the UK benefit from the EU taking more or less action on food law in the future?

The UK would benefit from the EU taking less action on food law in future and considering whether any future food legislation could be better dealt with at a national level, nearer to the consumers that would be affected.

8. Could action be undertaken differently e.g. are there ways of improving EU food law?

EU food law is multi-layered and highly complex in some cases. It could do with being simplified and, as noted above, bought closer to the consumers affected.

9. What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

N/A.

10. Are there any general points you wish to make which are not captured in any of the other questions?

N/A.

Country Land and Business Association

Questions in relation to animal health and animal welfare:

1. What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

The CLA is clear that in principle, EU action on animal health is advantageous and appropriate for the UK. It is entirely rational for the EU to hold this area of competence, primarily because it is a key component in underpinning the ability and reassurance for farmers, traders and suppliers to be able to trade within a common market. Because of the need to ensure that animal welfare and disease is minimised, only the EU could implement the appropriate criteria to ensure that this is carried across the EU. Failure to do so would cause economic and animal disease risks, as each member state would be tasked with drawing up its own system or scheme to address these.

The fact that the UK has a competitive market for providing high quality produce is down to the fact it is able to trade these products within the EU, and use the EU's position to draw up trading agreements with third countries.

2. How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The CLA believes that it cannot provide a particular answer to this question.

This is because it would be irrational to demand 'more' or 'less' action in animal health and welfare: instead the CLA believes that responsibility for animal health and welfare must be assessed at the most appropriate level. Some diseases, such as Foot and Mouth Disease or BSE are a concern for all EU member states, and it is appropriate that the EU acts accordingly.

However, there are certain animal health and welfare challenges that may only affect certain Member States or regions, for example Schmallenberg Virus. In these cases, there should be flexibility for those Member States to have competence in these areas, which is largely the case. The CLA believes that the concept of subsidiarity should be followed. It feels that this could be better implemented by the UK

Government, and is not convinced that the EU's role in animal health and welfare is inappropriate in where it primarily has competence currently

3. What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

The CLA understands that the EU's role as a major economic and trade block cannot be overstated. Not only does this allow for the optimum agreement terms, but it also allows any third state to remain assured that the EU's common standards to animal health and welfare significantly reduce the risk of any spread of disease, or to ensure that those animals have experienced higher welfare standards. For those products that are parsimonious throughout the EU, a common trade policy is clearly beneficial.

4. How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

The CLA points out that to a great extent this is already the case. It is clearly against the interests of livestock owners to enforce European regulation without any kind of understanding of how it may affect them in each region or Member State. As a result, it is imperative that the implementation of EU regulation is appropriate for those Member States who may have natural constraints in enforcing it fully. However, this is not always the case.

For example, the CLA understands the rationale behind the need for sheep to be EID tagged for traceability purposes, and to help prevent the spread of Foot and Mouth Disease, along with other transmissible diseases.

However UK sheep farmers have found that this has been very difficult to implement because of areas of natural constraint that make maintaining flocks within a certain area very difficult. The system that has been put in place by the UK Government to address sheep EID has not worked to the advantage of UK sheep owners, and combined with the existing complex system of using County Parish Holding Number allocations to identify sheep, it has shown that the role of the member state is as, if not more, important than the concept behind the EU regulation.

5. Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

Similar to point 4, the CLA believes it is not the EU legislation itself that provides problems for British livestock businesses. For example, the rationale behind a ban on stalls and tethers on pigs (although subjective) was understood and accepted by the UK industry. However, in this case the UK Government decided to implement this measure over ten years before it was mandatory for the rest of the EU to follow suit. The economic effects of this to UK pig businesses cannot be overstated, leading to a significant challenge to the competitiveness of UK producers.

The issue of EU legislation should, in theory, be of little concern to UK businesses if that same measure is applied and enforced equally throughout the EU. In the past this has not happened- not only in stalls and tethers, but also in the use of enriched colonies for laying hens. Both these issues highlight the two concerns of the application of EU legislation on animal health and welfare: one being the over application of certain legislation so that it renders UK businesses at a competitive disadvantage, the other being the lack of enforcement by the EU in ensuring that all member states have complied with that legislation, again rendering compliant UK producers at a competitive disadvantage.

6. Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

The CLA does hold concern about the existing process in which decisions are made relating to animal health and welfare within the EU. One key problem has been the role of legislators in addressing disease.

Zoonotic diseases have previously had a devastating impact on human health, animal health and businesses in the UK. Normally, any outbreak of a notifiable disease occurs at very short notice and requires swift action to ensure that its spread is minimised, and eventually eradicated. The speed at which the European Commission has reacted to threats in the past has been unfortunately very slow, and the CLA believes that there must continue to be technical oversight that is able to deliver sound conclusions that are acted upon swiftly.

On animal welfare, it is clear that European Parliament's role in this competence has been a negative one. This is primarily because any decision made on animal welfare occurs very slowly, especially in a time of a disease outbreak. The CLA believes that animal welfare in the EU has lacked technical and scientific oversight, and has instead been led by a minority of campaigning groups or individual member states who wish to impose their ideological approach on the rest of the EU.

A good example of this can be seen in the precautionary approach undertaken by the EU in relation to Genetically Modified organisms or cloning. These have frequently been imposed on ideological grounds, even though their application has often been to improve animal welfare or minimise disease spread. The CLA believes that the role undertaken by SCOFCAH in the past ensured that decisions relating to animal welfare were based on sound science and objective criteria.

Finally, EU action on the imposition of legislation covering stalls and tethers and enriched colonies has been mentioned. One fundamental problem from those member states who are non-compliant with those regulation is not just the perceived lack of sanctions; instead it is that those products can still be made available on the market within those member states. An outright ban on produce from banned systems would improve the equality and competitiveness of compliant producers across the EU.

7. What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

The CLA believes that livestock owners will be continually facing the prospect of disease and eradicating disease. It is clearly in the interests of livestock owners, the UK Government, animal welfare campaigners and the EU to ensure that disease is monitored closely and action plans are ready if and when they do arise.

The most immediate concerns for livestock owners are largely in the control of the UK Government. This first is the spread of Bovine Tuberculosis: years of previous Government inaction has had a huge effect on animal health whilst significantly stifling UK businesses. It is interesting to note that part of the reason why many restricted herds have remained able to trade is because of funding from the European Commission to help the UK eradicate TB, covering salvage payments for condemned carcasses and testing costs. However, it is clear that in order to reduce the high number of incidences of TB, it can only be undertaken by the UK Government.

The CLA notes that longer term challenges relating to animal health and welfare will almost certainly arise from enlargement, the need for greater livestock numbers to meet consumer demand and climate change. An example can be seen in the spread of Schmallenberg Virus, where erratic weather patterns (milder temperatures) have allowed midges (vectors of the disease) to infect cattle and sheep throughout the UK. Because knowledge of the disease has been limited, it has shown the need for an EU led plan to strategically address diseases of this nature.

The CLA believes that whilst the UK is powerless to prevent the spread of diseases such as Schmallenberg Virus, it remains very concerned that the UK does not allocate nearly enough resources to monitoring diseases that are not currently endemic within the UK. This holds a very high risk of those non-endemic diseases to spread quickly within the UK in the case of outbreak, and would result in very burdensome restrictions for livestock owners. The CLA would add that the strategy to monitor and inspect the import of

livestock, carcasses or other organic matter is currently not fit for purpose, noting that countries such as Canada put significant resources in ensuring these checks are made.

8. What impact might any future enlargement of the EU have on animal health and welfare?

There will always be risks associated with the enlargement of the EU and ensuring that common criteria are met for animal health and welfare. However, this question would have been more salient prior to the accession of Eastern Bloc countries in 2004 and 2007.

It is quite right that any new member state should expect to adhere to European legislation prior to accession, and that they would be treated in the normal way in the case on non-compliance. However, because there is little industry confidence in the enforcement of this non-compliance it could add cause for greater concern. This however is an issue that relates to the process of European legislation compliance, as opposed to the principles relating to animal health and welfare themselves.

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

1. What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

One of the major factors behind the growth of EU food law has been the creation of the Single Market in 1992 and the growing importance of intra-Community trade. As Defra has stated, consistency of food regulations provides confidence in the quality and safety of food, both for food imported and for food exports. However, the UK trades on a global platform, not simply within the EU and there remains a case that EU food policy could be restricting the ability for food businesses to trade to non-EU countries.

The statistical information provided in the balance of competence paper from Defra show that the EU market accounts for a significant proportion of UK food exports. Although there is a trade deficit of approximately £14.2 billion, the very fact that the EU market accounts for some 69% of all UK food and drink exports suggests that the EU is and will remain a lucrative market.

However, there is the issue that the EU, through its legal responsibility to negotiate trade agreement on behalf of the Member States, may not provide sufficient flexibility in allowing the UK to benefit economically from non-EU trade.

3. Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

In general terms, the balance appears to be right. Of course, there are bound to be instances where one ‘right’ may supersede another but this is inevitable. However, there remain concerns as to the over application of the precautionary principle in seeking to justify a political decision which could have an adverse impact on the commercial operations of a food business. Quite simply, we believe that the precautionary principle has been overworked and needs to be reviewed if it is to retain its credibility.

5. What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

We would certainly agree that food law has to be science based. Without controls based on the principle of risk, not only is the health of the consumer put at potential risk, it opens the way for the market to become distorted. In addition, there is anecdotal evidence that the food hygiene rules which are essentially EU based have been accepted by the food industry. For example, the principles of Hazard Analysis Critical Control Points (HACCP) have been implemented by UK food businesses in order to prove the safety of the product and importantly, to give credibility and safety of those products to the consumer.

7. How might the UK benefit from the EU taking more or less action on food law in the future?

We can see the benefits of a harmonised approach to the application of food law as such an approach provides certainty in the market place. However, there needs to greater consideration as to the balance between the actions of the public sector (and how policy is implemented) and the activities of private business. There appears at present to be no conscious effort to consider the merits of more voluntary, private sector led methods. Indeed, it can be argued that the UK government needs to ensure greater flexibility when it implements food law provisions to ensure both effectiveness as well as lending a certain legitimacy in the eyes of the public. Therefore, we believe that it is important that the EU food law framework encourages a flexible approach and allows Member States the opportunity to work in partnership with the national food industry.

8. What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

The EU allows for a system of official controls and inspections to ensure compliance with EU regulations. One such instance is the system of inspections for abattoirs. The intention of Defra is to seek to simplify these controls so as not to impose a burden on business. This system is under review and the UK Government is attempting to ensure that any charging regime imposed is proportionate.

We agree that a common framework of food law at EU level is essential, both in terms of uniformity and credibility to the food product. We are also of the view that there is a clear purpose for the current (and future) system of controls and inspections. We however do recognise the problem that further EU controls could impose greater financial restrictions on food businesses. However it should be noted that the EU is prepared to remove restrictions as well as opposing them. For example, the European Commission has proposed to stop BSE testing of 'healthy slaughtered' cattle born in 25 Member States (excluding Bulgaria and Romania) from March of 2013.

Having said that, we are aware, using the meat inspections system as an example, it is often the implementation of EU regulations that imposes the higher costs. Given the BSE crisis experienced in the UK, it was evident that meat inspections are fundamental to ensure the efficacy of meat products going into the food chain. However, the actual system created by the then Meat Hygiene Service and now the Food Standards Agency suggests that it is not EU regulation that is at fault.

Of course, the ongoing horsemeat scandal has brought out into the open the complexities of the food supply chain as well as the opportunities that exist for the EU's food policy framework to be seen as dysfunctional. It is not necessarily the case that the system has collapsed. We would say far from it. However, it does graphically highlight the need for a more speedy and robust response from the EU and this requires the framework to operate efficiently and consensually. What it also suggests is that there needs to be a common approach to the issue of mandatory food labelling in order to restore the confidence of the consumer, not only in the food they eat but also in the businesses that provide that food.

Current & Future Meat Controls Stakeholder Group

1. The CFMC Stakeholder Group was established by the Food Standards Agency to help the FSA to understand the views of UK meat industry and consumer stakeholders; to apply that knowledge and work collaboratively to develop informed meat hygiene and TSE policy and strategy.

2. This paper sets out comments from meat industry members of CFMC on the Balance of European Competences Review. The industry bodies represented on the CFMC have extensive experience of the impact of European legislation in the areas of animal health, animal welfare, meat hygiene, and food composition; covering the full spectrum from strategic policy to very technical detail. Collectively they feel that EU-wide legislation is broadly positive and beneficial for the UK meat production industry. European

legislation provides a harmonised basis for trade, production standards, and consumer protection and, were these issues to be addressed on a state-by-state basis, CFMC industry stakeholders believe it would not be in the best interests of the UK meat industry and UK meat consumer.

3. Through the CFMC, and in conjunction with Government and regulatory officials, CFMC stakeholders are addressing areas of work where they feel the legislation is either lacking or in need of improvement. These issues are outlined below along with the reasons why they are important. The issues being examined also affect our counterparts in other Member States, and EU legislation, supported by European Commission guidance, often helps in determining a position that does not overtly work against any single member state, industry or consumer interests.

4. The CFMC contains a broad range of interests, from very small producers to very large, and each will be affected by legislation and its implementation in different ways. The implementation and/or interpretation of legislation, be it European or national, is often the biggest burden encountered by businesses. The ability to influence or change legislation is often cited as a barrier, although it is unclear whether this situation would be improved if legislative requirements were to be provided solely in national law.

5. Animal health, animal welfare, and food safety are priorities for members of the CFMC within the context of food production in the UK. Legitimate and open trade between Member States is an essential part of food production, not just the final product but also labour, equipment, skills, and a harmonisation of standards. These contributing factors are also governed by European legislation that allows free movement of them through the single European market. While those companies that work on an international scale are generally the larger ones, more geographically confined businesses also benefit from the influx and movement of professional standards – the proverbial level playing field. Europe-wide legislation, implemented on a risk-based approach, and audited in member states (and in third countries) by the European Commission's Food and Veterinary Office, avoids the inconsistencies that a parochial system may have.

6. The CFMC has input to all stages of European Union policy development – from scientific risk assessment (e.g. by the European Food Safety Authority) and policy review, through to the development, interpretation, and implementation of European Union legislation – and the CFMC industry stakeholder members feel that the work of the group is best served by an active involvement throughout the process. While understanding there are improvements to be made, through their membership of CFMC, stakeholder members feel they are in the best position to effect those changes and to ensure the UK meat production industry is an important part of the European system.

EXAMPLES OF ISSUES ADDRESSED BY CFMC

The review of the EU meat inspection regime

7. This is a key strategic priority for the FSA and UK meat industry which aims to influence thinking of the European Commission and Member States and lead to a future system of official meat controls that is more risk-based and proportionate in addressing public health risks associated with meat. The FSA designed and commissioned a valuable programme of research to gather evidence to bring about changes to the current prescriptive EU rules as agreed by the FSA Board in September 2009[1]. The FSA has been active in disseminating research results and other evidence and discussing this information with other Member States, the European Commission, third countries and consumers. All of these activities have been presented and discussed at every CFMC meeting. This has enabled CFMC members to contribute to the various strands of research and to facilitate the co-operation of participants in the research. Ongoing co-operation between officials and industry stakeholders will be essential as proposals are presented for future changes to official controls for different animal species by the European Commission. In particular, it will

[1] http://www.food.gov.uk/multimedia/pdfs/board/fsa090906.pdf

be important for both the FSA and industry representative bodies to influence and inform their counterparts across Europe to successfully achieve a modern inspection regime that addresses the food safety issues in a much more effective way than the current system.

8. After three years of preparatory work by the FSA working across the EU, proposals for changes to the current meat hygiene controls have started to emerge. In September 2012 the Commission published initial draft proposals to amend pig meat inspection and poultry meat proposals are expected soon. A CFMC Task Group, composed of industry technical experts and policy makers, will scrutinise and provide rapid advice on the proposed changes.

TSE controls (BSE testing and SRM controls)

9. The overall framework for changes to the EU TSE controls is set out in the European Commission's TSE Roadmap 2 published in July 2010. Amongst other things, CFMC have been kept informed on the progress of proposals for changes to BSE testing requirements and the ban on processed animal proteins (PAP) in feed. Discussion at CFMC meetings has helped identify where to push for progress at a European level and to determine priorities for review of the UK's implementation of controls to ensure they remain risk- based and proportionate. For example, whether:

- bovine mesentery could be removed from the list of Specified Risk Material (SRM) to enable the harvesting of mesenteric fat. An EFSA Opinion on bovine mesentery and intestine is expected to be available in January 2014;
- alternative methods could be used to remove sheep spinal cord without splitting, which makes the carcase less valuable;
- the age at which bovine vertebral column is classified as SRM could be increased. The FSA has confirmed with the Commission that no change is proposed;
- a derogation should be applied to allow cutting plants to harvest bovine head meat.

Challenging the EU position on specific meat hygiene issues

10. The FSA continues to work with the European Commission and other Member States to challenge European legislation and guidance where we consider these are not risk-based or are disproportionate. The informed views and evidence provided by CFMC members on these issues have enabled the FSA to make the strongest possible case in EU discussions. Examples include:

<u>i. Minced Meat from aged chilled meat:</u>

11. A CFMC Task Group was formed to help develop a UK approach to disproportionate EU rules which require minced meat to be made from chilled meat within specified time periods. The Task Group facilitated the provision of industry data on minced meat production to inform and support the case for changes to the EU rules. The UK case has been presented to the Commission's Food Hygiene Working Group and the Commission is now to seek a scientific opinion from the European Food Safety Authority before considering the matter further.

<u>ii. Trichinella:</u>

12. Trichinella is a parasite that can live in pork and present a food safety risk if the meat is not frozen or properly cooked. EU legislation requires all pig carcasses to be sampled for this parasite. However, there is no evidence of this parasite infecting pigs in the UK, and in light of this, the UK does not fully comply with this sampling requirement as it is disproportionate to the risk in the UK. A CFMC Task Group provided a valuable means to keep industry up to date with developments in this area and group members provided useful evidence about the practical issues around Trichinella testing. The group were kept up to date with the scientific research, such as the model developed to assess prevalence using 'weighted' test results,

and developments at the European Commission, Codex and OIE. In September 2012, the European Commission published proposals for new Trichinella controls which are more risk-based and proportionate.

iii. MSM-DSM

13. A CFMC Task Group played a significant role in the UK's response to the European Commission's Food and Veterinary Office Audit Mission to the UK on mechanically separated meat (MSM) which took place in March 2012. The Task Group provided invaluable, robust and rapid input from the industry perspective, assisting in formation of policy relating to the UK moratorium on desinewed meat and helped disseminate information on this fast-moving policy issue. The Group discussed technical/practical issues to assist in the production of guidance for enforcement officials and Food Business Operators and helped inform the FSA's discussions with the European Commission and in the Westminster Parliament. FSA discussions with the European Commission, informed by views from the Task Group, were instrumental in securing the European Commission's agreement to seek an assessment of the risks associated with DSM (derived from non-ruminants) from the European Food Safety Authority. EFSA's Opinion is due by 31 March 2013 following which the Commission is to establish a working group to review policy on DSM/MSM.

14. Whilst disagreeing with the views of the European Commission on this matter, the UK had little option but to introduce the DSM Moratorium to meet the Commission's demands. The safeguard measures that the European Commission threatened to impose on the UK had we not acted, would have had a much greater impact on the UK meat industry and UK meat consumer. Although this is an example of where the powers of the European Commission worked against the interests of the UK, the Commission's role has nevertheless been central in helping to ensure a level playing field on this issue across Europe and in mandating a risk assessment so that policy can be reviewed at a European level.

Dogs Trust

Background

Dogs Trust is the UK's largest dog welfare charity. Every year, we care for around 16,000 stray and abandoned dogs at our nationwide network of 18 re-homing centres, including one in Wales. No healthy dog is ever destroyed. We also promote dog welfare substantially through educational, microchipping, neutering and lobbying campaigns.

We also have an international team which aids many charities and NGOs across the world, particularly in Europe, and assists with work on dog population control programmes and efforts to reduce the risk of rabies.

The keeping of companion animals is considered an issue which the member states must regulate. However when these animals are bred, sold, transported throughout the EU (a commercial activity) and if there is an animal health or human health risk due to the movement of companion animals, the EU could intervene. Improving the welfare of animals is not an objective of the EU but considering the welfare of all animals as sentient beings is now an obligation in the Lisbon Treaty.

This consultation has asked for views relating to EU Regulation 998/2003 and hence will focus the primary basis for our response to the questions posed in this consultation.

Response

1) What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

With regards to existing legislation, Dogs Trust believes that EU action on animal health and welfare has disadvantaged the UK, this related to the non commercial movement of pet animals into the UK. In 2012 the UK lost it's derogation to require more stringent controls for animals entering the UK from Europe which

we believe has increased the risk of the UK being exposed to zoonotic diseases such as rabies and *echinococcus mulitlocularis.* Many of the animals now travelling from EU countries to the UK do not have proper paperwork and are not being checked coming into the country which leaves our endemic dog population susceptible to infectious disease and the risk to human health is also increased. In addition, Dogs Trust has been made aware that many young puppies are entering the UK (presumably for sale) whose welfare is being compromised because a) they are being transported in poor conditions and b) often travelling under age without their mother.

2) How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition or as an alternative to action at EU level?

Dogs Trust believes that action taken at a national level could be more effective than action taken at an EU level to improve animal health and welfare. Due to the fact that the UK is currently a rabies free country, we believe that if additional preventative measures could be taken by the UK Government with regards to animals entering this country, the risk of the a zoonotic disease entering this country could be reduced. If there was increased or enhanced instances of rabies serology, there could be less of a threat to the UK's biosecurity. The EU could require all dogs in the EU to be permanently identified and registered on an approved database such as Europetnet. This could provide better intelligence to border control officials of where an animal has come from.

3) Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

Dogs Trust does not believe EU legislation on animal health and welfare provides the right balance. The EU's commitment to the open market and free movement of trade has allowed commercial organisations and individuals to thrive, often at the cost of animal welfare. Breeders in the EU can now transport puppies for sale to the UK with greater ease – these puppies are often being bred in poor conditions, transported for days across the EU without their mother and sold to unsuspecting UK buyers at a reduced cost. Once these dogs arrive in the UK they are handed to a 'dealer' and sold as a dog which has been born in the UK. This can lead to problems for consumers if the puppy then becomes sick and may also be carrying zoonotic diseases which would be unknown to any unsuspecting purchaser.

3) Could action be undertaken differently, e.g. are there ways of improving EU animal health and welfare and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

Dogs Trust believes that an evidence and risk based approach would be preferable when looking at outcomes, providing that, evidence gathered did not look at the lowest common denominator and that risks were evaluated on the threat to EU members as a whole, not primarily those on the mainland.

4) What future challenges or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

With regards to challenges, the UK will face increased movement of pet animals from the EU to the UK which poses a significant problem with regards to border control. On the 6th of January 2013, Eurotunnel recorded their largest ever daily movement of pets travelling from the Continent to the UK. We believe that this is the tip of the iceberg in terms of pet animals entering this country via the ferry ports and we have serious concerns that many of these animals have no passports at all or that their passports are not being checked properly by border controls. We have anecdotal evidence from many veterinary practices that dogs are being identified as illegal landings after they have entered the country. If any of these dogs were found to be carrying rabies, this would pose a significant threat to both animal and human health and could leave the UK to deal with a rabies outbreak.

5) What impact might any future enlargement of the EU have on animal health and welfare?

Any future enlargement of the EU could mean an increased risk of disease and increased welfare issues through illegal entries.

Dundee City Council

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

Membership has a variety of advantages, such as; harmonised food law, facilitating trade, providing a consistency of approach, ensuring that food sectors work to the same standards and provides a level playing field for business and enforcers alike.

What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

As most food law competence actually falls under Treaties that are designed to facilitate trade, and trade figures illustrate the financial importance for the UK of trading with other MS; it seems sensible for all to have a consistent system that allows business to thrive and consumers to benefit from improved choice.

With respect to consumer protection, Article 168(4) (b) has helped create the basis for EU wide hygiene legislation directly to protect public health and the interests of consumers. This is an advantage and provides a level playing field across the community.

UK businesses also trade with countries outside of the EU. The EU has exclusive competence to negotiate trade agreements with third countries, meaning that Member States cannot. This can be seen as constraining, but the EU negotiating as a block may be more powerful. There is an argument that respected EU standards can help gain access to other markets, although it is also true that third countries can have requirements that differ from those in the EU.

Recent issues emerged with third country delegations from Russia, China and the US, whose visiting officials concluded that some EU standards in approved establishments were less onerous than the standards expected for export to their respective countries. FBOs then have to make a commercial decision whether to comply with the more stringent food safety standards above those required by the EU legislation and enforced by local officials, or be prohibited from exporting to specific third countries. This provides an argument for controls to be organised at a worldwide level, to create more consistent standards to facilitate international trade.

Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

Having EU level rules means that consumers can be confident about imported food as well as that produced nationally. When things go wrong, being part of the EU system for handling incidents (Rapid Alert System for Food and Feed – RASFF) provides additional protection as does the ability to put in place emergency legislation quickly (e.g. to ban certain imports from third countries or place sampling requirements on them).

Common standards ensure fair competition and can protect markets, including from rogue traders who can damage the reputation of a sector. Many UK firms compete with companies from across the EU, which might suggest that EU level regulations are advantageous. Of course, for those firms competing with businesses from third countries it could be argued that world level standards would be better. For businesses that only trade and compete locally there could be an argument for more national legislation that could perhaps be more precisely tailored to local circumstances.

You could have parallel systems, with EU level legislation for businesses involved in trade within the EU and national rules for those that don't. This may however be rather confusing, both for businesses and enforcers.

Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

The European single market is an important driver in the development of EU food law. The number of European Treaty Articles under which the majority of food law is made (114 – single market and 43 – common agricultural policy) confirms this. Harmonised legislation is clearly important to avoid trade barriers.

It is sometimes said that the UK can interpret EU legislation more strictly than other Member States and that this can be to the detriment of UK industry. In recent years there have been a number of cases where the Commission and the Food and Veterinary Office (FVO) have taken a more strict interpretation than the UK.

Whilst introducing directly applicable Regulations across the EU prevents flexibility to interpret Directives in a way each Member State might favour, it does ensure consistency and assurance that the EU Regulation is the lowest common denominator for the food industry to comply with and for Member States to implement and enforce.

EU legislation often has a certain amount of inbuilt flexibility where Member States can chose the approach to take based on local needs and customs. Raw milk is a good example, as are various aspects of hygiene legislation to do with small quantities and traditional production methods. Having this flexibility is helpful to the UK.

How legislation is enforced can also place burdens on businesses. Competent authorities can also help businesses comply and this in turn helps protect consumers. For EU food law, Member States have a significant amount of flexibility about how they organise official controls, again this is a good thing. It clearly recognises that there are differences between Member States and retaining this flexibility is advantageous to the UK's national interest.

National measures permitting Member States from derogating from the requirements of EU legislation can create flexibility for the UK to implement controls that seem appropriate for the domestic market. However, individual MS may create controls that vary widely across the EU and lead to inconsistency across MS. Many small businesses processing products of animal origin are caught by the approval requirements and must be specifically assessed for compliance with Regulation (EC) 853/2004 and are subject to additional controls. The current interpretation of marginal, localised and restricted in the UK catches certain small to medium sized businesses and it would be better to expand the interpretation to a national geographical area and then the approval requirements would only be triggered when FBOs trade more widely, e.g. internationally. This would remove some of the bureaucracy.

What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

A risk-based approach to food law is preferable. It provides protection while at the same time minimises burdens on businesses. To a large extent EU food law is science or risk-based. There are some exceptions, such as the current meat hygiene controls and the ban on BPA in baby bottles. The European Food Safety Authority (EFSA) was set up to undertake risk assessment and the view emerging is that they are generally respected. EFSA do not have a role in risk-management. This is for the European Commission, with the European Parliament and Member States. There are concerns that not all Member States have the same approach to risk and that the European Commission can be fairly risk-averse. This

can lead to some legislation being more prescriptive than is justified by the risk. The balance between politics/societal preferences and risk in decision making needs to be struck.

Risk assessments have not always been undertaken in a proportionate way and some food alerts have resulted in an overreaction to the actual risk posed, e.g. Sudan dyes.

What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?

Trade with third countries raises the question of whether it would be better for the UK that standards are set at a wider international level, possibly through the Codex Alimentarius Commission. The fact that Codex standards are used in deciding World Trade Organisation (WTO) disputes is also a factor. However, these considerations need to be balanced with issues of pace, with Codex standards often taking a number of years to negotiate. It can also be an advantage to the EU to negotiate at Codex as a block and with its own harmonised legislation.

How might the UK benefit from the EU taking more or less action on food law in the future?

One question about the impact of EU legislation on the UK is likely to centre on whether the legislation is sufficiently proportionate and in particular whether it minimises burdens on businesses. The EU has had significant programmes of reducing administrative burdens and more recently has been following 'smart' regulation principles (equivalent to better regulation in the UK)

Legislation can also stifle or promote innovation. Many would argue that more prescriptive approaches to legislation may be stifling, whereas principles-based approaches allow more innovation. Pace is also an issue – EU legislation may not change fast enough. It is arguable that tertiary legislation, which is used a lot in food law, is beneficial in that it can be decided relatively quickly.

Could action be undertaken differently e.g. are there ways of improving EU food law?

In the early days of the EU food law was decided by unanimity. This meant that it built up very slowly as each Member States had a veto. Qualified Majority Voting was introduced in 1986, whereby proposals could become law without the support of all Member States. This has the advantage of speeding up the process, but does mean that it is more likely that a Member State will have to comply with law that it is not completely happy with.

An important issue in European law making is around the balance of power between the European Council (Member States), the European Parliament and the European Commission.

What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

A lot of food law is what is termed tertiary legislation (sometimes referred to as comitology instruments). Tertiary legislation gives relatively more power to the European Commission. This can work well for the UK if we agree with the Commission, but not so well if we don't.

Are there any general points you wish to make which are not captured in any of the other questions?

Transparency is another important issue and closely related to this are Impact Assessments and consultation. The European Commission has improved its Impact Assessments in recent years, but they are mainly produced for significant pieces of secondary legislation. It is rare that they are produced for tertiary legislation, even though it can have significant impacts. Consultation is important for transparency. The Commission does consult on secondary legislation, but does not routinely consult on tertiary

legislation. UK stakeholders should be consulted on tertiary legislation as well to ensure there is sufficient transparency. UK government departments also have a role in ensuring transparency.

The FSA is effective at notifying enforcers of prospective EU legislative changes and providing information via consultations on EU legislation and domestic implementing legislation. However, most officers are too far removed from the EU legislative making process and lobbying of the Commission by the CCA for their comments to be heard. They do not feel they are appropriately consulted with by policy departments to input comments on the practical implications of controls and influence the content of the EU legislation. In fact industry appears to have better opportunities to input their comments to policy departments at dedicated forums and influence the content of future legislation through lobbying, than the enforcement community delivering official controls.

The Food Law Code of Practice (FLCoP) is a useful document for driving and maintaining consistency across Local Authorities. More importantly, it secures the position of Environmental Health (EH) in the council hierarchy. It is comprehensive and easy to follow.

The Framework Agreement exists and is an important safeguard in ensuring that LAs are required to meet statutory obligations; the Framework Agreement helps to protect LA food safety resources from disproportionate cuts. There needs to be more awareness of its significance at the top level of LAs.

The introduction of the EU Hygiene package saw the removal of the butchers licensing scheme that was very beneficial.

The registering of child minders as food establishments imposes an unnecessary burden on business and LAs.

The FSA in Scotland low cost training programme has been/is appreciated. It is an excellent way to promote consistency across Scotland. The quality of the training has been high.

Communication about incidents and alerts is generally good with information being quickly distributed, which results in clarity and consistent action. Alerts are now risk-based which is as an improvement on the previous system.

Audit is an area that has had positive effect, as it had been used to raise the profile of environmental health within LAs. Audit feedback is used to inform improvement and audit findings should be made more use of and drawn on for best practice materials.

The FSA in Scotland interaction and relationship with the Scottish Food Enforcement Liaison Committee (SFELC) and the liaison groups is a real strength, enabling closer, more effective working relationships.

The FSA in Scotland should work with the Crown Office and Procurator Fiscal Service to raise the profile of food safety.

European Commission

UK Review of the balance of competences

III) Animal Health and Welfare and Food safety

1. Feed regime (Feed marketing including labelling)
Proposal for a Regulation on the placing on the market and use of feed
http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2008/sec_2008_0275_en.pdf
External study on medicated feed 2010
http://ec.europa.eu/food/food/animalnutrition/labelling/medicated_feed_report_20100224.pdf
Roadmap of Impact assessment (forthcoming)

http://ec.europa.eu/governance/impact/planned_ia/docs/2010_sanco_055_medicated_feed_en.pdf

2. Plant Protection Products (PPP)
Communication of the Commission on 'Towards a thematic strategy on the sustainable use of pesticides'
http://europa.eu/legislation_summaries/internal_market/single_market_for_goods/chemical_products/l21288_en.htm
Community action to achieve the sustainable use of pesticides
http://ec.europa.eu/environment/ppps/background.htm
IA on the Directive on plant protection products
http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2006/sec_2006_0931_en.pdf
Annual EU-wide Pesticide Residues Monitoring Report (Mandated to EFSA) Article 32 of Regulation (EC) No 396/2005 of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin
http://ec.europa.eu/food/fvo/specialreports/pesticides_index_en.htm

3. Animal-by-products
Report on animal-by-products
http://ec.europa.eu/food/food/biosafety/animalbyproducts/by_products_report_en.pdf
IA on the Proposal for a Regulation laying down health rules as regards animal-by-products not intended for human consumption (Animal by-products regulation)
http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2008/sec_2008_1994_en.pdf
Guidance on the implementation of the certification procedures established in Commission Regulation (EU) No 142/2011, up-date 2012
http://ec.europa.eu/food/food/biosafety/animalbyproducts/guidance_doc_r142_2011_7_1_2012_en.pdf Ref. Ares(2013)275954 - 01/03/20132

4. Food contact material
Exhaustive information on legislation authorisations, guidance documents, registers and lists
http://ec.europa.eu/food/food/chemicalsafety/foodcontact/documents_en.htm
Explanatory note - concerning authorisation of "old" and "new" recycling processes
Questions and answers - Regulation EC 282/2008 - recycling processes to produce recycled plastic materials and articles intended to come into contact with foods
EU guidelines for the import of polyamide and melamine kitchenware from China and Hong Kong
Technical Guidelines concerning polyamide and melamine kitchenware including sampling and analytical methods
Roadmap for a forthcoming Impact assessment
http://ec.europa.eu/governance/impact/planned_ia/docs/2014_sanco_005_fcm_specific_provisions_for_materials_other_than_plastics_en.pdf

5. Food Improvement Agents package
IA for the Proposal for a Regulation of the European Parliament and of the Council
on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, and Council Directive 2001/112/EC
IA for the Proposal for a Regulation of the European Parliament and of the Council on food additives IA for the Proposal for a Regulation of the European Parliament and of the Council on flavourings and certain food ingredients with flavouring properties for use in and on foods amending Council Regulation (EEC) No 1576/89, Council Regulation (EEC) No 1601/91, Regulation (EC) No 2232/96 and Directive 2000/13/EC

All three IA are part of the Package on Food Improvement agents see
http://ec.europa.eu/governance/impact/ia_carried_out/cia_2006_en.htm#sanco
Food additives database
https://webgate.ec.europa.eu/sanco_foods/main/?event=display
Annual report on food irradiation (Article 7(3) of Directive 1999/2/EC of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation)
http://ec.europa.eu/food/food/biosafety/irradiation/index_en.htm

Commission Staff Working Paper on the Implementation of National Residue Monitoring Plans in the Member States (Article 8 of Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products)
http://ec.europa.eu/food/food/chemicalsafety/residues/control_en.htm

6. Novel Food
IA for the Proposal for a Regulation on novel foods and amending Regulation (EC) No 258/97 (common procedure)
http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2008/sec_2008_0012_en.pdf
Cloning roadmap
http://ec.europa.eu/governance/impact/planned_ia/docs/2013_sanco_007_use_of_cloning_technique_for_food_production_en.pdf

7. Food labelling
Evaluation report 2004
http://europa.eu.int/comm/food/food/labellingnutrition/foodlabelling/effl_conclu.pdf
Labelling: competitiveness, consumer information and better regulation for the EU Consultative Document February 2006
http://ec.europa.eu/food/food/labellingnutrition/betterregulation/competitiveness_consumer_info.pdf
Impact Assessment Report on General Labelling Issues (SEC(2008) 92)
http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/publications/ia_general_food_labelling.pdf
Impact Assessment Report on Nutrition Labelling Issues (SEC(2008) 94)
http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/publications/ia_nutrition_labelling.pdf
External study 2005
http://europa.eu.int/comm/consumers/topics/product_labelling_en.htm
External study on the mandatory indication of country of origin or place of provenance for unprocessed meat of swine, poultry, sheep and goats
http://ec.europa.eu/dgs/agriculture/tenderdocs/2012/63845/index_en.htm
External study on the application of rules on "voluntary origin" labelling of foods and on the mandatory indication of country of origin or place of provenance of meat used as an ingredient
http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/proposed_legislation_en.htm
Health claims database
http://ec.europa.eu/nuhclaims/

8. Dietetic foods
COM (2008) 393 Report from the Commission to the European Parliament and the Council on the implementation of Article 9 of Council Directive 89/398/EEC on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0393:FIN:EN:PDF
COM (2008) 392 Report from the Commission to the European Parliament and the Council on foods for persons suffering from carbohydrate metabolism disorders (diabetes)
http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0392:FIN:EN:PDF
Impact assessment
http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2011/sec_2011_0762_en.pdf
Proposal for a Regulation on food intended for infants and young children and on food for special medical purposes
http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2011/sec_2011_0762_en.pdf

9. Plant Health Law
Evaluation and review of the EU Plant Health Regime
http://ec.europa.eu/food/plant/strategy/evaluation_CPHR_en.htm
Impact assessment study on pine wood nematode
http://ec.europa.eu/food/plant/organisms/emergency/Impact_assessment_study.pdf
Roadmap for a forthcoming Impact assessment
http://ec.europa.eu/governance/impact/planned_ia/docs/2013_sanco_002_eu_plant_health_law_en.pdf

10. Community Plant Variety regime CPVR
Plant Variety Rights: external evaluation 2011

http://ec.europa.eu/food/plant/propertyrights/docs/cpvr_evaluation_final_report.pdf

11. Marketing of Seeds & Propagating Materials
Evaluation of the implementation of the marketing legislation on seed and propagating material
http://ec.europa.eu/food/plant/propagation/evaluation/index_en.htm
Action plan for Review of the Community legislation on marketing of seed and plant propagating material (S&PM) and related issues
http://ec.europa.eu/food/plant/propagation/evaluation/index_en.htm
Roadmap for a forthcoming Impact assessment
http://ec.europa.eu/governance/impact/planned_ia/docs/2011_sanco_008_marketing_of_seed_en.pdf

12. Official Controls regulation (882/2004) OCR
Study to assess the fees or charges collected by Member States for official controls 2009
http://ec.europa.eu/food/food/controls/inspection_fees/docs/external_study_en.pdf

Evaluation of Community Reference Laboratories (animal health and live animals) 2009
Evaluation of EU Reference Laboratories (food and feed and animal health) 2011
http://ec.europa.eu/food/food/controls/reference_laboratories/evaluation_en.htm
Roadmap for a forthcoming Impact assessment
http://ec.europa.eu/governance/impact/planned_ia/docs/2011_sanco_011_control_food_chain.pdf
Multi-Annual Control Plans (MANCP) and reports are available at:
https://circa.europa.eu/Public/irc/sanco/Home/main?f=login&referer=http%3A%2F%2Fcirca.europa.eu%2FMembers%2Firc%2Fsanco%2Fcountprof%2Flibrary%3Fcookie%3D1
Some of the Member States also publish information on their own site related to food control
Annual report on food irradiation (Article 7(3) of Directive 1999/2/EC of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation)
http://ec.europa.eu/food/food/biosafety/irradiation/index_en.htm
Commission Staff Working Paper on the Implementation of National Residue Monitoring Plans in the Member States http://ec.europa.eu/food/food/chemicalsafety/residues/control_en.htm
Report from the Commission on the overall operation of official controls in the Member States on food safety, animal health and animal welfare, and plant health (COM(2010) 441)
http://eurlex.europa.eu/Result.do?T1=V5&T2=2010&T3=441&RechType=RECH_naturel&Submit=Search
The report draws from the results of the three EU rapid alert systems:
• Rapid Alert System for Feed and Food – RASFF
http://ec.europa.eu/food/food/rapidalert/rasff_publications_en.htm
• Animal Disease Notification System – ADNS
http://ec.europa.eu/food/animal/diseases/adns/previous_table_11_en.htm
• Alert system for threats to plant health – Europhyt
http://ec.europa.eu/food/plant/europhyt/interceptions_en.htm
Audit reports (Food and Veterinary Office, FVO):
• Annual reports http://ec.europa.eu/food/fvo/annualreports/index_en.htm
• Inspection reports http://ec.europa.eu/food/fvo/ir_search_en.cfm
• Country reports http://ec.europa.eu/food/fvo/country_profiles_en.cfm
• Special reports http://ec.europa.eu/food/fvo/specialreports/index_en.htm

13. Better Training for Safer Food (BTSF)
Evaluation 2011
http://ec.europa.eu/food/training_strategy/annual_report2011/BTSFannualreport2011_en.pdf
BTSF (2010) Communication Better training for safer food
http://ec.europa.eu/food/training/communication_final_report_en.pdf

14. Hygiene package
Report presenting factually the experiences gained in 2006, 2007 and 2008 from the implementation of the hygiene package: http://ec.europa.eu/food/food/biosafety/hygienelegislation/index_en.htm
Salmonella IA
http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2011/sec_2011_1284_en.pdf

15. Biotechnology / GMO

An overview of recent developments can be found at:
http://ec.europa.eu/food/food/biotechnology/index_en.htm
A full collection of Members states reports can be found at:
http://ec.europa.eu/food/food/biotechnology/reports_studies/contributions_en.htm
Analysis of field trials management in Member States and prevention of accidental entry into the marketplace (ENV - completed 2008): http://ec.europa.eu/environment/biotechnology/pdf/part_b_report.pdf
Evaluation of the legislative framework in the field of cultivation of GMOs under Directive 2001/18/EC and Regulation (EC) No 1829/2003 and marketing of their other uses under Directive 2001/18/EC, (SANCO – completed 2011)
http://ec.europa.eu/food/food/biotechnology/evaluation/docs/gmo_cultivation_report_en.pdf
Evaluation of the legislative framework in the field of cultivation of GM food and feed (SANCO 2011)
http://ec.europa.eu/food/food/biotechnology/evaluation/gmo_eval_intro_en.htm
Assessment study of the economic performance of GM crops worldwide (SANCO 2011)
http://ec.europa.eu/food/plant/gmo/reports_studies/docs/socio_economic_report_gmo_en.pdf
Report on the socio-economic impacts of GMO cultivation (SANCO – completed 2011)
http://ec.europa.eu/food/food/biotechnology/index_en.htm

16. Animal Health

Animal Health Strategy http://ec.europa.eu/food/animal/diseases/strategy/index_en.htm
Animal Health Strategy Action Plan
http://ec.europa.eu/food/animal/diseases/strategy/actionplan_en.htm
Financial Contributions to Animal Health expenditure
http://ec.europa.eu/food/animal/diseases/financial/index_en.htm
Forthcoming Animal Health Law
http://ec.europa.eu/food/animal/diseases/strategy/framework_en.htm
The EU's relationship with the OIE
http://ec.europa.eu/food/international/organisations/oie_en.htm
Common OIE negotiating positions
http://ec.europa.eu/food/international/organisations/EU_comments_position_papers_en.htm
Recent EU-third country trade agreements for sanitary and phytosanitary matters
http://ec.europa.eu/food/international/trade/agreements_en.htm
Added value of the EU budget (animal health, welfare and food safety references on P36)
http://ec.europa.eu/budget/library/biblio/documents/fin_fwk1420/working_paper_added_value_EU_budget_SEC-867_en.pdf
Report on the outcome of the EU co-financed animal disease eradication and monitoring programmes in the MS and the EU as a whole: (FCEC 2011)
http://ec.europa.eu/food/animal/diseases/eradication/docs/fcec_report_ah_eradication_and_monitoring_programmes.pdf
Annual Report on the monitoring and testing of ruminants for the presence of transmissible spongiform encephalopathy (TSE) in the EU
http://ec.europa.eu/food/food/biosafety/tse_bse/monitoring_annual_reports_en.htm
EU Summary Report on trends and sources of zoonoses, zoonotic agents and food-borne outbreaks in the European Union (*elaborated by EFSA in cooperation with ECDC*)
http://www.efsa.europa.eu/en/efsajournal/doc/2090.pdf
Annual Report on notifiable diseases of bovine animals and swine Article 8 of Directive 64/432/EEC, details of the occurrence of diseases listed in Annex E(I) to the Directive and of any other diseases covered by the additional guarantees provided for by Union legislation in its territory
http://ec.europa.eu/food/animal/liveanimals/bovine/intra_trade_en.htm
Annual report on certain animal diseases that were notified by Member States to the animal disease notification system
http://ec.europa.eu/food/animal/diseases/adns/index_en.htm
Annual report on surveillance for avian influenza in poultry and wild birds
http://ec.europa.eu/food/animal/diseases/controlmeasures/avian/eu_resp_surveillance_en.htm

17. Animal Welfare

Animal Welfare Strategy http://ec.europa.eu/food/animal/welfare/index_en.htm
Animal Welfare Action Plan (there are several relevant documents on this webpage)

http://ec.europa.eu/food/animal/welfare/actionplan/actionplan_en.ht

Export Certification Limited

Export Certification Ltd response to the call for evidence on the government's review of the balance of competences between the United Kingdom and the European Union - Animal Health, Welfare and Food Safety Review

Export Certification Ltd (ECL) is the industry company established in 2009 to represent Livestock, Livestock Genetics and Meat and Meat Products exporters in the UK Export Certification Partnership (UKECP). ECL members include individual exporting companies, breed societies, umbrella bodies and industry funded levy boards. The company represents all UK producers in our specified areas of responsibility who have an interest in exporting to Third Countries. UKECP was established by Industry and Defra in 2009 to improve the process of third country market access and certification for Livestock, Livestock Genetics and Meat and Meat Products.

ECL has specific concerns over the balance of competences in the field of third country

export certification which is raised in Question 15.

Question: what advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

In recent years there has been an increasing trend for the EU to take on more responsibility for the negotiation of export health certification with Third Countries. ECL does not agree with the proposition that the clout behind the EU's exclusive competence for trade agreements opens up new markets for the UK. Our experience is that this approach can create more problems than it solves.

1. Progress in reaching agreement on health conditions with countries where there is an EU equivalence agreement in place can be very slow and problematic.

Example –

USDA will only negotiate with COM and resolutely refused to discuss Schmallenburg Virus with individual EU Member States despite Defra's best efforts to talk to them on behalf of the UK. COM on the other hand refused to talk to USDA, sticking to their line that SBV is not a serious disease and therefore USDA should not have imposed import restrictions. As a direct result, UK companies have been unable to export post-June 2011 product to USA for a full year. USA is a significant market for UK bovine semen companies and the failure to re-open the USA market has caused significant damage to their finances.

2. Some third countries will make agreement to EU imports as slow and problematic as possible because of their own inability to export to the EU and see the FVO audits on their systems as too tough and insulting.

Examples:
The Cuban authorities have for a long time not wanted any reference to EU rules or controls in any bilateral UK-Cuba negotiations.

There is a long history of problems with Thailand regarding their ability to export Thai poultry meat into the EU. As a result – the Thai authorities have a very problematic and prescriptive inspection regime of their own meaning that for some areas of UK animal/animal product exports the burden on resources mean Thailand is sidelined as a priority.

3. Reaching agreement to export can get bogged down with politics when conducting bilateral negotiations. It might only get worse if COM was doing this for all 27 MS.

Example:
For Russia it is a significant bonus that the COM has agreed a large set of EU-Russia (Customs Union) certification. However, it is well known that COM-RF meetings are always difficult and loaded with tit-for-tat discussions and deals. The Russians are quick to place bans on EU MS and threaten EU wide restrictions. Russia is a volatile market for any country, but for EU MS sometimes made worse by EU-Russia politics at the forefront of discussions.

4. Limited DG Trade (COM) resources mean that negotiations can be slowed.

Example:
Meat exports to countries in the Gulf Cooperation Council (GCC). COM has tried to take the lead re Transmissible spongiform encephalopathies (TSEs) but the GCC countries have shown no appetite for accepting EU-wide assurances and insist on individual country inspections. So far only France, Germany and the Netherlands have received GCC visits and it remains only these countries who can export beef (despite this issue being a DG Trade priority for some years).

5. Some EU Member States will have their own priorities which may not be shared across the community therefore making it difficult for COM to devote resources/priority.

Example:
Only UK, Spain, France and Romania farm large volumes of sheep and the UK is by far the largest producer sheep meat for export. It can therefore be very difficult for UK sheep meat export issues to be heard in Brussels. This has been the case with our efforts to export UK sheep meat to US and GCC countries where the COM have played a role.

Conclusion

The Directors of Export Certification Ltd urge DEFRA to retain as much control as possible over the negotiation of export health certification for Livestock, Livestock Genetics and Meat and Meat Product exports to Third Countries

Farm Animal Welfare Committee

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

Our comments will be mainly on farm animal welfare, of which animal health is an important part.

EU legislation has advanced the protection of farm animal welfare considerably over the last 40 years. This is consistent with the wishes of the majority of the UK population. It strongly benefits the UK by promoting a 'level playing field' for agricultural trade in the EU, whereas unilaterial legislation by the UK would be likely to increase economic competitiveness of other member countries. However, compliance with EU legislation across member states can vary substantially which impacts on competitiveness and prevents a truly 'level playing field' being achieved.

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The majority of the UK population would like there to be more protection of farm animal welfare, so the UK would benefit from the EU taking more action on this in future, as in (1). Two areas of concern provide

examples. First, selective breeding of livestock for productivity has contributed to welfare problems, but it is difficult for farmers or national governments to require international breeding companies to address this; the EU has the power to do so. Second, treatment of many diseases in many animals is made difficult by restrictions on permitted drugs; this needs to be addressed at an EU level.

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

Animal welfare remains a contentious issue in trade with third countries, so given UK preferences for stronger animal protection than in many such countries, it would be advantageous for welfare to be considered in trade agreements. The EU is in a more powerful position to negotiate such consideration compared to the UK, and agreements then have wider applicability and less divisiveness. As such, in this respect it would be advantageous for the UK to grant competence to the EU to negotiate trade agreements affecting animal products, with appropriate provisions to ensure that animal health and welfare in the UK are not compromised.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

As mentioned under (2), the UK would like there to be more protection of farm animal welfare than at present. Where EU-wide action is not likely in the foreseeable future, regional or national action to increase protection would therefore serve the national interest, in sectors or on specific practices where this is unlikely to lead to imports out-competing home products. For example, appropriate product labelling is needed to ensure that consumers have sufficient information about the animal health and welfare provenance of the products they consume and this may be better achieved, and have greatest impact, at EU level. However, in the absence of such an EU initiative action should be taken at national level which would help markets to better take account of animal health and welfare considerations to the benefit of both UK producers and consumers.

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

Generally yes, in promoting the 'level playing field' mentioned above but subject to improved rates of compliance across member states. In some cases, stronger protection of animal health would also benefit UK businesses, as in the example of drugs mentioned above: approval of more drugs would benefit both animals and food producers. Again, appropriate welfare labelling of livestock products could both help to protect animal welfare and benefit UK producers by improving market recognition of products produced to high animal health and welfare standards.

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

At present, the majority of legislation is based on inputs. The Farm Animal Welfare Committee supports increasing use of outcome measures as these may permit direct assessment of the effects of inputs on the animals in diverse farming systems.

A major priority remains enforcement of compliance with existing legislation, for example on conditions in which livestock are transported across the EU.

What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

Livestock affect and are affected by climate change, and this will increasingly cause challenges for farm animal welfare. FAWC has advised that, in pursuit of sustainable intensification, production should not be

promoted at any cost. The concept of sustainability must include the welfare of farm animals. Indeed, livestock agriculture cannot be considered sustainable if animals do not have at least a life worth living with a substantial and increasing number having a good life.

What impact might any future enlargement of the EU have on animal health and welfare?

Enlargement of the EU makes agreement and application of laws on farm animal welfare increasingly difficult. However, it is important to maintain and extend such legislation and its enforcement, as animal protection is one of the core values of the EU. Moreover, animal welfare labelling would provide economic incentives for producers in all, including new, member states to produce to high standards.

Are there any general points you wish to make which are not captured above?

FAWC has not completed the next section of this form in relation to food safety, labelling, food quality and compositional standards as its focus is on farm animal welfare. However, we are alert to the fact that discovery of horsemeat in some products purporting to contain (and labelled accordingly) only beef has raised serious concerns about assurance requirements with respect to the origins, traceability and composition of food products. These concerns may, potentially, also include those regarding the animal health and welfare provenance of food of animal origin.

Food and Drink Federation

Food and Feed Safety

FDF members operate across Europe and therefore support a harmonised European approach to food and feed safety legislation, based on the scientific advice provided by EFSA, which provides a level playing field across the Member States and prevents barriers to trade. National legislation can be both disruptive and potentially damaging to trade. Devolution also has the potential to create additional burdens for companies operating across the UK.

It should be noted that a number of food and feed safety incidents arising from the feed supply chain, notably BSE (UK) and a major dioxin contamination incident (Belgium), focused attention at the end of the 1990s on the need for a comprehensive approach linking both food and feed safety, which eventually led to adopting the “farm to fork” approach, and created the legislative basis that now refers both to food and feed (the General Food Law and the establishment of EFSA). If there is no harmonisation at an EU level then the purpose of having EFSA as the central risk assessor is eroded.

We are also aware that four Member States have implemented, or are in the process of implementing, national legislation on Bisphenol A. The food industry both at UK level and European level are very concerned about the implications of such an approach both because of the damage to the internal market and the impact on trade and because this undermines the role of EFSA and damages the credibility of the Commission. Separately one Member State has proposed national legislation on printing inks and mineral oils and another Member State is considering national legislation on coatings and on metals and alloys. We support the calls of FSA and other UK Government departments for harmonised EU legislation based on science.

Other national initiatives which go against harmonisation and could create barriers to trade include processing aids and nanomaterials.

Food Labelling

FDF members operate across Europe and therefore support a harmonised European approach to food labelling legislation to provide a level playing field across the Member States and prevent barriers to trade.

National legislation can be both disruptive and potentially damaging to trade. Devolution also has the potential to create additional burdens for companies operating across the UK. For example England proposes to take a different approach to Scotland regarding the enforcement of the Regulation (EU) 1169/2011 on the provision of food information to consumers (FIR). Furthermore, as part of the Red Tape Challenge, Defra is consulting on the Bread and Flour Regulations 1998 but any changes would only apply in England.

We welcome the FIR which consolidates and updates two areas of labelling legislation – general food and nutrition labelling - into a single text. This should make it easier to understand and apply the labelling rules in a way that is consistent across the European Union.

At the same time, it is important that when legislation is developed at an EU level it is not so prescriptive that it restricts good practice that has developed in one or more Member State. For example the FIR prevents companies listing allergens in an Allergy Advice Box/Contains Statement which has been widely used in the UK and is seen as a benefit to consumers.

Provision of EU guidance for businesses on the interpretation and implementation of labelling legislation must be timely, to allow for label changes to be made in a manner that causes least disruption and cost. In the case of the FIR for example, clarification is still required from the EC in areas where there has been a significant extension to the rules, such as allergen labelling and nutrition labelling. Whilst we understand that the EC Q & A on the FIR is intended to be a rolling document, detailed technical guidance is now required as a matter of urgency. In the absence of guidance, companies may be forced to make labelling decisions based on their own interpretations of the Regulation, which could lead to inconsistency of labelling practices - contrary to the spirit of the Regulation. Furthermore, members may potentially be required to make another round of costly label changes, should their interpretations later prove to be non-compliant.

We are waiting for the EC draft implementing acts concerning the mandatory origin labelling of meat and on the voluntary indication of origin along with a report on the mandatory indication of country of origin or place of provenance of meat used as an ingredient; milk; milk used as an ingredient in dairy products; unprocessed foods; single ingredient products and ingredient that represent more than 50% of a food. We are also waiting for the EC to draft a delegated act on the definition of “engineered nanomaterials” and for the EC to draft a report on trans-fat in foods.

In addition we would fully support the commencement of discussions at an EU level on the voluntary provision of information on the possible and unintentional presence of allergens and welcome the development of clear guidance for industry on the application and use of precautionary “may contain” labelling, including allergen management action levels where applicable, and appropriate forms of wording for labelling statements

Food Standards Agency Board

Food Law

1. The Food Standards Agency (FSA) was established in April 2000 as a non-Ministerial UK Government Department, operating at arm’s length from Ministers. FSA is headed by a Chair and Board, who are appointed to act in the public interest. The FSA is an independent national regulator and the central competent authority (CCA) for food and feed legislation. Section 1 of the Food Standards Act 1999 sets out that the main objective of the FSA is ‘to protect public health from risks which may arise in connection with the consumption of food ..... and otherwise to protect the interests of consumers in relation to food’. The FSA is guided by a set of core principles:

- Putting the consumer first;
- Openness and transparency;
- Science and evidence based;
- Acting independently;
- Supporting businesses to comply with food law effectively.

2. FSA leads on food safety policy for the UK. In Scotland, Wales and Northern Ireland we also cover food labelling and compositional standards policy. In Scotland and Northern Ireland our remit extends to nutrition policy. FSA represents the UK Government at EU negotiations when the European Commission proposes to exercise competence. This evidence on food law is to the Animal Health, Welfare and Food Safety and Health[2] Calls for Evidence.

3. The FSA Board discussed the Balance of Competence review in relation to food law at its meeting on 5 March 2013. These are the views of the Board.

Consumer protection is paramount

4. Consumer safety is central to FSA's work. It is estimated that each year about 1 million people in the UK suffer a foodborne illness (1 in 60 citizens), of whom 20, 000 receive hospital treatment. In the UK, approximately 500 deaths a year are associated with foodborne illness. None of these figures account for the unquantifiable health impacts from chemical contaminants and biotoxins.

5. The European Union (EU) has extensive food hygiene and food safety law. The legislation firmly places the responsibility to supply safe food on food business operators. Feed hygiene law ensures that animal feed does not introduce contaminants into the human food chain. Other law controls, among other things, the use of additives, irradiation and sets limits for harmful contaminants, such as heavy metals.

6. EU food law also provides other protections to consumers. It requires clear labelling that is not misleading and that enables consumers to make informed choices. It also ensures that unsubstantiated health claims are not made and sets compositional, quality standards for certain foods where inferior standard products have been an issue.

7. FSA commissioned a UK wide survey of consumers that was undertaken between 19 February and 24 February 2013.

8. Around three quarters of consumers claim to be interested in who makes food law, but 80% do not know that the EU is responsible. Confidence in the UK Government in regards to food safety was at 42%, but it was only 27% for the EU. Only 42% feel protected by current food law. The horsemeat issue has influenced perceptions greatly, resulting in reduced confidence.

9. Approximately three quarters of consumers preferred food law to be made by the UK Government, with only 11% preferring the EU. This was similar across all four UK nations. Reasons for preferring national law included more direct control, UK Government has better understanding, UK standards are higher and the different cultures across the EU.

10. When given some further information about the benefits of EU level food law the figures changed, with 58% now preferring food law to be made by the UK Government and 23% preferring the EU. The perceived advantages of food law being made in the EU included consistency and common standards.

11. Overall, UK consumers are fairly sceptical about the value of EU level competence for food law, although we note that this view has been influenced by the current horsemeat situation and that when given some further information about EU food law some people's attitudes did change.

[2] Our evidence is relevant to the nutrition related aspects of the Health report

12. While recognising the consumer view, the Board's general view is that EU food law provides a comprehensive set of robust controls that protect consumer health and other interests. The question for the Balance or Competences (BoC) review is whether there is any benefit to consumers in the EU having competence rather than it being repatriated to the UK.

13. To answer this we need to consider:

- the international trade in food; and,
- whether the approach taken in EU legislation gives the best protection to UK consumers.

Trade

14. Food is extensively traded, both within the EU and with third countries. The value of UK food and drink exports to the EU in 2011 was £12.3[3] billion, accounting for 63% of all UK food and drink based exports. For the same period the value of UK food and drink imports from the EU was £26.5 billion representing 69% of all food and drink imports in the UK. In 2011, the value of exports and imports to and from third countries was £7.2 billion and £12.1 billion respectively. Consideration of any system of food law and consumer protection has to recognise the importance of trade.

15. UK consumers have the right to expect the same level of protection from food produced in the UK and from that produced in the EU and third countries. This could be achieved through UK legislation, requiring imported food to meet UK legal standards and with extensive checking of imports. But would a national system, which our survey suggests is what consumers would prefer, be in consumers' best interests? While the single European market and the use of harmonised food law across the EU is normally spoken of as a benefit to industry, it also has benefits for consumers. Economic literature contains theoretical arguments postulating that free trade leads to lower prices. Empirical evidence, however, suggests free trade is more advantageous in terms of mitigating the impact of price fluctuations from random supply side shocks. National rules would be likely to create trade barriers, so restricting the range of foods on offer. Having common standards can also give UK consumers confidence when they travel within the EU.

16. One of the most important benefits of an EU wide system for consumers is the protection offered when things go wrong. Europe operates a system where Member States are required to share intelligence on food safety problems and work together to manage risks. This strong network offers important additional protection to consumers when incidents occur, such as the dioxin contamination that occurred in Germany in December 2010/January 2011 when fats and oils intended for use as biofuels got into animal feed. The international network, both within the EU and with third countries, is also important for identifying and evaluating emerging risks.

17. Harmonised EU food law also applies to imports from third countries and the UK benefits from the centralised European system where production facilities in third countries are checked for compliance by European Commission inspectors.

18. Given that food is traded globally it is worth considering whether we should simply rely on standards for food that are set at world level by the Codex Alimentarius Commission. This body develops and harmonises world-wide food standards, guidelines and codes of practice that contribute to the safety, quality and fairness of international food trade. While Codex standards are recommendations for voluntary application by Codex member countries, in many cases they form the basis for national legislation. Codex standards are respected and can impact on EU legislation through World Trade Organisation disputes. But many countries that base their national legislation on Codex standards complain that they remain locked out of lucrative export markets. Also, the pace of deciding Codex standards tends to be very slow and UK influence can be diluted compared with negotiating within the EU. Therefore, we do not recommend the reliance on Codex standards as a viable alternative to EU food law.

[3] All values are at current prices (Oct 2012)

Risk-based legislation

19. Most EU food law is risk-based, but there are some areas, such as in relation to meat controls, that are not. We recognise that for meat the direction of travel in the EU is towards risk-based controls. We need to ensure that any developments take full account of the current EU wide incident involving horse meat, once the facts have been fully established and considered.

20. The European Food Safety Authority (EFSA) is an important and respected body offering independent and transparent, scientific risk assessment advice. We strongly support the centralisation of risk assessment within EFSA.

21. Decisions about risk management are never based on scientific evidence and risk alone. Risk perception, acceptability and other societal concerns will also inform the consideration. It is apparent that these issues inform the views of different Member States and EU institutions to different degrees. This can lead to decisions that are not as risk-based as we would like. One example is the control level set for products from Japan following the Fukushima nuclear disaster, when levels were set that were far lower than what was required to protect European consumers. Decisions based too heavily on matters other than science can also inhibit development of and access to new technologies that can be beneficial to consumers.

Principle/outcome-based versus prescriptive legislation

22. Prescriptive legislation can give certainty, although it can stifle innovation. Principle-based (or outcome-based) legislation allows flexibility and puts the onus on business. Businesses should be best placed to know the risks involved, so principles-based legislation can offer strong consumer protection. Each approach has its place and is normally used appropriately in EU food law.

23. It is in consumers' interests that businesses thrive and consumers benefit from innovation. As well as considerations about principle versus prescription, and whether decisions are science based, the pace at which legislation is made can be an important factor. By changing the legislative process, new additives can now be approved more quickly but with no loss of consumer protection. Revised novel foods legislation should have facilitated greater innovation, including enabling traditional foods from outside the EU to be approved more easily, but the proposal failed to reach agreement. We look forward to the EU returning to that issue.

Flexibility

24. Some EU food law has inbuilt flexibility and this can be to the UK's advantage. For example, the new EU food information legislation allows national rules for loose food (i.e. food that is not pre-packed). There is a requirement that consumers be informed about allergens in loose foods, but Member States are free to decide how this is delivered. This flexibility allows innovative approaches to meeting consumer needs, including the possibility of restaurants etc displaying signs prompting customers to ask staff about allergy information.

Official Controls

25. It is important for consumer protection that appropriate, risk-based official controls are in place. EU legislation provides a framework for official controls, such as inspections or approvals, which Member States carry out to verify businesses' compliance with EU agri-food legislation. The rules are harmonised in order to afford EU citizens a high level of human, animal and plant health and facilitate the functioning of the internal market. The legislation is expected to be reviewed shortly with the aims of simplifying and clarifying the legal framework and to address issues relating to the financing of official controls. The most controversial aspect is likely to be the intention to significantly increase the number of controls with mandatory charges on industry. There is concern about the direction of travel in relation to charging.

26. The Food and Veterinary Office (FVO) has a role in official controls. They audit Member States' application of official controls. We do not always agree with their interpretation of certain requirements (for instance in relation to desinued meat), but recognise the importance of their role and the positive impact FVO has on both consumer protection and the functioning of the single market.

27. The FVO also has an important role protecting consumers in relation to food imported from third countries. FVO assesses whether the standards required by third country food authorities are equivalent to those in the EU. They have an ongoing programme to visit and audit a sample of suppliers in that country. This allows FVO to assess the level of confidence in the competent food authority in the third country. If this work was not done at the EU level, the UK would need to do it.

Future challenges

28. Enlargement has clear benefits for business in extending the number of potential customers. It also expands the availability of food within the single market. Enlargement candidates have to meet EU food law requirements. Where food processing plants, dairies and abattoirs fail to meet the standards these are normally shut down prior to accession, although derogations can be given to allow continued sale on the local market while they improve standards. This protects consumers in the UK. The European TAIEX programme (Technical, Assistance and Information Exchange) is important to help candidate countries to meet EU requirements.

Summary

29. There are good reasons to believe that the EU having competence in food law is beneficial to UK consumers, even though consumers themselves are yet to be convinced. EU competence recognises that food is widely traded. EU food law is robust and in the main risk-based and proportionate. Were competence to be repatriated to the UK it is unlikely that the national legislation that we would have to put in place would be significantly different to existing EU food law. There would also be significant resource implications as the UK would have to take over the monitoring and audit functions currently delivered by the European Commission and other Member States.

Annex

'The EU and Food Law' online consumer survey – 19-24 February 2013

Available at: www.food.gov.uk/science/research/ssres/boc-consumer-research

Food Standards Agency Consumer Advisory Panel

Response to "Balance of EU Competences Review"

CAP reviewed the documents and views were circulated by email. The following is the consensus view:

We agreed that the UK benefits considerably from being part of the EU for food safety and do not believe that there is any rationale for operating alone. There are some issues relating to anomalies, slow speed of development of processes and possible variability of implementation between members states but these are minor when weighed against the benefits.

Overall the benefits highlighted are:

- EU level regulations are generally felt to be possibly more consumer focused than might be at a national level and, notwithstanding the current situation, mean that UK consumers can have the same degree of confidence regarding imported food as locally produced.
- Increased research base – legislation should be evidence-based and this far outweighs the resources of the UK

- Shared testing costs – the current ‘horse meat’ situation is an example of information being shared across the EU
- Shared judgement about risk and safety
- Negotiations at Codex as a block and with EU harmonised legislation

We believe that current food law provides consumers with an appropriate level of protection across the categories mentioned: the interpretation of the law by national governments may need to be reviewed, particularly in regard to the level of testing given the recent, possibly criminal, issues regarding horse meat.

In regard to future challenges – the enlargement of the EU and increased concerns about climate change and food security: while we can’t comment on how prepared the EU is for these, we are agreed that responses to these changes are more effective at EU level than at a national level.

Fresh Produce Consortium

The Fresh Produce Consortium (FPC) is the UK trade association for the fresh fruit and cut flower industry. FPC represents retailers, importers, processors, packers, distributors, wholesalers, growers and other organisations.

FPC welcomes the opportunity to participate in the UK Government’s review of the balance of competencies between the UK and the European Union.

Over 60% of our fresh produce is imported to the UK, with the majority coming from other EU member states.

Food poisoning outbreaks linked to the consumption of fresh produce remain extremely rare in the UK given the controls implemented by the UK fresh produce industry.

We support the need for harmonised, integrated European regulation to protect food safety in a global market, and the need to ensure that UK businesses can operate under the same conditions as competitors in other EU member states, with consistent application of EU regulation. Harmonisation at a European level and the creation of a single market reflects the global nature of a sustainable food supply chain, which allows UK consumers to benefit from a wide range of fresh fruit and vegetables throughout the year.

There is a significant amount of monitoring data held by the industry over and above that gathered by regulatory authorities. Some of this data has been provided on request, but there is greater scope to tap into the industry’s expertise and resources.

The disadvantages for UK businesses have arisen from the rigid application of control measures on imports, usually with no additional benefit to consumer safety, but with significant additional costs to importers and delays in bringing highly perishable goods to the UK market. One example is the increased level of controls for products listed under Annex I of EC Regulation 669/2009, which demonstrates the lack of application of a science based, risk based and proportionate application of regulation to minimise burdens on business. Several of these ‘high risk’ products have been listed due to exceedances of the Maximum Residue Levels for pesticides, which are in themselves a legally permitted trading standard, set below levels that could have an effect on human health. The lack of efficient systems at some Points of Entries have led to delays to clear consignments, with in several occasions, the delays rendering highly perishable products unfit for sale. As a result UK businesses have incurred increased costs, and some cases, loss of contracts with UK retailers.

Increasingly, UK retailers have required standards which are often higher than those set by both UK and EU regulation, and which require the UK fresh produce industry to demonstrate continuous compliance as a condition of supply.

The imposition of controls on ‘high risk’ products has taken no account of the accreditation schemes under which the majority of these products are grown and which require strict controls on application of pesticides, checks on pesticide residues, as well as other Good Agricultural Practices and good hygiene to protect the consumer. FPC has lobbied the UK authorities to recognise the status of an ‘assured trader’, to reduce the level of checks carried out on reputable traders, and allow the UK authorities to focus their inspection activities on others. Whilst some UK authorities have been able to use ‘earned recognition’ to reduce the level of inspection on reputable traders, other authorities have been reluctant to do so, given their interpretation of the limitations of the EU regulations, despite the Commission accepting the principle of earned recognition.

We believe that there is a role for the UK authorities to undertake greater scrutiny of the European authorities, such as the European Food Safety Authority (EFSA) which evaluates the safety of pesticides and food additives, and to challenge their inability to take into account the evaluation by other reputable food safety authorities of products such as food additives which are permitted for use across the globe. UK businesses have to operate in a global market and suppliers are not always willing to alter their specifications to meet the demands of the EU market which, in their view and that of their food safety authorities, is not justified on the grounds of food safety.

We believe that the European Commission should have to undertake more rigorous consultation with affected industries of the impact of its decisions on industry, and with authorities in third countries before it takes any decisions which may limit or prevent trade.

The fresh produce industry is not only important to the UK economy, but is vital to the health of our nation. There is a need to ensure a balance between ensuring consumer safety and protecting the interests of UK businesses which provide products which are essential to a healthy diet. Given that the UK consumer eats on average just 2.5 servings of fresh produce a day, well below the recommended 5 a day, the UK Government needs to consider urgently how it promotes fresh fruit and vegetables as part of a healthy diet.

Your consultation document raises issues relating to charging, and historically we have raised concerns in this area specifically with Defra in relation to plant health inspections. We intend to cover this again in the separate consultation by Defra on the Agriculture Review later this year.

Haemolytic Uraemic Syndrome Help The UK E-coli Support Group

Questions in relation to animal health and animal welfare

1. What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

EU legislation on animal health and welfare should help ensure that animals are slaughtered in a humane manner that does not lead to their unnecessary suffering, whilst helping prevent animals that have diseases that are harmful to man, do not enter the food chain. Consumers, we believe, take animal welfare issues very seriously and tend to vote with their feet if it is brought to their attention that animal welfare rules are being broken. The example given in EC Regulation 1099/2009 of the animal welfare officer in the larger type slaughter houses, is a good idea as they can give advice and give guidance to slaughter house line staff. Also this regulation requires the correct use of stunning prior to animal slaughter

The UK, we believe, does not have a great history of preventing food harmful to man entering the food chain and this was clearly demonstrated with mad cows' disease where the brains of animals was fed to other animals which lead to illness and death in humans. This, we believe, was caused by the greed of some in the food industry.

2. How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The UK can only benefit from the EU taking more action in terms of more regulation and on audits in relation to these regulations, as this we believe will ensure greater compliance across the industry in relation to animal health and welfare, which we believe will lead to greater consumer protection from animals that have diseases that can be passed onto man. The EU does however need to enforce Regulations on pig and hen welfare in other member states so that it does not put the UK farmer at a disadvantage in relation to production costs etc.

3. What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

The advantage of the EU having exclusive competence for negotiating trade agreements with countries outside the EU is that whatever is imported/exported will be be done so within the EU to the same standards, thereby this will not be be a disadvantage or advantage to a particular member state. Also in terms of quality and safety this is an advantage to all the member states, rather than letting individual member states make agreements solely for their own benefit which may then be a disadvantage to their own consumers and consumers of other member states. Throughout history conflict in trade has been shown to cause problems between countries.

4. How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

There is no advantage, we believe, of animal heath and welfare being taken at a regional or national level as an alternative to EU level. Whilst we have no objection to the standards at local or national level being higher than those of the EC, the EC regulations should be seen as the minimum standard to meet for all. If we wish to sell to our internal market only, the standards should be the same as they are across the EC, otherwise our consumers would be at a disadvantage in relation to their safety and may be expected to comprise the welfare of animals. If we wish to sell our products across the EC or outside of the EC we need to demonstrate that in terms of animal welfare and health our products meet a recognised standard such as the relevant EC standards.

5. Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

UK business would probably argue that there is too much regulation. EC regulations clearly state that the food business operator is responsible for animal and public health. Prior to EC regulations our standards were generally not uniform across the industry and the industries responsibilities were not as well defined as they are now. Regulations are there to ensure the same standard for all and should only be seen as that. The force of a regulation is therefore only there for those who flout them, endangering animal health welfare and human health.

6. Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

If risk and evidenced bases approaches are considered to be so successful and backed by Government Departments such as the FSA why does foodborne illness cost the UK economy in the region of two billion pounds each year. [1.9 billion pounds according to the FSA Chief Scientist Report of 2011-2012] The FSA DEFRA, and the DH continually go on about more evidence and risk based approaches whilst continually failing to address the rise in some foodborne illness. What more evidence do they need to demonstrate their policies are not working and are unlikely to work until they put the consumer at the for front of policies rather than put the industry first. The number of reported cases of Campylobacter rose from 70.298

laboratory-confirmed cases in 2010 to 72,150 laboratory-confirmed cases of Campylobacter in 2011. A rise of nearly 2000 cases. VTEC reported cases rose by 32% in the same period

7. What future challenges or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

Global warming is, we believe, going to pose a problem in relation to increasing the amount of bacterium that animals carry in relation to animal and human health. As temperature increases the bacterium carried by animals and in food will increase and multiply This will impact on our national interest as we will find it more difficult to maintain animal health , welfare and food safety.

8. What impact might any future enlargement of the EU have on animal health and welfare?

The enlargement of the EU needs to be managed well in relation to animal health welfare and food safety to ensure that the new member states are complying with all the relevant regulations and therefore not putting their and member states consumers at risk or others that they may sell to outside of the EU. .

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

1. What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

The single markets should have been advantageous to the UK. Unfortunately we believe that the UK past history in relation to food safety scares has lead us to be less successful than we should have been. As a nation we need to take food issues more importantly and stop shooting ourselves in the foot in relation to food safety and the traceability of foods in the food chain.

2. What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

Without the EU we would not have such a good regulatory system. The 1990 Food safety act whilst a good step forward at that time would not alone had been sufficient with other legislation at that time to protect the consumer in today's global food chain. Also it was more general, where as the Food Hygiene Regulations EC 852/2004, EC 853/2004 and EC 854/2004 are far more specific in terms of responsibility and systems to be employed such as HACCP. Also they specify the conditions under which certain food should be produced and sold to help consumer safety.

3. Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

EC Regulation 178/2002 states than "A high level of protection of human life and health should be assured in the pursuit of Community policies. Given the food hygiene legislation etc, we believe that this has helped to protect the consumer and helped protect the reputation of some UK food businesses who without this legislation would have been embarrassed by the failure in relation to food safety. Big Business has to be more careful know in general terms as damage to their reputation can damage their sales due to lack of public and consumer confidence in them.

4. Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

Consumer protection has increased due to EU legislation. Consumer protection should be at the centre of all food business operations. If protection of our consumers is not in the national interest what is. For example for to long time the food industry has been reluctant to give information on labelling to allow the consumer to make an informed choice in terms of salt and sugar content of their product, and what groups

of consumers a product may not be suitable for. Hopefully some of this will change under Regulation EC 1169/2011

5. What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

The idea of Science bases evidence in relation to food legislation is a good idea. The practical application of this however is not always achieved as we allow products such as raw milk to be sold although scientifically it has been proved across the world to be a dangerous to consumers.

6. What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?

The EU should take on a representational role at the Codex Alimentarius as if we are in the EU then we should argue with a strong voice in the interest of all the member states. Our national interest in terms of food should be the same as all the other member states, which is to ensure the highest possible consumer protection.

7. How might the UK benefit from the EU taking more or less action on food law in the future?

The UK can only benefit from the EU taking more action in relation to food law as this will benefit the consumer in the UK, the member states, and other countries that we sell to. We have to ask ourselves if we are solely capable of regulating ourselves. On previous audits of the Food and Veterinary Office to check our compliance with EC regulations, we have been found wanting in terms of full compliance.

8. Could action be undertaken differently e.g. are there ways of improving EU food law?

EU food law can always be improved. This would be by more regulation and audits to ensure full compliance across all member states with stringent penalties for those not compliant and putting the consumer at risk from animal welfare, unsafe practices or fraud.

8. What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

Given the recent problems with horse meat being put into products labelled as beef it should be clearly evident that the retailers selling these products have little or no traceability of what foods are in their products. Whilst there may have been fraud in the food chain which they were unaware of, it is their responsibility to ensure that consumers are not mislead. We believe there apparent lack of testing and auditing of their suppliers indicates the total lack of controls they have in place to prevent this. Had this been a food safety issue the consequences could have been dire for the consumer. Also we note that allegations were made against another country in relation to them introducing horse meet into some of the effected products. These unproven allegations do nothing for resolving the problem or improving relationships within or outside the EU.

9. Are there any general points you wish to make which are not captured above?

Where we do not have regulation or have regulation that is not enforced, we as a nation encounter problems such as the banking crisis where the taxpayer has had to bail out several banks leading to the financial crises that we are now in. In other words less regulation is no regulation. Our loss of trade abroad during mad cow disease should be a warning to us that where we do not have or follow the highest standards it will effect trade with our partners. As a nation we need to decide if we are in or out of the EU. If we are in then we need to play a full role so that the other member have confidence in us

Health Food Manufacturers' Association

Response to Section 5: Nutrition and Food Labelling

Executive Summary

- The natural health products industry in the UK faces distinct threats from European legislation relating, in particular, to health claims and to food supplement products. Specifically, the Food Supplements Directive and Nutrition and Health Claims Regulation are covered by Article 114 of the Treaty on the Functioning of the European Union in relation to "harmonising Member States' laws by adapting measures which have as their object the establishment and improved functioning of the internal market"
- 'Harmonisation' is a flawed concept for this particular industry, because it does not take into account the regional variation in nutritional intake across the EU, or the divergent implementation of regulation by Member States
- Government efforts to support SMEs and drive economic recovery are being undermined by poorly implemented EU regulations
- EU legislation is currently reducing the availability of sound, helpful information to consumers which could result in less effective self-care and limited access to popular and safe products

Introduction

1. HFMA – the Voice of the Natural Health Industry

The Health Food Manufacturers' Association (HFMA) is a not-for-profit organisation that was founded in 1965, and is the authoritative and responsible voice for the UK natural products industry. We promote and protect the general interests of members of the industry and promote high standards of product manufacture and presentation to ensure consumer safety, responsible and informative communications and compliance with applicable legislation.

We represent over 120 manufacturers and suppliers of specialist health products, notably food supplements, herbal products, natural remedies, sports nutrition products, natural cosmetics, and health foods including: organic foods, vegetarian and vegan foods, functional food, and foods for particular nutritional uses.

Main Response

How does the EU's competence in health affect your organisation?

2. The EU's competence in health has a significant impact on the HFMA and the industry

The EU's competence in health policy has a very strong impact on the HFMA's member companies. The natural health products industry has become increasingly over-regulated by the European Union, particularly since the implementation of the Food Supplements Directive (FSD), and more recently, the Nutrition and Health Claims Regulation (NHCR). The nature of these regulations is increasingly leading to disadvantages for consumers and businesses alike. The regulations in question include:

- Regulation (EC) 1924/2006 on nutrition and health claims made on foods
- Directive 2002/46 EC on the approximation of the laws of the Member States relating to food supplements & subsequent implementing Regulations
- Directive 2009/39/EC on foodstuffs intended for particular nutritional uses
- Regulation (EC) 1925/2006 on the addition of vitamins and minerals and of certain other substances to foods
- Regulation (EU) 1169/201 on Food Information to consumers

3. The quest for 'harmonisation' has created unnecessary legislation

The industry now faces increasing amounts of regulation from the EU, which is less about protecting the health of consumers, and more about creating 'harmonisation' of regulation. The health of UK consumers is already protected by domestic regulation. The drive for harmonisation at a European level has introduced additional legislation that now limits the information available to customers and threatens the availability of safe, popular products.

The HFMA is a strong supporter of a well-regulated and responsible industry. The natural health industry has developed a good reputation over many decades, for example over 17 million consumers in the UK alone now take food supplements at least 4 times a week. The safety of food supplements is already controlled in the UK under the Food Safety Act 1990. Section 8 of that legislation states that products must not be "injurious to health" or "unfit for human consumption" and applies penalties if they are. Similarly, consumers are protected by the Trade Descriptions Act 1968, which regulates against the mis-description of products.

Food supplements in the UK have an excellent history of safety. In 2006, the Food Standards Agency Regulatory Impact Assessment on the Food Supplements Directive showed that there had been only 11 reported adverse reactions to food supplements over the previous 11 years, with most of these being in the lowest category of harm. Supplements produced by the natural products health sector are already very safe.

What evidence is there that EU action in health advantages or disadvantages:

Business and industry:

4. UK businesses are hurt by inefficient implementation

From our experience of working with attempts to regulate the natural health products industry we see examples of legislation that begin with good intentions, but then through development and implementation lose their original purpose. This is a result of political compromise and stakeholder lobbying, which has led to legislation originally designed to protect the industry and consumers becoming something that is damaging for both parties.

Three examples are:

- The FSD 'positive list' for ingredients was based on a list developed for entirely different legislation therefore UK industry (partly subsidised by the FSA who belatedly recognised the problem) submitted several dossiers for the inclusion of safe, popular specialist ingredients
- At one stage, the DH were planning to submit an application for a claim based on longstanding health advice relating to folic acid/NTD but subsequently became reluctant to do so because of the assessment method employed by EFSA. Now, industry has developed an appropriate dossier, with input from DH
- For well over two years, the Commission has been pondering how to align NHCR food legislation with Traditional Herbal Medicinal Products Directive since the latter allows for the validity of 'traditional use' evidence for herbal products but the former does not

5. UK businesses were misled about the impact of the Nutrition and Health Claims Regulation

There is a strong feeling among HFMA members that recent European legislation covering nutrition and food supplements was presented to industry in a way that led to agreement in the belief that new regulation would be good for businesses. In practice, there were unforeseen circumstances.

For example, industry was led to believe, in a 2007 review conducted by the UK's Food Standards Agency, that most generic health claims under Article 13.1 of the NHCR would be retained after assessment by the European Food Safety Authority (EFSA). The reality was completely different, with 95% of claims for 'other

substances' (i.e. those other than vitamins and minerals) being rejected. The rejection of so many claims will have a devastating impact on the natural health products industry across Europe, as many companies will lose the ability to inform consumers about their products. Herbal food supplements are a particular case in point: the majority of claims for such products have not yet been reviewed by EFSA because the current claims assessment process would seem to be inappropriate for this particular form of 'other substance', which in itself encompasses a very wide and diverse range of substances.

6. EU regulation is particularly damaging for SMEs

Over 75% of HFMA member companies are Small and Medium-sized Enterprises (SMEs), and many of these would be defined as 'micro' businesses. This is typical of the industry as a whole, which is characterised by small firms driven by passion and enterprise. UK and EU Governments have made clear that supporting SMEs is an important part of securing a healthy economic recovery. However, European regulation is hampering this effort by damaging the businesses that we need to protect.

An EU-wide Economic Impact Assessment from the European Health Claims Alliance investigated the impact of the health claims regulation. The findings of this research anticipate a total loss of sales of €1 billion, resulting in lost profits of €242 million, additional implementation costs of €291 million, and the loss of 13,300 jobs. This clearly indicates that SMEs in the UK, as well as across the EU, will not benefit from any reduction in compliance or regulatory costs at this crucial time.

Similarly, in the UK a study of the potential impact of the setting of restrictive Maximum Permitted Levels for food supplements indicated that over 700 health stores could close with the loss of 4,000 jobs exclusive of ripple effects.

7. 'Harmonisation' is often ineffective because of Member State differences and varying approaches of Member States towards implementation

Attempts to harmonise EU legislation in relation to the natural health products industry is a problem for UK business. Our experience operating across the EU has shown us both that Member States defend national interests and that not all Member States enforce regulation to the same degree.

An example of the former is the German Government's intervention to protect traditional German brown bread with high salt content from nutrient profiling planned under the NHCR.

Traditionally, the UK has been quite strict with its implementation of EU regulation, however, this can be to the detriment of UK businesses if other Member States do not act in the same way. Different levels of implementation have undermined the Commission's attempts at harmonisation, making the current ill effects being felt by UK businesses and consumers even more unnecessary. The HFMA would encourage the application of Mutual Recognition of products as an alternative way to promote harmonisation. This would still allow Member States to prohibit products on demonstrable public safety grounds.

Patients and citizens:

8. 'Harmonisation' ignores regional differences across the EU

The HFMA understands reasons for the drive for regulatory harmonisation across the EU to ease cross-border trade and reduce administration costs. However, this effort is sometimes not appropriate, and this is particularly the case for the natural health products industry.

In the case of industry in general, harmonisation assumes a uniformity of need among citizens throughout the European Union. However, in the case of natural health products, this is not realistic. There is a great deal of variance between diets, public health problems and climate across the European Union. This means that certain groups of citizens across the EU have different nutritional needs, depending on cultural differences across Member States. For example, the nutritional requirements of someone living in the North

of Scotland will be very different to someone living in the Mediterranean. Harmonising regulation often ignores these natural differences and this will increasingly lead to an industry than is unable to cater for the specific requirements of particular groups.

This, again, is a particular issue for herbal food supplements: in terms of understanding of the fundamental role of such products, in many Member States the concept of food playing a major role in promoting health is part of the national culture, and herbal food supplements have traditionally played a strong role in the maintenance of health; in others this is not the case, and, particularly the UK, there tends to be a 'medicinal mindset' where such products are considered as only being appropriate for the treatment, cure or prevention of disease or adverse effect.

Other population groups are also vulnerable to specific low nutrient intake. Data from the Food Standards Agency's National Diet and Nutrition Survey identifies specific groups who lack particular nutrients. These groups include pregnant women, children and teenagers, older people, dieters, vegetarians, vegans and ethnic groups. This adds to the different requirements of the population across the EU, which a vision of harmonisation does not always cater for.

9. Consumer protection is being limited by new regulation

The adoption of the NHCR has had a dramatic impact on the availability of information to consumers. The rejection of thousands of health claims by a flawed authorisation process at the European level has resulted in companies being unable to describe in much detail how their most popular products contribute to people's good health. This is limiting consumer choice because there is now less information on products to help inform about their beneficial effect. In the long-term, these marketing restrictions are likely to reduce the number of products that are available as businesses suffer from being unable to communicate effectively.

The reduction of information directly available may have detrimental impacts on the health of consumers. When product information is not available consumers will turn to other less-regulated sources of references and supply, such as the internet. This obviously creates a situation where consumers are making purchase decisions about products using sources that industry and regulators have no control over. This is not a desirable situation and is an unforeseen and unintended consequence of new EU regulation.

Future options and challenges

How could action in this area be undertaken differently?

10. The UK Government must take action to support the industry on MPLs

There is the potential for the Commission to introduce proposals to set Maximum Permitted Levels (MPLs) for vitamins and minerals in food supplements under the Food Supplements Directive. Such proposals would very probably result in the prohibition of thousands of long-established products.

This area is already subject to a code for Upper Safe Levels that was pioneered by the HFMA. There is now an industry agreement with the Food Standards Agency, which both limits specific levels and applies "advisory statements" on labels that are triggered by threshold levels on 11 different nutrients. This is another example of the industry demonstrating its responsibility and determination to create safe products for consumers through joint working with regulatory bodies.

The HFMA would also suggest that the UK encourages a more general reassessment of the Article 13 claims assessment process, particularly given the on-going impasse around the assessment of botanical claims.

Health Protection Agency (now Public Health England)

References available on page 217.

This evidence is provided under questions 7 and 8 in the DEFRA/FSA response form 'Assessing the EU's impact on the UK: a review of the balance of competences'.

Summary

Prior to 2006, European food hygiene legislation was spread across seventeen hygiene directives, resulting in a rather unsystematic approach to food safety. The development of pan-European legislation is positive in that it has harmonised food safety legislation and standards and introduced universal concepts such as the application of risk based food management systems. It also enables controls for foods imported from outside the EU. This has had a positive and measurable impact on pathogen reduction in certain foods with a resulting decrease in foodborne illness in humans.

European legislation also requires standardised monitoring (or cases of infection, foodborne outbreaks, antimicrobial resistance) as well as rapid alerting systems for crisis management during emergencies. This is enormously valuable for public health purposes although the timely release of data may not always allow swift public health interventions. Outbreaks and incidents continue to occur, not just in the UK, which identify where the legislative framework may require underpinning through guidance or further prescription within the legislation itself.

The EU legislative process allows flexibility in that it allows for members states to negotiate content but that process may not allow for interested parties to contribute in a constructive or timely way. Flexibility is allowed in that legislation can be gold plated or supported by guidance that reflects the national governance and organisational arrangements of individual member states.

Human illness associated with animal feeds is rare but outbreaks have been documented in the USA and the UK. Such incidents can provide the opportunity to strengthen the legislative framework regarding animal feeds and animal products not intended for human consumption.

The requirements of EU legislation, particularly regarding microbiological criteria of foodstuffs and traceability information, generate hugely valuable information that should be used during outbreak and incident investigation to implicate (or exclude) suspect food vehicles, particularly where there is evidence of infection in more than one member state. This information is selectively shared and is rarely obtained and supplied in a way that lends itself to protecting public health.

Evidence

Question: How might the UK benefit from the EU taking more or less action on food law in the future?

1. **Co-ordinated risk assessment and risk management has achieved an EU wide reduction in Salmonella infections. A similar approach could work for other pathogens such as Campylobacter spp. or provide a firm basis to rapidly control new and emerging infections.**

To protect consumers from *Salmonella*, the EU has adopted an integrated approach to food safety encompassing both risk assessment and risk management measures involving all key actors: EU Member States, European Commission, European Parliament, European Food Safety Authority (EFSA) and the European Centre for Disease Prevention and Control (ECDC). The approach is supported by timely and effective risk communication activities. The coordinated approach by all EU actors has had significant results: human *Salmonella* cases have been reduced by almost 50% in the EU over the five year period between 2004 and 2009. At the same time, the prevalence of *Salmonella* in poultry decreased significantly, especially in laying hen flocks. The reduction of the bacteria in laying hen flocks is likely to be the main

reason for the decline of *Salmonella* serovar Enteritidis cases in humans, since eggs and poultry are considered the most important source of these infections in the EU (Reference [i]).

2. **Further guidance or prescription underpinning the existing legal requirement to investigate and report information about outbreaks and other incidents.**

   Outbreaks and incidents provide windows of opportunity to review the effectiveness of existing controls. Robust investigations generate enormously valuable information for public health purposes but the timely release of data may not always allow swift public health interventions. Outbreaks and incidents continue to occur, not just in the UK, which identify where the legislative framework may require underpinning through guidance or further prescription within the legislation itself.

Question: Could action be undertaken differently e.g. are there ways of improving EU food law.

1. **Risk assessment and scientific opinion may differ between Member States and is not always translated into effective risk management via legislation alone.**

The legislative process allows member states to negotiate content and allows flexibility in terms of 'gold plating' and how official controls are carried out in each member State to reflect different administrative arrangements. However, interpretation of legislation and scientific opinion may differ from state to state.

For example, in respect of the sale of unpasteurised raw milk as a ready to eat product in England, levels of *Listeria spp.* are potentially an issue. The interpretation of Regulation 2073/2005 by the Food Standards Agency is that it does not provide an exhaustive list of potential food category/pathogen combinations and that it is the responsibility of Food Business Operators (FBO) to assess and control hazards. However, the criteria clearly relate to ready to eat foods placed on the market during their shelf life and before they have left the immediate control of the FBO. This is a complex route to control a well defined risk.

2. **Food safety is primarily a public health issue with resulting benefits to trade; safer food means better business. However, much of the EU legislation is made under the Internal Market Treaty base which can present problems in terms of information sharing because of commercial confidentiality, and in some cases, allows different standards for different member states.**

The principle of the primary importance of protecting the public health above short term business and reputational considerations should be established for risk assessment and intervention across the EU. This principle should be elaborated to make clear the need to intervene in a timely way rather than deferring until the source of infection has been proven or transmission route fully clarified where there is good evidence of the likely cause or causes and intervention is assessed as being likely to prevent significant disease. It should also identify a legal support to intervene in a proportionate way where several possible causes have been identified, some of which may later be identified as not responsible for infection, but where the broader intervention is justified given its overall impact.

The precautionary principle informs much EU legislation and is often used to justify public health action where there is uncertainty, hazards are ill defined or risks difficult to quantify (chemical contaminants, pesticide residues or veterinary medicines in food or feed). This principle must also be used consistently for microbiological contaminants where the hazards and risks are more well defined but information on, for example, traceability or the distribution of pathogens throughout foods is less clear.

During investigations of outbreaks of salmonellosis in the UK linked to imported eggs, national controls on the quality of eggs from some member states were slow to take effect despite high quality epidemiological and microbiological evidence demonstrating ongoing transmission in the UK (References [ii],[iii],[iv],[v],[vi]&[vii]). Initial controls (pasteurisation, restricted imports and publicity campaign) were ineffective.

EU legislation allows for rapid controls on imports of food from third countries, even where human disease is not recorded. Similar controls are not implemented in cases where contamination events occur in member states because this may be seen as an interference with free trade principles. This may be applied selectively. For example, certain meat and food products cannot be exported to Finland and Sweden from member states unless they comply with particular rules regarding the presence of *Salmonella spp (*Reference [viii]).

3. **Traceability information should be provided against a standard and access to this information could be widened from a single competent authority so that it can be used systematically during investigations.**

To effectively protect the public from harm it is clear that information should be shared routinely with those who need to know in order to take appropriate action.

Regulation 178/2002 provides for one step up/one step down traceability yet there is evidence that smaller businesses do not have traceability systems comparable to larger retailers or grocery distribution groups meaning that distribution trails are often incomplete. This has implications for public health but also denies food businesses the opportunity to review their food safety systems following incidents. The lack of prescription in the current legislation does not always allow for products to be easily or rapidly traced to the country or origin in cases where they are repackaged or used as ingredients in complex foods such as bagged salads or ready meals.

Our experience has also shown that distribution of some products may differ depending on their final market. For example, whole head lettuce sold to the catering trade may follow a different route to that supplied to the retail market despite being grown by the same producer[ix].

Further detail on traceability was provided in Implementing Regulation 931/2011, in force since July 2012. This legislation specifies the type of information needed to comply with the requirements of 178/2002 but does not specify for how long this information should be kept or in what format. The implementing regulation (EU) on the traceability requirements for sprouts and seeds intended for the production of sprouts [x] specifies that records should be kept for a time reasonable to assume that the food has been consumed but this is for a very specific product and is not applicable to other foods that may present similar risks of infection such as salad vegetables.

In addition, accurate traceability information needs to be made available quickly during outbreaks to be used to implicate (or exclude) the involvement of particular foods yet this information is not always made available to allow this to happen. During outbreaks, epidemiological investigators should be rapidly furnished with this information on request.

Legislation or authoritative guidance could also prescribe a minimum standard against which traceability investigations should be carried out by food businesses, food enforcement authorities as well as competent bodies.

There are examples where this type of information has not been made available to organisations that need to know including:

- Late relay of official information from Finland concerning olives contaminated with botulism.
- Information implicating a UK seed supplier related to the *E. coli* O104 outbreak in France that followed the major German outbreak was not shared. This was significant because national clinical alertness and lab testing regimes were looking for cases associated with travel to Germany rather than taking account of this information. Should cases have occurred in the UK, there would be likely to have been a delay of some days in reaching a diagnosis.
- Incomplete information on the traceability of raw vegetable supplies following the UK *E.coli* O157 PT8 outbreak in 2011 on the basis of commercial confidentiality. This information was key to enable a more precise identification of the source allowing a full environmental investigation and identification of practices that could be changed to prevent similar outbreaks in future.

4. **Human illness associated with animal feeds is rare but outbreaks have been documented in the USA and the UK which provide an opportunity to strengthen the legislative framework.**

Although rare, human infections have been linked to animal and pet feeds and have resulted in recalls of these products. An outbreak of *Salmonella* typhimiurium DT 191a was linked to reptile feeder mice in England and sales of mice from the implicated supplier were stopped in the UK and new import authorisations were issued, including strengthening of border controls, with random testing of consignments. Limited legislation existed to prevent further sales of these mice and cases continued to be reported in the UK, and in the USA following the imposition of these controls. Although it was not clear whether the cases were attributable to the mice themselves or the reptiles that were fed with them, it is clear that the potential for similar incidents to occur in future remains (Reference[xi]).

5. **Legislation may be required to cover internet sales of food from within the EU and from third countries.**

A milk producer was recently found to be distributing raw milk (approximately 4,000 pints/2273 litres) throughout the UK via internet sales and vending machines. Unpasteurised milk sales are illegal in Scotland but sales are legal in England and Wales. EU legislation (2073/2005) sets microbiological criteria for unpasteurised milk but the the restrictions of the sale of raw milk intended for human consumption are under national law (Food Hygiene (England) Regulations 2006, Reg 32, Schedule 6). The spirit of the national legislation for this type of product is to allow for small scale sale to a limited market. Producers selling milk in this way argue that these sales are 'point of sale' and therefore do not apply to internet sales. However the law has not considered expansion through internet sales particularly to member states where national law has banned the sale so EU legislation would be beneficial to deal with the sale of such products between national boundaries.

Another recent example is the sale of a pasteurised egg product linked to illness in a number of member states including England and Austria. This product was sold as an ambient stable product and despite being recalled, continued to be linked to cases. This highlights that traceability and recall/withdrawal procedures for internet based sales are not as established as those of traditional grocery and food sales (Reference – page 219[xii]).

Hybu Cig Cymru (Meat Promotion Wales)

HCC has a statutory responsibility for the development, promotion and marketing of Welsh red meat. It is an industry led organisation funded by levy on the slaughter of sheep, cattle and pigs.

HCC recognises the Balance of Competences review as a non-political, objective and analytical study that will provide an evidence base for future policy development.

HCC supports the submission by the Current and Future Meat Controls Stakeholder Group.

Trade

Less than 5% of lamb and beef produced in Wales is consumed in Wales. In development of the global brand for Welsh Lamb, the European and wider global markets are important. England is the primary market, followed by France, Germany and Italy. Membership of the European Union provides Welsh food businesses with unrestricted access to more than 500 million potential customers in 27 countries. Welsh Lamb and Welsh Beef have been awarded PGI designation under the EU's Protected Geographical Indication (PGI) scheme. PGI means that only sheep and cattle born and reared in Wales and processed in HCC approved abattoirs can be described as Welsh.

Wales is the largest sheep meat exporting region in the EU. Exports of both Welsh Lamb and Welsh Beef products topped £240 million in 2011, the vast majority exported to mainland Europe.

There has also been success in the Middle East, Hong Kong, Singapore and, more recently, Canada. Development of other markets will be important, including China and USA.

HCC believe that the EU having exclusive competence for negotiating trade agreements with third countries is beneficial. They were able to take advantage of a trade delegation to China to promote EU PGI foods. To date the USA has been a difficult market to enter. The recent announcement of the start of trade talks between the EU and USA is very welcome and long overdue.

Welsh farmers also benefit from membership of the EU in terms of the Common Agricultural Policy and payments for projects made under the Rural Development Plan.

Consistency of approach and competition

In fulfilling its objectives of developing, facilitating and enhancing economic trade, HCC always gives consumer protection high priority.

Consistency and a harmonised approach across the single market are vital. Competition can be affected by Member States having different interpretations or implementing EU rules in different ways and to different timescales. It is important that all countries implement Regulation to ensure consistent requirements. Where some Member States have not implemented there are anti- competitive issues. The sow stall ban is an example of where uneven implementation has impacted competition.

Industry wants a degree of flexibility, but flexibility has its dangers where harmonisation is important to prevent anti-competitive practices. It can be difficult to get the balance right.

Science/risk-based approach

HCC supports that legislation should be science/risk-based as this minimises burdens on business, whilst still providing the necessary protections. All legislation should be based on sound evidence and use of the precautionary principles can be concerning.

One example of the use of evidence is in relation to skin on sheep meat (smokies). HCC commissioned evidence that was submitted to the Food Standards Agency (FSA) in support of product being produced in legally approved abattoirs and under proper hygienic conditions so that consumers are protected. FSA has accepted the evidence and submitted it to the European Food Safety Authority (EFSA). EFSA has since sought additional information. It is frustrating for industry that there is market demand for this product, but progress is slow and it appears that EFSA have not yet been persuaded of the case and are asking for further information.

Traceability concerns

HCC completed a DG Agri questionnaire about the labelling of the origin of meat in 2012 and so are aware that meat origin labelling is an issue on the Commission's radar. Welsh producers want to be able to provide the consumer with clarity, especially in light of current issues with traceability of the components in meat products. HCC believes that the matter warrants further research to fully understand potential impacts (costs and benefits) to industry, trade and consumers.

International Meat Trade Association

Q1. EU Action on Animal Health and Welfare benefits or disadvantages UK?

On balance it benefits the UK as without it there would be no single market, although UK interpretation can disadvantage industry. The EU policy has undoubtedly facilitated trade and minimised disagreements between MS's and the implementation of protectionist measures which are not based on science. Problems do of course arise (e.g. BSE and French restrictions).

However, the EU Commission is often reluctant to get involved in disputes between MS's over common rules. EU institutions should be more proactive in this area.

Example 1: The aspect of greatest disadvantage to our sector of the industry is the UK interpretation and implementation of these rules with regard to imports of Non-EU meat. Clearing

consignments through ports on mainland Europe (e.g. Rotterdam) generally entails a more common sense approach. Some companies choose to incur an extra £1,000 cost per container to clear through Rotterdam and onward ship to the UK as on balance fewer containers are delayed at port than occurs in the UK. There is no evidence that the approach taken in Rotterdam has increased the risk of introducing animal diseases into the EU. There should be on-going discussion with DEFRA/FSA/AHVLA and UK BIPs about a common sense approach, without truly endangering public or animal health.

Example 2: In the past much EU legislation came in the form of Directives which required a secondary layer of national legislation for implementation. In some ways this might be considered helpful, but not if the UK gold-plates the rules.

EU Council Directive 97/78 allows member states to approve premises to supply meat for ship stores which comply with animal health but not public health rules. The UK Products of Animal Origin (Third Country Imports)(England)Regulations 2006 does not allow this facility and for many years UK industry has been disadvantaged and prevented from participating in over £6 million worth of business per year – lost to other EU operators.

Legislation in the form of Regulations serves to reduce the opportunity for differing approaches but still leads to differences in interpretation.

Example 3: **Sampling of imported salted chicken or peppered turkey to determine import duties.** The UK Customs insisted that other MS tested in the same way. That might have been true but the difference came at the port as to whether the customs officers "chose" to take a sample or not.

There is a need for a "how can we do it" rather than a "can't/not allowed to do it" attitude in the UK.

Q3. How might the UK benefit from the EU taking more or less action on animal health and welfare in the future?

It is important that the UK's livestock industry is protected from the introduction of diseases. However, these rules need to be scientifically justified and where possible aligned with international standards such as those set by the OIE. In some areas the EU has conditions in addition to those laid down by the OIE.

Example 4: In relation to FMD the EU's requirements for the import of beef from zones officially free of FMD with vaccination are more stringent than the OIE requirements.

Animal welfare is a tricky area and we should take care to balance out all the interests including ensuring that consumers at the lower end of the income scale have sufficient access to meat protein. If anything, perhaps the EU should pause for thought and ensure that all that has been made law is working in the most effective and cost efficient manner and any new regulation should be challenged in relation to whether it is really justified.

Example 5: Usually a "consignment" covers one container. Actual veterinary check rules say if a problem even with part of a consignment the whole consignment must be sent back. This can lead to perfectly safe meat being sent back to the country of export. Sometimes sorting of the container is allowed but this is up to the discretion of the vet and there is no appeal to an overall authority other than the Magistrates Court which is impractical.

Q4. What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries

Export Certification

Under the current review of EU animal health law, amongst other things it is suggested that the EU Commission may be seeking a more centralised system of negotiating export certificates to access third country markets. IMTA would be opposed to the EU Commission taking over that role entirely.

Disadvantages

- Different MS's have different sectoral interests (e.g. UK has significant interest in sheep meat which many other MS's do not. Italy Bresaola).
- Different MS's have different market interests (e.g. based on historical relationships).
- The terms negotiated may suit some MS's but exclude or disadvantage others.
- Even when the EU Commission negotiates EU wide certificates other aspects can result in individual MS's having to deal with the country.

Example 6: Russia Although it is useful to have negotiated EU based certificates, Russia is dealing with individual MS's regarding residues and plant inspection. MS's appear to be acting individually regarding system of plant approvals and achieving diverse agreements with Russia as regards pre listing or not.

Example 7: India The UK has recently agreed a certificate for poultry meat which complies with Indian rules but the EU is arguing for India to operate to OIE rules, which may take years to achieve. Thus EU action should not delay a MS's trade even though we have to accept that this may make it difficult to negotiate more relaxed terms.

Advantages

There may be sense in the EU acting with major markets where rules of trade become an integral part of a bilateral trade agreement which enables pressure to be put on partners to adopt OIE standards.

Example 8: USA/Canada BSE rules.

IMTA believe it should be on a case by case basis as some third countries might not accept such an approach and prefer to negotiate with individual MS's. This has an element of rationale to it as each MS has its own control system even though they work to common rules.

Q5. Does EU Legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

Such legislation risks being developed with the interests of the farming industry in mind whilst neglecting the interests of UK/EU business as a whole.

Example 9: Brazilian beef imports The EU has imported from Brazil for over 40 years and no outbreak of FMD in the EU has been attributed to its imports. Despite that and with pressure from the EU farming sector this resulted in 2008 with an extra restriction placed on the Brazilian cattle industry, severely reducing imports into the EU (falling 78 per cent between 2007 and 2009), contributing to a sharp rise in EU meat prices and having knock on effects for the manufacturing and catering industry.

Q.14 What evidence is there that the principal of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples where it was not followed?

We have no specific examples, but any policy position is stronger for being based on objective evidence and facts rather than subjective views and opinions. (See q.6) Protecting consumers from risk of major food borne diseases must be a priority but consumers should also be allowed to make their own decisions based on information on the risk they face e.g. well-cooked burgers versus pink liver.

Hormones, GM feed, Cloning, - this is not to say that the consumer should have no choice. What the EU seems to have led to is the consumer having less choice than might be the case in other parts of the world. E.g. Australia you could buy hormone or non-hormone treated meat. Provided there is sufficient science that the systems/products are safe then consumers should be given information and left to choose. A small, more vocal, minority often choose for the silent masses.

Q.16 How might the UK benefit from the EU taking more or less action on food law in the future?

The UK would benefit from the EU taking less action on food law in the future by the EU withdrawing itself from certain aspects of legislation.

Example 10: Compulsory origin labelling of meat. The existing food law requires the operator not to mislead the consumer and this should be sufficient to cover aspects of what are essentially advertising claims. Labelling is a horrendous conglomeration and we risk the consumer missing the important messages (salt, fat, sugar, allergies, ingredients, storage instructions and when relevant use by date. Best before dates should be abolished. If necessary date of production could be labelled to enable the consumer to stock rotate.

Distinction between animal and public health issues and "quality/marketing issues"

The EU having established sound public hygiene and animal health rules has veered into areas of "consumer desires". In IMTA's opinion limited Government resources should be focussed on maintaining acceptable levels of animal health and public hygiene and that the product is what it says on the label (both meat content and any labelling claims made on the product). After that many other issues (such as mandatory country of origin labelling) should be left to industry to decide whether consumers require and are prepared to pay for it.

Q. 18 What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

Review and removal of unnecessary sector regulation:

Every new Government promises to cut tape but it is difficult to see in the meat sector that this ever happens. We have an unprecedented amount of legislation in the meat sector and none of it prevented the current horsemeat issue. This doesn't mean that legitimate business should have even more legislation heaped on it. It perhaps means that we should seriously consider whether we are overburdening legitimate trade and increasing the opportunity for criminal behaviour to benefit. Perhaps our resources for creating legislation would be better directed towards intelligence and targeted policing.

PART 2 – SECONDARY POINTS

Q2. How might national interest be served by action on animal health and welfare being taken e.g. at a regional or national level, in addition to or as an alternative to action at an EU level

In the areas IMTA operate in, we haven't seen any examples of how a national or local level would be beneficial as an addition or alternative.

Sometimes the UK has imposed additional legislation or controls on our industry which negatively affects our competitiveness.

Example 11: Sow stalls were introduced in the UK in 1999, whilst EU legislation has only been introduced in 2013. The result was extra costs to the industry affecting the UK industry's ability to compete with other European producers.

Non-application of EU Law

The UK is generally very efficient at applying EU rules. However, there are instances when there is uneven application of the law and the EU seems to lack an effective mechanism for dealing with this.

Example 12: The EU ban on sow stalls came into effect in January 2013.**– On 30 January 2013 The Scotsman reported that 17 MS's were still not fully complying with the legislation despite having had 12 years to implement.**

Example 13: Animal welfare at slaughter it is doubtful that all plants in all MS are fully implementing EU Regulation 1099/2009 which came into effect on 1 January 2013.

Either there has to be a mechanism to ensure overall application, or the UK has to take the decision to be more flexible in its application in circumstances where competition is negatively affected.

Q6. Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk based approach? Would this deliver more in the national interest?

In general terms IMTA would support an 'outcomes, evidence and risk based approach' as we believe that this type of approach uses resources in a more effective and efficient way and allows the identification of the best system/approach to suit individual MS's. It is important though for all MS's to accept this approach in order to avoid creating obstructions to trade.

Example 14: Risk based meat inspection. With the adoption of HACCP and other operational systems and tools introduced over recent years a more enlightened review of meat inspection is required reflecting evidence of results.

Every effort should be made to apply science based rules rather than "consumer might like" rules for the following reasons:

- In danger of producing product which someone believes looks good as opposed to is actually good.
- Added rules come with a cost – often lack of proper cost benefit analysis. **Example 15: Individual sheep ID.**
- EFFSA has ruled that meat from animals fed on GMO feed are OK, but EU producers are prevented from using even imported GM feed at great cost to industry because there is a political movement against. In these instances, consumers should have the opportunity to choose.
- Non-science based decisions on EU imported product affects EU exports to other countries. We don't have the moral authority to object to other non-science based restrictions if we do the same thing.
- OIE and Codex Alimentarius have an important role to play in this area. However, should these rules be applied to all (with danger of rules being a race to the most stringent), or standards to aspire to?

Q7. What future challenges or opportunities might we face on health and welfare and what impact might these have on the national interest?

With regard to EU imports, the most challenging aspect is the higher the import duties and EU market prices, the higher the potential gain to a criminal element to circumvent the system, which increases the risk of disease being introduced into the EU.

With regard to EU exports, countries are often keen to show their electorate how they protect their safety and interest leading to bans not based on scientific evidence (bans on UK and US beef and more recently Brazilian beef due to BSE). The UK should encourage the application of the OIE standards to facilitate international trade.

Q8. What impact might any future enlargement of the EU have on animal health and welfare?

As the EU further expands, more diverse situations and interests are incorporated meaning reaching agreement gets increasingly complex and takes more time. Add to this the role of the European Parliament and the EU's decision making process is becoming slower and slower. By contrast, the global commercial world is becoming faster and faster. In this respect there is an argument for increasing use of the Commission's implementing powers, but with it comes the downside of a weakening of influence by individual MS's.

Q9. Are there any general points you wish to make which are not captured by the above?

To a broad extent (although there are exceptions) the EU have kept their borders open whilst protecting animal health, more so than some countries which have imposed a more restrictive system in addition to OIE rules. From an animal health perspective and leaving aside issues of import duties and quotas

(covered in a separate consultation), this has allowed the UK, a traditional meat importing country, to continue to access meat from a variety of countries and to contribute to the security of supply for consumers and provide raw material for the manufacturing sector. However, at times the EU comes under political pressure to move away from science based policy. (see Q. 5)

Q.10 What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

I am not aware that the UK joined the EU with benefits to agriculture and food at the forefront of its aims.

From the aspect of importers it has been detrimental and imposed costs and restrictions on our industry through import quotas and high duties. The export side of our industry has expanded. However it was extremely likely that even outside the EU our agricultural support system would have changed and it is difficult to estimate what our position would be without the EU.

Q.11 What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level e.g in Codex Alimentarius?

Whilst in some respects we might get a more proportionate and science based outcome if we worked at a national level, which might facilitate imports, our access to export markets would be determined by other nations opinions. Codex Alimentarius and OIE have their attractions but could also be prescriptive.

Q.12 Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses

I would say it is not up to Government but up to businesses themselves to protect their reputation. In some cases EU food law becomes guided by a vociferous minority of consumers**. Example 16: Slow progress of adoption of approved GMOs**. That is not to say it would necessarily be any better at a UK level.

Q.13 Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest.

Sometimes disadvantageous – desinewed meat as an example.

Q.15 What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest.

We do not have sufficient knowledge to comment on this, but I would have reservations for the reasons cited above.

Q. 17 Could action be undertaken differently e.g. are there ways of improving food law?

Where possible policy should be based on data collection on food borne illness incidents. Those involved in an incident should refrain from making statements and apportioning blame before the facts are established.

Example; recent horsemeat issue Irish indicated Dutch and Spanish involvement which appears to have been unfounded. German e coli outbreak in 2012 and Spanish cucumber industry.

If undertaken differently then must be in a way which does not create barriers to trade.

In some instances derogations are allowed for certain types of business but this may have unintended consequences.

Example 17: "Cutting plants" derogation provided for marginal, localised or restricted" business, but this has been used by some and put others at a disadvantage. For example catering butchers have to comply with EU legislation as "cutting plants", but units attached to retailers or cash and carry outlets etc. do not have to comply thus putting the catering butcher under a competitive disadvantage when the former often supply local catering establishments.

Q. 19 Are there any general points you wish to make which are not captured in any of the other questions?

Transparency and consultation

Transparency and consultation with industry needs to be improved both on an EU and MS level.

We seem to have grown into a country of process at the expense of action. Government processes could do with sharpening up.

Example 18: **Application made by a company to supply ship stores over two years ago (see Example 2). IMTA was asked to help in March 2012 due to a lack of progress.** Defra passed the file to FSA in mid-2012 to look at controls needed. Suggestions from industry to have a meeting with all parties on site to see how it operated and have a general discussion was not accepted as the approach was to create their own process first. The draft "process" was completed in December and then sent to the local authority for them to evaluate its feasability.

Government always seems to want to decide their position and approach before consulting with industry. Industry find it strange why an initial meeting cannot be held first where all discuss, but no commitments are made would be more effective and maybe speed up the system.

Example 19: External /parliamentary consultations seem to go on for ever. Industry has generally accepted the need for charging for export certificates, provided the service of administration is acceptable. Work is underway on providing a new computer system, but meanwhile after several workshops we seem no nearer to a proposal for how and on what basis charging would occur. The deadline has been put back on several occasions – now April 2014. In the interim we depend on the goodwill of certain sections of the industry paying for market access activities and Defra continuing to contribute their share.

Example 20: EU Veterinary legislation - With market support measures, Defra circulate agendas in advance and ask industry for comments. With Scofcah meetings we don't have this structured opportunity to make comments, which we feel Defra should review. Unless there is a major issue raised, UECBV (our European trade association) usually just informs us of the results. Otherwise it is a matter of whether we remember to look at the Europa website and then ring Defra.

For example on February 6 there were several items of interest and in particular something that members had been asking about regarding EU import certificates and animal welfare attestation. For us it was important to ask Defra to ensure that the timetable for introduction of this was realistic and gave the third countries time to amend their templates etc.

Lack of Clarity re Responsibility

Industry can find it difficult to determine who is responsible at an EU and UK level.

EU Commission saying MS responsible and MS saying they need EU Commission direction otherwise MS could be sanctioned by the EU. **Example 21: Interpretation of EU legislation with regard to meat import quotas, for example what is required to constitute a merger of companies.**

In the EU Commission there can be a lack of coordination between DGs. E.g. difficult to get DG Agri, Trade and Sanco in the same room. DG Agri say their remit is the agricultural producer not the consumer, whilst DG Sanco cover consumer's health and food safety. So who protects consumers' right to choose for themselves?

In UK responsibility between Defra/FSA/Local Authority/AHVLA seems rather blurred.

Example 22: **Import rules – query at port who has the final say – vet at port/Defra/FSA. There was an issue with BSE and phrase required in veterinary certificate for Brazil. Took some time to establish who should take responsibility for clarifying the issue.**

Example 23: **Query on an e coli test certain parts of FSA and AHVLA Chelmsford sent me backwards and forwards until someone I knew returned from holiday and it was sorted out within an hour.**

LJ Potter Partners

1. LJ Potter Partners

i. LJ Potter Partners is based in Somerset and has provided a service for the elective euthanasia of horses for more than 50 years, and has operated from an abattoir in Taunton since 2000.

ii. The business sells horsemeat for human consumption, the majority of which is exported to a single butcher in France.

iii. Stephen Potter has been a partner in the business for many years, and has been proprietor since April 2011.

2. Horsemeat

i. Horsemeat is not consumed in the UK or Ireland, though markets for the meat exist in nearly all other EU countries. The largest markets worldwide are in China and the former Soviet Union; in the EU consumption is greatest is Italy, particularly for manufactured products, and in France where horsemeat is eaten mostly in the home.

ii. The earliest archaeological evidence of humans butchering animal carcases in Europe comes from the Boxgrove findings, where early human remains have been found adjacent to a horse carcase.

iii. Horsemeat formed a significant part of the human diet in northern European, and its consumption at pagan feasts led to the meat being banned by Papal Bull; the popularity of horsemeat in Iceland is a possible reason why Christianity was adopted there much later than in Denmark.

iv. Horsemeat from warmblood horses has a very fine texture, little fat and is deep red in colour, coldblood breeds generally produce lower quality meat of a lighter, orange colour with a higher proportion of fat. Horses are monogastric, so horsemeat has low levels of saturated fats and a high level of the fatty acid α-Linolenic acid which is essential for human health. Red horsemeat contains high levels of iron.

v. Horsemeat is produced as a by-product of elective euthanasia, and horses are not bred for slaughter for human consumption in the EU although some horses may be reared specifically for human consumption when animals are culled from breeding operations.

vi. As horsemeat is largely not produced for consumption the price is demand led, and is not subject to changes in costs of supply, the meat is therefore cheaper than alternatives and provides those choosing to eat the meat with a low cost supply of high quality protein.

vii. Even though horses are rarely produced for food and despite the largely anglo-saxon, English-speaking parts of the world not consuming horsemeat, the horse is a food-producing animal throughout the world.

3. Horse Passport Legislation

i. Horse Passport Regulations were initially introduced in 2005 in England; the Horse Passports Regulations 2009 enforce Commission Regulation (EC) No. 504/2008 in England and came into force on 1st August 2009. Similar legislation applies elsewhere in the UK and other countries of the EU.

ii. The Regulations provide for the identification of horses.

iii. The Regulations prevent the slaughter of horses for human consumption that have been administered with drugs that are not permitted for use in food producing animals.

iv. The Regulations are intended to allow for a withdrawal period for permitted medicinal products but do not contain provision for the temporary exclusion of a horse from the food chain during or subsequent to such treatment.

4. The Market for Horses

i. The UK has amongst the highest per capita population of horses in the EU.

ii. The number of breeds used in Britain is very wide, encompassing the Falabella and the Suffolk Punch and the semi-feral pony to the thoroughbred with all types in between.

iii. Horses are not used for work in the UK, though horses are used by the army for parade duties and by the Police for primarily crowd control purposes. Heavy horses are used for exhibition events reflecting their original purpose, such as ploughing or pulling drays; there are numbers of horses used commercially in harness for events such as weddings and funerals.

iv. Equine sport is very popular in the UK, both professionally such as in racing, eventing and showjumping, and for amateur sport covering similar competitions but also including hunting.

v. Horsey culture has seen a staggering increase in popularity during the first decade of the 21st century, and interest in keeping, breeding and riding horses has increased dramatically; there has been a corresponding increase in reasons for keeping horses, which today include keeping a horse simply as a pet.

vi. Since 2008 there has been a decline in the propensity to keep a horse, following the natural wax and wane of interest in any pursuit; this has been exacerbated by the economic difficulties of recent years.

vii. The Irish economy has suffered significantly worse economic decline than the UK since 2009, this has had greater impact on the horse in Ireland because the breeding of horses, particularly thoroughbred and high-level sport horses, is more prevalent than in the UK. An amount of spare money earned during the 'Celtic Tiger' years was invested in breeding horses such that, for example, the annual production of registered thoroughbreds doubled in the years to 2010 when compared to the turn of the century.

4. The UK Market for Food-chain Horses

i. There are in excess of one million horses in the UK, which it is reasonable to assume have an average life-span of 20 years.

ii. It is reasonable to suggest that more than fifty thousand horses end their lives in the UK annually;

iii. In the wild, horses generally end their lives by predation or disease. Horses are hind gut absorbers of nutrients and are monogastric, it is necessary therefore that they are able to reduce the fibre length of their food to permit gut bacteria to assist in releasing nutrients; loss of dental function is therefore often a precursor to death by disease or predation in the wild. Wild horses do not often die comfortably in their sleep.

iv. Domesticated horses are protected from predation, and a decision will almost always be made to destroy an equine on humane grounds before death would be caused by disease. Therefore the vast majority of horses in the UK will not die naturally at the end of their lives, but will be humanely destroyed.

v. A decision to end a horse's life may be made on humane grounds, such that an alternative decision would be contrary to the immediate welfare of the animal.

vi. Horses are though long-lived in comparison to their useful life, so most horses will be retired from active service years before they might need to be humanely destroyed. A proportion of horses will become temperamentally unfit for purpose, and a proportion will never be fit for a domesticated purpose.

vii. The number of horses that remain unused throughout their lives depends on the production of horses and the demand for their service, such that as demand rises or production falls fewer will not be used and vice-versa.

viii. Similarly, as the propensity to keep a horse increases the additional demand can only be met by raising production, extending the life of horses already in use, or importing

horses. A characteristic of the late 1990s and the early part of the 21st century was that there was an increasing demand for older horses, and owners were able to pass horses onto a secondary market, an example being a horse that had been a decent, amateur Three-day Eventer might be sold to bring on an inexperienced rider at a lower level of competition, or might be used as a hack. This period also saw a steep rise in the number of horses being kept simply as pets.

ix. The UK market for horses for slaughter for human consumption therefore includes those horses that have no value for equitation, have outlived their useful purpose, or have become unfit for purpose. The abattoir route is not suitable for horses that are injured and require immediate destruction, or are diseased.

x. The decision for a horse to enter the human food market is an elective decision, which can be made by the owner deciding to seek humane destruction by the abattoir route or by the market on economic grounds, i.e.. the value of the horse is less than the value it would obtain by being sent for slaughter.

xi. Abattoir slaughter can therefore be described as Elective Euthanasia.

xii. Historically in the UK around 10% of horses destroyed each year have passed through the abattoir trade. During the early 2000s the numbers of horses slaughtered fell, as the overall demand for horses increased and more specifically the demand for horses that would have previously been considered beyond their useful lives increased.

xiii. Since 2008 there has been an increase in horses slaughtered, primarily as the growth in Horsey Culture changed to decline. Economic conditions have also had a more marked effect on the demand for older, lower quality horses.

xiv. Horse breeding and production has increased in the UK during the past decade; horses are unlikely to start being used until they are 4 or 5 years old, and a decline in production is unlikely to match the decline in demand for a number of years.

xv. It is not unreasonable to suggest that the demand for the Elective Euthanasia of horses will rise during the next decade.

5. The Unwanted Horse

i. Horses are expensive animals to keep, and it is hard, tedious work that has to be done irrespective of other commitments and in all weathers.

ii. Horses can become unsuitable to an owner for many reasons, but include:

a) Temperament – a horse may be temperamentally unfit for use, its behaviour may change due to being frightened or other circumstance, because of changes in its mental condition, or because it is not used properly, e.g.. the rider is unable to control the animal and the horse becomes the master;

b) Age – horses are in their prime until their early teens, although there has been a significant demand for older horses in recent years this market has declined rapidly such that there is little appetite to commit to an older horse;

c) Fitness – all of the pursuits in which horses are used can cause injury such that the horse cannot continue to be used;

d) Change of Circumstances – there are two main changes that can occur during the ownership of a horse, economics and interests. It is extremely common for owners to spend much more than they can afford to look after their horses, but this burden can become excessive. Owners and keepers may become better

riders, and need a better horse, or may lose their interest entirely; very often a horse is bought for an adolescent who then moves on, to University, work elsewhere, or by starting a relationship, leaving an uninterested parent with the cost and trouble of looking after their horse.

iii. The unsuitable horse becomes an Unwanted horse when the owner cannot pass the animal to a suitable new keeper, or decides to reduce their commitment to keeping the animal properly.

iv. Recent years have seen an increase in the number of willing vendors unable to find buyers, largely because of the reduction in overall demand for horses, particularly older and less able horses, and also because of the economic slump.

v. All equine welfare charities are reporting increases in the number of Unwanted horses in the UK.

vi. There is a significant risk of horses that are not wanted falling into a downward spiral to neglect.

vii. All UK equine welfare charities are reporting increasing instances of neglect, and Local Authorities are seeing increased instances of abandonment.

viii. It is an emotionally very difficult decision to have a horse destroyed, even when the immediate welfare of the animal is compromised. This decision is harder when the animal is perfectly fit and healthy; such a decision is hardest when the animal is fit & healthy, capable of working, but is not in demand from the market so the owner cannot sell the horse.

ix. The human condition is such that we do not value those things that have cost us little, or those things that are costing us much and giving little in return. It is for this reason that a decision to sell a horse for very little money often ends in a wretched life for the horse.

x. Abattoir slaughter for human consumption is the only route by which the on-going responsibility for unwanted horses can be ended without the risk of the animals falling into neglect, and without further cost to horse owners or keepers.

xi. If carried out humanely, under properly controlled conditions, and at the correct point of an animal's life, the equine abattoir industry is a prop that supports general equine welfare.

xii. In the absence of an equine abattoir industry horses will remain in circulation, many will be sold for a low price or end up being passed from hand to hand, and most will enter an ever diminishing spiral to neglect through poor husbandry, ignorant neglect, or wilful mismanagement.

xiii. In the current conditions, where the propensity to keep a horse has declined at the same time as economic conditions have collapsed, there will be an increase in the numbers of unwanted horses; without a viable equine abattoir industry this increase will be exponential as horses left on the market continue to cost their keepers time, money and effort and reduce the resources available to keep other equines in decent conditions, and those unwanted horses that form the throughput of abattoirs remain alive year on year.

6. Horse Passport Regulations

i. Broadly the purpose of the Regulations is to:

a) Identify Equines;

b) Permit the movement of equines within the EU and in intra-community trade when accompanied by the horse passport, establish the person responsible for an animal (the keeper);

c) Establish that an equine is suitable to enter the human food chain

ii. Since 2009 horses have had to be micro-chipped, older passports rely on a schematic diagram of the horse to link the animal to its passport. Although there is evidence that transponders fail, this has not been a serious problem.

iii. There is a very serious problem, particularly for Local Authorities, in proving ownership of equines; it has proved impossible to require the registered keeper of a horse to accept

responsibility for an equine that has been abandoned, or where animals are fly-grazed, such that the Police and Local Authorities are largely impotent to act through the Courts in these matters.

iv. the failure to provide a route to enter the human food chain for horses where the original passport does not exist, or cannot be obtained, means that horses that are seized by the Courts, the Police, Local Authorities, or land owners seeking to take responsibility for animals abandoned or fly-grazed on their property, may only act at significant cost and cannot make use of any residual value for consumption.

v. The Horse Passport has proved to be of little use in establishing that an animal is fit to enter the food chain. Paragraph 7 of Section III of Annex II to Regulation (EC) No 853/2004, states that “the slaughterhouse operator is to receive, check and act upon food chain information providing details on the origin, history and management of animals intended for food production. The competent authority may allow food chain information on domestic solipeds to be sent to the slaughterhouse at the same time as the animals, rather than being sent in advance. The identification document accompanying equidae for slaughter should therefore form part of that food chain information”, yet the document does not contain Food Chain Information and is designed to permit or deny entry to the food chain without recording the administration of veterinary medicines.

7. Primary failure of the Horse Passport Regulations

i. The regulations attempt to divide the equine population vertically into two types: those that are not intended for slaughter for human consumption; and those that are intended.

ii. As noted at 2 (v) above, horses are not bred or produced in the UK for human consumption, though there are horses in Poland and Spain that are reared for slaughter. Horses have been bred and reared in Canada primarily for the production of meat, but these animals were produced as a by-product of the Pregnant Mare Urine (PMU) industry that has now largely ended. I am not aware of horses being produced, i.e.. bred and reared, primarily for slaughter anywhere in the world.

iii. The idea to split horses into ‘intended’ and ‘not intended’ for slaughter for human consumption arises from Canadian legislation adopted to control the foals produced within the PMU industry.

iv. Horsemeat is a by-product of elective euthanasia.

v. Therefore the primary conception to split the population on intention to enter the food chain is not relevant in the real world.

vi. Legislation should approach regulatory control to permit horses that are safe to be consumed to enter the food chain when a decision has been made to humanely destroy the animal.

8. Consequences of Signature at Section IX

i. Horse passports signed ‘not intended for slaughter for human consumption’:

a) unwanted horses accompanied by passports signed out of the food chain cannot be accepted into the food chain, such that any such animal can only be humanely destroyed at the cost of the keeper;

b) the cost of humane destruction is a further drain on the resources available to maintain horses, and is a disincentive to making an already difficult decision such that the number of unwanted horses is left to increase;

c) there is a margin between the cost of disposal to waste and the value of a horse carcase entering the food chain that is large enough to provide a strong incentive for fraud;

d) there is no evidence to suggest that the residues at the time of destruction in the majority of horses signed out of the food chain, particularly those signed out months or years in the past, differ to those in horses not so excluded.

ii. Horse passports not excluded from the human food chain, or signed 'intended for slaughter for human consumption':

a) the passport is the primary tool permitting a horse to enter the food chain, yet the intention to have a horse destroyed is only made at the end of the horse's life and that intention will have had no bearing on how the animal had been previously medicated;

b) there is no evidence to suggest that residues, permitted or otherwise, in a horse accompanied by a passport stating intention to enter the food chain are any different to those in a horse permanently excluded;

c) it is a lottery that a horse ends its life with an unsigned or a signed passport, as many are signed out of the food chain merely as a matter of course or simple convenience, and of those remaining in the food chain many will have been exposed to veterinary medicines both advertently and by accident, that are not recorded.

iii. Adoption of the horse passport system as currently in force has removed any incentive from the pharmaceutical industry to licence drugs for use in the horse, as drugs may in effect be used 'off-licence' provided the passport has been signed to remove the horse from the human food chain.

iv. Drugs are permitted to be used in the 'cascade' with an appropriate withdrawal period, but the method available to the prescribing veterinarian to temporarily exclude a horse from the human food chain during and for the relevant subsequent period following treatment is not used, and although medical treatment can be described in Part III of section IX the use of this section is not understood by the veterinary profession.

v. The failure to licence novel, or even drugs that have been used for decades in farm animals such as the antibiotic 'PenStrep', means that horses continue to be medicated with drugs that have known side effects, such as Phenylbutazone.

vi. The blank choice, as far as any understanding of the system by vets or keepers, is to sign a horse out of the food chain, or leave it within the food chain; this means that vets do not make use of Council Regulation (EC) 1950/2006.

vii. (EC) 1950/2006 provides a list of substances essential for the treatment of equidae, and takes into consideration the decreased number of medicinal products available for food producing animals following the implementation of Directive 2001/82/EC on the Community code relating to veterinary medicinal products. The limited options available to the keeper and their vet, i.e.. to include or exclude a horse from the food chain permanently, do not take into account the reality that there are many drugs that are permitted for use in farm animals, but for which there is no licence for use in the horse.

viii. In any case, the permitted list on (EC) 1950/2006 does not include drugs that are in very common usage, and for which there is no evidence to suggest that consumption of an animal 6 months after treatment is of detriment to human health, such as Phenylbutazone.

ix. The provisions do not take into account the simple reality that drugs such as Phenylbutazone will at some stage following administration, whenever that may be, be of no consequence to human health, or will be entirely eliminated from the horse's system.

9. Phenylbutazone

i. Phenylbutazone (PBZ) is a Non-steroidal Anti-inflammatory Drug (NSAID) that was first introduced into human medicine in 1949; it came into animal use in the 1950s,

though its use in most species has been limited for decades it continues to be widely used in the horse.

ii. PBZ is not licensed for use in food producing animals in the EU, though it is not listed in Annex IV of Council Regulation (EEC) no 2377/90 as a product for which no maximum level can be fixed.

iii. Phenylbutazone has been considered a carcinogen in humans, though the International Agency for Research on Cancer (IARC) concluded in 1987 that there was inadequate evidence and indicated that the drug was not classifiable. There is evidence that the drug can cause aplastic anaemia in susceptible subjects at therapeutic doses ranging from 200-400 mg/day, though a 1986 study in Europe and Israel suggested that the rate ration was lower for PBZ than for both Diclofenac and Indomethacin which are both in use in human medicine.

iv. The toxic side-effects of PBZ in the horse have been researched over more than 4 decades, and there is considerable evidence that the most common, severe and serious effects are due to the inhibition of the Cyclooxygenase isoform COX-1 and include perforation, ulceration and bleeding in the upper gastro-intestinal tract and renal failure, though evidence for the latter is more common in dogs suffering from compromised circulatory function.

v. The elimination half-life for PBZ in the horse is short, 4-7 hours and the drug is readily excreted; repeated daily dosing in the horse does not lead to accumulation of the drug, which differs to both cattle and humans. A limited study in 1987 at the Royal Vet College showed plasma concentrations of PBZ to be around 30 times higher than those in muscle; they additionally found muscle concentrations following oral dosing at a rate of 4.4mg/Kg declining to 0.1-0.2 mg/Kg after 12 hours and <0.1 mg/Kg after 24 hours. The RVC study concluded that muscle concentrations beyond 24 hours after dosing were declining and at levels in muscle beyond the parts per billion range (1µg/Kg).

vi. PBZ is a Veterinary Prescription Only Medication (POM-V) but is supplied in large pack sizes for use over extended periods. The drug is considered to be safe to handle, and there are no indications on the packaging concerned with the safe handling of the drug. The medication is viewed by horse owners and vets in a similar light to Ibuprofen use in humans. Use of the drug is therefore largely uncontrolled at the point of administration.

vii. Metacam is a modern alternative to PBZ that is licensed for use in horses intended for slaughter for human consumption with a withdrawal period of 5 days that is equally efficacious and has fewer reported side effects. Metacam is now available as an oral gel that can be placed directly into the horse's mouth, or fed with the animal's food, costing less than £2/day for an equine dose.

viii. The following conclusions may be drawn:

a) there is no evidence to confirm that PBZ is carcinogenic in humans at therapeutic doses, in fact the IACR describes the drug as 'unclassifiable';

b) although PBZ has been associated with aplastic anaemia in susceptible humans, there is evidence that it is safer than drugs in common human use, e.g.. Diclofenac;

c) there is evidence that PBZ is rapidly excreted, such that concentrations in meat just 24 hours after dosing are at levels that would require the consumption of hundreds of tonnes of meat to obtain a therapeutic dose of a drug that is safer than taking Diclofenac;

d) attempting to control the use of the drug by excluding the horse from the food chain is futile, both because the drug is so ubiquitous that even under good control inadvertent cross medication is inevitable and because removing all horses from the food chain, or closing the equine abattoir industry, would cause such a welfare disaster to the unwanted horse;

e) there are available alternatives that render it unnecessary to retain PBZ in the equine pharmacopeia.

10. Reasons to amend the Horse Passport Regulations

i. It is apparent to me that there remains a deep rooted antipathy in the equine sport and breeding industries to recording veterinary medicines given to horses, this appears to be perverse as full recording of medication would assist in preventing the use of performance enhancing drugs.

ii. The horsemeat industry has a duty to protect its consumers, but the EU Commission and Member States have imposed legislation that does not provide the industry with adequate information to assess the suitability of an animal for the human food chain, such that residue tests in 2011 and 2012 showed that around 5% of samples taken from horses assessed as fit to enter the food chain by their passports contained traces of PBZ.

iii. The Horse Passport Regulations have distorted the internal market such that the majority of horses are not able to enter the food chain, irrespective of the actual medical treatment given to those horses throughout their lives or more particularly within a period prior to destruction.

iv. The permanent exclusion of the majority of horses from the food chain means that large numbers of horses of unwanted horses are permanently on a downward spiral to neglect that cannot be arrested without the keeper deciding to fund the disposal.

v. Horsemeat is a very healthy human food consumed in the majority of Member States; even so horses are not generally produced for consumption. It is perverse to seek to exclude horses from the food chain when the great majority will never be intended to be slaughtered for human consumption and will not be consumed by humans.

vi. Fundamentally, the approach should be to permit entry to the food chain of those horses that can be consumed safely, under controlled conditions.

vii. In reality all horses are not intended for slaughter, until at the end of their lives they may become intended and those that may be safely consumed need to be brought into the food chain.

viii. The permanent exclusion of horses from the food chain is unsupportable in terms of natural justice, and there is no evidence that there are veterinary drugs in use in the EU that leave a permanent residue in the subject carcase liable to adversely affect human health.

ix. The passport system, particularly the permanent, rather than temporary, exclusion from the food chain has had an unintended consequence of promoting passport fraud. A further consequence is that the legitimate horsemeat trade has been unable to accept the majority of horses consigned for slaughter during the economic decline of the past 3 years, which has coincided with a decline in interest in keeping horses, such that an illegitimate trade has developed and this confluence may well be a factor in fraudulent misrepresentation of horsemeat sold as beef into the food chain.

11. Are amendments a matter concerning the Balance of Competences

i. The legislation derives from EU law, and is having similar effects throughout the European Union.

ii. My understanding from discussions with members of the Horse Passports Team at DEFRA is that the legislation at EU level was only agreed by the UK Government in order to gain acceptance by other Member States for legislation desired by the UK, i.e.. the Directive was approved as a matter of horse trading.

iii. There is a widespread view that amendment at EU level is impossible, but the UK Government must act to permit the domestic industry to continue to provide the

euthanasia service for which there is a demand from UK horse keepers and to permit the supply of horsemeat that is safe to consume.

iv. Further draconian implementation of regulations that have been shown to be defective will merely drive demand for the service further into the hands of illegitimate traders, with further consequences for food safety and consumer confidence.

v. Action at EU level concerning horse passport legislation is desirable, and similar difficulties are being experienced in other Member States.

vi. Notwithstanding such developments, the UK Government should consider independent action to permit access to slaughter for human consumption for the widest number of horses possible as a practical measure to protect horse welfare; experience in the UK suggests that unwanted horses have become a burden on their keepers and equine charities, that the market is unable to cope with unwanted horses removed from the food chain, and because it is apparent that equines containing unacceptable residues are not being effectively excluded from the human food chain.

12. Proposals

i. Drugs should be banned from use in all animals that may be food producing, whether produced for food, or those that may enter the food chain, where evidence suggests residues liable to adversely affect human health may be present 6 months after last administration.

ii. This is in-line with (EC) 1950/2006 which provides a withdrawal period of at least six months for listed products.

iii. All drugs in use in horses, including PBZ, and where a therapeutic need can be established, should be listed as permitted products provided that no evidence can be demonstrated that a risk to human health remains from residues in the animal when consumed more than six months after treatment is withdrawn.

iv. Any drug, where evidence of risk to human health six months after treatment is demonstrated, should be banned for use in the EU in all animal species that may form part of human diet.

v. In reference to PBZ specifically, there is in existence a cost effective, efficacious, modern alternative medication with reduced side-effects already available on the market. Metacam is now available in equine doses as an oral medication. The retention of PBZ in the pharmacy is therefore potentially an anachronism.

vi. Horse keepers should be permitted to administer to horses only those drugs that are licensed for use in food producing animals.

vii. The veterinary profession should have the exclusive right to administer permitted drigs to horses (EC)1950/2006, but having administered such a drug to a horse they should be required to either:

a) Record at Section IX Part III the date of commencing and ending treatment, the date at which the animal may re-enter the food chain; or

b) Sign the passport at Section IX Part I to exclude the animal from the food chain (this option would remove the need to record series of treatments, and would permit vets at racecourses to request all horses to be signed out of the food chain such that they could provide necessary medical treatment in the absence of the document).

viii. Where a passport has been signed to exclude an animal, Passport Issuing Organisations (PIO) should be permitted to issue replacement, or renewed passports excluding the horse from the food chain for a period of six months subsequent to the issue of the passport document.

ix. Passports for horses first issued at more than six months of age should be similarly endorsed to remove the animal from the human food chain for the subsequent six months.

x. A database of micro-chip numbers in equines should be re-established such that the registration and passport details for horses carrying a transponder may be traced.

xi. Prior to issuing a replacement passport for a micro-chipped horse registered with a different PIO, the PIO should be required to contact the formerly registered PIO in order to cancel that registration. A replacement passport should only then be issued after notifying the keeper registered under the former registration, and after reasonable checks have been made to establish that the horse has not been stolen and that the purpose for replacement is not fraudulent.

xii. This would ensure that any horse consigned to an abattoir would be either more than six months beyond the date of administration of a drug liable to adversely affect human health, or would remain signed out of the food chain and would be excluded.

xiii. Permitting re-entry to the food chain of a horse previously excluded would eliminate the impetus for fraud.

xiv. The current system promotes two divergent responses to excluding a horse from the food chain: firstly there are numbers of horses being excluded as a matter of course, and without consideration of the consequence for the horse at the end of its life; secondly, there is a desire amongst a proportion of keepers and vets to not exclude the horse, such that horses that may have recently been treated with a drug are not excluded from the food chain. The proposed amendments would alleviate the consequences of both actions

National Farmers' Union (Animal Health and Welfare)

Balance of Competences overarching response

The National Farmers Union welcomes the opportunity to comment on the Balance of Competences Review. The NFU represents more than 55,000 farming and growing members and in addition some 40,000 countryside members with an interest in the countryside and rural affairs.

Regulation is a key issue for farm businesses who regularly report that administrative burdens and bureaucracy are stifling their ability to become more productive and competitive. This has been reflected in our responses to a number of reviews including the Farming Regulation Task Force, Red Tape Challenge and the Davidson Review in 2006. The NFU have also engaged with other reviews including the Hampton Review of Effective Inspection and Enforcement; Government departments Better Regulation strategies and Focus on Enforcement.

Administration requirements too often remove managers from focussing on their business and there are significant costs imposed by compliance with the regulations themselves. This is further evidenced by the 2012 NFU Farmer Confidence Survey where farmers cited regulation and legislation as one of the major issues having a negative impact on their business. This was put forward by 60% of the respondents to the

survey and was the second biggest issue to impact on businesses, with only input prices (76%) having a more negative impact. The NFU Confidence Survey is an annual survey carried out since 2010, and during this time regulation and legislation has remain as one the major negative impacts on agricultural businesses.

Much of the regulation that impacts on agricultural businesses stems from policy and legislation set in Brussels. The European Union's 'Directory of EU legislation in force' confirms that the agricultural sector has the second highest number of EU legal acts in force, second only to external relations. There are 3184 legal acts (as at 1 January 2013) specifically classified relating to 'agriculture'. When taken alongside the heading 'Environment and consumers and health protection' (a further 1724 acts) it is apparent just how significant a role the EU plays in farmers everyday lives. This review is therefore an important opportunity to re-establish clear boundaries between domestic and EU competency.

The NFU objective is to ensure that the right framework is in place to allow our member's businesses to grow and flourish, ensuring that UK farmers can continue to make a meaningful contribution towards addressing the global challenges that society faces.

For this to happen we believe that the conditions under which our members operate must be fair. Whilst we operate on the EU common market, we seek a common, level playing field where UK farmers are able to compete on an equal footing with our European competitors, respond to market signals and increase farm competitiveness in a sustainable way.

While we will submit individual responses to consultations which impact on agriculture we have set out some broad principles which guide our responses:

Single Market Access

The Government's review should recognise that farmers and growers operate in a single market with the principles of equal access at heart. This is especially important for primary food producers as the European single market in food is the bedrock of the European Union. There is a persuasive logic to establishing common rules that remove barriers to the free movement of goods and services within this single market. However these common rules should apply the principles of better Regulation as established by the Better Regulation Task Force. These are:

- Proportionality – Regulators should intervene only when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised
- Accountability – regulators should be able to justify decisions and be subject to public scrutiny
- Consistency – rules and standards must be joined up and implemented fairly
- Transparency – regulators should be open, keep regulations simple and user –friendly
- Targeting – Regulation should be focused on the problem and minimise side effects

Simplification

Additional regulation is too often the default setting for public policy and there is a need to advocate government intervention that gives a more appropriate role for regulation alongside and in complement to other state and private sector interventions. Intervention must only occur where there is no plausible alternative, and there must be clear evidence that a problem exists and is the most cost effective means of resolving such issues on a risk bases. We support science based rules that provide minimum levels of entry onto the market and are implemented in a way across the EU to prevent the competitive disadvantage to any operators on the common market.

We would also support periodic reviews of regulations to test whether they are still necessary and effective in light of scientific changes and changes in market behaviour. If not, they should be modified or removed. One way of doing this is through the use of sunset clauses.

Implementation

While the slow accumulation of regulation generated in Brussels is of concern to the NFU, blame cannot be placed only at the door of 'Brussels bureaucrats' as inept and precautionary implementation and interpretation in the UK has magnified the impact of regulation. Too often it is over precautionary gold-plating of EU legislation, especially Directives (which allow Member States greater flexibility) that has placed barriers on business competitiveness. Regulation should be based on outcomes rather than process.

Increased Competitiveness

We believe that environmental, animal welfare and social rules, where deemed necessary for the functioning of the common market, should be agreed at a European level with the flexibility to adapt to local conditions. What is critically important is that there are safeguards to ensure that these rules are implemented in an equitable way by all participants on the common market to ensure no distortions in competition can prevail.

We have also attached our response to the Farming Regulation Task Force which highlights where regulations our impacting on agricultural businesses at a domestic and European level. We have referred to this submission in our responses to the Balance of Competencies review.

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

The recent emergence of Schmallenberg virus in Northern European countries in 2011, highlights the benefits afforded to the UK of progressive EU action. We saw good co-operation and information sharing between the scientific communities and reseach laboratories amongst the 27 Member States, and the UK was able to benefit from this in terms of getting quick access to diagnostics and a better understanding of disease incidence trends, and potential control mechanisms.

The NFU was concerned that UK farmers affected by the disease lost their rights to privacy in the initial stages of the outbreak though as the UK was committed to abide by the edicts of the Commission and OiE in terms of reporting initial outbreaks. The UK was also affected by the early trade restrictions imposed on the EU by non-EU countries which were disproportionate to the levels and geographhic distribution of SBV throughout the UK.

There are times when the UK is more vulnerable to disease incursion by EU action. The UK is an island and therefore protection of our borders should be geographically quite straightforward. Being part of a trading block with measures to prevent anti-competitive behaviours amongst its Member States can however reduce our ability to protect ourselves. Recent outbreaks of FMD in Bulgaria involving wild pig and boar populations moving between Turkey and Bulgaria and mixing with farmed populations, or the ongoing issues with Rabies amongst wildlife populations in some Northern European countries are two such examples.

The UK should be able to protect itself and close its borders to high risk behaviours or trading practices of its EU counterparts, but the UK is bound to remain open for EU Member State trade.

In terms of regulation developments, we are currently working through the implementation of the Review of the Official Feed and Food Controls (including the new EU Animal Health Law). This task alone highlights the difficulties in trying to create a cost effective and efficient service harmonised across 27 countries with huge variations in rural and business development.

Many of the issues and threats facing the UK farming industry, in terms of animal health and welfare, are created by the willingness and / or ability of individual countries to implement and enforce EU actions.

There have been instances where the UK has acted promptly to enforce new EU legislation while other Member States have failed to do so, e.g. the 2012 ban on conventional battery hen cages.

Such actions have the effect of disadvantaging UK farmers, who cannot recoup the costs often incurred through forced investment when they find their produce sharing shelf space with non-compliant, cheaper produce. It is the lack of EU action on enforcing its own regulations and failing to penalise non-compliance which causes the disadvantage.

In general, the NFU believes it is appropriate that action on animal welfare during transit is regulated from an EU level as this ensures consistency amongst Member States. There is a danger however, that further legislative developments, such as restriction of hours, could begin to inhibit the free movement of livestock within the UK.

Whilst the broad legislative strategy around animal transport is generally balanced, there have been issues when European legislation attempts to lay down technical detail on livestock transportation. For example EC Regulation 1/2005 is transposed into domestic legislation through the Welfare of Animals (Transport) England Order 2006. The EU Regulation exempts farmers transporting their own animals, in their own means of transport for distances of less than 50km, from most of the requirements of the regulations (Article 1, 2(b)). Farmers exercising this exemption still have to ensure that animals are transported in such a way that is not likely to cause injury or undue suffering to them, but they do not have to comply with the more detailed requirements of the Technical Annexes. One of the requirements of Technical Annex 1 relates to the angle of ramps on trailers for different types of livestock (Annex 1, Chapter 3, 1.4 (a)). Consequently, if the journey undertaken is more than 50km, then requirements for the ramp angles apply. This is not logical.

The retrospective imposition of this EU legislation on existing animal transport vehicles has caused many issues for the UK agriculture industry. Many ramps on livestock trailers are steeper than the prescribed angles in EC1/2005. Modification costs are significant with internal ramps on dual layer vehicles posing a significant problem. In actual fact, the cost of modifying internal ramps has in some cases proved prohibitively expensive. This has effectively made the top layer of some trailers/vehicles unsuitable for transport over 50km, doubling transport costs over longer distances.

The problem is compounded with journeys to market. If you travel to a livestock market with your own animals, and the market is 25km away or more then transportation to the market with ramp angles above those specified is permitted, but transport back is prohibited if the animals are unsold (as the combined journey would be greater than 50km). Regardless of the length of journey the animals should only use the ramp twice; once to get on and once to get off. If ramp angles below those set are suitable for journeys below 50km; they should also be suitable for those over 50km. This regulation imposes cost on UK farmers, both for the modification of their vehicles, but also for increased transportation costs where modification is not possible.

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The EU Veterinary Medicines Directive is currently under review with an impact assessment and draft legislation expected in early summer 2013. The UK has a very good record of veterinary use and has not yet experienced the incidences of antimicrobial resistance occurring in some of our mainland European counterparts. The UK's system of tiered prescribing and distributing veterinary medicines is different to that of other Member States. The NFU therefore believes that the UK would benefit most from retaining autonomy in its prescribing and distribution of veterinary medicines as this provides benefits of availability and price, without creating issues of overuse or resistance.

The UK would benefit from a more harmonised system of veterinary medicine authorisation across the EU. The NFU is aware, and supportive of, calls for a single licensing system for veterinary medicines across the EU and believes that in this case, greater European action would be preferential as it would improve competitiveness in the pharmaceutical market, reduce administrative burden and improve veterinary medicine availability.

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

This is an issue of scale and independence. A larger trading group may have greater power in negotation with 3rd countries but this imposed situation does remove the right of individual Member States to restrict 3rd country imports in favour of protecting their own industry from (perceived) lower standards of animal health and welfare.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

The national interest may be served by additional action being taken to eradicate endemic diseases at a national level. For example, the UK could take greater action to eradicate BVD or Sheep Scab, diseases which impact on the profitabilty and market value of our domestic farmed animals but carry no legislative controls at an EU level.

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

EU legislation on animal health and welfare can be very inclined towards a precautionary approach, rather than an evidence based approach. This can place farmers in the UK (and the rest of the EU) at an economic disadvantage relative to their global competitors, and can sometimes introduce unintended consequences in terms of regulatory infringements.

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

Evidence based legislation calls for the use of the best available scientific evidence and systematically collected data, when available, to be used as a basis for the formulation and writing of law. One of the current weaknesses across the EU (when discussing animal health and welfare) is the lack of mutually recognised data across all the Member States relating to animal health, animal welfare and the responsible use of veterinary medicine. The EU should look to enable and encourage systems across its Member States, which support harmonised data collection in these areas before reacting to legislative demands informed only by hazard analysis and precautionary principles.

What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

Climate change and global population growth will place increasing demands on the UK and its EU counterparts to 'step up' production of safe and affordable food whilst impacting less on dwindling resources such as land and water. This demand will only be met using new technologies and progressive farming systems. Health improvements through innovative animal genetics, better use of rapid diagnostics and vaccines, and genuinely fair market environments must be encouraged.

What impact might any future enlargement of the EU have on animal health and welfare?

Many of the answers to previous questions relate to greater needs for market harmonisation and progressive technologies, all challenged by potential expansion of the EU. Future enlargement of the EU

will also bring the risk of increasing translocation of disease, expanding human and animal populations and the contraction of resources available to monitor, enforce and develop strategies to cope.

Are there any general points you wish to make which are not captured above?

The National Farmers Union welcomes this opportunity to comment on the balance of competencies review with respect to animal health, welfare and food safety. The NFU represents more than 55,000 farming and growing members and in addition some 40,000 countryside members with an interest in the countryside and rural affairs.

Regulation is a key issue for farm businesses who regularly report (see NFU Confidence Survey http://www.nfuonline.com/Our-work/Economics-and-International/News/Weather-and-costs-cast-cloud-on-confidence/) that administrative burdens and bureaucracy are stifling their ability to become more productive and competitive. Much of the regulation that impacts on farmers' and growers' businesses stems from policy and legislation set in Brussels, so this review is an important opportunity to re-establish clear boundaries between domestic and EU competency.

The Government's review should recognise that farmers and growers operate in a single market with the principles of equal access at its heart. This is especially important for primary food producers as the European single market in food is the bedrock of the European Union. There is a persuasive logic to establishing common rules that remove barriers to the free movement of goods and services within this single market and facilitate fair competition. However these common rules should apply the principles of better regulation (see the Better Regulation Task Force principles).

National Farmers' Union (Feed)

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

In terms of feed law, generally, the balance between protecting the health of the consumer and preventing monetary cost and reputational damage to industry, is at the right level. The recent dioxin incidents in the Republic of Ireland and Germany demonstrate the need for robust legislation and it is also appropriate that this is regulated on a European level due to the ubiquitous nature of the feed chain.

EU Regulation 183/2005 on feed hygiene requires most feed businesses involved in making, marketing or using feed to be registered or approved. This legislation is generally appropriate. However, the requirement of farmers to implement HACCP plans when undertaking on-farm mixing of feed additives is one area where we consider that the measure is disproportionate to the risk posed.

Regulation 178/2002 on the general principles of food law (which includes feed law), is also felt to be appropriate if regulated at a European level to ensure harmonisation of the open market. However, there is a need to ensure that official controls at all entry points for imported feeds into the EU are consistently enforced, although we have no evidence that this is a particular issue at this stage.

For feed consituent materials, we consider that it is also appropriate that this is regulated at a European level. We consider that EFSA provides generally good information which helps to ensure that decisions are based upon scientific knowledge. However, the emphasis on the precautionary principle in legislation could mean there is a tendency to over-restrict certain substances on political grounds. Centralised regulation may be disadvantageous where UK wishes to permit feed materials in future, which may otherwise be restricted by the EU on these political grounds. This could have an impact on UK agriculture if the EU

passes inappropriate or over cautious limits for feed for livestock sectors where the UK has a majority market, such as those feed materials required for upland sheep.

National Farmers' Union (Food)

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

Considering the EU is a major market for UK farmers' produce, and given the existence of the single market, we consider that harmonised legislation at the EU level is most appropriate for ensuring food safety. However, implementation or enforcement at the national level that takes into account national circumstances must meet the spirit of the legislation. For food businesses to trade on a level footing, the practical implementation must be common across the free trade area. At the global level, our limited experience suggests that Codex involves a highly bureaucratic process that takes a long time to produce very broad standards.

Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

Overall, we believe the balance has been right. However, it is critical for both consumer protection and competitiveness that the enforcement of food law is as common as possible across the EU; that it is periodically reviewed to take account of changing evidence and commercial/market activity; and that it is firmly science- and risk-based. For example, we had concerns that because there was existing on-farm dairy hygiene inspection in the UK, the FSA was not willing to match the risk to the controls as with other primary production sectors.

The general principles under General Food Law are generally appropriate, although there is significant potential for the precautionary principle to be misused as a justification to demand, for example, lower levels of certain food contaminants than are necessary for protecting health. Also, it is important that the FIR does in practice enable the General Food Law provision to not mislead the consumer to be met. For example, we believe that not extending mandatory origin labelling to processed meat and dairy products means consumers could be misled by the way such products are presented for sale. Where there are overlapping areas of legislation there must not be contradictions inconsistency.

The establishment of EFSA has been positive, although there are clearly significant pressures on resources for the work they have to do leading to huge backlogs e.g. for authorisations. It can also be problematic that EFSA has no role in risk management and its advice is constantly questioned by other EU institutions and members states for political reasons.

Legislators at all levels must ensure they understand how the industry sectors operate in practice and apply this from the start of the process. Legialislation based on principles, with flexibility built in to enable practical implementation, is most appropriate.

Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

The simplification and harmonisation of the food hygiene regulation package 2004, and the responsibility being on the food business operator, was positive for the UK in ensuring the same rules for all businesses in the single market, given that UK farmers directly trade with and compete with EU farmers.

It is important that voluntary schemes that include hygiene standards, such as Red Tractor, continue to be acceptable under EU law to enable point of difference and competitive advantage within the market, and to give the basis for targeted enforcement. However, the minimum standards must still ensure safety and transparency for those consumers purchasing 'economy' lines.

What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

It is certainly positive for the UK that food legislation is meant to be science-based. It does require the science to be available on which to base decisions, and for the political/emotive nature of decision making to be kept to a minimum and carefully managed. The rules must fit the risk so that unecessary cost to authorities, industry and consumers is avoided.

The insistence by the FSA and DHI (from about 2007) that on-farm dairy hygiene inspection should continue unchanged after the food hygiene package came in, as mentioned in question 3, is an example of risk/science-based legislation principles not being followed. We were given no evidence that there was a greater food safety risk on dairy farms compared to other sectors so the recognition of Red Tractor membership as an indication of lower risk should have simply been applied equally.

Meat hygiene inspections have been subject to considerable scrutiny and change in recent years. It is essential these are risk based and proportionate, given the cost of these and the need to target inspections to ensure consumer protection.

The insistence for ever lower levels of certain elements and contaminants e.g. nitrates in leafy vegetables, often simply because testing methods improve, is not beneficial to industry or consumers and is not risk-based.

It is essential that 'risk' and not 'hazard' is the basis for legislation. Although not covered in this review, the change to a hazard based approach for pesticide legislation is extremely disadvantageous for the UK. We are very concerned that this may set a precedent for other emotive and political areas of competence. Please refer to the NFU submission to the Macdonald review for more detail (see response from Lee Osborne, NFU).

There must be regular review built into the process, including consideration of new knowledge and changes to the market and business activities. Historical arrangements must not be kept just because they already exist: For example, specific beef labelling rules set following BSE should be brought in to the new FIR rather than kept separate.

Our general experience is that UK government has a high-level commitment to and appreciation of scientific evidence as a vital factor in policy making. The quality of scientific advice through CSAs and advisory committees is generally encouraging. We can therefore have more confidence that UK competence would lead to science-based principles being followed than in the EU. The fact that the Commission has only recently appointed a Chief Scientific Adviser, and that her advice does not seem to be having much influence on entrenched views in areas such as pesticides and GM, is symbolic of our concerns about unscientific and highly politicised decision making at EU level.

It is important that legislation does not stifle innovation and new product development, and it must take into account these developments both by EU businesses and globally. The politicisation of GM law and its poor operation in the EU has certainly led to companies withdrawing R&D facilities and discontinuing development of products for the EU market e.g. BASF.

In terms of the process of policy-making and legislating, there is a tendency at both UK and EU level for policy-based science rather than science-based policy i.e. deciding the policy and then looking for the science to back it up.

What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?

It has to be positive that the EU is a strong negotiating bloc at Codex. However, the bureaucratic and time-consuming nature of Codex processes will represent significant cost for EU and national institutions. Such cost should be commensurate with the value to the EU and UK interest. It is important that food imported from third countries is as safe as that produced in the UK and that the EU has the ability to cease imports if there is a problem.

How might the UK benefit from the EU taking more or less action on food law in the future?

In food law we see regulation as preferable to directive, given the single market. So harmonisation is beneficial but regulations must be based on principles rather than prescription to enable enough flexibility for workable national implementation and enforcement. At each review of existing legislation and for each new area policy makers should consider whether EU rules are necessary or whether national competence or even volunatary market-based actions might be sufficient to achieve the objective.

Could action be undertaken differently e.g. are there ways of improving EU food law?

Implementation and enforcement are key to ensuring the objectives of food law are achieved, consumers are protected and that food businesses in the single market can operate on a level playing fields. The process of drafting and negotiating EU laws can be very lengthy and convoluted, with national politics, personal agendas and protecting positions often getting in the way of truly science- and risk-based legislation. The make-up of committees and nationality or personal views of rapporteurs can make a significant difference to the process and outcome.

Better coordination of the timescales of national reviews of delivery or implementation with changes to EU legislation would make it easier for stakeholders to understand and get involved with the process. The OFFC delivery exercise in the UK and the review of OFFC legislation currently ongoing present a confusing picture for those asked to input.

From the very earliest stages and right through the legislative process, the UK must argue strongly for the national interest. On a number of occasions we have been told by negotiating officials that they have limited influence as they are only one of 27 member states.

There should certainly be a provision for industry to demonstrate lower risk or indicate compliance through adherence to voluntary standards i.e. the concept of earned recognition.

What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

The food supply chain is very complex and it can take scandals such as horsemeat in beef products, Sudan I or e coli in bean sprouts to highlight how food moves around the EU and world. Despite some trends towards 'clean label' products, multiple ingredient processed foods are likely to remain a significant part of the market. Novel ingredients and processes will continue to be used and may need a reassessment of existing rules.

Current review of official controls legislation is likely to lead to significant change in how food, plant health and animal health legislation works in practice. The impact of charging for official controls could have implications for UK competitiveness, depending on national implementation.

New members states may have an impact on food supply chains as they enter the single market and become involved in EU decision making. It is likely there will be considerable differences in current practices, culture and priorities in these countries. They may also represent new markets for UK products.

The impacts of stresses such as weather, economic difficulties and politics will continue and the potential for food fraud, accidental contamination and supply constraints under such stresses will need to be considered in food law.

Are there any general points you wish to make which are not captured in any of the other questions?

The National Farmers' Union welcomes this opportunity to comment on the balance of competencies review with respect to animal helath, welfare and food safety. The NFU represents more than 55,000 farming and growing members and in addition some 40,000 countryside members with an interest in the countryside and rural affairs. Regulation is a key issue for farm businesses who regularly report (see NFU Confidence Survey http://www.nfuonline.com/Our-work/Economics-and-International/News/Weather-and-costs-cast-cloud-on-confidence/) that administrative burdens and bureaucracy are stifling their ability to become more productive and competitive. Much of the regulation that impacts on farmers' and growers' businesses stems from policy and legislation set in Brussels, so this review is an important opportunity to re-establish clear boundaries between domestic and EU competency.

The Government's review should recognise that farmers and growers operate in a single market with the principles of equal access at its heart. This is especially important for primary food producers as the European single market in food is the bedrock of the European Union. There is a persuasive logic to establishing common rules that remove barriers to the free movement of goods and services within this single market and facilitate fair competition. However these common rules should apply the principles of better regulation (see the Better Regulation Task Force principles in response from Lee Osborne, NFU).

National Farmers' Union Scotland

General comments

NFU Scotland welcomes the opportunity to respond to this review of the balance of competences between the EU and the UK. The EU has an extremely high level of competence in the area of Animal Health, Welfare and Food Safety, with virtually all Animal Health, Welfare and Food Safety Regulations set by the EU so the NFUS feels this is a valuable review process.

1. The main Treaty Articles under which Animal Health and Welfare sit, along with some aspects of Food Safety, relate to trade and the functioning of a free market within Europe. Whilst Regulation dictated by Europe can often be burdensome for Industry, the access to European markets is essential and European Regulation in these areas can help protect industry from barriers to trade and market distortion.
2. The principals of shared competence and EU regulation can be supported; the intention of creating a 'level playing field' effect is necessary for a fair and functioning internal market. In reality however the process of developing legislation that is fair and fit for purpose across 27 Member States, all with different priorities, production systems, geography and culture can be almost impossible. Compromises are always struck, 'horse trading' takes place and in the resulting legislation there are always winners and losers. We can, on occasion, be left with unwieldy, stifling legislation that may be seen as unnecessarily burdensome for some producers.

3. In the field of animal health and welfare it can be difficult to develop UK, or even devolved, legislation that works across the huge variety of UK farming systems and conditions that exist. Making similar legislation for all Member States is virtually impossible without having an adverse effect on some sectors. For instance taking just climatic effects; for many Member States drought and extreme high temperatures are the biggest concern, in the UK however, we more frequently face difficulties caused by flooding and extremes of cold temperatures. EU rules need to take account of both extremes and recognise that animals will have different tolerances and requirements.
4. Free trade across Europe is critical for UK farmers and it is important to avoid trade barriers. In reality this means complying with European rules. Without common rules the UK would be required to prove compliance with 'European Standards' for trade and in effect we would still be complying with the European rules. NFU Scotland's greatest concerns over EU competence lie within the apparent weakness of the UK's negotiating stance within Europe. The UK is relatively isolated within Europe, not only are we a small country but our island status with sometimes unique production systems, can leave us out on a limb in negotiations.
5. Devolution produces its own challenges in terms of representation; the UK is the Member State with Westminster representing the UK on all issues. This sometimes creates conflict in how each of the devolved regions are represented at the European level.
6. In some circumstances under EU legislation flexibility may be granted to take account of geographical or cultural anomalies. Obviously flexibility can be of benefit to the UK and allow account to be made of particular differences but they can also be viewed as trade distorting and used to provide competitive advantage. From a UK standpoint flexibility should be considered where systems differ significantly from the standard European models and where it can be demonstrated that public health and animal health and welfare will not suffer as a result.
7. Interpretation of EU legislation can be difficult and there is usually a lack of guidance to accompany Regulations. Fear of infraction proceedings creates a natural tendency for the UK governments to err on the side of caution when it comes to implementation sometimes creating the perception of a more precautionary approach to application than other Member States. The lack of guidance and ability to be able to properly engage with the Commission on matters of interpretation are not helpful in terms of equality in interpretation. Regulations may be set at the EU level but inequality can easily creep in at the implementation stage within Member States.
8. Probably the greatest down fall of centralised Regulation at the EU level is the lack of universal enforcement across Member States. The UK in general takes on board its responsibilities to enforce regulations in animal health and welfare and food safety, often to the point where it is considered to be too stringent. It appears from within the UK that other countries do not take such a stringent approach to enforcement and this creates inequality that can be detrimental to UK producers.
9. It has been said that each Member State has its own priorities in terms of enforcement and this leads to inequalities in enforcement. Cross border communication and co-operation is also frequently inadequate. Under the current economic climate the pressure of cost for enforcement across the full raft of EU legislation will lead to selective focus even without taking account of social and cultural priorities. The aim of centralised EU regulation is to create consistency across Member States, to create a fair and equal market place. Enforcement must be key to this because without consistency in enforcement you simply place burdens on those that do comply making it harder for them to compete against those that do not.
10. Regulations are clearly being infringed in some Member States and it must be possible to impose restrictions until they show themselves to be compliant. The ban on sow stalls and tethers and the laying hens directive are prime examples of the EU permitting non-compliance and failing to support those countries that have borne the additional costs of compliance only to have to compete in the market place with those that have not with no recourse to restrict imports.

11. NFUS would like the answers provided to the consultation questions to be placed in the context of the general comments made above. Information has been provided highlighting some of the specific problems caused by the high level of EU competence and some of the challenges that need to be overcome but the principals of fair trade at the EU level are critical to the UK livestock, feed and food industry. There are some specific, and some general, difficulties cause by EU legislation but a genuine level playing field and free market for safe, quality UK product within the EU market must be the main priority for legislators.

Consultation Questions

Questions in relation to animal health and animal welfare

Question 1. What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

12. EU action on animal health and welfare has a number of theoretical advantages. Firstly EU rules are supposed to harmonise standards of animal health and welfare across Member States, creating a fair and level market for trade throughout Europe. A harmonised approach to animal health should also deliver benefits to all Member States through a co-ordinated approach to disease control and surveillance; this is particularly of benefit within mainland Europe.
13. In reality, as discussed under the general comments section, trying to create harmonised animal health and welfare rules across 27 very different Member States can be very difficult and sometimes lead to unintended disadvantages for some systems or countries. Animal identification is an example of how a 'one size fits all' approach can sometimes create imbalance. The UK is the largest sheep producing country within Europe and has a unique structure to its industry. The size and extensive nature of many UK flocks meant Regulation 21/2004 on sheep identification placed a hugely disproportionate burden on most sheep producers within the UK compared to those in most other countries, where sheep are mostly born and reared on the one unit and frequently killed before they are a year old, allowing the use of the slaughter tag derogation.
14. Conversely the UK pig industry tends to involve far fewer movements than occur in other pig producing countries and the simpler system for pig identification and traceability functions well within the UK. The introduction of the stalls and tethers ban at the start of this year however highlighted shortcomings of the system in other countries when it was admitted that it was impossible to identify and trace animals that had come from non-compliant units.
15. Failure to properly implement and enforce regulations across all Member States is a real weakness in the European model. Poor enforcement not only creates imbalance but also in some instances can lead to pressure to increase regulation in that area. Welfare of animals at transport is a highly emotive subject and it is clear that there are serious inconsistencies in how Member States enforce this regulation coupled with a general lack of cross border co-operation. Inconsistency in enforcement has led to widespread flouting of the regulation by some operators and high profile welfare cases. Failure to enforce the current regulation leaves industry open to repeated calls for changes to the regulation, without any proper evidence base, which could effectively prevent livestock production in some critical areas of the UK.
16. There are many examples where emotive issues have allowed EU regulation to develop on emotion rather than science and evidence. Animal transport is one such example; the continuous threat to limit journey times and changes to ramp angle rules. GM food and feed is another area where emotion rules over science to the detriment and disadvantage of all. If third country imports of food that has come from GM sources are permitted on European shelves then European producers should also be allowed to grow and use GM feed.

17. A harmonised approach to animal health has both advantages and disadvantages to the UK. The greater sharing of information and surveillance that comes with a European approach can be very valuable. Bluetongue and Schmallenberg are examples of where co-operation and information sharing between Member States and scientists have benefited the UK. The coordinated efforts surrounding Schmallenberg led to unprecedented development of diagnostics and greater understanding of a novel disease.
18. Disadvantages that can come with EU led animal health measures include a more 'homogenous' view to disease status, where the disease status in other Member States can result in disproportionate levels of trade restrictions. The spread of Schmallenberg across Europe resulted in trade restrictions for the whole of the UK that were unwarranted given the geographical distribution of the virus last year.
19. EU control over animal health measures also impacts the UK's ability to protect itself against disease incursion. Diseases tend not to know borders and on mainland Europe there is sense in uniform control measures where there is little point in preventing cross border movements of animals as wildlife can just as easily carry infection between populations. The UK however, as an island, has greater opportunity to protect its borders against incursion of disease but health measures designed to prevent anti-competitive behaviours amongst Member States prevent us from doing so. The ongoing spread of Rabies amongst wildlife populations in some Northern European countries and the spread of Foot and Mouth Disease by wild pig and boar populations between Turkey and Bulgaria are examples of how disease can spread uncontrolled across land borders. The risk to the UK is not passive, it requires active imports of animals yet where there is a risk from disease endemic within an area there is no opportunity to restrict imports.

Question 2. How might the UK benefit from the EU taking more or less action on animal health and welfare in the future?

20. In general the UK has a very good record on animal health and welfare and in many cases has provided the blueprint for much of EU animal welfare legislation. There are reviews underway into both EU Animal Health Law and the EU Animal Welfare Strategy and whilst they are unlikely to take the UK far above and beyond our current standards it will be crucial to ensure that all the rules are practical in their application. In terms of the Animal Health Law much of this is likely to impact on cost sharing matters and it is critical to recognise that the livestock industry is already under immense financial pressure and additional burdens will be hard to bear.
21. The EU Veterinary Medicines Directive is currently under review and as in other aspects of animal health and welfare the UK has an excellent record in the use of veterinary medicines. The UK has not yet experienced the incidences of antimicrobial resistance experienced by some countries, due largely to the UK's tiered system of prescribing and distributing veterinary medicines. The UK would therefore benefit from retaining autonomy in prescribing and distributing veterinary medicines, which protect against misuse, whilst offering benefits of availability and price.
22. A more harmonised system of veterinary medicine authorisation across the EU would however be welcome. A single licensing system for veterinary medicines across the EU would improve competitiveness within the pharmaceutical market, reduce administrative burdens, improve veterinary medicine availability and encourage development of new products.

Question 3. What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

23. There is no denying that the UK benefits from the additional strength that comes with being part of the EU trading group when negotiating trade agreements with 3rd countries. On the down side however we sacrifice some independence in our ability to protect our own industry from potentially damaging imports and imports produced to a lower standard of health and welfare.

24. As part of the trading block we can also cease to be viewed as an individual entity and some of the credit due to Scotland and the UK in terms of high levels of health, welfare and quality can be lost.

Question 4. How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

25. The benefits of taking action on animal health at a national level has already been demonstrated in Scotland through some of the activity taking place to control endemic diseases. Devolved action against Bovine TB has allowed Scotland to put in place rules to help successfully protect its national herd, allowing Scotland to achieve officially TB free status. Other examples of initiatives against endemic diseases include Scotland's action against sheep scab and the Scottish BVD eradication scheme. These industry-supported schemes have led to devolved legislation to help industry control these significant diseases.
26. There are very real potential benefits from being allowed greater autonomy, at a national or regional level, in animal health controls. The UK's island status offers real opportunities to control the entry of diseases, endemic or exotic, into the UK and it can be frustrating for industry to be powerless to put controls in place. Recently some of the issues surrounding disease status and vaccination have also arisen, for instance until recently it was not possible to vaccinate against Bluetongue without losing free status and the associated import protection. Such restrictions impact on producer ability to protect their animals.

Question 5. Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

27. The UK has an excellent record in health and welfare and was frequently ahead of much of the developing EU legislation. However there can be a tendency for EU legislation to adopt a far too precautionary approach rather than an evidence based approach, particularly on emotive issues such as animal/public health and animal welfare. Examples where emotions can tend to rule in animal welfare are animal transport rules, which constantly face review based on emotion rather than sound science and evidence. Examples from the animal and public health side include requirements for the removal of the spinal cord from sheep under the TSE regulations, despite insufficient evidence that spinal column material presents a TSE risk to the general public, adding cost to the industry and immediately devaluing the product. GM restrictions are a further example where precautionary approaches taken by the EU pose a negative impact on UK businesses.

Question 6. Could action be taken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk based approach? Would this deliver more in the national interest?

28. NFUS fully supports the principals of adopting a more evidence based approach to legislation, though such an approach must be based on the best available scientific evidence and data collection. A successful science based approach would rely on availability of mutually recognised, wide ranging data from across Member States and an independent body to provide the recommendations.
29. Outcome based approaches whilst seemingly the sensible way to develop legislation are not without their weaknesses and could have unintended consequences. Firstly there needs to be a strong evidence base to support the selection of robust outcome measures. Some organisations have already attempted to work with outcome based measures but have experienced difficulties in transferring the practice from the experimental to the commercial environment, in particular consistency of measurement across even trained inspectors has been problematic. With inconsistency of enforcement already a problem across all Member States, adoption of outcome based measures may create a greater problem that they are intended to overcome.

Question 7. What future challenges or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

30. Globalisation and climatic effects are already starting to be felt in animal health. In recent years we have witnessed an increase in spread of diseases previously not known in Europe, such as Bluetongue. New emerging diseases, such as Schmallenberg and a rapid increase in spread and impact of endemic diseases, e.g. fluke (as a result of unprecedented wet weather and resistance problems). These concerns highlight the importance of disease control measures both within and out with the UK. The whole of Europe needs to remain alert to the risk of new and emerging disease threats and comprehensive programmes must be in place to prevent the spread of diseases both exotic and endemic. Within the UK investment and support is required for both direct animal health measures, e.g. vaccine/veterinary medicine development, and indirect measures, e.g. drainage for fluke control or liming for Johnes control to help protect animal health.
31. Food security is an issue that could impact on animal health and welfare as increasing demands are placed on the UK and other Members States to increase production and efficiency of safe and affordable food, whilst impacting less on resources and the environment. Health improvements play a crucial role in efficiency of production and reducing environmental impacts and this important role of animal health must be recognised under CAP with animal health measures open to attract support under pillar 2 funds.
32. The UK has come a long way in terms of animal welfare and sometimes there can be a perceived conflict between increased production and animal welfare. Robust, unbiased scientific evidence is required to support development of highly productive, efficient systems and demonstrate high animal welfare in these systems.

Question 8. Are there any general points you wish to make which are not captured above?

33. None that are not covered in the general introduction section of this response.

<u>Questions in relation to food safety (including feed safety), labeling, food quality and compositional standards.</u>

Question 2. What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action taken at a different level, e.g. in Codex Alimentarius?

34. Considering the amount of produce that is traded within the EU, it makes sense that there be harmonised legislation at EU level where possible. Where legislation is implemented coherently across the free trade area all businesses should be working on an equal footing. Where legislation is developed at a national level ahead of others in the EU there have been significant consequences for the food sector.
35. One such example is for the pigs sector where the U.K moved to a ban on pig stalls and tethers well ahead of EU legislation some thirteen years later. Cheaper imports from lesser welfare systems flooded into the U.K. and there was a steep decline in pig farming numbers as a result.

Question 3. Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

36. Again the importance of a common approach across all Member States is critical to ensure both consumer protection and business competitiveness.
37. Assurance schemes can and should play a significant role in removing administrative burden from Local Authorities at a National level by adopting a risk-based approach to inspections. Independently audited assurance schemes go a considerable way to both protect the interests and reputation of UK businesses, and provide consumer protection.

38. Given the recent issues around horsemeat contamination of beef products, and the presence of pork DNA in halal products, it is essential that we work collectively to find a higher level of transparency and robust standards at EU level. Consideration of how tolerances and admixture will be dealt with going forward is important. We need to find a workable system for businesses that offers consumers appropriate and robust assurances about the contents of products they consume, while avoiding an excessive cost burden on primary producers.
39. The Food Information Regulation principle of labeling where not labeling would mislead the consumer is correct, but at the moment it does not go far enough. Not extending mandatory labeling to processed meat and dairy products means consumers could be mislead. Consistency of approach is key if consumers are to develop a true understanding of food product labeling.

Question 4. Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

40. Harmonisation of food hygiene regulations across the EU was positive for the UK as it ensured all business in the single market were operating to the same standard and meant trade was on a level footing.
41. Voluntary Scottish schemes such as 'Quality Meat Scotland Farm Assured', which independently assures and promotes Scotch Beef, Scotch Lamb and Specially Selected Scotch Pork, and other schemes such as Red Tractor, offer consumer protection and help instil consumer confidence in national products. These types of schemes should remain acceptable under EU law to promote the point of difference and offer a competitive advantage over those who do not participate in such assurance schemes.

Question 5. What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

42. NFU Scotland is supportive of the principle of food law being based on science. That being said, the science must be available on which to base decisions rather than policy being made and then science found to back it up. New legislation, or enforcement of existing legislation, must also bear in mind cost to authorities, industry and consumers.

43. Increased inspection rates for fruit and vegetable farms to test for Ecoli following a recent outbreak is just one example of where the risk didn't seem to accurately reflect need and the resulting testing regime. Additional training was required for some Local Authority enforcers; other testing regimes were reduced as a result because of the requirement for costs to be kept to a minimum, and the co-ordination to find fruit and vegetable farms to test seemed to be very disjointed.

44. NFU Scotland is supportive of a New Food Body for Scotland, and it is our hope that Meat Hygiene Inspections will be able to be delivered at reduced cost while still maintaining standards and upholding consumer confidence. Given their considerable cost, these inspections should be risk based and proportionate and also reflective of the scale of the operation.

Question 7. How might the UK benefit from the EU taking more or less action on food law in the future?

45. When primary legislation is opened, consideration should always be taken of whether existing competence can be demonstrated whether via existing national requirements or though voluntary schemes.

Question 8. Could action be undertaken differently e.g. are there ways of improving EU food law?

46. Implementation and consistency of enforcement are key to ensuring the objectives of food law are achieved, consumers are protected and that level playing fields are maintained between businesses on a European scale. A goal of achieving science-based legislation that reflects business and consumer needs can be thwarted by national politics or personal agendas, for example, where personal views of rapporteurs make significant differences to the outcome of reports.

47. We are often told by negotiating officials that we are but one of 27 Member States and that they have limited influence as a result. But it remains that we need to be a strong voice at the negotiating table to ensure our national interest is being protected. The new Food Body for Scotland, as one example, will see this need distilled further with Scotland needing to work with Defra to ensure we also have a say at an EU level on issues that could affect Scotland's businesses.

48. The ability for industry to demonstrate a lower risk profile or indicate compliance to Local Authorities by adhering to voluntary standards does happen to a certain extent, but this could be improved upon to the benefit of both farmers and enforcement officers. For example, duplication of testing for antibiotic failures in milk by Local Authority enforcement officers weeks after any contamination and long after the milk has already been removed from the food chain.

Question 9. What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

49. The complex nature of the food supply chain is becoming more apparent, particularly in light of the recent scandals such as horsemeat content in beef. Consumers are rightly questioning the robustness and transparency of the supply chain, and we have a duty as an industry to provide assurances to them about every aspect of the products they choose and consume.

50. While voluntary assurance schemes can provide assurances on fresh product, the challenge will come in financing the additional tests that will be required to offer assurance on multiple ingredient processed foods. Questions will need to be asked as to who will bear that cost, and what level of tolerance will be acceptable to consumers (if any) for horse DNA in meat products going forward.

51. The current review of official controls legislation is likely to lead to significant change in how food, plant health and animal health legislation works in practice. The impact of charging for official controls could have implications for UK competitiveness, depending on national implementation.

Question 10. Are there any general points you wish to make which are not captured above?

52. NFU Scotland welcomes the opportunity to comment on the balance of competencies review with respect to animal health, welfare and food safety. NFU Scotland represents 9,000 farmers and crofters across Scotland.

National Office of Animal Health

Questions in relation to animal health and animal welfare:

1. What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

NOAH believes that an EU harmonised, true single market for veterinary medicines is beneficial for animal health and welfare as it helps to ensure that as wide a range as possible of veterinary medicines are available for the treatment of animals. The veterinary medicines market is very small in comparison to the human medicines market (approximately 2%). In order to justify the significant research and developments

costs involved with developing a new veterinary medicine, companies need to know that they will be able to access as large a market as possible. A single approach to regulation by the different regulatory bodies in EU Member States helps to ensure predictability and is more efficient from an industry perspective.

A concern that exists is that there have been instances where the UK has acted promptly to enforce EU legislation while other Member States have failed to do so e.g. the 2012 ban on conventional battery hen cages. Such actions have the effect of disadvantaging UK farmers, as they are required to incurr a cost to comply with EU legislation while other Member States fail to comply, yet food from across the EU can move freely, so there seems to be no real penalty for the non compliant Member States.

2. How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The EU Veterinary Medicines Directive is currently under review with an impact assessment and draft legislation expected in June 2013. NOAH, along with our European equivalent body, IFAH Europe, favours the introduction of a new system for the authorisation of veterinary medicines that is more integrated, not less. The current licensing system is complex, leading to a high administrative burden and inefficiencies. A lack of sufficient alignment between member states implementing the legislation and guidelines creates additional bureaucratic hurdles. The 1-1-1 Concept is a preferred solution as it would maintain existing safety standards, while:

•Improving veterinary medicines availability

•Reducing administrative burden, thereby improving competitiveness

•Ensuring a harmonized and practical implementation of the legislation leading to predictable, efficient and proportionate regulatory procedures

•Achieving a Better Regulation and simplification, creating a regulatory environment proportionate to the needs of the animal health industry

•Efficient utilisation of resources within national competent authorities.

The 1-1-1 Concept proposes a single licensing system for veterinary medicines based on:

•1 single EU dossier in English submitted to a central coordination committee which assigns the assessment team. This assesment team could be multi-national;

•1 single assessment using the best expertise available in Europe and with a single fee paid to the central coordination body;

•1 decision for marketing authorisation valid in all member states, with the payment of a national fee to each member state where the product is placed on the market (pay and do).

The NOAH preference is for this system to be applied to all products.

Therefore, for the authorisation of veterinary medicines, the veterinary medicines industry favours greater European integration in its approach, rather than individual Member States taking their own approach.

3. What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

Advantages- a larger trading bloc group may have greater power in negotiation with 3rd countries.

Disadvantages- Some Member States may be compelled to accept imports from 3rd countries that they may prefer not to accept if they have concerns about the animal health and welfare standards in those 3rd countries.

4. How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

The national interest may be served by additional action being taken to eradicate endemic diseases at a national level, that the government is not required to deal with under EU Animal Health Law. For example, the UK could take greater action to eradicate BVD or Sheep Scab, although the UK is not compelled to do this under EU law. A further example is that the current EU Directives state that Member States cannot vaccinate cattle against TB, were a vaccine to be developed. If the UK could quickly legislate to state that a vaccine could be used were it available, there would be a greater incentive for a veterinary medicines company to work with government researchers to develop a cattle TB vaccine.

5. Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

There is a concern that EU legislation on animal health and welfare can be very inclined towards a precautionary approach, rather than an evidence based approach. There is a risk that this approach could lead to farmers in the UK (and the rest of the EU) being placed at an economic disadvantage relative to their global competitors.

6. Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

A more evidence based approach to animal health and welfare would be more in the national interest from a UK perspective, although of course if such an approach was extended to all Member States it would benefit the whole EU. As stated above, the perception currently is that the EU is moving towards a precautionary approach to legislation rather than an evidence based approach with appropriate risk analysis and risk management measures being put in place.

7. What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

In the future, it is to be expected that the UK and other Member States will need to produce more food in order to meet the needs of a growing world population. Demands on land space and available water will exacerbate this concern. As a result of this, UK vets and farmers will need access to new medicines and new technology. The current precautionary approach taken by the European Commission regarding many topics, goes against the need for greater production, which will require a greater use of new medicine and new technology. Alongside this, global warming and the ongoing movement of people, animals and food, increase the risk of outbreaks of new and emerging diseases. In order for the veterinary medicines sector to meet these challenges, there is a need for greater efficiencies in the veterinary medicines authorisation and licensing processes, as stated in response to question 1.

8. What impact might any future enlargement of the EU have on animal health and welfare?

There are animal diseases in some countries that are not currently in the EU. The greater movement of people, animals and food stuffs that joining the EU will lead to, will represent an increased risk of incursions of exotic diseases e.g. Foot and Mouth Disease.

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

1. What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

From a veterinary medicines perspective there is a contrast between the single market for food and the lack of a single market for veterinary medicine. For example, food from animals can move freely in Member

States and is considered safe for human consumption, but veterinary medicines used to treat these animals cannot move freely and an animal can be treated with a medicine in one Member State, but not in an other MS. There is a need for a true single market for veterinary medicine as outlined in the response to Questions 1 and 2 of the first section.

2. What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

In terms of trade, the UK would be best served by appropriate action at an EU level leading to appropriate representation of EU interests at institutions like CODEX. If an appropriate evidence based approach cannot be taken at EU level, then UK interests would be best represented by the UK at a national level.

3. Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

Food Law and hygiene is not directly relevant to NOAH and its members.

4. Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

The EU have tended to take a precautionary approach that is not always based on evidence. This has not always been advantageous to the UK national interest and has often acted to economically disadvantage UK farmers.

5. What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

There is concern that a precautionary risk based approach has been taken at EU level in the past that has not always served UK interests well. An example of this is the decision to ban antimicrobial growth promoters, which were not proven to contribute to antimicrobial resistance, but were nevertheless banned in the EU in 2006. These products remain available for farmers to use in other parts of the world, but not within the EU.

Proprietary Association of Great Britain

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

1. What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

There are both positive and negative aspects to the single market. The single market and harmonised trade are vital to the UK economy. However the complex range of cultures across the EU means the single market must somehow embrace immense diversity and all too often this is reduced to the lowest common denominator.

Where rules are not harmonised, the EU relies on mutual recognition to facilitate the market but very often this fails to work.

Taking tryptophan as an example, sale of this amino acid is restricted by dose and purity within the UK, however it is freely available in other EU member states at higher doses than within the UK. These higher dose products cannot be sold within the UK because the UK considers it to be a health risk, despite much evidence to the contrary. There are other instances where mutual recognition cannot be used where Member States have public health concerns relating to a food. Another example is the substance

melatonin, which is freely available in a number of member states and has two authorised health claims which can be used to promote it, however it is classified as medicinal in the UK and therefore mutual recognition cannot be used to open up the market.

In addition, the complexity of the EU lends itself to multiple layers of regulation which can be restrictive and limit innovation and flexibility. Whilst there is a huge single market for the free movement of goods and services, the need for conformity within the greater whole can be viewed as a disadvantage for small to medium sized enterprises (SMEs).

2. What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

Both the EU and Codex Alimentarius are international organisations which watch each other to ensure continuity and take a lead from each other's actions.

Whilst Codex is utilised by many nations where standards are not already set at national or local block level, the EU has already established standards, many of which are based on work already undertaken at Member State level.

To devolve to Codex standards would be a significant backwards step as Codex do not have standards set in the same range of areas as the EU, and where standards are being worked towards, the progress is painfully slow, for example, Codex work on standards in fish oil has been on-going for more than 20 years with no resolution and no end in sight.

If EU food law were to be removed tomorrow, what exactly would it be replaced with? It is likely that national law would mirror as closely as possible that which already exists, to allow the continuance of free trade.

3. Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

EU food law has built up so gradually over so many years it is impossible to say what the protection of consumers and business would be without it.

There is some feeling that the limit of EU law should be in relation to safety; other factors such as detailed consumer protection should be market driven or determined at national level as there are widely differing views of what consumer protection should constitute. Whilst consumer protection is essential in food law, the blunt instrument of Regulation that applies as a blanket across the EU without the possibility of national variation is not necessarily appropriate for all legislation. The use of Directives provides the flexibility for interpretation to be applied at national level.

There are also cultural and geographic issues to consider, as the recent horsemeat scandal clearly illustrates. Some markets are more developed than others with more experience in regulating for their own national requirements.

4. Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

It may be useful to consider at what point safety concerns end and "protection of the consumer from being misled" starts. A recent example of this is an Implementing Decision published in January with a stated aim of protecting consumers from either misunderstanding or misinterpreting health claims. Whilst the aim may be considered laudable, the practical application puts a significant burden on business, with no clear guarantee that some consumer somewhere will not, despite everyone's best efforts, fail to understand something on a food package.

In addition, problems arise due to Member States' different approaches to law. Many follow the Napoleonic tradition of codification, whereas the UK has a common law tradition. These differences of approach result in inconsistencies in interpretation across the EU.

5. What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

PAGB supports the principle of evidence based decision making in informing food legislation, however the risk management of this needs to be proportionate. In our view, the EU often goes beyond what would be appropriate for the precautionary principle, for example in seeking to protect consumers from themselves, rather than seeking to simply protect them from physical harm.

Whilst the European Food Safety Authority does what it is asked to do, too much of what it is asked for is not necessarily the most sensible thing, for example the recent evaluation of safe intake levels for omega 3 fatty acids, where there was no evidence of harm at the levels of intake currently pertaining within the EU.

When the risk management aspects of the EU Commission are placed on top of the scientific evaluation, it becomes disproportionate, seeking to protect consumers from themselves, often as a result of multiple layers of compromise between the three arms of the EU legislative process. For example, the conditions of use set for the use of three health claims for EPA and DHA recently authorised by the Commission. The levels of intake in the conditions of use are so high, and the detailed information that must be provided to the consumer is so lengthy that the claims are unlikely ever to be used.

However, it is hard to blame the current risk-averse culture entirely on the EU as it appears to be a global phenomenon.

6. What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?

PAGB has no evidence to feed into this

7. How might the UK benefit from the EU taking more or less action on food law in the future?

This will be dependent on how appropriate and proportionate the action is. The pros and cons of such action is significantly coloured by the size of an organisation; whilst large multinational companies have the resources to devote to keeping track of changing regulation, SMEs may not find it so easy to commit the time and expertise.

In addition, the UK's traditional use of principle based legislation does not sit well with the EU's highly prescriptive view. The UK has had one of the broadest markets in the EU for food supplements largely because of its use of principle based legislation.

7. Could action be undertaken differently e.g. are there ways of improving EU food law?

Allowing greater flexibility and not necessarily legislating for absolutely every eventuality. Whilst it is appropriate for food safety to be determined at EU level, other aspects, such as the detail of consumer protection rules, could be determined at national level, or be based on best practice and good manufacturing practice rather than enshrined in law.

Whilst the EU aspires to better regulation principles all too often it gets bogged down in endless negotiations and compromises, especially where it tries to protect consumers from misunderstanding specific issues. This could be due to the wide diversity of cultural issues across the EU; what a consumer in one country may accept or understand from a food label, a consumer in another country would view very differently. Placing this within the control of national governments and putting more emphasis on mutual

recognition would allow greater diversity and innovation in national markets, which in turn could provide greater flexibility in the wider trade arena.

8. What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

It is impossible to say with any certainty but there are a number of areas of innovation that have potential to be extremely challenging, for example nanotechnology and GM are likely to present challenges. The setting of maximum and minimum levels for vitamins and minerals in food supplements and fortified foods will also present a challenge, particularly the setting of minimum levels.

9. Are there any general points you wish to make which are not captured in any of the other questions?

Tertiary legislation gives too much power to the Commission as it removes many of the checks and balances which support accountability and transparency. The recent publication of the guideline on the implementation of specific conditions of use for Article 10 health claims is an example of this.

The Regulation clearly states that the implementation of such guidelines will be consulted on with interested parties. The guideline includes a definition which makes a substantive change to the customary use of these claims, however, no consultation was undertaken and no transition was included in the guideline. There was no consideration of the impact of the change made, suggesting that the Commission is unaware of how industry works, its needs, or the practical implications of the changes it makes. In this instance there was a significant lack of transparency.

Provision Trade Federation

Assessing the EU's Impact on the UK: a Review of the Balance of Competences (BoC)

PTF's members are companies of all sizes involved in supplying bacon and ham; canned foods; and dairy products of all kinds, including milk powders, cheese, butter, yogurt and other dairy desserts. Our members include importers and exporters of these products, as well as processors, and many supply the major retailers. PTF supports free trade.

PTF attended the FSA/DEFRA workshop on the BoC review on 7 February and the DoH workshop on 5 February. Both workshops were extremely helpful, highlighting the aims and importance of the review, and encouraging stakeholders to think through the issues.

This is a vast subject. There are many points that could be raised and arguments for and against each. On balance, PTF supports about 90% of the output document from the FSA/DEFRA event. The positive aspects of EU competence include the harmonisation of legislation; the single EU voice on global issues; and the EU acting as a driver for learning/collaboration, and sharing data, to the benefit of all. The negatives requiring change include that there is a need for EU procedures to be more open and transparent; legislation can be too prescriptive, discouraging innovation; and frequently there are different interpretations of legislation between Member States and different approaches to, and level of, enforcement in each Member State.

Our detailed comments, responding to the questions in the consultation document of relevance to PTF, are below.

- **What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?**

A harmonisation of legislation and removal of trade barriers allows for free movement of goods and makes trading between Member States easier. The harmonisation of hygiene legislation, for instance, makes it

easier to source with confidence, knowing that the legislation ought to be consistent across all Member States.

However, there is not always a level playing field, with differing interpretation and enforcement of legislation across Member States. One example is the partial sow stall ban which came into force across the EU at the start of 2013. It was vital that all Member States implemented these animal welfare requirements before the deadline in order to avoid unfair competition between countries where pig producers complied with the requirements and those where some of the producers did not comply. Yet even after the deadline, there was still a significant level of non-compliance with only 5 Member States fully compliant and 8 Member States less than 70% compliant. The Commission did nothing to ensure compliance before it was too late. It now intends to launch infringement proceedings against non-complying Member States but this will be slow and cumbersome. If all Member States had implemented and enforced this legislation adequately, this would not have been necessary.

- **What evidence is there that the national interest in terms of trade is best served by action at EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?**

Currently, the majority of food law in the UK implements EU legislation. This allows for harmonisation between Member States but creates problems when national legislation would have been preferable. For example, for foods that are traditional in one Member State, such as British territorial cheeses and bacon in the UK, the Member State concerned should be allowed to set compositional standards at national level so that consumer expectations, and their 'local' understanding of the product, can be taken into account. The fat and moisture limits for territorial cheeses, currently specified in the Food Labelling Regulations 1996 (FLR), are an example. These limits, which have been specified in UK law for over 30 years, help to protect the quality and characteristics of these traditional UK cheeses. In implementing EU Regulation 1169/2011 on food information to consumers (FIC) into UK law, and revoking the FLR, these national rules will be lost. However, the UK industry is fighting to retain them because there is a fear that, without them, standards will decline due to economic pressure. The protection of these cheeses is of particular concern to the UK market but will be a low priority for other Member States. In situations such as this, legislation should be set at national level.

- **Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?**

EU legislation rightly protects consumers' health, protects them from being misled and from sub-standard products. However, there is sometimes a feeling that EU action is disproportionate and ignores the interests and reputation of UK businesses.

One example is the new rule under the EU FIC which requires added water to be declared in the name of the food for meat and fish products having the appearance of a cut, joint, slice, portion or carcase of meat, if the added water makes up more than 5% of the weight of the finished product. The objective of this requirement was to protect the consumer from unfair and misleading practices with regard to the addition of significant amounts of water which they would not expect in such foods. In fact, with respect to bacon, the opposite is the case because the UK will lose the 10% limit which currently applies in national legislation and prevents the over-watering of bacon.

The UK legislation specifying a 10% limit for uncooked cured meat such as bacon has applied since the 1984 Regulations on meat products and spreadable fish products came into force. The discussions at that time had acknowledged the need for 10% water in uncooked cured meats in order to dissolve sufficient curing salts. Replacing the 10% limit with a 5% limit will mean that the labels for 98% of bacon sold in the UK will need to be changed to declare 'added water' in the name of the food, because they will contain more than 5% added water.

However, there will no longer be an effective limit preventing over-watering. As such, this additional labelling burden on UK bacon suppliers offers little, if any, benefit to consumers.

- **What evidence is there that the principle of science-based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?**

It is right that EU policies and decisions should be based on the best available scientific evidence and this is in line with the FSA policy in the UK. However, there are occasions on which the principle is followed too slavishly. For example, EFSA's evaluation of health claims has been overly strict, adopting an approach more appropriate for medicines than food. As a consequence, there are so many claims that are no longer permitted that investment in new product development has been stifled because companies cannot guarantee they will be able to inform consumers about the benefits of their products.

The probiotics category is a good example because, to date, EFSA has not approved any claims in relation to probiotic cultures and, as a consequence, the term 'probiotic', an implied health claim according to EU guidance, is no longer permitted. This is despite the fact that the WHO has recognised the role of probiotics and scientific experts recognise the contribution probiotics can make to human health. Companies active in this area have a long history of probiotic research and development and are confident in the science behind their products. However, they are now unable to communicate the benefits of their products to consumers in an easily understandable manner, and research and investment in this sector will become pointless. Consumers whose health could have been improved or maintained by probiotics will be denied an informed choice and may suffer as a consequence. They will be forced to refer to less reliable sources of information such as the internet and the media, and may lose confidence in the category as a whole.

- **How might the UK benefit from the EU taking more or less action on food law in the future?**

The food legislation that currently exists in the EU is extensive and wide-ranging to the point that it creates burdens for businesses because it is so difficult to keep pace with the stream of new rules.

The new EU FIC is comprehensive and requires significantly more on the label than previously. Even more labelling is on the horizon under this legislation, for example on origin of foodstuffs and ingredients. This is subject to impact assessments, which, in themselves, are of questionable accuracy. Too much unnecessary food labelling is counter-productive because it can lead to labels which are confusing and difficult to read. It can also contribute to food waste when errors or omissions on labels lead to recalls and withdrawals. This is particularly galling when the error or omission relates to information which is not required for food safety purposes.

The food hygiene legislation is thorough, focusing on a HACCP approach by which the onus is on the food business operator to analyse the hazards in their business and seek to control them. As such, there should be no need for further prescriptive legislation in this area.

A moratorium on new legislation should be considered except where there is a real food safety need for more rules. The focus should now be on enforcing the legislation that currently exists.

- **Could action be undertaken differently e.g. are there ways of improving EU food law?**

The development of EU law must be more open and transparent, particularly to allow all sectors affected to have an input at an earlier stage. The current approach is rather haphazard with a drip-feed release of papers to some parties but not to others. It is vital that there is a proper discussion of proposals, by all affected parties, while there is still time to influence them. Currently, this is not that case and it is difficult to get involved in the legislative process at an early stage.

With 27 Member States, it is often difficult to reach an acceptable agreement, and compromise legislation ends up being imposed on Member States, sometimes with very little, if any, consultation. We were particularly alarmed at the procedure adopted to secure an agreement between all parties on the EU FIC at second reading. A series of trilogue meetings were held between European Council, Commission and European Parliament representatives. Compromise proposals agreed behind closed doors at these trilogue meetings contained some new requirements (including the new rules on added water above) which had not been subject to consultation and have since caused significant problems for the food industry.

Although there are a number of concerns that need to be addressed, on balance we believe that the UK benefits from membership of the EU because it facilitates trade.

Rhondda Cynon Taff County Borough Council Wales

Questions in relation to animal health and animal welfare:

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

No suggestions

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

Broadly, yes.

What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

There is a trend in increasing number of animal diseases. The cost of control to the public purse and to producers may increase.

Growing populations and climate change increases pressure on production

Downward pressure on prices paid by supermarkets to producers could drive them out of business and cause a strategic shortage of home grown food

Pressure on budgets of central and local government enforcement agencies will be a risk factor in maintaining adequate controls on food safety and standards.

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

Broadly, yes

What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

Consistent legislation and enforcement is good. Science based standards are rational and provide a fair basis for legal standards.

What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

The balance between protecting consumers and supporting business must be maintained.

As economic pressures increase so does the business incentive not to comply.

Royal College of Veterinary Surgeons

1. The following response is made on behalf of the Royal College of Veterinary Surgeons (RCVS). The RCVS is the regulatory body for veterinary surgeons in the UK. The role of the RCVS is to safeguard

the health and welfare of animals committed to veterinary care through the regulation of the educational, ethical and clinical standards of veterinary surgeons and nurses, thereby protecting the interests of those dependent on animals, and assuring public health. It also acts as an impartial source of informed opinion on relevant veterinary matters.

2. The RCVS does a great deal for animal health and welfare but this work is one step removed and relates to ensuring the accredited training and postgraduate conduct of veterinary surgeons and veterinary nurses in the UK. The RCVS response is limited to those areas of animal health and welfare which directly relate to the regulation of the veterinary profession.

Mutual Recognition of Professional Qualifications and Language Testing

3. Every year, around half of all new registrants with the RCVS come from overseas and the majority of these are from EU or EEA countries. Due, however, to the way the Mutual Recognition of Professional Qualifications (MRPQ) Directive has been implemented in the UK, the College has no power to test the English language competency of graduates from the EU.

4. On 19 December 2011, the European Commission released its proposals for the revision of the Directive. These proposals appeared to provide healthcare professions with a greater ability to test applicants' language skills in the native language of the receiving Member State, but veterinary regulators appeared not to have a right to check the language skills of all registrants.

5. The RCVS and the Federation of Veterinarians of Europe (FVE) maintain that veterinary surgeons should be considered in the same group as the other healthcare professions and should be afforded the same powers to test language ability. Following discussions between the Department for Business, Innovation and Skills (BIS), Defra and the RCVS, however, BIS has indicated that the provisions which are outlined in the proposed Directive clarify that the Commission would allow case-by-case language testing after recognition of qualification. As the Directive is still subject to a number of amendments, which have not yet been agreed, it is unclear what position will finally be adopted on language testing.

6. Commission officials have also confirmed that, under the current regime, testing could take place on a selective basis where there are concerns about an applicant's language ability. Consequently, BIS has agreed that the guidance originally provided by Defra and other departments may have been too restrictive. BIS has therefore given Defra clearance to work with the College to revise this guidance, so as to provide the RCVS with the ability selectively to test the English language skills of EU registrants where there are serious and concrete doubts about their language ability.

7. During 2012 RCVS representatives met with Defra officials to begin to consider how the guidance could be amended, what sort of protocol the RCVS could apply to identify when an applicant's English skills were not adequate, and the sort of tests that might be implemented.

8. Over the coming months the RCVS will be liaising with Defra and developing proposals for the introduction of a fair and transparent system for the selective testing of the English language competence of EU registrants.

Mutual Recognition of Professional Qualifications and Accreditation of Training

9. Veterinary surgeons, together with other healthcare professionals, are part of the automatic recognition system of professional qualifications throughout the EEA, this means that minimum training requirements have, in theory, been harmonised and veterinary surgeons that trained in one member state are eligible to register as veterinary surgeons in another.

10. The RCVS applies a rigorous methodology to ensure that uniform standards are applied at the seven UK veterinary schools. Elsewhere in Europe, a scheme adopting similar parameters operates under the auspices of the European Association of Establishments for Veterinary Education (EAEVE), but this is essentially a voluntary scheme with no legal basis, and not all EU veterinary schools have been approved by EAEVE. However, the RCVS and other EU regulators are required to register EU

graduates even if the school they attended has failed its inspection. Failing such an inspection means that the veterinary degree course concerned does not comply with the Directive's minimum training standards.

11. The proposed new Directive may go some way to improving the situation if it is to require Member States to report at five-yearly intervals on arrangements for initial training. However, it is not clear whether this provision will be included in the new Directive, and, even if it is, there is no explicit provision in the proposals to permit Member States to refuse registration to someone holding a degree which has been found not to comply with the Directive's minimum training standards. The College considers that Member States should be required to report on the ongoing accreditation status of their veterinary qualifications and that the Commission should take action against those found no longer to be complying with the training requirements in the Directive. Recent proposals appear to support the involvement of accreditation bodies in the recognition of new qualifications, but it is not clear what the consequences would be if there was evidence of an existing qualification ceasing to comply.

12. RCVS has commented on proposals for the new Directive, including supporting proposals to strengthen the coverage of public health and food safety in the specification for minimum training requirements. However, there needs to be an equal strengthening of requirements for clinical skills and competence to assure the quality of animal health and welfare training within veterinary schools across the EU. We await the outcome of ongoing deliberations on the Directive on this point.

13. RCVS also welcomes suggestions in the proposed new Directive that ongoing continuing professional development should become mandatory for professionals, although it is not clear yet whether the current proposals include the veterinary profession. RCVS has commented to this effect.

Working Time Directive and 24-hour emergency veterinary cover

14. The RCVS Code of Professional Conduct requires veterinary surgeons in practice to take steps to provide 24-hour emergency first aid and pain relief to animals according to their skills and the specific situation.

15. Providing such 24-hour emergency veterinary care and complying with the Working Time Regulations presents unique difficulties for the profession. If the current understanding of on-call time changes, and a veterinary surgeon on call from home is considered to be working, even when not answering calls, there could be a serious impact on the provision of emergency veterinary care in the UK, with a consequential effect on animal health and welfare. A further issue for the profession is that veterinary surgeons must count time spent sleeping on veterinary premises during on-call periods as 'working time', even on occasions when they may not have been interrupted during these periods or required to undertake any work.

16. The RCVS also has concerns that any reduction of the maximum working week could seriously affect the delivery of veterinary services. RCVS survey data suggests that veterinary surgeons only just work within the 48-hour maximum. Furthermore, any changes to the current on-call rules, or reduction in the working week, would seriously affect the cost and practicality of the delivery of veterinary services, particularly as veterinary services are largely provided by a number of small businesses with limited staff resources.

One Health and Zoonosis

17. The RCVS strongly supports the notion of 'One Health' and that human wellbeing and animal health are very closely linked. This is evidenced by the fact that over 70% of human pathogens originate from animals. By taking an integrated approach to veterinary and human medicine the prevention and control of diseases would be improved.

18. The RCVS considers that the regulation of the veterinary profession and the protection of the health and welfare of animals should not be addressed in isolation and should be considered together with the issues relating to the regulation of other heathcare professionals and action to protect human health.

Consequently, the RCVS will be submitting a version of this response to the Department of Health Call for Evidence – Review of the Balance of Competences: Health.

19. If clarification on the above comments is required, please do not hesitate to contact the College. Representatives from the RCVS would be happy to meet with officials to discuss and expand upon this evidence.

Royal Society for the Prevention of Cruelty to Animals

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

This will be answered at a framework level and then on each of the four areas that the RSPCA covers (farm animals, animals used in laboratories, wildlife and companion animals)

At a Treaty level, the EU has progressed from a Declaration on animal welfare (1992), to a Protocol (1997) to a Treaty Article (Article 13 agreed in 2007). Ostensibly this should put animal welfare on the same legal footing as sustainable development, gender equality or human health. The RSPCA believes that incorporating animal welfare into the Treaty is an important step forward for four reasons:

- it shows the importance of animal welfare to the EU should this legislation be challenged in other fora or international treaties such as the WTO (e.g. with the seals Regulation 1007/2009),

- it gives an important precedent for animal welfare to other global treaties (e.g. gives a clear sign post if the UN decides to agree a Declaration on animal welfare),

- gives a clearer foundation for the EU to make legislation to progress animal welfare (prior to the Protocol legislation on animal welfare tended to be agreed either under the Article 113 on the environment (e.g. Regulation 3254/91 on prohibiting the leghold trap) or under Article 235 which allowed Council to take actions to achieve the objectives of the Community (e.g. Directive 83/ 129 on seal pelts imports),

- should enable legislation on animal welfare to be afforded the same importance as other competing values such as business competitiveness or enabling the single market to function properly.

However, in practice, evidence to show it has enabled animal welfare to be given the same legal importance as the environment or business is difficult to find - opportunities for legislation on animal welfare since the Treaty change have either decreased (there are no legislative proposals on animal welfare in the current Commission strategic plan on animal welfare 2012-15) or where they exist have not brought about any improvements (e.g. there are no proposals to improve animal welfare under the CAP negotiations).

Whilst the key challenge to integrate properly the promotion of good standards of animal welfare into other areas of Community responsibility has not progressed, this would undoubtedly still be the case if the EU had no competency on animal welfare and such decisions were agreed at a UK level. And of course the UK could not follow Germany's example and raise the legal standing of animal welfare such as by placing animal welfare into the constitution. So on balance, the Treaty change gives advantages to animal welfare in the UK.

1.1. Farm animals

The first EU-wide law on animal welfare was adopted on farm animals in 1974 (Directive 74/577) and since then laws have been adopted in nine areas relating to farm animal welfare (ie slaughter/killing, live

transport, rearing of pigs, laying hens, meat chickens, veal calves, general directive on farm animals, CAP, BST).

In two sectors, the UK adopted standards higher than and/or ahead of the EU (i.e. a ban on sow stalls and a ban on veal crates) and these can be examined to assess their impact on the UK business and animal welfare. The UK veal industry was always small so the unilateral UK ban had little impact on competitiveness. However, the UK decision to ban veal crates before Europe set an important precedent in the EU and gave the UK an important leading role when discussions occurred in 1996 on the EU's proposal as it showed that veal calves could be raised under the new standards (relating in particular to space and dietary iron level). This was the first major phase out of an intensive farming system and so was important that the EU MSs followed not only the science but agreed that their businesses could remain commercially viable and competive under the new standards. There were no major implementation problems with the phase out in contrast with other farming system issues.

In the case of sow stalls, the UK again decided to take an early unilateral decision to prohibit sow stalls in 1991 with a phase out by 1999, two years before a EU Directive was agreed on this and 14 years before the rest of the EU implemented the same prohibition. This prohibition has subsequently been used by the UK industry and government as an example of where 'gold plating' affected the competitiveness of the UK pig industry, thereby showing that UK should not implement standards before the EU. It also brought about a change in government thinking on 'gold plating' of EU legislation, though as seen below the government has implemented higher rules than the EU subsequent to this (Directive 2010/63, Directive 2007/43). However, it is important to analyse the factual evidence on the real effect of the legislation. The RSPCA commissioned independent economic research in 1999 which found that whilst the sow stall ban did add some costs to the UK pig industry, its impact was much less significant than the concurrent collapse of the Russian export market and the poor competitiveness of the pound against the euro and other currencies. The point of difference between the EU standards and UK standards has also been used, with some success, by the UK pig industry when pressing retailers to source - and consumers to buy - British pig meat products. However, the fact that around 70% of bacon and ham retail sales and 49% of sausage sales are imported underlines the relevance of achieving harmonised EU legislation. Without the harmonised legislation, harmonising standards becomes the sole responsibility of retailers through their own sourcing policies and standards. There is a lot of evidence that British retailers have been sourcing to UK standards and some major pig producing countries such as Denmark apply "UK standards" for export and Danish standards for internally consumed pigmeat.

Directive 1999/74 on laying hens: A shift in consumer habits and thus farming systems from battery cage eggs to cage-free eggs from 1995 to 2004 saw the proportion of eggs produced in cage-free units in the UK rise from 14% to 34%. However by 2004 when mandatory labelling was introduced, the rate of increase had slowed down. By 2011, with less than a year to go before the ban on the conventional battery cage was introduced, more than 50% of shell eggs were produced in cage-free units as farmers changed systems to meet the new European standards. So the power of the consumer had limitations to shift the market and the harmonising legislation provided additional incentive in the UK for free range egg production to increase and also helped reduce the risk of the UK (or other EU countries) being undercut. Without the harmonising legislation and without the introduction of harmonising clear, manadatory method of production labelling on all shell eggs in 2004, it is unlikely that consumers would be in a position now to make a fully informed choice as to which production method to support via their purchases or that sales and production of free range eggs would be over 50%. The clear scientific information that came from SCAHAW and its predecessor the SVC that the conventional battery cage severely compromsied the welfare of the laying hen would have been ignored. And consumers would not have struggled to implement through their purchase behaviour their clear intentions to source free range eggs.

The implementation of Directive 1999/74 does show the limits of the Commisison's enforcement powers. Despite the 13 year phase out period on the conventional battery cage (between 1999 and 2012), some 13

countries were still non compliant including the major egg producers Spain, France and Italy on the required implementation date of 1st January 2012. Spain, which exports eggs to the UK, had only around 1% cage-free production systems by 2004 and though this percentage had increased by 2012, over half Spain's production systems were still non compliant and could undercut UK competitiveness. The Commission had no plan in how to deal with this problem or what to do with the eggs.

Whilst the Commission did start legal proceedings against the non compliant States, these normally take one to two years to complete and are notoriously ineffective in getting a country to meet the set deadline date as they can only start after the implementation date. A year after the implementation date, only two countries are still non compliant with the laying hens directive but there was real concern that the European egg market would collapse in 2012 as eggs from large non compliant states were not being allowed into other countries. It is apparent that if the single market is to work properly, the Commission needs more measures in place to ensure full implementation by the due start date, rather than merely collecting data before the implementation. And they need to agree what to do with illegal products, especially as intra EU trade barriers were not considered legal.

There are no global standards as yet on laying hens and even if the OIE agree such standards, they will not be agreed before 2015 and are unlikely to include a ban on conventional battery cages. The EU is fortunate that there is no large egg producing country close enough to its boundaries capable of exporting shell eggs produced under systems illegal in the EU (and so possibly undercutting EU producers). But the egg products market, which represents around 30% of the total British egg market, does use eggs that are produced under conditions illegal in the EU and industry was, rightly, concerned that this would impact on competitiveness. As egg products are a global commodity, this either requires a global standards solution or harmonising EU legislation that stops imports of products that are illegal to produce in the EU. The former is unlikely as stated above and the latter is also unlikely due to EU reticence on WTO rules, though this is essentially what the EU is implementing with the cosmetics Regulation and is essentially what it has implemented since 1991 with checks on third country slaughter houses under the slaughter Directive 93/119/Regulation 2009/1099.

This underlines the fact that if the UK wishes to raise animal welfare standards for products that are globally traded (as are many farm animal products and products tested on animals in laboratories), whilst it is important to get EU harmonisation to prevent British producers being at a commercial disadvantage, it is also important to get agreement at a global level. One year on from the new legislation, it is possibly too early to judge the effect of the new rules on the competitiveness of the British egg market, especially in the egg products area, but fears expressed in the late 1990s that the egg industry would be harmed by the harmonising legislation have so far proved to be unfounded.

UK legislation on meat chicken production has adopted standards that are slightly higher than EU directive 2007/43 levels in one area ie maximum stocking density of 39 kg/m2 as against 42 kg/m2). However, the harmonising legislation did reduce the stocking density in many other member states (- it was as high as 46 kg/m2) so acting at a EU level has reduced the potential for competitiveness problems for UK producers.

So, there is good evidence to show that EU action has benefited UK farm animal welfare in some sectors such as chickens, laying hens and pigs. Without these harmonising laws, the higher UK standards may have left the UK industry less able to compete with imported products from other member states produced under lower standards.

However, there are some areas where EU legislation appears to have held back UK standards, leaving legislation dragging behind widespread industry practice. EU law (and hence UK law) on pig protection allows castration without anaesthetic, whereas only a very small minority of UK pig producers castrate their piglets. The UK could, therefore, have prohibited this practice, giving the UK industry another point of difference without inconveniencing it at all, and reflecting 'best practice' in line with scientific knowledge on the suffering caused to piglets by this practice. Also, it has been suggested that Defra cannot introduce

compulsory CCTV in abattoirs because the recently revised EU regulation on slaughter/killing does not provide for this to happen and so the UK cannot go legally beyond what is in a harmonising Regulation. Again, this therefore prevents introduction of a useful monitoring and enforcement tool that has already been proven to be effective and commercially viable in a number of UK abattoirs.

1.2. Animals used in laboratories

Four areas of EU action will be examined on the use of animals in scientific procedures:

i. Legislation controlling the use of animals in scientific procedures (Directive 2010/63/EU on the protection of animals used for scientific procedures)

Legislation on research animals had not been radically changed since 1986 during which time the EU had expanded from 12 to 27 member states (many of which had no previous legislation on research animals). The UK has traditionally been a leader in regulation and setting standards in this area of animal use (such that the new Directive is largely based on key aspects of the UK ASPA). This is seen as a benefit to animal welfare, public confidence and ultimately UK science.

When finally agreed Directive 2010/63 has lower standards in some areas than the existing UK legislation, the Animals (Scientific Procedures) Act 1986 (ASPA). Had the Directive simply been 'copied out' into UK law during the transposition process then UK standards would have been reduced but when implementation occurred in December 2012 the UK agreed to keep many of its existing standards.

The use of animals in experiments is a controversial issue of public concern; any real or perceived reduction in legislative standards would have affected public confidence in UK regulation and the level of support for the scientific use of animals, with a knock on effect on industry and academic research. Since good animal welfare is a prerequisite for good science, any reduction in standards also has the potential to affect the quality of both welfare and science which would be detrimental to the UK science base.

So EU actions to raise standards relating to animals in research and testing benefits the UK by recognising its leadership in the field and levelling standards up. Without a harmonised legislation amongst the EU-27 companies could relocate their testing or operations within the EU.

Globally, whilst there is a OIE standard on the use of animals in laboratories, agreed in 2009, the OIE has no mechanism to implement, enforce or monitor its standards and it is difficult to assess how impactful this standard has been to raise standards globally. To date, there has been no real evidence that the standards in the UK or EU have caused companies to migrate activities to other countries such as China or Singapore where animal welfare standards are perceived to be lower. Indeed there appears to be more of an incentive in those countries to raise their standards in line with the EU ones.

However, as is seen above with other animal welfare laws, implementation is patchy and slow. The Directive was due to be implemented on 1st January. At this stage only seven countries had implemented, two partially implemented and 18 that have not yet done so. By 1st March a further six countries had implemented the Directive but the Commission needs a better system to ensure timely implementation of legislation and the operation of the single market.

ii. Legislation/regulations on transport of laboratory animals including primates imported from third countries

Action to set higher standards for transport to, from and throughout the EU would benefit the UK's ability to ensure the welfare of animals imported to the country.

iii. Legislation/regulations requiring animal use in toxicity and/or efficacy testing for products such as cosmetics, chemicals (e.g. REACH), biocides, pharmaceuticals and vaccines, medical products and devices, food safety, nanomaterials

The UK has been a driving force in applying the 3Rs to the testing of the classes of product listed and for removing redundant requirements for animal tests from test batteries. However, since the majority of test regulations are set within Europe, the UK will not usually want or be able to take unilateral decisions. Greater commitment to re-evaluating regulatory test requirements, action to remove obsolete tests, and greater flexibility to refine tests, reduce the number required and ensure alternative methods are implemented without delay is essential. As action at the global level (OECD and OIE) is slow, only action at the EU level can act as an incentive in this area. The EU needs to act quickly to reduce the bureaucracy, overly risk-adverse inertia and other (already well defined) obstacles to regulatory change. Even on a single issue, to phase out the testing of cosmetics on animals, it has taken 20 years to implement the original intent of Directive 93/35 adopted in 1993 when Directive 2003/15 is finally implemented on 11 March 2013. As discussed above for those peroducts globally traded, this shows the benefit of the EU harmonising legislation. In 1997 the incoming Government prohibited the testing of cosmetics on animals but as this only applied to the UK its effect was at best minimal and at worst disingenious. Companies could export their testing to France or any other EU MS. Only when the 2003 ban came in applying a testing ban to all EU countries and the 2013 final ban on marketing any cosmetics tested on animals could the intent of the 1997 UK ban finally come into effect.

iv. The European Partnership for Alternative Approaches to Animal Testing (EPAA), part funded by the European Commission

The EPAA helps co-ordinate intra- and inter-industry activities aimed at replacing the use of animals, particularly in toxicology testing. Expediting the development and acceptance of more advanced and predictive methods would have economic, as well as animal welfare benefits to the UK, since non-animal testing is routinely cheaper and faster. Undertaking this at a EU rather than UK helps coordination, pooling of resources and also opens up funding availability (see below)

v. The EU Framework Programmes for research funding

Over the last 20 years, the European Framework Programmes for Research and Technology Development have contributed more than €200 million towards the development of non-animal models for drug development, chemical toxicity and ecotoxicology and product safety assessment. Recently, an additional €50 million in funding has been provided under the EU/COLIPA Joint Research Initiative aimed at developing replacement approaches for repeated dose toxicity. Examples of specific EU-funded projects with the potential to shift toward a new, innovative approach in toxicology are at http://axlr8.eu/eu-funded-3rs-research/ . Many of these projects will involve partners from the UK, and UK industry currently using animal tests potentially stands to gain from any successful outcomes. It is better that this is done at a EU level than a MS level.

1.3 Wildlife

The zoo directive is a good example of legislation where standards were set at a UK level for nearly 20 years before becoming harmonised under Directive 1999/22. This was welcomed by the zoo industry and animal welfare community, as the application of a common set of rules was seen as advantageous and likely to raise standards in zoos across Europe. The implementation of the Directive greatly strengthened animal welfare provisions within the UK's Zoo Licensing Act 1981 so did have a positive effect on the UK's standards. It also opened up new areas such as the requirement for all zoos to participate in education and conservation, whether it be in the form of research, information exchange and/or captive breeding, repopulation or reintroduction of species in the wild. Prior to implementation of the Directive, zoos could claim to undertake such activities but were not legally obliged to do so.

Again there have been implementation and enforcement problems with this legislation, but welfare standards have undoubtedly improved following implementation of the Directive. Directive 1999/22 had a chequered history, being downgraded to a Recommendation and in 1992 was deleted altogether on the

grounds of subsidiarity. So the European Commission has never regarded it as an important piece of legislation requiring resources. This has not helped with its implementation as it was not a priority.

Member States are given significant freedom under the Directive to maintain or introduce stricter protective measures in domestic legislation. Member States also have the freedom to define the range of establishments covered by National law, which can be broader than the Directive; to define acceptable standards of animal accommodation and care; to define what activities meet conservation and education requirements and to decide what form the licensing and inspection system takes. Whilst this has provided flexibility it has also led to a great deal of variation in how the Directive is applied and enforced across Member States, and thus the standards of animal welfare.

On some issues where there is no harmonising legislation the UK has fallen behind. Although a ban on wild animals in circuses has existed in Austria since 2005 and a ban on all animals in Greece since 2012 none of the four devolved countries of the UK have yet to implement such a ban. The UK Government has claimed ironically that EU legislation (on services and labour) prevented them doing so in England. Harmonising legislation in this area could have improved the standards in circuses and whilst the four devolved countries have said they will introduce legislation in the next few years, this is an example where the lack of EU action has resulted in poorer welfare standards in the UK

On other issues UK standards have improved without harmonising legislation. The British ban on fur farming came into effect 2003 has no harmonising legislation in the EU and has only been replicated in Austria and partially in the Netherlands. This unilateral ban has not affected British competitiveness in the fur industry - there were only 13 fur farms existing before the ban (consumer pressure saw a decline from over 600 in the 1960s) and the role of the UK as an entrepot in importing and selling fur, which is not effected by the ban, has not diminished.

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The UK would benefit from more EU action in four areas:

1. In some areas the UK can be seen as the ‘driver’ in improving standards, resulting in higher standards in the UK than in some other member states. This can be found especially in rules in some sectors of livestock farming, and management of animals in laboratories. On animals used in research, given the importance that the UK places on animal welfare, and the link between good welfare and good science, this should be seen as a benefit. Indeed the UK government, industry and academia regularly talk proudly about the UK’s ‘high standards’. Any action within the EU to drive towards similar higher standards should therefore be seen as a benefit to the UK as well as to the EU as a whole.

2. Introducing harmonised legislation in areas where there is none: there are a number of areas where there is no harmonised EU legislation e.g. the rearing of dairy and beef cattle, sheep and turkeys being examples from farming, the breeding and registration of dogs or clear labelling on animal products on how animals are produced. The UK would benefit if there was more action from the EU in these areas as it would create a level playing field, may improve welfare during the production of animals and would improve the level of communication with and information given to consumers, enabling them to make informed choices about which production methods they support via their purchases. This in turn could benefit farmers applying higher standards However it is recognised that with an EU of 28 countries (and possibly of over 30 by 2015), the difficulties associated with gaining agreement on legislation that has meaningful standards, and of achieving the implementation and enforcement of those standards, is challenging.

3. Getting the Commission to improve quality of and achieve centralisation of relevant information, and achieving stronger implementation and enforcement - which is a central thread running through the improvements to animal welfare and is something the Commission has highlighted in their 2012-5 strategy.

Implementation has been discussed above. On enforcement, whilst the role of governments is obviously crucial, oversight and measurement of enforcement across the EU can only be done by the Commission. Enforcement is crucial to the operation of the internal market and to improving welfare standards and there is even a competitive advantage for farmers in Member States which do not ensure compliance with the legal standards, as their production costs can be generally lower. This can lead to trade distortion at intra-community level. It is difficult at present to measure enforcement as any assessment on enforcement is mainly from reports from the small number of Commission missions and self reporting from countries. Information on assessing enforcement in the EU-27 is not centrally compiled despite the fact that this would seem to be crucial in assessing future direction, especially with laws such as those on live animal transportation that operate 'cross border'. It is, for instance, easier to enforce or check on enforcement of Directive 1999/22 (as zoos are static) than Regulation 1/2005. It is to be hoped that the recently initiated one year pilot study involving setting up of an EU Reference Centre to study enforcement of legislation across the EU, will yield some useful information to inform future strategy in this area.

4. There is a need for greater harmonisation within the Commission on animal welfare. For example, DG Sanco has responsibility for ensuring improvements in welfare standards, DG Development in providing technology transfer to developing countries to raise their welfare standards and DG Agriculture to ensure that any bilateral or WTO negotiations taken into account animal welfare. However, there is little overarching harmonising strategy or even communication between DGs. This has negative consequences for the Commission strategy. The RSPCA is not aware of any programme funded by DG Development on animal welfare in developing countries despite this being part of DG Sanco's strategy. In the field of agriculture, DG Agriculture is in charge of CAP policy, which provides some £34 billion of subsidies, mostly in the form of direct payments to farmers which may be counterproductive to the work that DG Sanco is in charge of, improving animal welfare through legislation.

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

The Community has in the past decade become involved with raising standards by inputting animal welfare into bilateral agreements. There are now three bilateral agreements where animal welfare has been specifically mentioned in the SPS Chapter - Chile, focusing on slaughter houses, New Zealand and South Korea. In addition it has been proposed in the Vietnam, China and India negotiations.

How effective are these bilaterals? Results from the Chilean agreement show it has had major benefits in improving animal welfare in Chilean slaughterhouses. The Korean-EU bilateral only came into force in July 2011 but it certainly raised the profile of animal welfare in Korea with a major international rabies conference and another inter ministry animal welfare conference being organised and some changes such as to quarnatine and enforcement activities improviing and becoming centralised. There have been a number of studies on the effectiveness of the Community's work with certain developing countries on the beef industry as many export to the EU and under the terms of Directive 93/119 and Regulation 1099/2009, they are required to have slaughter/killing standards equivalent to those of the EU. Studies from Uruguay, Argentina and Brazil all show the extent to which animal welfare has been improved in the countries' slaughter houses, also leading to improvements in competitiveness and savings to the industry estimated at $58 million in Uruguay[1], $14 - $28 million in Argentina[2][3] and $1 billion in Brazil[4] .

Agreement on certain EU laws can start to change legislation in other countries. The EU's cosmetics directive has influenced the way India as well as China are looking to drop their requirements for in-country repeat animal testing of products (e.g. cosmetics) sold in their market. This provides a useful foundation for any bilateral negotiations on equivilence.

Only the EU has the trade power to influence these negotiations, particularly on including animal welfare, not an issue that is top of many countries' agendas (India for instance is resisting attempts to discuss animal welfare despite having a long history of animal protection, as they see it limiting their trade role). It

is difficult to see how the UK could for instance insist that animal welfare could be put into bilateral trade negotiations whereas the EU can ensure that by putting animal welfare into a range of issues to be discussed, some progress can be made on the topic.

With the stalling of the Doha WTO talks and the trend at the OIE to agree broad brush global standards on animal welfare (rather than specific standards), the number of bilateral agreements have been rising in the past decade and for animal welfare bilaterals are seen as the main method of achieving equivilence in standards. As discussed above this is required especially in trade in farm products. The Commission recognises and is using this, as well as any outreach work, as the main strategy to ensure that as EU raises its standards, particularly on farm and laboratory animals, producers are not undercut and businesses do not outsource their production. As the EU strategy on bilaterals is agreed in the EU animal welfare strategy and through trade committee, the UK has the ability to influence this strategy. Hence, there does not appear to be any significant disadvantages to the EU holding competence in this area.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

With those sectors where there are high volumes of trade it is better for national interest to be served by gaining agreement at a EU level. There is more flexibility to implement measures at a national or regional level on areas such as companion animal welfare, where global or regional trade is less of a lever. Whilst devolution on animal welfare is relatively new, some measures implemented already show the freedom for improvements to occur on a regional level e.g. the ban on electric shock collars in Wales, the financial incentives to improve animal welfare in the Scottish Rural Development Programme, the proposals to improve dog breeding in Wales or measures to control bovine TB in Wales through a humane vaccination programme against measures in England using a badger cull. Whilst using different measures to achieve the same end goals are useful, it can only work effectively if the long term differences in welfare or health can be measured. For instance, all four regions of the UK are applying different measures to improve dog control and welfare (Northern Ireland through dog registration, Scotland by dog control notices, England by mandatory microchipping and Wales through preventative dog control orders) but unless indicators are used to measure effectiveness the long term use of these different approaches may be lost.

Implementing regional or national solutions also work well when responding to a particular issue in that area. For instance Wales is updating their dog breeding legislation before England as west Wales has long been identified as an area where standards of dog breeding are poor.

It is important that welfare standards are set that reflect 'best science' and 'best practice', where this has been proved to be practically achievable and commercially viable, as this reflects well on a nation's reputation for an ethical approach to building and maintaining its overall societal values. This is especially the case where a nation's citizens have a clear interest in and concern about animal welfare.

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

Yes. There has been a lot of misinformation on the effect of EU legislation on animal welfare and business - claims that any impending legislation will render business uncompetitive (e.g. the egg industry in 1999 during discussions on the battery hen ban, the pharmaceutical industry in 2009 in discussions on the new legislation on laboratory animals) are frequently not realised, whereas other industries where there are no harmonising legislation such as the dairy industry, have seen huge declines in producer numbers. Robust economic information is sometimes difficult to obtain and effects of laws may take some decades to become apparent. The effect of legislation on the pig, laying hen and veal industries has been discussed above. The EUPAW report (www.eupaw.eu) undertaken in 2010 for the European Commission as part of their discussions on how effective european legislation has been on improving animal welfare, centralises (for the first time) in one place clear economic information on the effects of the EU animal welfare

programme on the competitiveness and sustainability of the sectors analysed (pages 46-50 and pages 97-104). Much of the information on effects is gathered from stakeholders' interviews and scientific research. The report clearly states that there is no observable correlation between the level of welfare standards and the numbers of animals. Nor does the cited data show that raising standards has any effect on the competitiveness of the industry, as it clearly shows that there are business benefits to be gained from improving animal standards, concluding that animal welfare policies "have not impacted negatively on the sustainability of activities at the EU level" (p. 97). This is an important conclusion when assessing how the EU takes further legislation forward and counters industry claims that raising welfare standards always brings disadvantages. The report correctly states that most analyses of the economic effects of improving welfare standards focuses on the costs with very little (if any) emphasis on the economic benefits that can result, and urges that this omission needs to be rectified in future analysis.

In some areas the UK can be seen as the 'driver' in improving standards, resulting in higher standards in the UK than in some other member states. This can be found especially in rules on some areas of livestock farming, and management of animals in laboratories. On animals used in research, given the importance that the UK places on animal welfare, and the link between good welfare and good science, this should be seen as a benefit. Indeed the UK government, industry and academia regularly talk proudly about the UK's 'high standards'. Any action within the EU to drive towards similar higher standards should therefore be seen as a benefit to the UK as well as to the EU as a whole.

There are a number of areas where there is no harmonised EU legislation: the farming of dairy and beef cattle, sheep and turkeys, the breeding and registration of dogs or clear labelling on animal products as to how the product is produced. The UK would benefit if there was more action from the EU in these areas as it would create a level playing field, may improve the production of animals and would improve the level of communication and information given to consumers, enabling their professed concern about aninal welfare to be harnessed through enabling them to make an informed choice. However it is recognised that with a EU of 28 countries and possibly a EU of over 30 by 2015, the difficulty in securing agreement on legislation that has meaningful standards, and the implementation and enforcement of those standards, poses a challenge.

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

More, well constructed and clear EU and national guidance on how legislation should be interpreted in practice would be helpful. The cascading of robust, validated welfare outcome measures into different sectors will help to enable effective assessment of the impact of legislation on animals

For example, the EU expert working groups set up to provide guidance documents on issues such as severity of suffering, statistical reporting, and education and training in relation to Directive 2010/63 are a useful model. Although it is important that such groups include a range of stakeholder perspectives, truly 'expert' input is essential. Guidelines need to be developed by people who have appropriate expertise in the issues to be addressed.

Guidelines have the advantage over legislation of being easier to update and therefore can take proper account of current welfare and scientific thinking. However, if they are to be of value, there needs to be an 'expectation' that guidelines will be implemented.

What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

The future challenges on animal welfare will be:

1. Increasing globalisation especially on farm and laboratory animals. At present the EU does not import much pigmeat or shell eggs from third countries and beef imports are limited to being mainly from South America. Bilateral agreements will be the main way of ensuring EU producers are not undercut by chaper imports produced at lower standards.

2. Advances in science might raise new and additional ethical concerns relating to what should be permissible. For example, the genetic engineering of primates, and the acceleration and commercialisation of animal cloning, is taking place in some countries around the world. The UK should have the right to determine its level of protection on such matters and retain its ability to veto applications of emerging technologies to animals on ethical and welfare grounds, regardless of whether another member state may decide to allow it. Similarly, as knowledge of animals' cognitive abilities and even their emotional needs improves, pressure will increase to improve their living conditions and management.

3. Emerging diseases particularly in farm and companion animals - the lack of harmonised legislation on dog breeding or dog identification could lead to increased migration of diseases such as Echinococcosis. Climate change is likely to pose particular challenges in this respect due to the likely increase in incidence of diseases previously not seen in the UK. This is already happening.

4. More, well constructed and clear EU and national guidance on how legislation should be interpreted in practice would be helpful.

5. Agreement on new global standards on animal welfare in the dairy cattle, meat chickens, pigs and laying hens sectors will help to harmonise standards but as they will not be standard-specific they will not have any direct impact on the EU or on the EU's ability to remain competitive at the global level

6. More effective ways of educating and informing the consumer through labelling or procurement initiatives would facilitate support for higher welfare standards through the marketplace, complementing legislative rules and ensuring the competitiveness of European farming and research in the global marketplace as new standards on pigs, laying hens and chickens are implemented

7. Food security issues are likely to continue to grow in signficance, with potential concomitant effects on the drive towards increased productivity and efficiency in the livestock sector. This in turn could severely jeopardise animal welfare if conventional views on how to achieve increased food production (e.g. through intensification of livestock farming) remain uninformed by alternative viable options.

8. Climate change and its impact on animal production

What impact might any future enlargement of the EU have on animal health and welfare?

During the evolution of animal welfare legislation from 1974 to 2013 the EU has grown from a Community of nine countries to a Union of 28. New legislation on animal welfare has declined since the 1990s as obtaining approval on new laws through the Parliament and Council has become increasingly difficult and will increase if the EU grows. The Commission has effectively acknowledged this by stating that no new specific animal welfare laws will be agreed in the present strategy period (up to 2015) and emphasis should be on enforcement. Of the existing eight candidate or potential accession countries, the largest country, Turkey, will present large problems of intergration both in terms of how finances are allocated to programmes such as Commion Agricultural Policy and the Structural and Cohesion funds and changes in decision making with the increase required for new parliamentarians. Turkey would also pose huge problems in meeting the acquis particularly on farm animal welfare. Finally the incidence of some diseases such as rabies is higher in these candidate countries leading to challenges if intra EU trade in dogs, farm animals and wildlife is increased after accession.

Aside from Iceland many of these candidate countries face a long phase in period to agree the animal welfare acquis. In addition, ensuring effective and consistent implementation and enforcement of

standards is likely to prove even more challenging. Even with Iceland there would be an advantage of them joining the EU as they would have to follow the EU policy on whaling which does not allow whaling or imports of whale products.

Conversely, expansion could result in countries that join the EU applying EU minimum standards on animal welfare where previously they had none. It could also mean that the challenge of EU neighbour countries producing products at standards below the EU and undermining EU producers could dissipate.

Are there any general points you wish to make which are not captured above?

A key challenge now is to integrate effectively the promotion of good standards of animal welfare into other areas of Community responsibility, such as policies on agriculture, food and sustainable development

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

Food labelling on animal welfare issues is presently limited to mandatory egg labelling, incoming country of origin labelling and a study to assess the effectieveness of labelling on non pre stunning slaughter methods. There is no labelling as yet on method of production outside of eggs, despite animal welfare being highlighted as fourth or fifth in consumer polling as an issue of importance. The mandatory egg labelling provided the right balance in informing the consumer and protecting business and was instrumental in driving up levels of non caged eggs, thus meeting consumer aspirations. However business has been reluctant to repeat this on other products, despite the clear effect of the egg labelling.

The RSPCA believes a labelling scheme should be fully transparent with regard to the production standards applied, enabling a good level of consumer understanding. This would encourage producers to improve their own production methods and allow the consumer to make an informed choice based not only on price but also on production methods. However to remain simple to understand, the categories should be limited, ideally, to three. These nature of each level needs to be clear and be underpinned by scientifically informed standards decided upon and overseen by an independent expert body. The standards for these 'levels' should not necessarily be linked to existing baseline standards. The EU has sectors where the baseline standards do not satisfy all the 'five freedoms' of the animal e.g. on ability to express natural behaviour. So applying a EU label to these standards would only confuse a consumer as it would imply approval of a farming method where welfare was not being achieved to an acceptable level.

The language on the label should also be clear. In some sectors this is easy e.g. the egg sector language labels of 'eggs from caged hens'. In other sectors e.g. the beef, chicken and pig sectors such language labels are not easily available. So language relating to standards could usefully be supported by pictorial representations of the farming systems and/or by, for instance, a logo. Measurement of the efficacy of animal welfare standards is becoming more possible with the introduction of welfare outcome assessment which offers the possibility of obtaining real time information on the welfare state of animals, and allowing welfare comparisons between farming systems.

How might the UK benefit from the EU taking more or less action on food law in the future?

The EU should agree more legislation based on how the animal is produced. We believe that consumers need to be better informed about modern farming practices and their implications for animal welfare – indeed that was the conclusion of the Eurobarometer surveys in 2005 and 2007. If consumers are not aware of how animals are kept in standard farming, they will have no incentive to look for labelling showing higher welfare food and pay extra for it. The European Parliament in 2012 called on the Commission to

initiate a study on EU-wide labelling schemes for meat and dairy products to inform consumers about the farming methods used and their impact on the welfare of animals.

Such labelling schemes are an important component of a strategy for empowering consumers. Outcome-based assessments should be used to ensure that systems generally considered to be associated with high welfare (outdoor and extensive indoor systems) are indeed delivering good welfare. Thus, for example, the products of a free range farm would not be permitted to use a 'free range' label if the potential of that system was not being realised and the farm's welfare outcomes were in fact poor.

In order to provide transparent information to consumers, not just higher welfare food but also food derived from animals reared intensively – which is the most common farming method in the EU – should be labelled. If labelling is voluntary, it is likely that only products farmed to high standards of animal welfare will be labelled. To ensure that intensively reared meat is identified as such, mandatory labelling is necessary.

Rather than tackling all meat at the same time, it may be sensible to start with poultry meat. EU legislation on the labelling of poultry meat already helpfully provides that terms that suggest high welfare, such as free range, which may only be used if the birds have been reared to certain specified standards. It would be straightforward to extend this legislation to require poultry meat reared intensively indoors to be identified as such.

Royal Society for the Protection of Birds

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

It is the RSPB's view that EU action to tackle Avian Influenza through banning trade in wild caught birds (Commission Regulation EC No. 318/2007) has benefitted the UK, through the reduction in animal and human health risks and through cutting down administrative costs to the UK Government. In addition the ban on imports of wild caught birds into the EU is also a significant contribution to global bird conservation efforts and to improvements in animal welfare.

Avian influenza is an international problem that does not respect national borders, and can therefore only be tackled through concerted and coordinated international action. Action by the EU is therefore justified, and indeed benefits the UK by ensuring that other Member States adopt the same or more strict protection measures. A lack of coordination at EU level would risk undermining any UK efforts to control the spread of Avian influenza.

Prior to the EU banning the import of wild caught birds into the EU, the UK Government (including Defra) incurred significant quarantine, phytosanitary, administration and enforcement costs from the wild bird trade. A cost-benefit study commissioned by the Belgian Government in 2006 indicated that a policy of a moratorium on the import of most wild birds would produce a positive economic benefit of €47-122 million annually for the EU, and €55-194 million globally.

In addition the wild bird trade has a major negative impact on the wild populations of the birds that are traded. The international wild bird trade involves millions of birds and unril the 2007 ban, the EU was the world's major importer. The trade is a contributory factor in the globally threatened status of some species and is implicated in population declines of others. More than 3,000 of the world's 9,600 bird species are known to be in trade, but reliable data on wild populations is lacking for almost all of these. It therefore cannot be argued from any perspective that the trade is sustainable; 36% of all parrot species are listed as threatened, but 52% of these are still traded.

It is sometimes argued that the wild bird trade is a valuable resource that potentially provides important income for the rural poor in exporting countries and incentives for conservation. However, there would appear to be no/little published evidence to show that habitats have been conserved to provide a 'sustainable harvest' of birds, whilst there is substantive evidence to show that the trade has been implicated in population declines of a number of species. Whilst any income from the trade may be significant to poor farmers, studies have shown that the trade provides only seasonal and meagre wages with most profits taken by middlemen and importers outside developing countries.

In addition, there is avidence that appalling standards of welfare during capture, holding, transit and quarantine of birds result in unacceptably high mortality rates of up to 60%. MAFF figures quoted in the Dimmock report on avian quarantine from 2005 [http://archive.defra.gov.uk/foodfarm/farmanimal/diseases/control/avianquarantine.htm] showed an average of 13.4% mortality, including birds dead on arrival and those that died in quarantine. Such mortality is not accepted for poultry imports, where mortality rates are currently less than 1%. Pre-export mortality rates of between 50 and 66% have been recorded in the country of origin for grey parrots. Methods include the use of nets with tethered call birds, snares, and 'bird lime' (glue), all of which cause unnecessary death and suffering. These methods are illegal in the EU, but are widely used to trap exotic birds in other countries.

By banning the import of wild caught birds into the EU, the EU has secured improved protection for animal and human health in the UK, as well as supporting the achievement of UK and EU nature conservation commitments. Acting alone, the UK could not have achieved this.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

Although trade in wild birds is regulated under the Convention on International Trade in Endangered Species. CITES, it is RSPB's view that CITES is not working adequately for birds. CITEs does not therefore represent a valid alternative to EU action to restrict trade in wild caught birds in order to achieve nature conservation objectives and it does nothing to tackle the threat to the UK posed by avian Influenza and other wild bird-borne diseases.

Trade in some 1,500 bird species is regulated under CITES by exporting countries (who are parties to CITES): trade in species listed on Appendix 1 is strictly regulated and excludes commercial activities; trade in species listed on Appendix II is only allowed under a system of permits with a requirement that quotas be based on non-detriment findings. CITES itself can impose sanction or quotas on countries that ignore recommendations resulting from reviews of significant trade.

However, most species fall outside the protection of CITES, including most globally threatened species. There are little data available on the numbers or variety of these non-CITES species in trade. During 2000-2003, over 3 million wild CITES-listed birds were traded globally, with over 90% imported to the EU. The EU has implemented stricter measures for CITES species by implementing the Wildlife Trade Regulations (Council Regulation 338/97). This allows the EU to impose quotas or restrict imports for species of conservation concern. Despite these regulations, many species were still traded into the EU in large numbers before the ban with apparently little knowledge of their population status or biology. Some species, such as the grey parrot, have continued to decline across much of their range, largely as a result of over-exploitation, in spite of numerous quotas and restrictions imposed by CITES gobally.

Since 1975, despite protection by CITES, 32 species of parrot have been moved from Appendix II (which allows trade under permit) to Appendix I (banning trade).

Given that, in our view, CITEs is not wholly effective in supporting the conservation of wild birds globally, and that the EU and UK have made commitments under the Convention on Biological Diversity to halt the

loss of biodiversity by 2020, there is a strong case for the EU taking action to support the achievement of these conservation objectives.

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

Escaped wild caught birds have formed feral populations in many parts of the world resulting in economic problems for farmers, displacing native species, and potentially acting as vectors of contagious diseases to native wild birds. The costs of eradicating problem species can be huge. The Convention on Biological Biodiversity – to which the EU and all its Member States are signatories – places obligations on parties to prevent introductions of non-native invasive species.

International movements of wild birds amplify disease risks to humans, livestock, and local wildlife. The epidemic of avian influenza in Asia is only one of many outbreaks that have affected the poultry industry in Europe and North America. They cause massive interruptions in trade, the destruction of millions of birds, and in some cases human illness or even death. Recent avian flu outbreaks have had serious economic consequences for EU Member States. In 2003, an outbreak of avian flu in the Netherlands and Belgium required the culling of over 30 million farmed birds, infected over 80 people, and killed one veterinarian. The 1999-2000 avian flu outbreak in Italy required the destruction of 16 million farmed birds and cost an estimated €510 million. In 2004, a consignment of 4,000 wild parrots and other birds imported into Italy from Pakistan tested positive for Exotic Newcastle Disease (END) and the entire consignment was destroyed. By introducing stricter controls the EU has significantly reduced the risks to the health of humans, livestock and wildlife. The threat to UK busines interests from relaxing or removing this level of protection should not be underestimated in the RSPB's view.

Arguments that the trade supports the livelihoods of local people in birds' countries of origin also do not stand up to closer scrutiny. Whilst it is clearly true that trappers earn some money from their efforts, profits are overwhelmingly made by middlemen and importers. RSPCA investigations in Ghana found that an EU import ban had little negative impact on trappers, for whom wild birds tend to be a secondary source of income. If the trade was conducted on a truly sustainable basis, including habitat conservation, it could be equitable, but it is unlikely that this would prove economic for most species traded in volume, certainly whilst unsustainable trade is legitimised as at present. We have seen no evidence to suggest that the trade as currently practised represents sustainable development.

Royal Veterinary College

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

- financial support to some prophylactic or eradication programs after agreement on the measures with the Commission

- imposed plan and timelines may differs from national proposal

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

- the EU promotes and defend agreed EU standards at international scene (OIE, WTO)

- scientific research at EU level may address some of the UK questions

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

a bilateral negotiation may offer better agreements in some cases

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

The implementation, at EU level, of programs aimed at reducing exposure to certain endemic pathogens, (e.g. against food-borne pathogens Salmonella, Campylobacter) will be challenging for UK producers - and uncertain whether producers from trading partners (third countries) will have to cope with the same demands.

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

There is considerable potential for more widespread adoption, at EU level, of risk based informed management decisions (e.g. targeted surveillance or import analysis). Different priorites, perceptions and interests of stakeholders across EU countries may delay the adoption of more rational strategies.

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

Harmonisation of standards (e.g. hygiene criteria) across EU facilitates trade

Europe-wide legislation tends to support trade, production standards and consumer protection. Adressing some of these issue on a state-by-state basis could be detrimental to the UK industry (e.g. meat) and UK consumer. A relevant example are the potential changes in the future system of official meat controls, which may (or may not) reflect national views for more risk-based and proportionate inspection. Applying a revised system at a national level only would not be realistic as it would put the industry in a difficult position with respect to trade partners which may not recognised the revised, more efficient, strategy.

Examples of some EU-level action on UK priority issues:

- potential for removing bovine mesentery from the list of Specified Risk Material (SRM) to enable the harvesting of mesenteric fat. An EFSA Opinion on bovine mesentery and intestine is ongoing and expected to be available in January 2014;

- The provision of UK data on minced meat inform and support the case for changes to the EU rules. The UK case has been presented to the Commission’s Food Hygiene Working Group and the Commission is now to seek a scientific opinion from the European Food Safety Authority before considering the matter further

What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

Work on some of UK's priorities at EU level:

Potential for removing bovine mesentery from the list of Specified Risk Material (SRM) to enable the harvesting of mesenteric fat. An EFSA Opinion on bovine mesentery and intestine is ongoing and expected to be available in January 2014;

Provision of UK data on minced meat has informed and supported the case for changes to the EU rules. The UK case has been presented to the Commission's Food Hygiene Working Group and the Commission is now to seek a scientific opinion from the European Food Safety Authority before considering the matter further

Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

The creation of European Food Safety Authority (EFSA) has provided an excellent opportunity for scientific assessment in a range of food-related topics. EFSA informs the mangers and broad public in a transparent way. The evidence gathered is useful to inform negotiation processess on spedific topics between member states and the European Commission.

In some instances, EU requirements may not be proportionate to risk at national level, e.g. in the case of Trichinela the UK does not fully comply with EU sampling requirements as it is disproportionate to the risk in the UK.

What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

Not all Member States have the same approach to deal with risk. There are instances where decisions may not be fully driven by scientific assessemnt.

Scotch Whisky Association

Overview

The Scotch Whisky Association (SWA) welcomes the opportunity to provide input to the UK government's Balance of Competences review.

The SWA is the industry's officially recognised representative body, responsible for protecting and promoting Scotch Whisky both at home and abroad. The Association's members export to over 200 markets worldwide; in 2011 industry exports were worth £4.23 billion, representing nearly 25% of all UK food and drink exports. (With member companies also owning the import and sales teams in many overseas markets, the real value to the industry and UK plc is far higher.)

Sales of Scotch Whisky within the 27 EU Member States totalled more than half a billion bottles, or about 42% of the industry's volumes. The EU is vital to the industry's long term sustainability, both as an internal market and as a strong voice in international trade negotiations.

The trade environment within the EU internal market, in which one set of common rules applies, is immeasurably simpler than the alternative in which 27 different regulatory regimes would operate. The EU rules, agreed with considerable and very helpful input from UK officials and MEPs, impact on almost every facet of production and trade in Scotch Whisky. These include: spirits definitions; protection of 'geographical indications' (such as Scotch Whisky); labelling; taxation; a standardised range of bottle sizes; holding and movement of excisable products; industry by-products for animal feed; health and safety; and environmental issues.

While the internal market is not perfect, the existing arrangements permit the UK Government to help shape the rules which govern it; they also greatly facilitate the resolution of problems arising from the inappropriate application of EU rules. Securing and maintaining an optimal trading environment requires a strong UK presence when legislation is being prepared or amended.

The influence of the EU extends well beyond the single market. The Commission, again with considerable input from UK officials, has been a strong and effective supporter of the industry's wider interests in international trade negotiations whether at the multilateral, regional or bilateral level. It has also successfully secured the removal of tax and other discrimination against Scotch Whisky in third countries using the World Trade Organisation's dispute settlement mechanism. As the world's foremost internationally traded spirit drink, Scotch Whisky derives enormous benefit from the EU's expertise and negotiating muscle in the areas of trade policy and market access globally.

Consequently, the SWA is a strong supporter of maintaining the UK's active involvement within the EU. In the fields of internal market regulatory harmonisation and international trade policy, we see no issues which require subsidiarity or to be repatriated to national level.

The section below provides SWA views on the consultation questions of most relevance to our sector.

FOOD SAFETY, LABELLING, FOOD QUALITY AND COMPOSITIONAL STANDARDS

- Scotch Whisky is sold in every EU Member State. The EU Single Market, and the harmonisation of legislation in areas such as spirit definitions and food labelling, have been of immeasurable help for Scotch Whisky. As the EU enlarges, so do the advantages from extending the *acquis*.

- EU Regulations, such as those on the Definition and Presentation of Spirit Drinks or on Food Information for Consumers, are enacted taking UK views fully into account and are often driven by UK interests. They are binding and apply equally across 27 EU (and 3 EEA) countries. They are more appropriate for the EU environment and helpful in ensuring fair competition, free movement, and consumer protection than the Codex Alimentarius.

- The agreed EU rules have a wider impact in that the Commission will press for similar measures when negotiating Free Trade or other agreements with 3rd countries.

- Scotch Whisky is the UK and the EU's most widely traded Geographical Indication foodstuff. The protection for Scotch Whisky at EU level serves as the basis for much of the SWA's effort around the world to protect the integrity of both 'whisky' and Scotch Whisky. The definition of 'whisky' at EU level was largely on the initiative of the UK, at the SWA's insistence.

- Harmonised labelling rules for foodstuffs facilitate free movement in the Internal Market in a way that 27 national regimes could not. The existence of national labelling requirements, however, or quasi-mandatory schemes (including in the UK) always act in the opposite way and compartmentalise the Single Market.

- By-products of the Scotch Whisky industry are used to produce a valuable animal feed (largely for the UK market). EU rules on food and feedstuffs and animal health have been extremely useful in this area.

Conclusion

The SWA firmly believes the UK's EU membership and the Single Market in particular have provided significant benefits for Scotch Whisky. UK participation in the EU mechanisms has often driven the agenda and the outcomes. The Association therefore sees no advantages in altering the current balance of competences in this area.

Seafish

Questions in relation to animal health and animal welfare:

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

- Inability for UK for promote goods on the basis of UK traditionalities or reputation.

- Food may be traded as 'product of EU' not UK

- Loss of flexibility to produce food to comply with third country Legislation, which is not in compliance with EU legislation. E.g. chlorine treatment for zero listeris required by US.

+ Opening up of new trade routes.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

Where there is no infrastructure to be able to comply with the EU rules. alternative measures that can achieve the same outcome could be permitted e.g. disposal/use of animal by products.

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

In the UK welfare standards tend to be set higher than EU standards. EU standards are higher than some third countries. As there is no approved method to market products on improved welfare standards the cost of higher welfare cannot easily be passed on without being non competative with imports.

EU welfare standards applied to food rather then just production facilities would ensure a level playing field within the EU. Third countries wishing to export to the EU would also need to comply if applied to the food product. This would remove the competative advantage of poorer welfare standards.

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

Challenge - extending of welfare requirements to fishing. It currently only included fish/shellfish farming or holding the requirements on land are necessary to maintain quality so are not currently onerous. To apply standards for catching and slaughter of wild caught fisheries would place an unnecessary burden on industry.

What impact might any future enlargement of the EU have on animal health and welfare?

Transition periods given to new members allows unfair competition as new countries may not be applying the same standards. This is also misleading the consumer who might not wish to buy products made from animal raised in a lower standard than seen in the UK.

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

Advantages

No barriers to trade. No need for different packaging for different countries

Less delay at border (incoming or outgoing).

In theory, in reality MS interpretation of requirements can cause refusal of entry. e.g. whether information should be on label or trade documents. Or whether consumer information needs to be on external carton as well as consumer label.

What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

However in trading as part of the EU, the UK can lose its identity and reputation. Food may be marketed as a product of the EU and therefore the food standards will be judged with the food from other MS.

If there are food safety issues within sections of the EU, third counties may reject all of that product from the EU even if some MS are not affected.

Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

The EU sets rules to protect the consumer in terms of standards and safety. These apply across the EU to prevent different standards creating barriers to trade.

Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

- EU wide standards should facilitate trade. But there are processes for prohibiting foods from being placed on the market on health grounds under 178/2002. Food can be judged unsafe based on the MS population. This allows trade to be blocked, it appears without much evidence to support claims.

- There can be multiple guidance from national and EU sources and inconsistemcy

- Lack of clarity in the detail, interpretation left to MS, Back to Directive type system. Regulations were intended to reduce MS interpretation of requirements

MS implement and enforce differently, MS authority implement above EU requirements and it is added to contracts of supply, therefore applying to other MS. This can also be used where a MS has a derogation but has to comply to supply to another MS. This is acting as a barrier to trade using contract.

There is a burden for small business to comply with EU law when it does not trade outside UK

The EU legislative process can be slow, lengthy and not transparent. Information is published too late to comment. Difficult for single MS trade body or business to become involved.

What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

EFSA are too remote from consultation with thoses effected. It does not always make recommendations that follow findings.

e.g.. EFSA report states ALA cannot be converted in the boby for health benefits but still sets levels for a health claim

e.g.. When there is evidence that information is incorrect will not get involved in discussion e.g.. Application of average portion of shellfish at 400g which is clearly incorrect and could be used for estimating exposure to contaminants etc.

e.g. The scientific evidence points to an RDA of 450mg for Omega-3 which is recommended by FSA but EFSA recommended 250mg based on same evidence. Applying this level means most products containing Omega-3 can claim to be 'high' which doesn’t allow the consumer to select products that confer benefits.

What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?

The UK cannot present its own views. The Commission will have to present the majority view of the EU

How might the UK benefit from the EU taking more or less action on food law in the future?

UK could benefit from standards that raise EU to that of the UK on composition and welfare. Higher standards in the UK advantage MS with lower standards and mislead the consumer.

Could action be undertaken differently e.g. are there ways of improving EU food law?

The change to Regulations has made more differences in legal requirements by MS. A return to Directives with more prescriptives outcomes may allow greater flexibility in achieving the aim.

A change to Directives would also speed up the legilative process as less debate would be needed on the detail. MS would be able to implement the Directive in the way best suited to their industry and infrastructure.

What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

Compositional standards for foods traded across the EU would provide protection for consumers and business. Where foods can be said to have a customary name, minimum standards should be applied. This is seen in some products e.g. sausages but a system of standards applied to names similar to the PGI/PGO regime would help to maintain quality standards.

These standards would only apply to a particular name for a product. Lower quality products can be traded but must be labelled clearly to inform the consumer.

Senior European Experts Group

Background

The Senior European Experts group is an independent body consisting of former high-ranking British diplomats and civil servants, including several former UK ambassadors to the EU, a former Secretary-General of the European Commission and other former senior officials of the institutions of the EU. A list of members of the group appears in the Annex.
SEE has no party political affiliation. As an independent group, it makes briefing papers on contemporary European and EU topics available to a number of organisations interested in European issues, drawing on the extensive knowledge and experience of its members.

Several members of the group have particular expertise on agriculture and food policy issues having worked for or as the UK Representative to the EU, or in the parts of the Commission dealing with these issues or in the relevant UK departments.

General Points

<u>Benefits of Membership</u>

We consider the effectiveness of the single market in food and livestock products is entirely dependent upon the exercise of EU competence in animal health and welfare and food safety policy. For cross-border trade in these goods to flourish, the UK needs common, EU-wide rules that (a) give confidence to consumers that their food is safe to eat whatever its provenance, (b) prevents other countries from applying separate rules on food composition, quality and labelling and (c) ensures protection against the spread of animal diseases, especially those transmissible to humans. This could not be achieved without extensive action at Community level.

As the Defra/FSA paper makes clear, the UK's participation in the single market for food brings it major benefits, with total trade in 2011 reaching almost £39 billion. British consumers have become used to being offered a vast range and variety of quality foodstuffs from across the EU that was simply unavailable before the single market. At the same time competition from Europe has stimulated growth, innovation and

export orientation amongst many farmers and UK food companies in what remains the UK's largest manufacturing industry.

This however is a policy area highly vulnerable to protectionism: history is replete with examples of countries seeking to protect their own national food cultures[4], and other examples of countries rapidly closing their borders to imports when safety problems arose in a neighbour, whilst taking disproportionately long to lift them again. Our involvement in the single market provides the mechanisms to ensure both that our consumers (and animal health) are protected when food safety or disease threats develop elsewhere in the EU and that our export interests are not subjected to unjustified restrictions following incidents here.

There is widespread evidence of this latter point. For example:

- Following the BSE crisis, EU legislation was adopted in 2006 to reopen the UK's beef export markets worldwide. When one Member State (France) declined to implement this law, it was taken to the ECJ and forced to apply it. By contrast Russia only lifted its ban some 6 years later, in late 2012, and the US market is still effectively closed;
- The EU's rapid alert mechanisms ensured that the UK authorities were immediately alerted when, for example, e-coli was discovered in food in Germany in 2011 so that national, and then EU, safeguard measures could be put in place;
- The EU is itself capable of protectionist action against third country exports: thus, for example, chicken imports from the US are banned due to cleaning processes that appear to carry no health risks. As an insider, the UK is invulnerable to such action.

In respect of animal welfare, the benefits to the UK of EU competence derive from spreading good practices in an area to which the British public attaches importance, as well as helping to ensure a level playing field for our own farmers. We recall that the main protagonist for including references to animal welfare in the Treaties has been the UK itself.

However, whilst the benefits of EU competence in this area are readily apparent, it is equally clear there is scope for improvement in the detailed regulation. Opportunities to achieve this will arise in the coming years, as the Defra/FSA paper indicates. The key will be to ensure that future regulation is effective, proportionate, risk-based and outcome focused.

Questions

A) Animal health and welfare

Q1 What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK? Q2 How might the UK benefit from the EU taking more or less action on animal health and welfare in future? Q3 What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

For the reasons outlined above – ensuring consumer confidence and disease control, thriving trade and rapid action in response to emergencies within the single market – we regard EU action on animal health and welfare as largely beneficial to the UK. We would see no merit in reducing EU action in the areas critical to maintaining cross-border trade and consumer protection, though there may be scope for greater flexibility in the rules applying solely to production for local consumption. On animal welfare, given that the

[4] It is no surprise that the seminal *Cassis de Dijon* and *Reinheitsgebot* cases, which concerned attempts by one Member State to protect its industry from competition from imports, were both in the food sector.

UK will normally want to raise welfare standards, doing this at EU level will help to safeguard our farmers' competitive position vis-à-vis those in other EU countries.

As regards external trade agreements, the evidence generally is that the UK benefits significantly from the EU's competence to negotiate with third countries, and this should in theory apply in relation to veterinary issues too. There would moreover be potential efficiency savings from having a single, rather than 27, body of negotiators on these issues. It would be essential however to ensure the Commission was given all the necessary veterinary and scientific expertise to carry out this work effectively as it does not appear to have this currently.

Q4 How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

As argued above, the core elements of EU activity on animal health - ensuring consumer confidence and disease control, thriving trade and rapid action in response to emergencies – are essential to the functioning of the single market in food. It follows that such activities could not be replaced by national action without major disadvantage to UK interests. There is however ample scope to supplement these core activities by national and regional action – for example in relation to the less highly transmissible and non-zoonotic diseases – which successive Governments (and the devolved administrations) have utilised.

The UK already has competence to act on animal welfare to supplement EU law, reflected in its comprehensive animal welfare legislation. It will generally be in the UK interest to persuade the EU to adopt our own standards, as we have successfully done over e.g. sow stalls and tethers where our standards were higher than in other Member States.

Q5 Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses? Q6 Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

History – most dramatically the BSE crisis – shows that high standards of regulation and enforcement are in the interests of food businesses, as maintaining consumer confidence in the safety of their products is critical to their prosperity. Nevertheless, the EU has traditionally operated prescriptive and highly risk averse regimes, e.g. on slaughterhouse regulation, which can impose undue or disproportionate costs on operators. Whilst the Commission has been seeking to pursue more risk-based and outcome focused approaches recently, there is still much to be done, not least with certain other Member States and the EP, before the right balance is achieved for UK businesses and consumers alike. All that said, EU rules have in the past provided a welcome incentive to improve the hygiene and safety standards in UK slaughterhouses which were previously inadequate in a great many plants but which had proved notoriously difficult for the Government to tackle alone.

Q7 What future challenges or opportunities might we face on animal health and welfare and what impact might these have on the national interest? Q8 What impact might any future enlargement of the EU have on animal health and welfare? Q9 Are there any general points you wish to make which are not captured above?

The threat of disease outbreaks and spread is ongoing, so vigilance must be maintained. In terms of opportunities, the forthcoming Commission proposal on a new Animal Health law provides the occasion for the UK to press for a significantly improved EU legislative framework which meets our key criteria as set out above. An ongoing threat to UK interests is the continuing reluctance of at least some Member States and MEPs to embrace evidence- and risk-based policy making in this area, combined with protectionist instincts and highlighted by the debate on products from cloned animals and their descendants referred to in the Defra/FSA paper.

B) Food safety, labelling, food quality and compositional standards

Q10 What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK? Q13 Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest? Q11 What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

As argued above (under General Points), the creation of the single market for food has benefited UK consumers and businesses greatly. The existence of two way trade of £39 billion per annum and the immense variety of foods available to today's consumers are, in our view, compelling evidence of the value to the UK of the single market in food. Moreover, the emphasis on mutual recognition (rather than the earlier vertical compositional Directives) supported by clear labelling rules and EU-wide limits for additives and other safety-related issues is the right approach to promote innovation and competition.

In general, legislation applying to the operation of the single market needs to be made at EU level and this is especially the case for food law. The alternative of having 27 sets of rules on e.g. food composition, labelling, additives etc would be highly disadvantageous for our exporting food businesses, disruptive of the single market and expensive in terms of additional bureaucracy. The *Codex Alimentarius* is a useful forum for agreeing standards (albeit very slowly as it requires unanimity) but is not a substitute for enforceable legislation.

Q12 *Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?*

As regards food safety, the comment at Q5 above applies and we repeat it: "History – most dramatically the BSE crisis – shows that high standards of regulation and enforcement are in the interests of food businesses, as maintaining consumer confidence in the safety of their products is critical to their prosperity." We are not aware that the food industry regards EU food law overall as unduly burdensome even if some elements of it (alcohol labelling for example) have required significant compromise. Indeed, their main collective interest is that there is a consistent and clear set of rules that responds to consumers' requirements and avoids barriers to intra-Community trade.

Q14 What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

Basing EU food legislation on science has been a cornerstone of UK policy under successive Governments. Such an approach ensures consumer safety, encourages innovation and (combined with appropriate labelling rules) maximises consumer choice. The UK has frequently been successful in negotiating science based EU rules, to the benefit of UK consumers and businesses. Implicit in such rules are judgements about what levels of risk are appropriate and in the main EU safety levels are (rightly) cautious. But in some areas, especially at the forefront of technological development, science has been set aside in favour of overly restrictive measures, ostensibly designed to respond to "social" considerations. Implementation of the framework legislation on GMOs in food and feed is one example (an issue causing even greater problems in the environment chapter, on which we will comment in due course). Marketing of products from cloned animals and their descendants promises to be another.

An example of spectacular UK policy success based on science has been the rules on Pet Travel. When the single market was first created, there was a tension between the goal of giving travellers freedom to cross EU internal borders with their pets and our (and Ireland's) desire to keep rabies out of our territory. The initial goal of the other Member States was to give priority to the freedom of movement arguments and therefore to force us to abolish our strict quarantine arrangements. The UK was also under some internal

pressure, not least from some senior diplomats, to relax the rules. But deploying scientific arguments about the rabies threat and the possibility of eradication, the UK persuaded the EC instead to embark upon a programme of eradication of rabies from its territory as a prior condition for relaxing our rules. As this programme became progressively successful in eradicating the disease, the UK introduced the Pet Travel Scheme, including pet passports and micro chipping of pets, in the late 1990s (much of which was then adopted throughout the EU). Now, with the risk of rabies being imported via pet movements reduced to insignificance, the UK's regime is harmonised with the rest of the EU based on regular vaccination, pet passports and microchips. Thus both policy objectives – protection from rabies risk and freedom for travellers with pets to cross to and from the continent with minimal difficulty[5] – have been achieved.

Q16 How might the UK benefit from the EU taking more or less action on food law in the future? Q17 Could action be undertaken differently e.g. are there ways of improving EU food law? Q18 What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest? Q19 Are there any general points you wish to make which are not captured in any of the other questions?

Broadly we consider the EU work on food law is in the right place and serves the UK well. The main ongoing challenge will be to continue to resist pressure for protectionist or anti-innovation measures, by insisting on maintaining a science based approach. Strengthening the quality and credibility of scientific support to the Commission and to the Member States in this area would be in the UK's interest. A further challenge may well be to ensure that food law is appropriately aligned with environmental legislation. One obvious area of major current concern is food waste, to which the EU's rules on "Best before" and "Use by" dates are a contributor.

11.02.13

Annex:

Sir Michael Arthur

Director-General Europe, FCO, 2001-3; British High Commissioner to India 2003-07; British Ambassador to Germany 2007-10.

Graham Avery

Director, European Commission, 1987–2006.

Sir Colin Budd

Chairman of the Joint Intelligence Committee 1996/97. British Ambassador the Netherlands, 2001-05.

Sir Michael Butler

British Permanent Representative to the European Communities, 1979-85.

Lord Butler of Brockwell

Secretary to the Cabinet and Head of the Home Civil Service, 1988-98.

John Cooke

Member of the UK Permanent Representation to the EC 1969-73 and 1976-77. Under-Secretary, International Trade Policy Division, DTI, 1992-96. Chairman, OECD Trade Committee 1996-97

Sir Brian Crowe

Director-General (External & Politico-Military Affairs) Council of the European Union, 1994-2002. Previously Deputy Under-Secretary for Economic Affairs, FCO.

Sir David Elliott

[5] Some specific rules remain to ensure dogs imported to the UK (and several other countries) are free from tapeworm

UK Deputy Permanent Representative to the EU 1982-91. Director-General (Internal Market), Council of the European Union, 1991-95.

Sir Michael Franklin

Deputy Director-General (Agriculture) European Commission 1973-77; Permanent Secretary, Ministry of Agriculture, Fisheries & Food, 1983-87.

Lord Hannay

UK Permanent Representative to the European Communities 1985-90 and to the United Nations, 1990-95.

Lord Jay of Ewelme

Permanent Under-Secretary of State, Foreign & Commonwealth Office, 2002-06.

Lord Kerr of Kinlochard

UK Permanent Representative to EU 1990-1995; Permanent Under-Secretary of State, Foreign & Commonwealth Office, 1997-2002.

Andy Lebrecht

UK Deputy Permanent Representative to the EU, 2008 – 2012.

Sir Emyr Jones Parry

UK Permanent Representative to NATO, 2001-03 and to the UN, New York 2003-07. Political Director and previously EU Under-Secretary at FCO. Now President of Aberystwyth University.

Sir Nigel Sheinwald

UK Permanent Representative to EU 2000-03. Prime Minister's Foreign Policy & Defence Adviser, 2003-07. British Ambassador to the United States, 2007-12.

Sir Stephen Wall

UK Permanent Representative to EU 1995-2000. Head, European Secretariat, Cabinet Office, 2000-04.

Michael Welsh

Member of the European Parliament for Central Lancashire, 1979-94.

Lord Williamson of Horton

Deputy Director-General (Agriculture) European Commission 1977-83. Cabinet Office 1983-87. Secretary-General, European Commission, 1987-97.

06.02.13

Additional letter March 2013:

a. Issues arising in the animal health and food safety sectors could be very sensitive in terms of trade relations with third countries, where standards often differed. These would be important in the context of the forthcoming negotiations on a EU-US trade agreement, which was of major interest to the UK and where the adoption of mutual recognition of each other's standards for food production would be a significant gain.

b. Very often the EU's position on food safety was less science based and more protectionist than the UK would ideally like. Difficult negotiations on e.g. genetically modified organisms and products from offspring of cloned animals were on the horizon. HMG needed to continue being a voice of reason in this debate, leading like-minded Member States and influencing the Commission and European Parliament. Global food security was an important element in this debate that other member states often ignored.

c. As our paper stressed, whilst it is always important to ensure regulation is not unduly burdensome, history has frequently demonstrated the importance of effective and well enforced EU regulation for food safety reasons. Where regulation fails, consumers lose confidence and businesses suffer. The current horsemeat scandal is a classic example of this.

d. Again as emphasised in our paper, the UK food industry has thrived under the current single market regime and there are many examples (we gave cheese exports as one) where innovative sectors have made major advances. This is an important and dynamic part of the British economy which is well integrated into the single market.

e. We recognise that high animal welfare standards are important for UK citizens (as reflected in the fact that the UK was responsible for getting welfare references into the Treaties) but that UK farmers can be put at a competitive disadvantage if the UK imposes higher standards than apply elsewhere in the EU. It will be in our interest therefore to persuade the EU to adopt similar high standards to our own, but we need to be realistic about our ability to do so quickly. We should in any event maintain pressure on the Commission to enforce existing welfare rules rigorously.

Sheep Health and Welfare Council (Chairman)

- Due to the size of the European Union, and the significant variation in species densities, environment and climatic conditions and management practices regarding livestock, it is virtually impossible to design appropriate common standards in animal health and welfare. Consequently, it would be in the UK's future interest to modify the balance of power and bring back some authority to a national level.

- The UK has a natural boundary in the English Channel and should make use of it to build a higher health status than the rest of Europe. Improved health is equivalent to improved welfare, increased profitability and reduced greenhouse gases and production costs. It would be to the UK industry's distinct advantage to recognise this potential, which would also serve to make our exports more desirable.

- On the other hand, this situation could potentially cause difficulty with imports. There are also one or two diseases which are currently more prevalent in the UK than elsewhere in Europe. However, it would be easier to tackle disease through UK policy on animal health than by following the protracted European process. With EU law, agreement must be brokered between 27 countries, even though only 6/8 have a genuine interest in sheep health and welfare.

- There is a growing awareness and desire for less external enforcement and more intra-industry enforced health and welfare standards (e.g. through trade agreements). However, the UK and EU would have to provide support by enforcing baseline standards.

- There have been clear cases where regulation has not been drafted on a logical scientific basis. e.g. TSE regulations for small ruminants within Europe, which has been acknowledged internally as having been founded on MEPs' 'bias and prejudice'.

- There could be an argument to move these scientific decisions to an overarching body representing the whole industry, from livestock producers to food safety organisations such as the FSA and EFSA. This could work to ensure that the interpretation of science and risk perception is balanced on both sides of the argument. The precautionary principle is useful where knowledge is deficient, but as it can cause serious economic problems (if applied to literally) when the state of knowledge 'overtakes the legislation'.

- There could be an argument for regional based controls instead of European or national, although it would be difficult to draw the boundaries. They would have to be economic, socio-economic, or be based on disease/livestock species (rather than purely geographical).

- There are examples where regional differences would make further harmonisation extremely difficult. e.g. the debate on anthelmintics (sheep wormers). Across most of Europe anthelmintics are only vet-prescribed, while in the UK there is a distribution network administered by SQPs (suitable qualified

personnel). SQPs in the UK are often better informed than other countries in this specialist area and harmonisation would threaten this sophisticated distribution system.

- Sheep EID is an example of a particularly burdensome piece of legislation. It is high-cost, bureaucratic and the issues which brought about implementation are now largely redundant. Batch recording would be equally effective in disease control and traceability, since if one animal in a group is diseased then the whole group must be considered infected. To really improve disease control and traceability, a nearer 'real time' improved livestock movements recording database is needed. This database should have the capacity to record individual animals when required by the industry, but this should not be a legislative requirement for disease control and traceability.
- Sometimes the UK over-implements EU animal health and welfare law but this ought to be considered on a case by case basis.
- For the moment, pending the release of a vaccine and the results of ongoing research, the EU reaction to the Schmallenberg virus has been adequate and measured.

Soil Association

Introduction

This response is made on behalf of the Soil Association and produced by its policy department. The Soil Association is the main organisation for organic food and farming in the UK, and is a membership charity with over 20,000 members. The Soil Association also owns an accredited organic certification company with around 4,000 licensees.

We would be happy to discuss or send further information regarding the issues outlined below if required.

1 What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

EU action on animal health and welfare benefits the UK in a number of ways. For example it gives UK consumers some reassurance that they are able to buy higher welfare animals products, for example by giving a greater choice of animal products which have been reared to at least baseline EU welfare standards. It is also important for UK businesses that disease controls are harmonised.

2 How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The UK will benefit from the EU taking more action on animal health and welfare by, for example ensuring that consumer demand for high welfare products in the EU is addressed ensuring that UK businesses benefit from a level playing field around the production of animal products in the EU

3 What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

The UK benefits from fact that the EU has exclusive competence for negotiating trade agreements with third countries because the EU is the largest exporter and importer of food products worldwide and is the world's largest trading bloc.

This notably ensures that animal welfare and animal protection are priority issues in EU international trade policy and agreements.

4 How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

As UK public opinion favours more protection for animal welfare than currently exists, opportunities for increased protection in the UK should be sought, where these are not planned at EU level.

5 Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

We believe that there is currently the correct balance between protecting animal and public health and the interests of business.

Although some EU animal welfare legislation may sometimes be less ambitious than previously adopted UK animal welfare legislation, EU action on animal health and welfare results in:

- a high number of animals being benefitting through EU action
- UK consumers' demand for higher welfare animal products being addressed
- UK businesses benefitting from a level playing field.

6 Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

We would like to see better use of welfare outcomes in legislation and official controls. Welfare outcome assessment is a practical and scientifically informed way of assessing and measuring animal welfare. It aims to provide an objective, accurate and direct picture of animal welfare.

This approach is being trialled in a large UK project run by the Soil Association, RSPCA and the University of Bristol. The AssureWel project aims to develop a system of welfare outcome assessment for the major farm animal species, so welfare can be measured and provide a basis for improvements to be made. These assessments will be developed for use by both assurance schemes and producers.

For more information please see: http://www.assurewel.org/

7 What future challenges or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

According to a 2010 EU barometer requested by the European Food Safety Authority on the perception of food and food-related risks, the welfare of farm animals is the top concern expressed by respondents in the UK. As such, improvements to achieve higher welfare farming practices are likely to result in real marketing opportunities for British businesses.

For example as outlined in this recent Farm Animal Welfare (FAWC) report:
http://www.defra.gov.uk/fawc/files/Report-on-Economics-and-Farm-Animal-Welfare.pdf

The biggest challenges the UK will face in relation to animal health and welfare will be linked to (a) climate change and (b) the unsustainable intensification of food production.

8 What impact might any future enlargement of the EU have on animal health and welfare?

Future enlargement of the EU will have a positive impact on the health and welfare of animals in candidate countries as they will need to adopt the full EU legal framework on animal welfare, food safety and health into their national legislation before they can join the EU.

Questions in relation to section B: food safety (including feed safety), labelling, food quality and compositional standards

1 What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

While the EU single market may have had various advantages for the UK, major disadvantages have been highlighted by the horsemeat scandal of 2013. The complex and international nature of our food supply contributes to the difficulties in assurance and traceability that underlie this scandal. These difficulties are not only relevant to food composition and safety. They also cast doubt on assurances about the welfare of the animals yielding products in the UK food supply, a matter of serious concern to UK consumers.

2 What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

The response to this question will depend on the specific trade issue being discussed.

5 What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

We support taking a science based approach to food legislation. This must be combined with the precautionary principle, particularly when addressing issue which have been shown to cause harm through scientific study, yet the evidence is not yet conclusive or difficult to prove (e.g. in the case of pesticide safety with regard to the impacts of multiple pesticides).

Stuart Agnew, Member of the European Parliament (UK Independence Party)

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

According to the 'Impact Assessments' developed for the UK Government for the EU regulations to be transposed; the cost of animal health regulations from the EU amounted to approximately £1.767 Billion between 1998 and 2013 (an average of over £117 Million per year). This has to be added to the £4.7 billion spent by DEFRA and its delivery agents (not including the minimal animal welfare spend of about £30 million). Indirect benefits will accrue due to the research and monitoring carried out within this figure but it is not possible to quantify. There is no evidence of any benefit seen from the Impact Assessments' total of £1.767 billion as this figure is net of benefit.

So the total cost burden between 1998 and 2013 amounts to approx. £6.5 Billion.

References:

http://www.defra.gov.uk/publications/files/pb13450-rcsag-report-101213.pdf

http://www.britishchambers.org.uk/policy-maker/policy-reports-and-publications/burdens-barometer-2009.html#.USzLh6DDUy0

http://www.openeurope.org.uk/Content/Documents/PDFs/regs.pdf

http://www3.hants.gov.uk/finance/retailpricesindexandconsumerpriceindex.htm

Methodology for prorated figures:

Average figures were obtained from DEFRA/Chamber of Commerce/Open Europe databases, by using the RPI for 1998(163) and running forward to 2009(213.4), this gave a factor of 1.31: the given figures were averaged and then multiplied by 15 to bring the figures to 2013.

Traditionally, the UK has been a global leader with more demanding standards. We are now shackled to countries which subsidise bullfighting and other animal cruelties that would be unthinkable in the UK. We have lost our freedom to have higher standards and have to cope with a system where some others have little respect for agreed rules which we feel bound to enforce.

Eg: ... battery cages: only a few of our egg producers failed to meet the deadline. Other countries were well behind. Some have still not complied, with processed egg products easily able to enter the UK market.

Eg: sow stalls where ridiculous confusion arose from the difference between imperial and metric measurements - a difference, in any case, within any sensible margin of error - yet it has caused cost and aggravation and allowed accusations that the UK is tardy when our record stands comparison with anyone's. UK producers are currently at a major commercial disadvantage against non-compliant EU producers. Sow stalls and tethers were banned in the UK decades ago and only now are some of the other EU member states beginning to follow suit. Needless to say, UK producers have been at a significant competitive disadvantage with countries which have carried on using these methods. This situation still applies in regard to EU member states who have failed to comply with the EU ban introduced on 01.01.13

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The UK cannot benefit from more EU interference; only by reducing the EU's regulatory grip can the adverse effect on UK farming be reduced.

The issue is essentially one of compliance: there is plenty of regulation and only patchy compliance: see especially 1 above and 5 below...

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

This is a very bad idea ... Being one of 27 and with a different common-law, free-trade, free-market business and legal tradition shared by the Anglosphere but not by much of the EU set against having your own voice?

There might be an economy of scale advantage but the loss of independent action and the ability to correct things quickly if they prove wrong would weigh heavily against the idea.

This question more or less answers itself ... Also see below, especially ... Animal welfare 9 and, Food safety and quality 6 and 7.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

A bespoke solution to regional and national affairs is usually better than a 'one size fits all' approach. After all, we are often influenced by a strong lobby of French farmers deciding what is right for us and that cannot be right.

Essentially Defra is already reduced to being little more than the EU's UK implementation and compliance arm. Likewise, the Department for Business Innovation and Skills, in the context of all trade issues and negotiations, which are now exclusively undertaken and controlled by the Brussels institutions.

Returning power to nation states restores freedom of choice and action, a gain with no consequent loss - for the reasons set out especially in ... Food safety and quality 6 and 7 below ...

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

The mistake is to focus on 'legislation' as if that automatically delivers the stated standards and full compliance..

UK business is damaged by:

1. Whitehall 'gold-plating', 2. Over-zealous UK implementation by officials. 3. The casual administrative non-compliance of certain other member states. 4. Cultures of cronyism, which easily trip over into corruption and contempt for the rule of law.

The European Commission needs to understand that passing a law is not the same as sensible compliance. When introducing new legislation on animal welfare, the European Commission must pay greater attention to enforcement. Simply introducing a new law and expecting member states to comply doesn't work, as we have seen with the battery cage and sow stall/tether bans. This unfairly disadvantages member states which do comply and the UK in particular.

The Commission is also insensitive to national differences at everything from the working level:

e.g.. in the context of Emerging Infectious Diseases (EID), the UK and Ireland have far larger numbers of animal movements than certain other member states ...

to the global geo-political:

the environmental variety of a continent stretching from Finnish Arctic tundra where only reindeer can survive to sun-drenched Spanish orange orchards or Sicilian olive groves. Such ecological variety is not sensibly treated as a uniform entity in the context of animal husbandry, crop production or anything much at all, in this context.

At best, the outcome is lowest-common-denominator regulation generated by pork-barrel politics: "I'll trade you an unsustainable increase in TAC (fish) quota in return for extra milk quota or the extension of the existing sugar- beet regime!"

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

Clearly all sensible policy should be outcome-focused and, evidence and science-based.

I believe that the current structures are simply impervious to and incapable of the necessary reform. The EU is systemically flawed being rooted in undemocratic processes, the conformist and authoritarian acquis-communautaire and the concept of the 'beneficial crisis' where all problems are exploited to impose more uniformity, more detailed regulation and to transfer ever more power to the EU institutions.

The multiple retailers hold the key to raising animal welfare standards by supporting Assurance Schemes that are themselves robust.

What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

See 5 above.

Challenges: EID and more relentlessly applied EU regulations.

Opportunities: Implement what is commercially necessary within the legal framework and ignore the Green lobby.

Political cowardice on bTB is ensuring the relentless spread of an unpleasant animal disease in cattle and wildlife. There is an ongoing financial impact that is against the national interest.

What impact might any future enlargement of the EU have on animal health and welfare?

Mainly in EID but also in unfair competition, as new EU states are allowed derogations to rules and regulations, with which we must comply.

We have already commented on the vast ecological diversity ... each new entrant tends to exacerbate this in direct proportion to their size and, in particular, their latitudinal spread.

Against that backdrop, the EU's wish to extend its impact from domesticated species to all ecology via the mechanism of a single European policy for 'Alien Invasive Specise' (AIS) is comic if not taken seriously but potentially tragic when it is. You cannot sensibly have the same AIS in the Canaries and Crete, Kiruna (Sweden) or Kolari (Finland), not to mention Mayotte and Reunion: it is ridiculous to try!

(And I am not even mentioning the variety which can occur in a small area, as a result of major differences of height above sea level).

Single market rules facilitate the spread of new plant diseases amongst native species with no resistance. The Government was slow to react to Dieback disease, for fear of breaking the rules.

Are there any general points you wish to make which are not captured above?

Freedom to adopt practices and measures tailored to our country and its circumstances must be an advantage commercially and ethically. If not, we are saying that the EU knows best, which it clearly does not!

There is an unwillingness across both Whitehall and Westminster to recognise the simple proposition that, once we have lost sovereignty in any particular area, we can no longer make up our own minds and decide for ourselves - and the EU offers no mechanism to get it back.

Instead, the UK is one voice among 27, most of whom do not share our free-market, individualist growth-focused values.

Such a vast loss of self determination and freedom has to be justified, not by some short-term marginal advantage but by a massive and overwhelming need.

The EU is not a free-trade area or even a proper single market but a customs union, as the precursor to a single United States of Europe. Isn't it time that a British government finally admitted this to the people in whose name it holds office - though, in reality, has less and less power as this is tranfered to the EU institutions?

In terms of a globalised world, this is, ironically, isolating Europe economically, as the terms of the customs union constitute a wall which can only be breached by Brussels. All EU standards are in this sense a potentially isolating trap. That may or may not have been the case in 1972 but it is certainly the reality today, 40 years later.

It has to be recognised that there is a huge culture range across the EU in attitudes to animal welfare.

EU interference in the handling of the 2001 FMD outbreak resulted in the prohibition (initially) of the burial of carcases. The alternative method of burning helped spread this disease.

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

This question has to be answered at both the macro and the micro level.

At the former, what constitutes and are the benefits of a single market?

Many British businesses have welcomed the EU as a commercial opportunity, without understanding the catch: they become open to more competition as well. To the extent that the UK functions as a genuinely

open market, it is easily penetrated by others. More corporatist and protectionist arrangements elsewhere in the EU are less easy for UK businesses to penetrate.

The British food industry suffers from asymetric market access across the 27 member states. This would not be a problem if the direction of travel was ever towards genuine free trade and open markets, but it seldom is.

Instead the UK (and in fairness, other northern European countries) have to adapt to such systems as the whole regional and geographic provenance arrangements, which are rooted in a southern European collectivist tradition, and are ill-suited to English free-trade and neo-classical economic traditions i.e. PGIs and all of that ...

The movement towards a real single market, means moving towards a specific economic market structure of a very few key players, a large tail of niche businesses and a squeezed - and probably eventually almost empty - middle. At that point German productivity and French non-tariff protectionism (market-management) become a real threat to much British employment - in a way they are not when we are not limited by uniform European laws.

A simple example: in the UK, seed diversity, and as a result crop diversity, is achieved through market competition between private sector seed companies which also look to other continents. Increasingly, if you can persuade the sector to tell the truth, they will explain their fears about the progessive impact of current and forthcoming EU regulations. But so concerned are they about not offending Brussels, that extracting this analysis is not easy.

Of course, the regulations are never simple - or simplified - so bureaucracy and the cost of compliance grows exponentially but, more importantly, planned changes threaten to introduce an undefined notion of 'sustainability' which would add a non-economic, random requirement which has nothing to do with food productivity and commercial success, and thus undermines European competitiveness.

What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

There are many key bodies regulating trade where we have quite simply lost our own voice and had to yield our place to the EU e.g.: in Geneva, in non-EU member, Switzerland, at the World Trade Organisation (WTO).

Outside the EU, we would reclaim the WTO seat we had to give up in 1973 on joining the then EEC. This would allow us to negotiate our own trade deals with all the other countries of the world: countries we can no longer negotiate with except through EU representatives - to whom we are one of just 27 (28 when Croatia joins the EU in July).

Similar considerations apply to many United Nations bodies. Norway - the country without any say in the rules it must follow, according to David Cameron - has its own "loud" voice on the fisheries committee of the UN's Food and Agriculture Organisation. The UK's fishermen impotently suffer under the Brussels diktats of the EU's Common Fisheries Policy.

Against that factual background, operation at the EU level has quite simply had the major disadvantage of 'silencing' us at the global level.

Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

Frankly, this question implies a false dichotomy. Free markets deliver to both businesses and their consumers when operating properly. It is unsubtle attempts at market management - market-rigging - which underpin much of the Common Agricultural Policy and thus impede the proper relationship between the two.

More specifically, the current 'horsemeat' crisis potentially offers some interesting lessons. With beef at £3000 per tonne and horsemeat at £700 per tonne in the context of a pan-EU managed market, the incentive for fraud is obvious, especially as, veterinary drug issues apart (and perhaps not even then), the nutritional quality and food safety of the horsemeat is not an issue.

The solution is NOT more and tighter regulation. By incentivising bad behaviour whilst making it relatively easy to get away with it, it is the regulatory structures and market management mechanisms which CAN be the cause of the problems in the first place. The EU's regulatory approach needs to be infused with the ideas of behavioural economics. Rather than banning bad practices, try not to incentivise them in the first place.

Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

The fiasco of 'GM crops' and the resultant competitive advantage delivered to non-EU producers virtually speaks for itself.

UK (EU) consumers consume GM foods, just ones not produced in the EU!

The initial EU rule of 'zero tolerance' on GM demonstrated total ignorance of real life.

The holds of ships, trucks, rail containers were apparently 'contaminated' after they had carried GM international cargoes with decontamination being at best very difficult and expensive, at worst impossible. The result was ludicrous - non GM cargoes were perceived as high risk by shippers and the EU was starved of this product.

Interpreting legislation in broad terms, officials might do well to ask this (and other) questions to the British firm, Tate & Lyle Sugars: see our appendix based on their recent experience.

What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

The banning of GM crop cultivation is NOT science based. It appears driven by unreasoning consumer prejudice, fuelled by 'green' politicians, who exacerbate these prejudices using the fear factor. Anti-GM activists want all GM experiments trashed even before they can produce any results.

The current crisis in bee populations will not be affected one iota by most of the measures - honey jar labelling, for instance - supposedly introduced to address it. However, EU honey producers will be seriously affected.

The fiasco of the Common Fisheries Policy, quotas, discards, subsidies etc. says it all. Although I am not generally sympathetic to the 'green' movement, officials and politicians might do well to read 'Silent Seas' by Isabella Lovin MEP and reflect upon what it tells us about the ability of the EU to evolve rational evidence and science based policy. Fifty years of the CFP is a perfect synonym for EU (in)competence in these matters.

The 'science' of man-made global warming is highly questionable, yet agriculture is being forced to become considerably less efficient. Farmers are forced into 'tackling' it through increasingly illogical CAP greening measures, e.g, 7% set aside of prime agricultural land at a time when grain prces are very high!

What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?

It can only be damaging, both practically and psychologically.

The key point to understand is that the Codex is a global set of standards with sub-groups e.g. CCFNSDU = Composition standards, CCFHA = Additives standards, CCFH= Hygiene standards etc.

As CODEX is global, the UK could have its own voice in developing or adopting the codex but CANNOT do so as a result of the role of the EU.

Of course, this has long been the case so British farming and commerce no longer bothers even to identify how it might best help UK interests as opposed to operating through the EU collective. That of itself is an indication of the way the EU, by taking away independence of action, eventually comes to undermine independence of thought ...

For clarification may I add that when you have independence of action, you can still agree to act in accordance with other parties, e.g., the EU. It is not the case that because one has freedom of position one will always choose to exercise it. However, is the loss of the ability to do so, even when you want to, which represents both a massive opportunity cost of EU membership and an absolute loss which eventually trammels your thought processes in what eventually amounts to internalised long-term self.censorship.

How might the UK benefit from the EU taking more or less action on food law in the future?

No one can diminish the role of the state by adding to the regulatory burden; nor lower taxes by promising extra subsidy or that the government will pay; nor increase individual decision-making by telling farmers how to farm or companies how to market.

Could action be undertaken differently e.g. are there ways of improving EU food law?

Please see 4, 5 and 6 above.

What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

The opportunity lies in reasserting our sovereignty, regaining our seat at the WTO, the FAO and other international bodies and being able to implement the codex in line with British requirements.

The threat lies in failing to do this.

The challenge lies in the refusal of the British political class to act in our national interest.

Our core weakness is that the longer we fail to do so, the more British business is subject to the psychological impact of EU membership as set out especially in 6 above.

Are there any general points you wish to make which are not captured in any of the other questions?

Please see also section 9 in the first section of this consultation.

Relentlessly increasing legislation on EU food production makes it less competitive and risks sucking in imports of far more doubtful provenance.

Sugar Nutrition UK

Nutritional Information

Sugar Nutrition UK fully supports a unified European approach to food labelling legislation, to provide both a level and consistent playing field and prevent barriers to trade. Legislation at a national level can result in inconsistencies across Europe and can in some instances be a significant barrier to trade.

Regulation (EU) 1169/2011 on the provision of food information to consumers (FIR) is beneficial in respect to its consolidation of the general food and nutrition labelling legislation. A single regulation is preferable as it improves understanding and supports the consistent application of the legislation across the breadth of the European Union. However to date guidance on the interpretation and implementation of the legislation has not provided the clarification in respect to nutrition labelling required by businesses for its implementation. This therefore is an area of concern; without timely and detailed information, unintended

inconsistencies in labelling could occur when companies have to make their own interpretations of the FIR due to insufficient guidance.

The use of Front-of-Pack nutrition labelling has been increasing across Europe with companies using consistent labelling mechanisms on products sold across multiple countries. The use of a monochrome Guideline Daily Amounts system is widespread across the UK food market and is also seen in many other EU countries. Thus this provides consistent, clear and at-a-glance nutrition information to consumers across the EU. The flexibility of the regulation to authorise the continued use of this scheme on a voluntary basis is beneficial to the UK and supports the move towards greater penetration of consistent labelling across Europe. The provision to enable per portion labelling to continue is also beneficial to the consumer in making food choices.

However concerns do exist in respect to possible national schemes in labelling. The development of a separate UK national front-of-pack hybrid labelling scheme which incorporates the use of traffic light colours and GDA's is of concern - given the lack of robust scientific evidence to underpin this proposal. Furthermore, this approach not only lacks a solid nutrition basis, but also fails to take into account any of the possible unintended consequences which could be detrimental to public health. If Member States develop national labelling schemes this can be both a costly and burdensome barrier to trade for companies that operate across the EU; different countries may require differing labels. It may also result in increasing the inconsistency in nutrition labelling between countries, as opposed to reducing it. Legislation at an EU level could therefore be beneficial in supporting a unified approach to nutrition information and labelling, but it should not prevent the provision of areas of good practices devised by individual Member States, such as allergen boxes.

Currently the FIR does not permit the labelling of calories without the co-labelling of kilojoules. This EU legislation is not beneficial to the UK consumer. In the UK the understanding of calories is not yet universal, but it is well known to consumers and comparison between products possible. The addition of a term (kJ) on the label that is unfamiliar to the vast majority of the population is not beneficial to consumer understanding. It can create confusion and thus negatively impacts on the goal of the food label achieving its intended purpose of providing easy to use information. In addition the required change from GDA to Reference Intake (RI) is not beneficial to UK consumers, as the term (RI) is uncommon to the UK consumer and therefore will result in confusion. However the definition of nutrient terminology and the setting of RI values at an EU level is beneficial in providing consumers across the EU with consistent information.

Legislation at the EU level is beneficial to the UK consumer in the arena of nutrition and health claims. We therefore support **Regulation (EU) 1924/2006 on nutrition and health claims made on foods**, as this provides consistency across the EU in reassuring consumers that nutrition and health claims are scientifically substantiated. This is particularly important to UK consumers, due to the increase in distance purchasing and online advertising

However proposals by the EC to amend Regulation (EU) 1924/2006 in 2012 to enable "now contains x% less" claims to be made "if the amount of energy of the product bearing the claim is equal to or less than the amount of energy in a similar product", are not in the interest of the UK population. This amendment would allow claims to be made even when the reduction was just a single calorie or even when there was no caloric reduction at all. This has been shown in research by Leatherhead Food Research to be misleading and deceiving to the consumer*. UK consumer perception of products carrying 'reduced sugars' claim is that they expect this to be accompanied by a similar reduction in calories. Allowing sugars reduction claims when the reduction of the sugars content in a product leads to no or little change in energy content can mislead consumers, whilst at the same time not reflecting nutritional benefit to the consumer. There are numerous examples on the UK market of products that have met the current European legislation requirement of a >30% reduction in sugar content to make a reduced sugars claim, and yet have no significant calorie reduction, or even in some cases a higher calorie content than the original. Thus this highlights that the claim is not being used for nutritional purposes in these cases, but purely as a marketing aid. Sugar Nutrition UK therefore supports the MEP's veto of this revision, but also feel that the legislation

could go further and state that sugar reduction claims can only be made when they are accompanied by a significant reduction in calories, as this would have then been beneficial towards the UK public health goals of reducing caloric intake.

* Patterson NJ *et al.* (2012) Consumer Understanding of sugars claims on food and drink products. Nutrition Bulletin. 37: 121-130

TaxPayers' Alliance

Research is attached which looks at the cost of the Common Fisheries Policy, the Common Agricultural Policy and the potential savings if it were repatriated to the United Kingdom. We believe that taxpayers' money can be spent more efficiently at a national, local or – ideally – individual level. Greater accountability and flexibility means that money is less likely to be wasted or misused.

Food for thought: How the Common Agricultural Policy costs families nearly £400 a year

The Price of Fish: Costing the Common Fisheries Policy

Thanet District Council

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

The shipment of livestock through Ramsgate Port is perceived as a significant moral issue both for potential visitors to the area. Contact has been made with the Council on the basis that allowing the use of the port for this trade would be a factor in relation to whether they chose to visit Thanet, or whether they would return. Tourism based on visitor spending is still the biggest employer in Thanet, with the creation of jobs being the council's number one priority. Unemployment levels are already very high in the area as Thanet is one of most deprived districts in the South East, and reductions in potential visitor spend are a serious issue. The shipment of livestock has no significant benefit to the local economy and could have a negative impact on the tourism economy in Thanet. This is also of course a direct impact on Ramsgate Port itself which is both a key factor in the regeneration of Ramsgate, but also an income source to assist council spending in the face of significant revenue support grant reductions.

The ability to impose greater controls on the movement of livestock generally would almost totally remove the use of British Ports for this type of trade, and there is a lot of support for the Compassion in World Farming proposal to limit animal transport to a maximum of 8 hours. This not only addresses the matter of ports but also the wider concern about the conditions in which livestock are transported over huge distances in the UK, with little inspection as resources do not permit this, and a significant proportion are being diverted to ports because of their prominence.

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

This has been addressed primarily in question 1 above. This is based primarily on the British government introducing additional regulations to impose an 8 hour transport limit, as I understand member states have the ability to do this. It would of course be preferable if this approach was extended across the EU, but the pace of change on this front would be extremely slow, and needs support from states with different views on this issue, so the chances of success are considerably reduced. On this basis the council would urge a change of regulation in the UK first, in parallel with a push to get EU regulation changed as well.

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

No comments.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

The background to this has been addressed in questions 1 and 2 above. The primary areas of benefit are likely to be:

Live exports have an impact on the visitor economy of port towns leading to the potential loss of jobs

The trade benefit from live export is tiny in relation to the whole meat industry, but it disproportionately colours the whole view of the trade to the detriment of the industry.

It is diverting valuable public sector resources not only at Thanet but also at DEFRA and the AHVLA onto a small issue in the wider context of animal welfare.

Britain could be viewed as a moral leader on this issue, with very little actual impact on income levels in the trade, much of which seems to be going abroad in any case.

It will allow more focus of enforcement resources onto more difficult issues, as limiting transport times reduces risk levels.

It creates work for British abattoirs.

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

More protection is required in relation to the problems caused to animals due to travelling long distances and for long periods in lorries with limited welfare provision for the livestock involved. The longer the journey the higher the level of risk for the animals and the more chance of them being injured.

It is proposed that adoption of the 8 hour maximum limit on transport would deal with a large amount of this concern, as well as bringing the benefits described in earlier questions.

More self regulation has been suggested but this will not work under the current arrangements. Too many people can bend these rules, and there are too few resources to assess this properly. In the main welfare appears to take second place to cost management. The shorter transport period would place less cost burdens on the process, and allow a better focus on welfare.

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

The council considers that a more evidence and risk based approach would only be workable in a context where there is more basic control over the periods for which livestock can be transported. The current regulations are far too open ended and practically stretch enforcement resources way beyond any ability to undertake focussed and meaningful investigations. An 8 hour maximum limit on the transport of livestock would create a much better base from which improved enforcement and monitoring could take place. As indicated previously it is not seen that self regulation provides an adequate control to ensure the welfare of livestock.

What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

Britain could be perceived as being behind the curve morally on this issue unless it is seen to take action, as well as being perceived as supporting practices that are to the detriment of the welfare of livestock with little or no economic gain within the industry.

What impact might any future enlargement of the EU have on animal health and welfare?

Unknown

Are there any general points you wish to make which are not captured above?

The comments in the completed boxes above are written entirely from the perspective of live animal shipments through a port. This is written primarily in relation to Ramsgate Port that is owned and operated by Thanet District Council, and has been used for the shipment of livestock since May 2011, culminating in the suspension of movements following the incident on 12th September 2012 that led to the unloading of animals and the slaughter of 46 of these on the port side. Movements have resumed subsequently following a successful injunction by the animal transporters.

The lack of effective regulatory control is putting enforcement services such as the AHVLA as well as ports such as Ramsgate under significant pressure for no good reason. Agencies are seen as effectively villains in these circumstances, and the lack of regulation is allowing this to occur.

The events of 12th September at Ramsgate Port were unacceptable and put the council in an exceptionally difficult position through no fault or action on its part. Letting this situation continue when the remedy lies in the hands of the government needs to be resolved, and the proposal from Compassion in World Farming of limiting movements to a maximum of 8 hours seems the least that could be done, and would have a beneficial impact on animal welfare both within the UK but also for animals being moved abroad.

The Freedom Association

The European Union and animal welfare

The United Kingdom prides itself on being a nation of people who care about the welfare of their animals. In reality that is not always the case. Nevertheless, the welfare standards of our domestic animals in this country, whether they be farmed or companion animals, are amongst the highest anywhere in the world, reflecting the concerns expressed by individuals and groups over many years. The result is a range of protection laws that, in the main, work.

It follows that seeing the principles laid down in these laws being extended to other countries, especially neighbours with whom we trade, should be something to celebrate. However, the idea that 27 countries, with their diverse cultures, various farming methods as well as different economies, could adhere to the same animal welfare standards was always going to be hard.

Factory farming

Welfare directives passed by Brussels have been forthcoming, usually granting generous amounts of time for all the EU countries to comply. For example, in 1999 the UK banned the use of the sow stall (apart from a short period during the sow giving birth), a device designed to keep breeding pigs in a metal cage, and in one position, while she was suckling her piglets. In reality, sows would often be incarcerated in such devices for most of their lives.

The EU banned the use of the sow stall, with the small exemption as stated above, effective from 1st January 2013. But for certain countries even the 11 years notice was not enough and 17 EU countries have simply ignored this directive, either wholly or in part.

The same problem of non-compliance has arisen with egg production and battery cages. The Laying Hens Directive was passed 14 years ago and defines a new size of cage that is 'enriched' – slightly larger and with a nesting, perching and small scratching area. The new measure was agreed to take effect in January 2012, granting more than enough time for countries to comply. Some EU countries still had not changed their egg production methods by the middle of last year. Final warning were issued last June and though most have now come into line, two countries, Greece and Italy, still have not complied.

While some welfare standards on the continent may not have improved to the level of the UK, it could be argued that this has not directly affected us. But that would be wrong. Clearly, lower welfare standards reduce costs of production and due to EU trade rules, these cheaper imports cannot be prevented from entering this country, undercutting the cost of UK products. It would seem that while the Brussels is determined to enforce free trade within the EU, it thinks that welfare standards are less of a problem. As a result, animal welfare suffers as do the UK farmers trying to do the right thing. The British Pig Executive (BPEX) estimates that 61 per cent of all pork and pork products eaten in the UK in 2005 was imported, with 70 per cent of those imports likely to have been illegal to produce in the UK on the grounds of pig welfare.

It may also be the case that the health of the consumer suffers too. Many people are opposed to intensive farming, arguing that it fails at every level; economically, environmentally, consumer health-wise as well as for the welfare of the animals concerned. If UK farmers are squeezed because of these cheaper imports, is it not likely that they may turn to more intensive forms of farming in this country?

Live animal transport

Regulations governing the duration and conditions for transporting live animals have been issued by Brussels, including modification to transport vehicles improving ventilation and temperature monitoring, navigation aids on long journeys and training for operators. However, there is disparity between Member States on travel times and the need for rest periods for animal. This problem is far worse when animals are transported to countries outside the EU, where these regulations do not apply. Animals are sometimes held at the borders of non-EU countries for many hours or even days while paperwork is cleared. Investigations by organisations such as Compassion in World Farming found numerous examples of severe cruelty, with animals suffering from extreme thirst and hunger, legs trapped between the side of the truck and the floor for hours as paperwork is completed at the border, animals dying on the journey, terrible cruelty at slaughter in the destination countries and animals giving birth in trucks at the border, despite EU law prohibiting the transport of heavily pregnant animals.

Around 3 million cattle, sheep and pigs are exported to non-EU countries each year and instead of trying to curb such a trade, the EU is trying to expand it.

Food security

The recent scandal of some processed foods labelled as 'beef' but actually containing horse meat, or indeed possibly donkey, camel or even kangaroo, has shone a light on how certain processed products are made, where ingredients are sourced and indeed to what extent these products have travelled. The number of countries through which certain meat products travel has been a revelation to many people.

Traditionally the British do not eat horses, as we tend to see these animals as our pets and companions, but on the continent they take a different view. The UK banned live horses being sent abroad for slaughter and human consumption, partly due to the way we see and use horses, but also because the animals may have been given certain drugs such as phenylbutazone (bute), though the reality is that enormous amounts would have to be consumed by humans to be dangerous.

The EU introduced the 'Horse Passport', a document which is supposed to be linked to each individual animal and applies to all equines. It should contain information about what treatments the animal has received, thereby providing a database of animals that are unfit for the human food. But where there's a profit to be made, regulations can be circumvented and many horses are sold to the continent supposedly for breeding purposes when in reality they will be slaughtered for human consumption. Many think that the equine passport system is corrupt.

Whereas at one time the horse had a working role for us in the UK, in certain European countries that is still the case, though things are changing. Now a surplus of working horses in Eastern Europe has provided a source of cheap meat and if it can be passed off as beef, which has a much higher value, the temptation to make greater profits is there. Even if such a fraud is evident, once again, the UK is hamstrung by EU rules that prevent banning the importation of these products unless there was a known health concern.

Labelling

UK consumers should have the right to know exactly what they are buying and from where it originated. The Countryside Alliance has run a better labelling campaign for the past few years. Instead of the limited information of where a processed product was finally packaged, proper labelling would at least give consumers more detail and choice about the products they are buying. Despite beef labelling regulations being introduced in 1997 (following the BSE crisis) requiring all beef and veal meat to indicate the country where the animal was born, reared and slaughtered, processed foods can avoid such scrutiny due to the complex chain of production.

One way around this would be to take the advice of Peter Kendall, President of the National Farmers Union who said on the BBC recently, *"I want consumers to look for the traceability of local supply chains."* Research carried out by the Institute of Grocery Distribution in 2005 found that nearly one in five people "always try to buy British food whenever shopping, even if it's more expensive than food from other countries." In 2007, a YouGov poll for the National Farmers Union found that "72 per cent of shoppers want to buy British beef and lamb."

If the majority of UK residents wish to 'Buy British' they should be given the means to make a proper choice. It should be a legal requirement for the country of origin to be included on food labels. This would provide support to British farmers, reward good animal welfare and give consumers greater confidence in the products they are buying. Under EU regulations, Member States can require labelling of origin when the absence of such information could mislead or confuse the consumer. Indeed such compulsory origin labelling is essential in order for the requirement that consumers should not be misled. Given the current situation with horse meat passed off as beef, the complexity of the food supply chain, its lack of transparency and the flouting of EU rules on animal welfare, there could hardly be a better time to take that step.

Proper labelling would also help establish the true nature of fur skins being imported into the EU. Fur farms were made illegal in the UK in 2000, coming into force in 2003. The move was based entirely on animal welfare grounds, as the way in which numerous fur-bearing animals were kept (and still are kept in those countries that have fur farms) was rightly seen as causing suffering due to the deprivation of an environment that allows for the animals' natural instincts and needs. Furthermore, some of the killing methods clearly caused suffering in that damage to the pelts took precedence over pain. Fur farms are not illegal in the EU and consequently furs from various countries with little or no animal welfare laws can send their products into EU countries, including the UK, to be handled by traders, brokers, manufacturers and retailers. A ban on importing dog and cat fur into the EU took effect in January 2007, but once again without proper labelling, identification is difficult and it is reported that sales of such fur have been known in the EU.

Furthermore, until recently there was no legal basis in the Treaties of Europe that permitted the EU to ban a particular trade solely on the basis of animal welfare. This meant that rules on the internal market and trade always overrode ethical concerns and any EU wide ban as such had be undertaken via a more complex route, one that was not one based exclusively on welfare grounds. That changed in 2009 under the Treaty of Lisbon, which states that, "*in formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage*." Though an important step forward, it appears that there is limited room for the UK to ban any trade or transportation of animals unless the EU Member States agree.

Common Fisheries Policy

Overfishing is undoubtedly a major environmental problem, both within the EU waters and around the world. Some fish stocks are now only a fraction of what they were just a few decades ago. Although not essentially a welfare problem, the current rules laid down by the EU through the Common Fisheries Policy (CFP) result in caught fish that exceed the set quotas - 'discard' as it's known - being thrown back into the sea – dead of course and simply wasted… and it has been happening for years.

Clearly something had to be done to curb countries carrying on regardless, but in setting quotas fairness should surely have been included. UK fishermen have had their already depleted fishing stocks further reduced with the larger boats from Spain being allowed to fish in British waters, as permitted under EU rules. The European Parliament has just bowed to public pressure and put forward proposals to reform the Common Fisheries Policy to end the discard scandal, but the issue that permits the Spanish to fish in British and Irish waters continues.

Conclusion

The common theme running throughout an assessment report on animal welfare in the EU[6] is that while animal welfare has improved, there is still much to do. Compliance with EU directives is certainly a problem. Some would argue that this is an understatement, given the complexity and lack of transparency in the way the EU likes to do business. It would seem that while the EU places such importance on its internal trade, animal welfare and consumer choice by way of proper labelling will have to take second place.

The Kennel Club

The Kennel Club is the largest organisation in the UK devoted to dog health, welfare and training. Its objective is to ensure that dogs live healthy, happy lives with responsible owners.

It runs the country's largest registration database for both pedigree and crossbreed dogs and the Petlog database, which is the UK's biggest reunification service for microchipped animals. The Kennel Club Assured Breeder Scheme is the only scheme in the UK that monitors breeders, in order to protect the welfare of puppies and breeding bitches. It also runs the UK's largest dog training programme, the Good Citizen Dog Training Scheme and licenses shows and clubs across a wide range of activities, which help dog owners to bond and enjoy life with their dogs. The Kennel Club runs the world's greatest dog show, Crufts, and the Discover Dogs event at Earls Court, London, which is a fun family day out that educates people about how to buy responsibly and care for their dog.

[6] Evaluation of the EU Policy on Animal Welfare and Possible Policy Options for the Future (2010) GHK in association with ADAS UK (Food Policy Evaluation Consortium).

The Kennel Club invests in welfare campaigns, dog training and education programmes and the Kennel Club Charitable Trust, which supports research into dog diseases and dog welfare charities, including Kennel Club Breed Rescue organisations that re-home dogs throughout the UK. The Kennel Club jointly runs health screening schemes with the British Veterinary Association and through the Charitable Trust, funds the Kennel Club Genetics Centre at the Animal Health Trust, which is at the forefront of pioneering research into dog health. The new Kennel Club Cancer Centre at the Animal Health Trust will contribute to the AHT's well-established cancer research programme, helping to further improve dog health.

The Kennel Club will be answering the most relevant questions from a dog welfare position and as such has purposely excluded certain questions.

1. What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

The Kennel Club would argue that EU action on animal welfare and health has an important impact on all Member States and can both be to an extent a benefit and disadvantage to the UK which is demonstrated in the two examples below.

The recent EU changes to the Pet Travel Scheme have required Member States to reduce the length of time after vaccination that a dog may enter or return to the UK, removal of mandatory blood tests prior to travel and removal of the need to have the dog treated for ticks. The EU's decision to relax these requirements has both a beneficial and disadvantageous element. The benefit is mainly for the wider Member States as a whole because although the UK had stricter requirements prior to the changes, the new regulations may help strengthen some of the other Member State's pet travel requirements and facilitate easier pet travel for EU citizens. This will inevitably have a positive impact by harmonising pet travel criteria across the EU. However, as these changes lower the level of requirements of pet travel in to the UK, it exposes the UK to a higher risk of transmission of diseases from other pets entering the country. In particular, the changes seem to be fostering an increasing trade in pet dogs, where the importation is commercially illegal and the PETS health requirements are not being observed.

The second example is the recent transposition of the EU Directive 2010/63/EU into UK law. The EU Directive aims to harmonise legislation across the EU regarding animals being used in scientific experiments. This EU measure has both positive and negative aspects for the UK. The positive is that by ensuring the rest of the EU Member States are following the same procedures it decreases the likelihood of outsourcing animals from abroad which may be cheaper at the expense of lower welfare standards. This helps grow the UK economy and also helps ensure an appropriate level of animal welfare standards are being adhered to in the UK and across the EU. However, the negative aspects of the recently transposed Directive are associated to the lowering of certain animal welfare standards in the UK as a means of harmonising legislation with the rest of Europe. Furthermore, there appears to be a trend towards conducting animal experiments outside of the EU where welfare restrictions are less well enforced. Data from such work should not be accepted for EU licensing (for example, for authorising medicines) without assurances that EU welfare standards have been observed.

2. How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

As the majority of EU animal welfare and health measures are areas of shared competence, it allows each Member State to take action but also prevents them from acting once the EU has done so initially. The UK may therefore be restricted in bringing in legislation relating to animal health and welfare once the EU has acted. However, the EU only has a supporting competence relating to animal health and its consequences for human health, which allows it to only coordinate or supplement the actions taken by the Member States.

Similarly to question one, the UK could both benefit from the EU taking more action as well as less action. The benefit entirely depends on a case by case basis and what the EU measure would demand from the UK, therefore the Kennel Club would argue that the UK could benefit from both less and more EU action depending on the legislation and its requirements.

Using the same example as above regarding the Pet Travel Scheme, if the EU decided to not relax the rules, the probability of transmission of disease amongst dogs may be lower in the restriction of travel sense, but still remain high as a lack of harmonisation of legislation across the EU would not improve situations in Member State countries where requirements were lower. However, EU action on the relaxing of the Pet Travel regulations may increase the risks of disease transmission due to less stringent travel requirements, but simultaneously help enable a relatively ignored segment of the tourism market (pet owners) to travel more easily with their pets across the EU which would inevitably boost local businesses, industry and economy.

3. What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

The EU has different levels of competence in different policy areas. It has exclusive competence (where the EU only can act) in the Common Agricultural Policy (CAP) and customs unions area. The UK does not therefore have competence to act in relation to trade with third countries, including trade in relation to animal welfare and health issues.

The Kennel Club believes that the EU's exclusive competence in this area may serve as a disadvantage in securing overall the most beneficial set of trade agreements relating to the UK. However, a majority of the trade agreements relating to animal welfare and health are to do with farmed animals rather than companion animals. Therefore from a companion animal welfare perspective, exclusive competence in this field for the EU would not be a major disadvantage for the UK. In any case, the EU representatives would have to consider the needs of all the Member States and the UK would still be able to influence these needs from within.

4. How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

The Kennel Club believes that the national interest would be best served if action on animal welfare and health were taken on all levels – regional, national and EU according to the issue.

By ensuring measures are being taken into consideration on all levels, it will help form the most accurate and up to date response on any legislative action. Action on all levels will ensure that all different perspectives are being explored which include economic, social, environmental, agricultural factors, etc. This will help with formulating the best action measures which will inevitably all serve to maintain and promote both the short and long term national interest. It is surely right that the ability to enact regional actions designed to preserve health and welfare has to be protected.

5. Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

A number of EU Directives and Regulations have already been enacted to cover a range of different issues which cover animal health, public health and commercial interests. The legislation ranges from issues such as the welfare of farmed animals during transport, disease prevention and control, imports and intra-EU trade in animals and animal products and veterinary medicines.

However, from a companion animal welfare perspective, most EU legislation to date has and is still mainly concerned with farmed animals and the public health and commercial interests relating to it. However, EU

action has recently expanded from a concern to ensure equal conditions of competition in relation to trade in farmed animals to a wider interest in the welfare of all animals.

With regards to companion animal welfare, this has only recently started to play a more important role in the European Union and therefore it is difficult to say whether current EU legislation from that perspective provides the right balance between protection of animal health or public health and commercial interests. However the risk of over-arching EU legislation is the constraint on any national ability to enact local health measures of benefit to companion animals and their owners.

6. What future challenges or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

From an EU companion animal welfare perspective, the Kennel Club believes that potential future challenges and opportunities on animal health and welfare may arise from the recently relaxed Pet Travel Scheme requirements, which may have both a negative and positive impact on national interest. In particular the challenge of effective enforcement.

The main concern and challenge regarding the relaxation of requirements of the Pet Travel Scheme is that it could increase the transmission of diseases to dogs across the EU and lead to serious problems for both human and dog health from the importation of exotic diseases. If diseases such as leishmaniasis or certain tick-borne infections become endemic in the UK this could seriously affect both animal and human health.

Statistics provided by the Assistant Director from the City of London Corporation's Animal Health and Welfare Services team showed that there was a 400% increase in the number of illegal pets being brought in during 2012. These would be the types of challenges and concerns that we are facing and which could potentially have a negative impact on the UK's national interest.

However, the same new regulations of the Pet Travel Scheme could also be viewed as an opportunity which could have a positive impact on national interest in the economic sense as enabling easier pet travel and could help boost tourism across the EU Member States.

7. What impact might any future enlargement of the EU have on animal health and welfare?

With Croatia's approaching accession into the European Union in July 2013 and further European countries applying for candidate status, the EU will continue to grow.

Every country entering the EU has to meet key criteria for accession, which include stable institutions, functioning market economy and the ability to take on and implement effectively the obligations of membership (political, economic and monetary union). The Commission will also insist on the full transposition of the EU acquis (accrued legal acts for different policy areas) by the time of a country's accession.

Generally future enlargement of the EU would not have any major implications on animal health and welfare in the UK provided new Member States effectively transpose and adhere to the EU acquis prior to becoming a member. However, as has been illustrated through the recent changes in the Pet Travel Scheme, harmonisation of legislation does not provide guaranteed protection. This is evident in the Pet Travel Scheme and its flawed 'EU low risk state categorisation' as there are major differences in assessing the risk among member states in Western Europe and Eastern Europe.

From this perspective, future enlargement of the EU could potentially have a negative impact on animal health and welfare by exposing it to countries with differing levels of risk and implementation and enforcement of legislation. Ultimately, enlargement of the European Union may exacerbate existing problems which will negatively impact on animal welfare and health whilst simultaneously being beneficial

as it would help harmonise legislation across Europe helping ensure the best level of protection and promotion for animal health and welfare across the European Union.

UK Equine Disease Coalition

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

One of the benefits of an EU-based approach to animal health and welfare is that it enables joined-up thinking. Movement of animals across borders has increased and this is a trend that seems unlikely to be reversed in the near future: this means that animal welfare and health problems can be, and are, transported from one Member State to another. Tackling these issues requires a collaborative approach with shared intelligence: these are not problems that the UK can deal with unilaterally.

That said, the UK and a number of other Member States continue to achieve improvements to animal welfare due to their domestic policies and infrastructure. In contrast, there are EU Member States where animal welfare legislation is minimal, and where infrastructure to facilitate improvements, and for the enforcement of legislation is lacking. Therefore we are concerned that the fact that animal welfare is increasingly approached from a centralised EU perspective may lead to those with lower standards setting the levels for future animal welfare policy, which could in turn be detrimental to the UK's current provisions.

It is important that the UK retains its ability to influence animal welfare and health policies at an EU level, to ensure that the UK's current standards are protected, and that it can play an active role in raising animal health and welfare in Member States where minimal standards are in place. This will aid harmonisation, and in turn provide a more level playing field for producers and consumers across the EU, addressing the concern that the internal market may be distorted by unilateral actions.

The Animal Transport Regulation (EU Council Regulation (EC) 1/2005) restrictions on unbroken Equidae has helped to protect animals from being transported into and out of the UK on unnecessarily long and stressful journeys, such as semi –feral ponies which would once have been exported to Ireland. However, the removal of compulsory border checks has made it easier to move animals, and once out of the UK implementation of animal welfare standards may not be as robust in certain Member States.

Enforcement of legislation is an area of concern in that the FVO appears to spend a great deal of their time auditing systems and not enough time looking at animals in trade or real standards of animal health and welfare at the sharp end, be they on farm, in transit, in a slaughterhouse or at their destination. In addition too much of their time is spent on announced visits- we believe that more spot-check inspections should be carried out, without warning.

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The UK could expect to benefit from improved EU disease controls. The increasing trend towards moving Equidae between Member States for breeding, competition, sale and slaughter has in turn increased the risk of diseases being spread across and between Member States: a case in point is the movement of Equine Infectious Anaemia (EIA) into several Member States (including the UK). Likewise, endemic diseases, such as equine influenza and equine herpes virus, are commonly spread within and between Member States in this way. One should not forget the very serious outbreaks of African Horses Sickness that occurred in Spain and Portugal between 1987 and 1990, following import of infected zebras and subsequent spread of the virus.

The EU's track record on disease control and eradication has been poor over the last 15 years: however prior to this good work was done on rabies control and the introduction of a slaughter and compensation policy for the control of Foot and Mouth Disease without vaccination. There is now a need to be more proactive, and not so reactive. The EIA situation in Romania should have been dealt with far sooner, and the present problem in Italy, where EIA is now widespread is believed to be due to the importation and movement of affected animals. West Nile Virus is also now common in parts of the EU, and is a disease that can affect humans as well as many species of animal – yet no action has been seen at EU level. Too many disease control regulations are out of date and need to be reviewed by experts at the European Food Safety Authority (EFSA) and, thereafter, amended.

Animal welfare and health would be improved if the EU took action to deal with EIA, allowed the accelerated licensing of equine flu vaccines and amended the Equine Identification Regulation so that Equidae that have received certain prohibited medicines can be slaughtered for human consumption after an appropriate withdrawal period. The Commission should also react to the firm opinion of the public and respond to the clear scientific advice of EFSA and take action to amend the Transport Regulation (EC 1/2005). Action on the Transport Regulation would protect the UK's horse population from diseases being carried with consignments of low-value Equidae (such as the consignments linked to the 2010 and 2012 EIA outbreaks). Introducing finite journey times for Equidae would also bring greater protection for low value animals entering the UK.

As recent events have shown, it is vital that Equidae can be traced across Europe to prevent prohibited substances from entering the human food chain. Equine databases should be compulsory in all Member States and be interlinked so that Equidae can be identified no matter where they originate, or where they are slaughtered. Registration of premises where Equidae are kept as part of such a database would further assist with rapid action in the event of a disease outbreak. As the issues that have been encountered in tracing several horses imported with others that have subsequently tested positive for EIA have shown, this is something that can prove extremely problematic: indeed, at the time of writing it is our understanding that four horses remain untraced from this case, having been imported in 2008.

The UK's involvement within EU discussions on the future development of the EU Animal Welfare Strategy, the continued implementation of the current and the development of a new EU Animal Health Strategy are increasingly important. To achieve long-term success and impact, these strategies should not be developed and implemented in isolation, but reflect the interrelationship of animal welfare and animal health.

The Treaty of Lisbon has weakened the regulatory powers of the Standing Committee on the Food Chain and Animal Health since it now requires consultation with the European Parliament on any proposal. This has slowed down the speed with which the Commission and the Member States can deal with emerging disease issues and the earlier arrangements, which have worked well over time, should be re-introduced.

On the other hand the involvement of the EP in some other areas has been positive in that they can bring pressure to bear on the Commission to make proposals for amending or improving legislation in situations where the Commission is unwilling to act.

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

Whilst coordinated negotiation has its advantages, we believe that it is important that Member States also maintain the ability to influence negotiations. The variance in the emphasis on, and position of, animal welfare in Member States means that it would be extremely difficult for a satisfactory compromise to be reached without input from the Member States. In addition, countries with higher animal health status could find that this was placed at risk if they were unable to insist upon the highest level of import protection.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

Regional or national action taken in addition to EU level action may be of benefit in some circumstances: for example, in helping to control localised disease outbreaks. However EU action remains vital to cover the movements of animals across borders and to ensure a level playing field for business. A combination of local/regional action for local knowledge and impact; national action to pull together intelligence and information so all the regions have access; and EU action to cover the increasing movement of animals across Member State borders is needed.

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

We are concerned that this question does not mention the protection of animal welfare, as well as animal and public health. We have to link animal welfare and animal health; the two are indivisible. Animal welfare is compromised by the presence of disease: At the same time, poor welfare may increase the risk of disease developing (such as in the case of Equidae becoming immuno-compromised after being transported long-distances

Current EU animal welfare legislation – and indeed in some cases, UK legislation – does not always go far enough to protect animal welfare, health or businesses. There is a risk that animal welfare policy is based too heavily on cost-benefit analysis, with a certain level of suffering being deemed acceptable in the interests of not affecting trade. It is difficult to do a cost-benefit analysis on animal welfare except where it impinges on productivity: Yet animal welfare should be considered a benefit in its own right, with its own advantages (such as better disease control, and higher meat quality) which, whilst they cannot necessarily be easily measured by cost-benefit analysis, nonetheless exist.

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

Outcomes and risk based approaches have their place in animal health and welfare, especially when resources are stretched. An evidence- and risk- based approach makes logical sense if the outcomes focus upon prevention, not dealing with issue after the event; care must also be taken that this approach is not used as an excuse for not taking action because evidence hasn't been obtained or sought in the first place.

However, it must be remembered that in many cases, indicators of a welfare problem will only appear when the problem is at an advanced stage (for example, pain responses in an injured equine may only become obvious when the injury is at an advanced stage, due to the instinct possessed by many flight animals to conceal pain in order to avoid appearing vulnerable to predators). In the case of animal health, relying solely on outcomes runs counter to the principle of formal risk assessment and mitigation: by the time an outbreak of disease has occurred, it is already too late, and both animal welfare and businesses will be negatively affected. In some cases it is important to err on the side of caution, especially when there is a potential zoonotic impact. When that human health risk has been assessed then it is possible to review the precautionary measures that have been put in place.

What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

One potential challenge would be a major equine disease outbreak. The risks of this increase with more movement of Equidae, free movement of Equidae between Member States and the presence of more fly vectors. The lack of border controls makes it easy to move animals illegally around the EU. This emphasises the importance of controlling standards of health and welfare in the source country.

A further challenge will be the reduced value of Equidae in the UK and EU, potentially resulting in increased movement to find a market for resale, and an increase in abandonment and neglect. This, coupled with the fact that welfare organisations are already stretched (due to increased demand and rising costs such as that of care, food, bedding, and veterinary treatment), means that the current infrastructure for dealing with animal welfare may be pushed beyond breaking point. We are already keenly aware of this issue in the UK, with upwards of 6,000 horses currently believed to be 'at risk'. We have also been notified by contacts in a number of other Member States of similar concerns.

What impact might any future enlargement of the EU have on animal health and welfare?

Any further expansion of the EU would inevitably bring increased animal health risks. Some potential candidate countries are already affected by serious equine disease: free movement of Equidae from these countries would increase the risk of these diseases spreading into other Member States. We have already seen this happen, with the spread of EIA in the wake of the EU's last enlargement.

Animal welfare would also be affected by expansion. Equidae intended for slaughter are already transported across multiple Member States: any new Member States may begin to transport Equidae similarly, taking advantage of the lack of internal borders and of poor enforcement in some Member States.

Welfare standards in candidate countries must be taken into account: it is important that EU health and welfare standards are meaningful and do not simply drop to the lowest common denominator. Trade disadvantages will ensue if standards are not equally applied: as we have seen in the cases of the sow stall and the laying hens regulations.

The infrastructure intended to enforce animal health and welfare legislation is already under pressure: levels of enforcement and penalties vary hugely between Member States, and this problem can only worsen with the addition of new Member States unless action is taken to significantly improve legislation and harmonise both enforcement and penalties. Action must also be taken to ensure that adequate resources are available to enforce current legislation, and to implement and enforce any new provisions. Ensuring that welfare policy does not conflict with other areas of legislation (such as the clash between the journey and resting times in the animal transport regulation and the drivers working times set out in the Working Time Directive), would assist with this, as Competent Authorities would be able to enforce multiple pieces of legislation at one time. Guidance on the interpretation of legislation would also help by providing clarity for all enforcement agencies and operators. Such guidance should be supported at an EU level by the Commission or another appropriate body (such as the proposed reference centres) and distributed to all Member States. Current variations in levels of enforcement and penalties for the animal transport Regulation allow breaches of the Regulation to go unchecked in some Member States.

It is also important that further enlargement of the EU does not slow down the process of making and amending EU legislation even more. Our understanding and knowledge of animal welfare evolves constantly in response to new research, and as a result there is a danger that legislation can become outdated. A good example of this is the animal transport regulation: the rules of journey times for horses have remained unchanged since 1995, and as a result they are now entirely incompatible with current scientific understanding of horses' tolerance for transport. Any new legislation should be drafted so that changes can be made quickly when there is a need to do so through an accelerated regulatory procedure.

Are there any general points you wish to make which are not captured above?

Here in the UK, we are in a relatively strong position in animal health and welfare. Our legislation goes further than in many other Member States, although enforcement remains problematic, with a lack of resources dedicated to enforcing welfare standards, and much of the onus for welfare enforcement falling upon the third sector. The equine industry has taken real steps, going back some years, towards self-regulation and assisting government. The Equine Sector Council, composed of major industry and welfare

organisations, seeks to advise on policy issues (for example, the Tripartite Agreement) which have an impact on the equine industry and equine welfare. Such bodies are a potentially valuable source of advice, and their role could be enhanced if they were consulted when EU policy was being formulated, rather than only at the implementation stage.

It is important that the UK retains its ability to influence animal health and welfare legislation at EU level and that the Commission is scrutinised and challenged to improve standards across the board. The fact that the Commission is the only body which can make a proposal for new legislation or amend existing legislation, has and is making it difficult to introduce much needed improvements to protect the welfare of animals – f or example the failure of the European Commission to address the long distance transport of horses for slaughter by introducing a short maximum journey time, despite being presented with scientific evidence by EFSA. Unless something dramatic changes, the Commission does not appear to be pushing legislative reform forwards that will positively improve animal health and welfare, in spite of published peer reviewed scientific evidence and public demand.

Policy makers must become more proactive in dealing with emerging threats, such as the spread of EIA and other diseases. The current pattern of outbreaks followed by reaction – or worse, followed with no action at all – cannot continue. A suspected outbreak of EIA has already had an impact upon racing, preventing the favourite for the 2012 Prix de L'Arc de Triomphe from competing: it is only a matter of time until a more serious outbreak of an exotic disease occurs with very serious consequences.

The UK authorities should be congratulated on bringing in the Animal Welfare Acts which provide the provisions to deal with animals that are being mistreated and also those where the standards of care are unacceptably low. New UK powers are now required to deal with animal owners who fail to meet basic levels of disease control and biosecurity – in serious cases these owners should not be permitted to own or look after animals. There is also a real need to examine the long-term funding streams for the authorities responsible for enforcing animal welfare and health provisions and taking prosecutions to ensure that these provisions work effectively.

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

Are there any general points you wish to make which are not captured in any of the other questions?

It is essential that food labelling is reviewed to ensure horsemeat is labelled. Whilst in the UK it is relatively rare for horsemeat to be openly sold for human consumption, in other Member States it is currently impossible for consumers to know from where the meat they are eating originates, as horsemeat was not included in the new food labelling regulation. This should be reviewed as a matter of urgency and labelling of horsemeat introduced. Production methods should also be included on food labels as standard, so that the consumer knows how the animal from which their meat was derived was bred, reared, kept, transported, and slaughtered.

Very Low Calorie Industry Group

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

1. What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

The VLCD Industry Group believes EU action aimed at creating a single market for food has been broadly advantageous for British businesses, facilitating the free movement of goods and providing them with the

opportunity to take advantage from a certain consistency of provisions across Member States. While harmonisation and further integration in areas where Member States share common issues is certainly desirable, we believe that often patchy implementation of EU legislation at the national level has meant the aim of the single market has been achieved only partially.

In addition, we believe that the EU should not seek to achieve further harmonisation for its own sake and at all costs. In areas where Member States display significant differences in terms of market configuration, consumers' preferences and in general do not have the same characteristics, a push for harmonisation often result in negative consequences for businesses and consumers alike. In the case of Britain, businesses are often over-regulated or swamped by rules designed to address issues which are not directly relevant or applicable in the context of the British market.

2. What evidence is there that the national interest in terms of trade is best served by action at the EU level, national level or by action being taken at a different level, e.g. in Codex Alimentarius?

Actions at the EU or international level are only opportune in specific areas where cross-border co-operation is identified as the most efficient and cost-effective solution to deal with particular problems. Such actions should however always be based upon thoroughly conducted impact assessments.

As an example, while it is beneficial for both consumers and businesses that the same food safety standards apply across the EU, it is also essential that food legislation takes into account the particularities and different consumer needs across the continent.

3. Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

The VLCD Industry Group believes EU action aimed at achieving further harmonisation and integration between Member States in the area of food law could be advantageous for British businesses, although only in areas where Member States experience similar issues. In these areas, EU action could be positive by ensuring that standards based on science are applied in the whole European territory. With competence in the areas of food safety, labelling and nutritional information, the EU is in a privileged position to exert a coordinating role where Member States experience similar issues, offering common solutions.

However, too often the EU seems to aim for harmonisation at all costs, causing the emergence of situations in which British businesses are over-regulated or swamped by rules designed to address issues which are not directly relevant or applicable in the context of the British market. In addition, EU regulations are often too complex and a significant burden for businesses, and we would urge the Government to redouble its efforts towards achieving greater simplification.

The Industry Group would also like to point out that the excessive complexity of EU regulations has other negative consequences, as it is a significant factor in the divergent interpretation and implementation of rules across the EU. Of course, when divergent implementation does not respond to the need to take into account national differences, but is caused by lack of clarity in the rules themselves, the result is an increased regulatory burden without the correspondent gain which should be provided by market harmonisation.

4. Is there evidence that legislating for consumer protection at the European level has been advantageous or disadvantageous to the UK national interest?

We believe that in the area of food law and slimming foods the legislative activity of the EU institutions has so far been positive for consumer protection. However, as the EU institutions plan to develop further legislation in this area – for example through the revision of the Framework Directive (39/2009/EC) on foods intended for particular nutritional uses – it is very important that over-regulation is avoided. Over-

regulation is not only detrimental for businesses, but also for consumers as it causes confusion and often derives in different interpretations and implementation between Member States.

5. What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

The VLCD Industry Group greatly supports the principle of science-based food legislation at the EU level and would like to see it properly implemented in all occasions. Sadly, we believe that this principle has often been relegated to a second plan in favour of political considerations during negotiations of important pieces of legislation in the food policy area.

In particular, we would mention the example of the Nutrition and Health Claims Regulation (1924/2006/EC), which has seen the Commission rejecting a certain number of health claims based on political concerns rather than on science.

6. What impact has the EU taking on the representational role at the Codex Alimentarius Commission had on the UK national interest?

No comment.

7. How might the UK benefit from the EU taking more or less action on food law in the future?

The area of food law, as far as slimming foods are concerned, is already widely regulated by EU legislation and we believe that further action at EU level will only be necessary in areas where Member States share similar problems which could be resolved by taking coordinated action through the EU institutions.

8. Could action be undertaken differently e.g. are there ways of improving EU food law?

The responsibility to implement EU legislation in the area of slimming foods is left to the Member States and their competent authorities. This may lead to certain inconsistencies and divergent interpretations between Member States, something which make it difficult and costly for businesses to operate across borders. The EU could work to identify problematic and unclear provisions, providing relevant guidance before legislation is implemented.

In addition, we believe that enhanced cooperation between national competent authorities would go some way in reducing the negative consequences caused by inconsistent application of EU legislation, while also contributing to share knowledge and best practice resources in areas where there may be a lack of clarity regarding correct implementation.

Another area where the VLCD Industry Group believe action could be undertaken differently is that of pre-legislative scrutiny for new European laws. In particular, we believe that before a measure is considered at EU level, it should be suitably assessed through both national and EU-level impact assessments. Such a procedure would avoid the emergence of situations in which a piece of legislation adopted by the EU institutions turns out to have a number of unintended consequences, often negative, caused by the lack of consideration for national circumstances.

This is the case, for instance, with the Nutrition and Health Claims Regulation (1924/2006/EC), which has seen a vast number of long-established claims being rejected and others, including the only VLCD claim, still on hold. In addition, confusion and lack of coordination still persists in most Member States as to the exact rules governing the implementation of the positive list of general function (Article 13.1) health claims which entered into force in December 2012.

Finally, we believe that too often Government officials have not taken a sufficiently active role in negotiations between Member States in the area of slimming foods policy, failing to adequately defend the

positions of British businesses at crucial times. We therefore urge the Government to renew its efforts towards ensuring that it provides an effective contribution and plays a prominent part during future negotiations in this area.

9. What future challenges or opportunities might we face in the area of food law and what impact might these have on the national interest?

We understand that the Commission will shortly undertake work to establish specific compositional and information requirements for total diet replacements for weight control. This follows the recent compromise reached by the EU institutions over the Commission's proposal revising the current Framework Directive (2009/39/EC) on foods intended for particular nutritional uses.

This new piece of legislation will have a direct impact on British businesses which produce and sell slimming foods. It will be therefore crucial that these new rules are based on appropriate scientific evidence rather than political considerations.

In particular, we believe that the Government should closely follow the progress of work in this area, which will see a scientific assessment prepared by the European Food Safety Authority (EFSA) in the first instance. Following the completion of the scientific assessment, we believe the Government will need to actively participate in negotiations between Member States, to ensure that the rules finally set by the Commission are based on sensible scientific evidence rather than on political considerations.

10. Are there any general points you wish to make which are not captured in any of the other questions?

No comment.

Veterinary Medicines Doctorate

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

Veterinary medicines, medicated feedingstuffs and veterinary medicine residues in livestock: EU action benefits the UK.

The Veterinary Medicines Directorate (VMD) is one of several National Competent Authorities (NCAs) in Europe that regulates Veterinary Medicinal Products (VMPs). It is highly respected in Europe and has a key role in influencing the outcomes of issues concerning the availability, safety, efficacy and quality of VMPs. This is of direct benefit to animal health and welfare in the UK.

Most VMPs are now authorised following submission of applications under European procedures. There are three European routes to gaining authorisations; under Mutual Recognition, where a product that is already authorised in a Member State is recognised by another Member State; under the Decentralised Procedure where the applicant submits an application for a new product to a number of specified Member States who will work together to simultaneously assess and issue authorisations. Both of these routes require a lead Member States to act as the Reference Member State and will result in the issuing of individual national marketing authorisations.

The UK acts as the Reference Member State in over 30% of all Mutual Recognition and Decentralised Procedures. The final route is known as the Centralised Procedure. Applications are submitted to the European Medicines Agency which facilitates the process which, after successful assessment, would result in the issuing of a pan European "Community" authorisation. With the Centralised Procedure the Marketing

Authorisation Holder may market their product in all 27 Member States and also the three EFTA Countries. With Mutual Recognition and the Decentralised Procedure, marketing may only take place in those Member States in which the company submitted specific applications. All these procedures rely on expert assessors from the NCAs to undertake the assessments

Once a product has received a marketing authorisation, either nationally or via any of the European routes, pharmaceutical companies must inform the relevant NCAs of all reports relating to suspected adverse reactions or suspected lack of efficacy to their products. The entry of these onto a European wide database allows for quicker detection of problems not previously detected during the authorisation assessment.

Any subsequent variations or renewals to that product would also be submitted to the European Medicines Agency in the case of centrally authorised products or to the each of the involved Member States in the case of other European procedures. The assessment of these applications is led by the same country who led the assessment of the original application.

Pharmaceutical companies do have the option of applying to National Competent Authorities to market their product in a single Member State, but in practice this is now becoming less frequent since the European routes can provide for a larger market and reduce the overall regulatory burden. As an active participant in the European system for the authorisation of VMPs, the UK often acts as the lead contributor (Rapporteur / Reference Member State) for the assessment of new VMPs. AS mentioned earlier, of the 140 products authorised under the Centralised Procedure, the UK has acted as Co/Rapporteur for 55. As a consequence the major benefit is that the UK is able to ensure the safety, quality and efficacy of new VMPs destined for the European markets (including the UK). If the UK was not part of the European Market for VMPs applicants may not seek to have their new products authorised in the UK but would prefer their products to be authorised in Europe (where the market would be larger). The disadvantage would be reduced availability of products on the UK market which would impact options for treatment of animal diseases. In addition, In order to maintain the availability of products, it is probable that veterinarians would become increasing reliant on the importation of newly authorised VMPs from Europe, with the disadvantage that the UK would not have had the opportunity to influence the terms of authorisation of these products.

A disadvantage of the Mutual Recognition Procedure is that we may have to accept generic products that are based on pioneer products authorised in other Member States with sub-standard dossiers, or that have different dose regimens, indications and withdrawal periods to those of the equivalent product in the UK. Although these situations can be handled through referral procedures, these are resource-intensive. A pragmatic approach has to be taken and this leads to disharmonisation between products.

Another benefit of being at the centre of the European authorisation system for VMPs is the UK not only provides expertise but also has direct access to European colleagues who have complementary skills and knowledge. This is especially relevant when dealing with novel therapies that rely on advanced technology. The UK is active in the European Medicines Regulatory Network. The benefits of which enable more efficient use of resources and a more harmonised and joined up approach on areas such as enforcement and food safety.

Through representation on the scientific committees of the European Medicines Agency, the UK is active in advisory groups which develop EU and International regulatory guidelines for industry (e.g. through Veterinary International Committee on Harmonisation) and provide assistance to companies for the development of new VMPs and monitoring to ensure the safety and efficacy of currently authorised VMPs . This enables the UK to influence and stay at the forefront of global regulatory developments.

Through the Heads of Medicines Agency network in Europe the VMD is able to develop solutions to common problems and to share best practice. The benchmarking of Medicines Agencies (BEMA) provides an opportunity to compare how we work with others and to make improvements based on experiences of others.

European Member States have different approaches to the implementation of EU law on the manufacture, supply and distribution of medicated feeds. As a result one of the aims of revisions to the Medicated Feedingstuffs Directive (90/167/EEC) which the Commission has in train, is to harmonise the use of medicated feed. The UK's pig and chicken industries rely on the availability of medicated feeds to ensure the health of their animals and are to a large extent, compliant with the requirements of the Directive. There is no current evidence to suggest that the different approaches to medicated feeds in Member States where they are used either benefits or disadvantages animal health and welfare in the UK.

In respect of surveillance for veterinary medicines residues in food, Council Directive 96/23 is overly prescriptive in terms of setting out the substances to be included in the annual surveillance programme. This helps to maintain consumer confidence in UK and EU produce generally and benefits farming sectors by enabling them to demonstrate to their customers that their produce is very largely free of veterinary residues,

The downside is that the prescriptive list is not risk-based and legislation requires producers to pay surveillance costs (about £3.6 million per annum in GB). Also, EU producers are probably testing much greater quantities of throughput than third country producers, making EU producers less competitive in this respect.

Outside of the EU, the UK would have the opportunity to reduce the surveillance programme by making it more risk-based and tailored to our industry. However, this would have the disadvantage of making exports less attractive to large third countries such as the Russian Federation, which has demanding standards and which would prefer the more prescriptive approach to residue surveillance.

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

Veterinary medicines, medicated feedingstuffs and veterinary medicine residues in livestock: EU action benefits the UK.

For veterinary medicines, should there be a step back from the current regime of European authorisations the result would be that new VMPs would be authorised in individual Member States. Fragmentation of the market will result in additional regulatory burden to industry since Marketing Authorisations will have to be maintained in each. The additional cost will lead to reduced product availability overall, which will directly impact on animal health and welfare.

The EU taking more action has the possible advantage of ensuring that veterinary medicinal products are developed for all MS. This is likely to be increasingly more important as new technologies are employed in the development of veterinary medicines. This will benefit animal health and welfare in the UK.

There is the possible disadvantage that practices could be introduced, which the UK stakeholders view as restrictive. We have already witnessed this with the EU objecting to the UK's policy on the advertising of veterinary medicinal products, which is viewed as being more permissive than the practice in many MS.

In the review of the EU legislation, consideration is being given to harmonisation of legal distribution categories across MSs. This can be problematic where the epidemiology of diseases differs between geographical locations. In addition, in the UK there is a well-established distribution chain for VMPs involving vets, pharmacists and SQPs, and changes to this could affect internal markets.

The review of EU legislation may also address the regulation of clinical trials of VMPs, which is currently regulated at a national level. The UK currently has some of the strictest regulation in terms of safeguarding animal welfare, user/consumer and environmental safety, whilst regulation of these types of trials in other MSs is minimal. EU regulation which introduces basic animal welfare controls and protection of the

consumer through residues in food across all MSs might create a more level playing field and encourage this type of research to return to the UK.

In addressing antimicrobial resistance, the UK has benefitted from EU actions. For example, based on scientific opinions from the EMA/CVMP's advisory groups, the Commission has had legislative power to require responsible use warnings to be included in the labelling for critically important antimicrobials. It would be highly resource intensive for the UK to address what is essentially an EU-wide problem unilaterally and, it is probable that we would benefit from planned future EMA/Commission actions in this area. There is however the risk that EU wide restrictions could be introduced, such as banning the use of critically important antimicrobials in animals and separation of prescribing and supply of antibiotics which could have important consequences for animal health.

For the manufacture, supply and distribution of medicated feeds, the EU is currently increasing its action with a view to harmonise the use of medicated feeds in all MS. This will have a neutral effect on animal health and welfare in the UK.

For residues surveillance, the UK is pressing for a much more risk-based approach in the imminent review of the Residues Directive. This would probably reduce the size of the programme, resulting in lower costs to industry but still providing reassurance to consumers owing to a new approach being demonstrably risk-based.

The disadvantage, as indicated above, is that third countries are used to the current programme and may have concerns that a smaller risk-based programme reduces the safety of EU produce. Removal of some of the substances would also mean there is less pressure on third countries to include them in their surveillance programmes, which would be less reassuring to EU consumers.

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

Veterinary medicines, medicated feedingstuffs and veterinary medicine residues in livestock: EU negotiating lead benefits the UK.

For both veterinary medicines and medicated feed, the advantage of the EU negotiating trade agreements is that the larger size of the collective European Market should ensure that exporting 3rd countries are attentive to European requirements.

Our experience has shown that for the occasional issue where European opinion is not in tune with the Codex Alimentarius there has been no direct effect on medicines-associated aspects of animal welfare in the UK.

Trade agreements are not an issue associated with medicated feeds.

The EU is also important in terms of Mutual Recognition Agreements (MRAs), for example in Good Manufacturing Practice manufacturing sites. These agreements mean UK sites do not need to be inspected by certain countries (e.g. Canada, Australia) and equally we do not have to use resource conducting inspections in these countries. We would have to negotiate our own MRAs if outside the EU.

The advantage in the EU having exclusive competence for negotiating trade agreements with third countries is attractive on the face of it, given the size of the EU bloc. However, this becomes less attractive when some Member States cannot demonstrate that they follow the EU residues surveillance rules fully, which can potentially disadvantage compliant MS.

The ideal situation is where the Commission and a third country can enter talks, but the third country is free to visit individual MSs and carry out inspections prior to entering a trade agreement with those individual MSs.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

Veterinary medicines, medicated feedingstuffs and veterinary medicine residues in livestock: Regional action will disadvantage the UK consumers.

The current Directive for veterinary medicinal products has some permissiveness in-built into its drafting which provides for action being taken at national level. The VMD is of the view that action at regional level in general may lead to too much variation in the way veterinary medicines are used by farmers in the UK and so is unlikely to be in the best interest of consumers.

Neverthless, in specific cases where a disease which threatens productivity has newly emerged in the UK, the national procedure for provisional marketing authorisations for vaccines allows us to act to contain the disease rather more quickly than a response at European level. A recent example is blue tongue, where pragmatic and rapid joint action by regulators (VMD and Defra) and vaccine manufacturers contained the spread of the disease. Similar action was taken in other MS as the disease spread westwards.

Whilst the EU veterinary medicines residues rules are prescriptive they require surveillance to be carried out across a Member State and for extra action to be taken when there is a disease outbreak in a particular region. Taking action at regional level as an alternative to action at EU level can have the disadvantage of some regions undergoing more testing than others which if charging is spread equally across GB would leave some regions feeling short-changed. The other option of spreading surveillance largely equally across the country based on throughput is what happens now and is a much fairer system.

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

Veterinary medicines, medicated feedingstuffs and veterinary medicine residues in livestock: EU legislation provides the right balance for the UK.

In respect of residues, the overly prescriptive nature of the programme does not provide the right balance between protecting animal and public health and UK business interest. A more risk-based programme would achieve this. It is also of note that the EU legislation setting out cost recovery offers a choice of funding methods, which results in GB recovering full costs from industry and others being fully or partly subsidised by their Government. However, at around £3.6 million per annum this is a relatively minor issue viewed in isolation.

On occasions we find evidence that farmers have not observed withdrawal periods (the time which should elapse between the end of treatment and slaughter). However, the approach to setting withdrawal periods has been developed with consumer health at the fore-front of the thinking. Maximum residues limits (MRLs) are set at the level of EU, which encourages a harmonised approach to consumer safety throughout Europe. Because these limits for residues are considered and agreed at a Commission level, to opt out of this particular aspect may lead to dis-harmonisation with the rest of Europe, possibly harming the interests of UK businesses or UK consumers.

Many of the Marketing Authorisation Holders of products on the UK market are multinational companies or based outside of the UK. The benefits of being within Europe, where the UK influences legislation and influences harmonised processes is that it makes it easier for industry to compile the data dossier knowing that a common approach to these data are accepted. It would be more costly to the industry to have to compile dossiers to different requirements.

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

Veterinary medicines, medicated feedingstuffs and veterinary medicine residues in livestock: EU action takes an evidence and risk-based approach.

An evidence and risk approach is already strongly emphasised and embedded into the EU approach for the assessment and authorisation of veterinary medicinal products. As most VMPs are developed for EU/global markets, the data/evidence on which a marketing authorisation is based is generated in accordance with EU/International regulatory guidelines. The number of products that might be authorised in the UK in line with differing national requirements following the introduction of Limited Marketing Authorisations is currently just 8. Evidence and risk is also embedded into the approach to inspecting premises such as feed mills, where medicated feeds are manufactured.

As indicated earlier, the UK is pressing for a more risk-based approach to residues surveillance based on the evidence of the last five years of results across the EU. This would deliver more in the national interest in terms of reducing costs to businesses yet still offering consumer reassurance.

What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

Veterinary medicines, medicated feedingstuffs and veterinary medicine residues in livestock: Opportunities and challenges are ahead.

Antimicrobial resistance is a significant challenge which is currently being addressed for both veterinary and human medicines on national, European and international scales. The current national approach on the veterinary side is designed to promote responsible use of antimicrobials and this is in common with a number of MS. However, there are other MS currently calling for the uncoupling of prescribing and supply of veterinary medicines and the banning of some veterinary antimicrobials. Both of these latter steps would impact of the national interest for animal health. However, an opportunity being discussed in Europe is in addressing the assessment and authorisation of veterinary medicines developed using new technologies, which should stimulate the development of new veterinary medicines for the European market.

Placing the EU residues surveillance programme on a risk basis offers opportunities to reduce costs without reducing benefits to consumers. However, this requires a rigorous horizon scanning approach to spot emerging risks and ensuring proportionate action, whether it be by UK or across the EU. This also applies to other challenges such as climate change, where horizon scanning must track possible changes in disease patterns across the globe and adapt surveillance requirements accordingly.

This does, however, bring up the long standing issue of the EU requiring guarantees from third countries that it works to equivalent standards and that requiring a third country to guarantee that its produce is free from a particular substance would meet resistance if it is not in the EU programme.

What impact might any future enlargement of the EU have on animal health and welfare?

Veterinary medicines, medicated feedingstuffs and veterinary medicine residues in livestock: EU action benefits the UK. Neutral impact.

Although products authorised in accession states should have their dossier brought in line with the Directive if they are to go through MRP, there was a concern that we would end up having to accept sub-standard products. There are some existing examples with some vaccines. The converse is that there are opportunities with (different) veterinary medicinal products being authorised in the EU, which will add to the greater availability of veterinary medicines. Thus the impact of future enlargement is likely to be neutral.

Are there any general points you wish to make which are not captured above?

The Veterinary Medicines Directorate reiterates that it is highly respected in Europe and has a key role in influencing the outcomes of issues concerning the availability, safety, efficacy and quality of VMPs. The results of our customer survey confirm this, where the VMD was compared with other MS in 9 areas and we scored higher that the other European CAs in 6 of these and second in the remaining 3. Thus our position in Europe is of direct benefit to animal health and welfare in the UK.

Wales Heads of Trading Standards

Questions in relation to animal health and animal welfare:

1. What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

Clearly, EU legislation, when translated into UK law, sets the perameters in which regulators may operate. This also has an effect on the funding channelled through central and devolved governments for regulation. This determines the resource that can be provided to maintain the local controls that contribute to the national network of controls over animal health and animal welfare.

Consistent enforcement action across the EU helps maintain a single and fair market.

The level of funding also determines the effectiveness of control of the spread of disease, which determines the costs and disruption to our producers and the price and availability of meat and meat products to consumers. The domestic and international market's confidence in British meat products clearly impacts on the profitability of the primary and secondary producers. This effects the resilience and long term viability of this national strategic resource (food).

Evidence includes the last foot and mouth outbreak.

2. How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

The more the industry is controlled by EU legislation the greater the costs to the industry and the greater the need for regulators to enforce it. There must be an affordable and practicable balance to set and maintain reasonable standards to prevent expensive and devastating outbreaks which impact on the industry and beyond.

4. How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

The international trade in food animals and meat and meat products demands international standards and coordination, supported by national, regional and local enforcement action.

6. Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

Yes. A risk based approach is good (and we already adopt that) but risks cannot be identified without inspection. Animal welfare problems and risky practices, which could lead to proliferation of disease need to be identified in advance to prevent outbreaks. There is plenty of evidence after the event. Outbreaks already occur and the frequency and scale of outbreaks is likely to increase if the regulatory effort is relaxed.

7. What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

The number of animal diseases is increasing. The cost of control to the public purse and to producers may increase.
Growing populations and climate change increases pressure on production
Downward pressure on prices paid by supermarkets to producers could drive them out of business and cause a strategic shortage of home grown food
Pressure on budgets of central and local government enforcement agencies will be a risk factor in maintaining adequate regulatory controls

8. What impact might any future enlargement of the EU have on animal health and welfare?

It will increase the scope for incidents like the current horsemeat substitution in beef products.

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

1. What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

Clearly, EU legislation, when translated into UK law, sets the perameters in which regulators may operate.

The increasingly internation trade in food raw materials and products necessitates international standards and national and local enforcement to allow a fair and consistent market and to protect consumers and genuine producers. The current substitution of horse meat for beef has illustrated the use of meat produced in one EU country to supply raw materials for food products produced in another country and the subsequent distribution of those products in several other countries. The application of similar laws across the EU has helped to define acceptable standards for products and regulation and to foster a consistent and united response. This will help to restore confidence in the food industry and provide reassurance to consumers both in the validity of labelling and in the safety of the product.

3. Has EU action in food law provided the right balance between protecting the consumer and protecting the interests and reputation of UK businesses?

Broadly, yes, we believe it has.

5. What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

Consistent legislation and enforcement is good. Science based standards are rational and provide a fair basis for legal standards.

7. How might the UK benefit from the EU taking more or less action on food law in the future?

Clearly, EU legislation, when translated into UK law, sets the perameters in which regulators may operate. The increasingly internation trade in food raw materials and products necessitates international standards and national and local enforcement to allow a fair and consistent market and to protect consumers and genuine producers. The current substitution of horse meat for beef has illustrated the use of meat produced in one EU country to supply raw materials for food products produced in another country and the subsequent distribution of those products in several other countries. The application of similar laws across the EU has helped to define acceptable standards for products and regulation and to foster a consistent and united response. This will help to restore confidence in the food industry and provide reassurance to consumers both in the validity of labelling and in the safety of the product

8. Could action be undertaken differently e.g. are there ways of improving EU food law?

The balance between protecting consumers and supporting business must be maintained.
As economic pressures increase so does the business incentive not to comply.

Welsh Government

1. What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

Wales benefits from the UK's membership of the EU. EU wide standards and requirements are important to protect animal health and welfare. EU standards are important to ensure that producers who operate to high health and welfare standards are able to compete in an even market place and receive a sustainable price for their produce. In general, it is open to Member States to set higher standards than the minimum requirements.

Benefits

There are a number of benefits from the EU taking a lead on animal health and welfare. It is helpful that the EU has an approach to specific diseases and underpins what the UK is doing. The EU is also able to provide Member States, when required, with advice from experts across Europe via the Disease Eradication Taskforce.

Having an integrated system for diseases reduces the risk of disease re-emerging or spreading across Europe.

In the event of a major notifiable animal disease outbreak, for example foot and mouth disease, EU co-funding may be available to cover unbudgeted costs such as compensation payments. The EU has provided a framework to improve animal welfare in farm animals. This ensures that there are minimum standards for all Member States and provides a level playing field. The feed regulations in respect of TSE have been applied across the EU and have slowed the prevalence of TSE's across Europe which benefits the UK.

The National Control Plan for Salmonella was promoted by the European Food Safety Authority on an EU level to safeguard human health and there is significant evidence that salmonella incidence in humans has dropped since this legislation was put in place.

In the case of bovine TB, current policy is driven by a European Union framework, formed by legislation (773/91/EEC and 78/52/EEC), which requires Member States to develop eradication programmes to accelerate, intensify or carry through the eradication of bovine TB. Approval of the Wales TB Eradication Plan, as part of the wider UK Plan, means that the UK is allocated a level of cofounding which can be claimed retrospectively against TB testing and compensation costs. The Welsh Government is entitled to a share of this funding, which offsets in-year expenditure. Approval of the Wales TB Eradication Plan provides important external validation of the Welsh TB Eradication Programme.

Having EU funding gives continuity in delivery, for example in the bee health programme, and supports the bee inspectorate.

Disadvantages
European legislation imposes major constraints on both the particular tests that can be applied and the way in which they are used. Thus, in the case of bovine TB Council Directive 64/432/EEC (as amended)

effectively dictates that the “intradermal tuberculin test” is the only test that can be used to determine a cattle herd’s “officially-tuberculosis-free” status. While other tests can be used as “ancillary” tests, OTF status is determined by the outcome of tuberculin skin testing and test positive animals must be slaughtered. This imposes considerable limitations on the application of valuable alternative tests such as the interferon gamma release assay (IGRA).

In addition, the legislation also effectively constrains the ability of bovine TB control programmes to make changes to their testing programmes as new and existing tests evolve. This is an increasing problem given the challenges of achieving any changes in European legislation. The reality is that national control programmes are arguably being prevented from making best use of the tests available to them.

EU funding gives continuity in delivery, in certain disease control programmes, however, the length of time taken to recoup finances can be long and a disadvantage to the UK.
Member States are required to put in place legislation which is consistent with EU Regulations. The Regulations can be too prescriptive preventing flexibility in their application locally.

The speed of the change process has been an issue. Whilst the importance of vaccinating against Bluetongue in free areas was recognised at an early stage, it took two years for the EU to amend the legislative framework to enable vaccination disease free areas. Trade was negatively affected by the Bluetongue vaccination rules. It also affected the credibility of government in the eyes of industry. The Commission has difficulty in understanding the UK's position in some areas. For example, the way the UK farms and markets animals.
There are concerns that, on occasions, the EU standards are not high enough. The EU removed the UK’s derogations under the PET Travel Scheme in order to ensure a harmonised system across the EU. There are concerns that political expediency rather than disease risk was the driver for the EU removing the derogation. Whilst it is accepted that disease risk as a whole has reduced since the derogation was introduced, harmonisation of PETS rules are considered to have put the UK at a higher risk of Rabies.

With regards to Foot and Mouth disease, the legislation requires Member States to give positive consideration to FMD vaccination. The industry is concerned about vaccination against FMD because of the associated trade restrictions. Should a Member State decide to vaccinate it will be unable to trade internationally for three months longer than if a Member State had not vaccinated.

There are some diseases where EU law permits an animal / meat to be sold to the domestic market but not to other Member States or third countries. If the EU considers animals can be declared sufficiently safe for them to be traded domestically it appears inconsistent that they cannot be traded across the EU.

There are many instances where the EU provides an appropriate common framework. However, sometimes such an approach should be avoided. For example, there are consistent regulations across Europe for welfare of animals in transit. The EU wide approach does not take enough account of the diversity within Europe - major climate variations, differences in road structures etc.

2. How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

One size does not fit all for EU Member States. An EU Welfare strategy can be a benefit providing that it is high level and outcome based and the level of detail is not too prescriptive. Welfare goals should be set out and allowance made for situations that do not fit completely into EU legislation. The regulation on transportation sets a rigid rule on time allowed for transportation of livestock before rest/feed and water periods must be observed. The movement of livestock in the more remote parts of the UK can result in

difficulty in meeting some of the time periods. Similarly movement within Wales can be problematic, especially as there is a net movement of stock out of Wales. If welfare standards are more outcome focussed, with the ability to enforce appropriately, then necessary animal movements could be facilitated without their welfare being compromised.

The Welsh Government is in favour of the EU setting consistent standards but it should be left to Member States to achieve those standards by the best means for individual Member States. The EU did not declare Schmallenberg disease a notifiable disease, which was a positive benefit to the UK and is one example where less action was a benefit. The UK had decided not to take official action on Schmallenberg, this ensured there was no distortion to trade as all of Europe was in step.

Producing EU legislation for companion animals would improve the welfare of companion animal welfare across Europe. The UK should be actively involved in the setting up or drafting of the welfare strategy and the UK Administrations should be fully joined up to ensure that the UK benefits from the EU taking the lead on this issue.

3. What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

Advantages

• The EU, in theory, should be able to secure the very highest levels of access to third countries.
• Negotiations may be helped if the third country feels there is a benefit in speaking to the institution that sets the framework for health & welfare.
• The larger purchasing and supply capabilities of the EU may help facilitate additional and/or better trade agreements.
• There could be potential for Member States to work together to secure high value or high volume export deals.

Disadvantages

• The Industry and individual Member States may have little or no scope to develop foreign markets or determine costs.
• Hard fought agreements secured by individual Member States could be undermined.
• Could be difficult for Industry to act pro-actively to secure niche markets.
• Potential for a diminution of national / specific sector expertise.
• There is a risk that if the EU has exclusive negotiating competence that some third countries would view the EU as an epidemiological unit. This could have a negative impact on the UK, which could be affected by diseases on the continent that are not present here.
• The sheer diversity of EU agriculture - would the EU be able to appropriately cover the various commodities?

4. How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

The UK introduced a unilateral ban on dry sow stalls (welfare provision) some 10 years ago, ahead of the deadline in EU legislation. That decision gave the UK a higher welfare standing, but at a direct cost. It may have provided some welfare assurance to consumers. Other Member States are now obliged to apply the same standard. The action in the UK did mean producers here were ahead of the competition when the rules were finally implemented.

Industry perceives that the UK applies adequate standards. There are situations where Member States may wish to go above EU standards.

The standardisation of trade rules regarding health status of livestock should enable easier movement through the EU. In addition, the UK has applied some risk based post import testing, which has intercepted some animals that might have posed risk to national flocks and herds. This situation is judged to be worth doing though the UK continues to press for necessary improvements to health certification in the rest of Europe to avoid the risk in the first place.

5. Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

The Welsh Government agrees that public health is paramount. In order to get the right balance the perception of a risk needs to be properly managed.

Organisations or businesses may have differing views on whether the EU legislation provides the right balance. For example, the Egg Marketing Board would agree in relation to the Salmonella National Control Plan. However, the individual egg producer may disagree as they have to pay for inspections by the Egg Marketing Board.

There are benefits in having consistent standards but it also leads to inflexibility. For example, the EU does not permit any margin of error with regards the electronic identification of sheep. There have been discussions with the EU, but they continue to insist upon 100% read rates even though this is not possible in Wales with the current technology due to topography, climate and traditional farming practices.

The standard EU Rules applied to all Member States do protect the UK, e.g. the trade directive 64/432/EEC requires all trading partners to have controls in place for Brucelloses, EBL and Bovine TB. While it is easy to focus efforts within our own borders, some risks to our herds and flocks would be greatly reduced by having overall higher health standards elsewhere. Bluetongue disease is still circulating in Southern Europe. While there are controls such as additional requirements for the movement of Bluetongue susceptible animals out of the protection zones, those Member States affected could be the source of disease to the UK via the movement of vectors. The health and welfare

requirements applied to movement of livestock should, if correctly applied, help protect UK livestock industry from disease being imported.

Similarly, the situation in third countries adjacent to the EU regarding FMD is of concern. Operating standardised controls and disease awareness processes across the EU should reduce the risk to the UK. Trade across the EU and also into and out of it is more and more set by agreement on health and welfare standards. To protect the UK egg producing industry, it is important to have high welfare standards both in the UK and elsewhere. If these were not adhered to or effectively enforced (e.g. the enriched laying hen cage) it would be more difficult to keep out imports from areas where such standards are not as high. That puts British industry at a disadvantage. The example above relates to whole eggs. The UK is not so well placed to protect itself from the importation of eggs from poorer welfare productions systems when liquid processed egg is imported.

6. Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

The steady development of Regulations in the animal health and welfare field has led to a large body of legislation that addresses specific diseases and situations but does not develop control under basic principles of health and welfare. Rationalising this body of law under principles not only gives clarity but allows more consistent and effective responses to existing animal health risks and to emerging diseases.

Schmallenberg disease is an example where the thinking behind the developing regulation is being applied to this new situation.

The EU Animal Health Law Regulation will ensure improvement of standards of animal health across the Union by setting out general rules and responsibilities, requirements for surveillance, disease notification and disease control. The EU Regulation will provide a better, common framework for the identification of animals and the registration of premises on which they are held. Movement controls and import and export rules are also covered. The principles are applied consistently for terrestrial and aquatic animals.

The EU Animal Health Law Regulation will be extremely useful in future emerging and re-emerging diseases situations.

Furthermore the principles set out in the EU Animal Health Law Regulation take account of the need for those involved in keeping and handling animals to accept greater responsibility for health and welfare of their animals and addressing some of the cost and responsibility issue. The requirements of the Competent Authority are clearer and better focussed on outcome and appropriate assessment of risk and proportionate actions to address that risk.

The EU Animal Health Law Regulation is based on outcome driven policies, an approach we support. The UK has worked closely with the EU Commission in working groups and suggestions from the UK are generally well received by the Commission. The UK is reasonably well placed to influence the development of this EU Regulation. As has been said earlier, applying more outcome focussed and effective rules across the EU supports the UK, both government and all involved in animal keeping to reduce the risk of animal disease

EC regulation 1069/2009 updated the rules for animal by products. The technical details (implementing rules) were laid down in a separate legal act and the implementing rules 142/2011came into force at the same time. This enables future amendments to be made through Comitology procedures as opposed to full review. We consider this approach to be more appropriate and proportionate and would encourage the EU to use this process where possible. A recent example of where this has worked well is when EFSA committed to considering applications for alternative methods of disposing of fallen stock within 6 months. Previously, this was a long and protracted process.

7. What future challenges or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

There are many future challenges facing the UK on animal health and welfare. Newly emerging diseases are one of the biggest challenges. Such a disease could impact on disease control, the agricultural industry and tourism etc, which could lead to a negative impact on the UK economy.

An increasing population will lead to increasing world food demand and require more pro-active intervention in what are now called “production diseases” from governments. An example of this risk is the continuing intensification of the poultry industry especially the broiler chicken sector. These animals are held in very large numbers and grow at an exceedingly fast rate with an average life span of 40 days. Such a drive to increase production from this sector will increase the risk of both production diseases becoming the norm and having large populations highly susceptible to infectious diseases.

The increased movement of animals and animal products globally will present new health and welfare challenges.
A lot of the challenges will also have opportunities. Enlargement of the EU would create challenges such as funding and new disease risks, but also opportunities in exporting to new markets with harmonised rules.

New technologies or the application of existing technology to new challenges such as cattle BCG vaccination may have the potential to enhance processes which could have a positive impact on the UK.

There are concerns that, on occasion, the European Commission 'waters down' control for political rather than disease control or welfare reasons. In the 90's the UK attempted to link export certification of veal calves to welfare conditions at destination. This was in response to significant public concern. The Commission were quite clear that relating welfare standards to health was not appropriate. Had the UK persisted there would have been a breach of European rules.

There could be welfare challenges due to changes in agricultural methods and farming systems as farming and technology develops.

Animal production may become subject to new restrictions relating to antimicrobial resistance, which could allow diseases to spread and could prolong a disease outbreak. This could have similar implications to those of a newly emerging disease. Production systems may have to adapt by reducing their stocking densities and improving biosecurity and livestock management. This in turn would increase pressure on food demand from a growing population.

Climate change could affect animal habits such as bird migration. There may also be impacts on the geographical spread of vectors and there ability to 'overwinter'.

Economic challenges including recession, the stability of the Eurozone and a possible breakdown in social structure are a real possibility. Responsibility during economic challenges needs to be shared with industry in order to overcome them.

Structures to share research (outcomes) and funding research projects across Europe would be an opportunity to have a positive impact on the national interest.

8. What impact might any future enlargement of the EU have on animal health and welfare?

Enlarging the EU should raise standards and not decrease them. Attitudes towards disease control and welfare may differ considerably in potential accession countries. For example, Foot and Mouth disease may be widespread in such countries with the possibility of other diseases such as Newcastle Disease, Peste des Petits Ruminants and Sheep Pox Goat Pox. There is a possibility that the disease situation in some potential Member States is such that there is a risk of bringing all standards down. The accession of countries could have an effect on the transport of animals. There would need to be an assurance that the external (i.e. non-EU) borders of new Member States would not be porous.

If more countries join the EU the amount of EU funding available to the UK could change and have a consequence on the UK. The criteria for funding may change and the UK may not qualify in the future.

9. Are there any general points you wish to make which are not captured above?

There has been a gradual increase in legislation in the field of animal health and welfare. Human resources to deal with this are decreasing. However, latest developments are attempting to rationalise these under framework principles. This should give the benefit of clarity and efficiency.

It is vitally important for Defra to fully engage with the Devolved Administrations in all negotiations with Europe that affect the whole of the UK.

Welsh Government will not comment on licensing and controls of veterinary medicines as this is not a devolved matter. Likewise veterinary policy on antimicrobial resistance is handled by the VMD.

Wine and Spirit Trade Association

Introduction

The Wine and Spirit Trade Association (WSTA) is the UK organisation for the wine and spirit industry representing over 340 companies producing, importing, transporting and selling wines and spirits. We work with our members to promote the responsible production, marketing and sale of alcohol and these include retailers who between them are responsible for thousands of licences.

We work with Government Departments such as Defra, the Food Standards Agency and BIS to ensure UK implementation of EU regulations is as smooth as possible for the alcohol industry.

We also work with our European colleagues through Comité Vins and Spirits Europe to ensure that existing and future European legislation relating to wines and spirits does not adversely impact businesses in our sector.

1/ Food safety and labelling

The production and labelling of wines and spirits is governed by EU law. The EU's common market organisation for wines and spirits means that product labelling, descriptions and definitions are harmonised across all 27 member states and provide protection for EU product denominations.

This arrangement has facilitated trade between EU member states which has been broadly advantageous for the UK and its consumers.

However, the single market has in some instances created issues in relation to imports of some products from outside the EU which are not always compliant with EU standards, but many of these have been (or are being)dealt with via bilateral agreements between the EU and third countries.

We therefore believe that it would not be possible or desirable for the UK to attempt to repatriate powers on specific legislation governing the production of wines and spirits and aromatised wines.

2/ Consumer Protection Policy

Consumer Protection Policy at EU level has been reviewed recently and a new Directive on Consumer Rights will come into force on 13 June 2014. While UK Consumer Protection Policy has always been relatively high compare to other EU member states, the new Directive will introduce improved consumer protection principles such as stronger withdrawal rights, increased clarity of prices and more transparency.

The Commission's efforts to harmonise Consumer Protection Policy across all member states will in time provide EU consumers with the needed guarantees and safeguards to have the confidence to shop across borders and, as such, should be welcomed.

According to a recent report for the European Commission, cross-border online shopping in the EU has increased from 6% to 11% between 2006 and 2011. This is in part due to improvements in EU Consumer Protection Policy. (ref: 'Consumers' attitudes towards cross-border trade and consumer protection", EC May 2012').

3/ Excise Duty

Directive 2008/118 on the general arrangements for products subject to excise duty is the key directive governing the structure of excise duty across the EU. This sets the basis upon which excise duty is levied on alcoholic drinks.

The Directive allows EU member states to set their own rate of excise duty and also to charge a 'zero rate' on some products such as wine where for instance 15 out of 27 EU member states do not currently charge any excise duty at all.

Having an EU directive which sets the basis upon which alcoholic drinks are taxed provides certainty for operators who trade across borders, but within a single market, as they only have one taxation system for 27 member states.

We believe it right for the UK to retain sovereignty over setting its own excise duty levels within the parameters of this Directive, but we believe the structure of excise duties (i.e. the basis upon which taxation is levied on alcohol) should remain under EU control.

This is illustrated by several European Court of Justice cases which have been brought against some EU member states who were thought have set levels of excise duty on some products at a rate which was unfairly disadvantageous to other products.

One such case was brought against the UK in 1983 (European Commission vs UK, ECJ 170/78). The European Court of Justice ruled that still wine and beer were competing products and that taxing wine in excess of the equivalent rate of beer in a beer-producing and wine-importing country was against the Treaty of Rome, since it discriminated against products of other Members States. As a result of this ruling, the UK was required to bring wine and beer duty rates into line and rates for wine and beer have moved in parallel ever since.

4/ Environmental Legislation

Regulation aimed at 'greening' supply chains has not yet been adopted at EU level, but is under active consideration. Although the EU is the right level at which to address most environmental issues, a badly constructed EU Regulation based on poor evidence could prove excessively burdensome for business, especially SMEs and micro businesses, potentially leading to insolvencies and discouraging new start-ups.

Where a future EU Regulation is adopted, standards should be reasonable and adoption progressive; it should encourage efficiencies; and enforcement should be devolved to national level. Above all, new regulation should not be a barrier to international trade.

5/ Working Time Directive

Different sectors need additional labour at different times. For example, elements of the UK wine and spirit supply chains need extra hours in the run up to Christmas. **We believe that working time should be decided at national (or business) level and would encourage the UK government t negotiate removal of the Directive. At worst, the UK government must preserve its current 'opt out'.**

World Society for the Protection of Animals

(References available on page 251)

Questions in relation to animal health and animal welfare:

What evidence is there that EU action on animal health and welfare benefits or disadvantages the UK?

The World Society for the Protection of Animals (WSPA) recognises the United Kingdom's long history of introducing animal welfare legislation to protect animals within the UK. WSPA notes that in recent years, the value of animal welfare has been recognised by international institutions such as the Food and

Agriculture Organisation of the United Nations (FAO), the World Health Organisation (WHO) and the World Organisation for Animal Health (OIE).

In the EU, the UK Government has spearheaded recognition of the sentience of animals. Over the years, animal welfare has become more important in the EU. It was first recognised in a Declaration on animal welfare (1992), then in a Protocol (1997) before finally being recognised by a Treaty article (2007). The Council of the European Union also stated in its conclusion dating 13 February 2009 that 'it:

- DEEMS it important to achieve world-wide acceptance of animal welfare as an issue of common concern and importance;

- ENCOURAGES the Commission to continue, as announced in its Action Plan on the Protection and Welfare of Animals, "to support and initiate further international initiatives to raise awareness and create a greater consensus on animal welfare, including engaging with Developing Countries to explore trade opportunities based on welfare friendly production systems";

- INVITES the Member States and the Commission, within their respective competencies, to support, in principle, the UDAW initiative in the relevant international fora.'

The Lisbon Treaty, in force since 1 December 2009, includes animal sentience as an Article, meaning that recognition of animal sentience is now in the main body of the Treaty and carries considerably more weight.

Although some EU animal welfare legislation may sometimes be less ambitious than previously adopted UK animal welfare legislation, EU action on animal health and welfare does benefit the UK, as it results in:

o A higher number of animals being positively impacted through EU action

o A means of lobby through which UK consumers, NGOs and the Government can influence other EU member states on their animal welfare standards, possibly leading to improvement EU wide

o UK consumers' demand for higher welfare animal products being addressed

o UK businesses benefitting from a level playing field with their European competitors.

As noted by the European Commission (Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the European Union Strategy for the Protection and Welfare of Animals 2012-2015), EU action on animal welfare and health benefits a high number of animals: around two billion birds and three hundred million mammals are used for farming purposes. An estimated twelve million animals per year are used for experimentation. Dog and cat population is estimated at around one hundred million animals, mainly privately owned.

WSPA believes that EU action on animal health benefits animals as well as UK consumers and businesses. As stated by DG Sanco, "Diseases don't respect borders, therefore general rules for their control across the EU should be harmonised. Furthermore, clear and harmonised rules for movements of animals within the single market need to be set in the EU legislation and apply equally to all member states. This applies also to import conditions that animals, animal products and products of animal origin, need to fulfil for the introduction into the single market" (Proposal for a New Single Regulatory Framework for Animal Health - so-called Animal Health Law), DG Sanco http://ec.europa.eu/governance/impact/planned_ia/docs/45_sanco_animal_health_law_en.pdf)

As stated on the website of the UK Department for the Environment, Food and Rural Affairs (DEFRA) website (http://www.defra.gov.uk/animal-diseases/), "the costs of [animal] disease outbreaks range from £2 million (minor) to over £3 billion (major outbreak)". As health is an important aspect of welfare, action on animal health benefits not only animal welfare but also public health and the economy of the UK. As animal diseases do not respect borders, these issues cannot be tackled simply at UK level and need to be dealt

with across the EU. A lack of EU action on animal health and welfare could seriously disadvantage the UK at all levels.

There is evidence to show that the EU has benefitted UK farm animal welfare particularly in sectors such as chickens, laying hens and pigs. Without EU harmonising laws, the higher UK standards may have left the UK industry less able to compete with imported products from other members states produced under lower standards.

WSPA believes that the interests of both animal health and welfare and UK businesses have been taken in consideration by EU legislation and did not have negative repercussions on farmers. For example, not only was Council Directive 1999/74/EC (laying down minimum standards for the protection of laying hens) beneficial to the welfare of hens, WSPA believes that the period allocated to phasing-out cages was clearly sufficient (13 years) to ensure the UK farming industry was not penalised. Consumer power had limitations to shift the market. By harmonising legislation, the EU provided additional incentive in the UK to increase its free-range eggs production. It also helped reduce the risk of the UK being undercut.

WSPA calls on the EU to provide the means to introduce higher welfare standards across the region and proper and thorough implementation. WSPA believes the UK needs to work with the EU to ensure implementation-related issues are not replicated and that enforcement is as effective as possible to prevent standards from being ignored.

How might the UK benefit from the EU taking more or less action on animal health and welfare in future?

More EU action on animal health and welfare will benefit the UK by:

a) protecting UK consumers against zoonoses, and especially foodborne diseases, which are often associated with poor animal health and welfare;

b) ensuring that UK businesses benefit from a level playing field around the production of animal products in the EU. Without EU harmonising laws, higher UK standards in the field of animal welfare may have left the UK industry less able to compete with imported products from other member states produced under lower standards.

c) ensuring that consumer demand for high welfare products in the EU is addressed; for example, consumers would have experienced great difficulties supporting high welfare production methods if it were not for harmonised EU legislation and the introduction of clear, production labelling schemes on shell eggs in 2004.

d) improving the welfare of wild animals in captivity, therefore benefitting conservation efforts.

WSPA does not believe removing action at EU level will benefit the UK. Not tackling issues relating to animal welfare and health could put the UK at a disadvantage in terms of trade and human welfare.

What advantages or disadvantages might there be in the EU having exclusive competence for negotiating trade agreements with third countries?

Not only is the EU the largest exporter and importer of food products worldwide, it is also the world's largest trading bloc. The UK therefore greatly benefits from the EU having exclusive competence for negotiating and ratifying trade agreements due to the increased buying-power and value that brings. "Acting as one, and as a sizeable market, the EU can have a greater effect on opening up markets, removing non-tariff barriers and promoting UK interests than if Britain acted alone" ((Source: Trading places: is EU membership still the best option for UK trade, http://www.openeurope.org.uk/Content/Documents/Pdfs/2012EUTrade.pdf, Open Europe, 2012). The UK has a lesser negotiating power than the EU: it does not have the same economic weight in trade

negotiations and cannot demonstrate the need for high standards relating to animal health and welfare nor how they can be achieved, whereas the EU can. Therefore there are serious risks attached to the UK being removed from the EU negotiating trade agreements and the benefits this brings.

Benefits to the EU having exclusive competence also include ensuring that animal welfare and animal protection are priority issues in EU international trade policy and agreements. A good example of this is demonstrated by the Sanitary and Phytosanitary chapter of the EU-South Korea Free Trade Agreement which calls for enhanced cooperation between the Parties on animal welfare issues, including through the exchange of information and efforts to develop animal welfare standards in international fora pertaining to the stunning and slaughter of animals (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:127:FULL:EN:PDF).

For animal welfare and health to be improved throughout Europe, the UK has to be part of the EU system. If the UK were to adopt a piecemeal approach to EU membership, it would open the door to every other country in the EU picking the policies that suit them. This would defeat the purpose of European integration and would allow countries to opt-out of animal welfare initiatives. If the UK were to negotiate trade agreements on its own accord, the UK would need to pledge that EU standards on animal health and welfare were used as minimum standards and that any variance would improve the standard.

How might the national interest be served by action on animal health and welfare being taken e.g. at regional or national level, in addition to or as an alternative to action at EU level?

Over the last five years, opinion polls commissioned by the RSPCA have consistently shown that the UK public are very keen to see animal welfare improving or feel that they are behaving in a way that considers the welfare of animals. Since 2007 more than 70% of people have consistently responded that they believe for a society to be truly civilised, animal welfare must be a key priority. Animal welfare has also been consistently rated as a highly important ethical consideration (http://www.politicalanimal.org.uk/RSPCA/Generic%20-%20public%20opinion.pdf).

As UK public opinion favours more protection for animal welfare than currently exists, opportunities for increased protection in the UK should be sought, where these are not planned at EU level.

In light of this, WSPA believes the UK national interest will be served by having the highest possible animal welfare standards. As such, the UK needs to take an immediate lead on promoting the highest possible standards on animal welfare and encourage the EU to meet these. The UK should continue to be a beacon for the highest animal welfare standards and lead by example in the EU, thereby satisfying the UK public appetite for animal welfare and ensuring UK businesses benefit from a level-playing field.

Does EU legislation on animal health and welfare provide the right balance between protecting animal and public health and the interests of UK businesses?

WSPA believes that the interests of both animal health and welfare and UK businesses have been taken into consideration by EU legislation and did not have negative repercussions on farmers. For example, not only was Council Directive 1999/74/EC (laying down minimum standards for the protection of laying hens) beneficial to the welfare of hens, WSPA believe that the period allocated to phasing-out cages was clearly sufficient (13 years) to ensure the UK farming industry was not penalised.

Likewise, the EU coordinated approach to fight salmonella resulted in a reduction of almost 50% in the EU of human Salmonella cases (http://www.efsa.europa.eu/en/press/news/120130d.htm) – mainly from animal infections - over a five year period (2004-2009), resulting in significant health cost care savings for the NHS. Estimates in 2008 indicated that the mean costs were £1,282 per case of Salmonella typhimurium (ST) and £993 per case of Salmonella enteritidis (SE), not including indirect costs of work-time lost (Salmonella typhimurium and Salmonella enteritidis in England: costs to patients, their families, and primary

and community health services of the NHS; SANTOS et al., http://www.ncbi.nlm.nih.gov/pubmed/20598211, May 2011).

Could action be undertaken differently e.g. are there ways of improving EU animal health and welfare law, for example, to focus more on required outcomes using a more evidence and risk-based approach? Would this deliver more in the national interest?

While considering outcomes is important for the health and welfare of both animals and people, it will continue to be equally as vital to legislate on inputs, as stakeholders need guidance on how to achieve desired outcomes. This will be achieved through better and clearer constructed EU and national guidance on how legislation should be implemented.

Action could be taken by furthering an evidence-based approach to EU animal welfare legislation. Legislation (existing and under discussion) relating to the transport and welfare of animals. WSPA believes guidance documents provided by EU expert working groups, comprised of experts in the field of animal welfare would be beneficial.

Overall, WSPA advocates a mixed approach of guidance documents (which can be easily updated) and legislation, which ensures that EU standards are being raised voluntarily where necessary but also underpinned by statute in circumstances where necessary across all EU Member States.

What future challenge or opportunities might we face on animal health and welfare and what impact might these have on the national interest?

The UK is facing a number of significant challenges in relation to animal health and welfare such as (a) animal welfare in a global context, (b) climate change and (c) ways to address food insecurity.

a) In response to the UK public demanding the highest possible standards of animal welfare, the national interest will be achieved via the UK promoting and ensuring high quality food and farming along with high levels of traceability and welfare standards.

According to a 2010 EU barometer requested by the European Food Safety Authority on the perception of food and food-related risks (http://www.efsa.europa.eu/en/factsheet/docs/reporten.pdf), the welfare of farm animals is the top concern expressed by respondents in the UK. As such, improvements to achieve high welfare farming practices are likely to result in real marketing opportunities for UK businesses. The industrialisation of food production across the globe means that the necessity for global standards on animal welfare and health in relevant sectors will increase. The UK and EU needs to ensure they are significant players achieving this, and this should be at the forefront of development.

b) Extreme weather patterns will result in an increase in the spread of animal disease, including exotic disease never before -experienced in the UK. As stated by the Office of Science and Innovation, “Many important animal diseases are affected directly or indirectly by weather and climate. These links may be spatial, with climate affecting distribution, temporal with weather affecting the timing of an outbreak, or relate to the intensity of an outbreak” (Office of Science and Innovation, ‘Foresight. Infectious Diseases: preparing for the future, T7.3: The Effects of Climate Change on Infectious Diseases of Animals’. London, 2006 http://www.bis.gov.uk/assets/foresight/docs/infectious-diseases/t7_3.pdf). The invasion of exotic disease is also a concern for the UK equine industry, including the Thoroughbred racing sector and all those owning and using horses for professional and leisure purposes. This will have a negative impact on farmers’ incomes. Climate change will negatively impact farmers through the potential loss of their livestock in times of disasters.

c) Discussions around food security are becoming an ever increasing priority with serious implications across the globe. Given the ever increasing threat of food shortages in the future, in-depth understanding of the repercussions from encouraging the intensification of animal production, such as the negative impact

on the welfare of farmed animals, is necessary. WSPA would encourage serious consideration to be given to more sustainable options that protect the health and welfare of animals involved in food production systems.

What impact might any future enlargement of the EU have on animal health and welfare?

Future enlargement of the EU has the potential to make a positive impact on the health and welfare of animals in countries joining as they will need to adopt the full EU legal framework on animal welfare, food safety and health into their national legislation before they can join the EU. There may be countries that will enter the EU that have no AW legislation. Joining the EU will mean they have to adopt EU standards, therefore improving the welfare of animals across the EU. For instance, if countries with whaling policies (e.g. Iceland) were to join the EU, they would need to renounce this harmful practice. As stated by DEFRA (http://www.defra.gov.uk/wildlife-pets/whales-dolphins/) “Iceland’s whaling is incompatible with its EU aspirations. We are urging Iceland to align with the EU position”.

As the EU expands, this will result in an increased level-playing field; this in turn has the potential to benefit the UK as minimum standards of animal health and welfare will apply to all. WSPA believes EU authorities must absolutely ensure that all new EU Member States categorically meet established EU standards on animal health and welfare.

Questions in relation to food safety (including feed safety), labelling, food quality and compositional standards

What evidence is there that EU action to create the single market for food has been advantageous or disadvantageous for the UK?

These areas of food safety, quality and composition are not part of WSPA’s remit and we shall not comment on most of the questions in this area. However, whilst the EU single market may have had various advantages for the UK, major disadvantages have been highlighted by the horsemeat scandal of 2013. The complex and international nature of the food supply chain contributes to the difficulties in assurance and traceability that underlie this scandal. These difficulties are not only relevant to food composition and safety. They also cast doubt on assurances about the welfare of the animals yielding products in the UK food supply, a matter of serious concern to UK consumers.

What evidence is there that the principle of science based food legislation at the European level has served the national interest well? Are there any concerns about the principle and its application? Are there any examples of where it was not followed?

WSPA supports taking a science-based approach to food legislation, supported by the precautionary principle.

How might the UK benefit from the EU taking more or less action on food law in the future?

Business opportunities in the UK relating to animal welfare may be put at risk if consumers lose confidence in labelling and provenance standards as a result of the current meat provenance crisis. The UK should lobby European institutions to adopt labelling and provenance standards EU consumers can have confidence in.

Food labelling is important in trade, as well as in the other issues addressed here including farm animal welfare. In this respect, the national interest will be best served by labels that require safeguards for welfare consistent with UK consumer concerns, allowing consumers in the UK and elsewhere to select such products from farms that meet appropriate standards. Where such standards can be achieved across the EU, EU-wide labelling is beneficial in encouraging and maintaining improvements in all countries. Where standards are higher in the UK (or any other Member State) than elsewhere, there should be greater

freedom to use national labelling, both of Country-of-Origin and of criteria such as welfare, to the benefit of both businesses and consumers in the UK.

Could action be undertaken differently e.g. are there ways of improving EU food law?

The recent horse meat scandal has demonstrated that food producers and European legislators must take their responsibilities seriously and act to ensure that the welfare of all animals destined for the food chain is protected and that clear records are kept ensuring that all relevant legislation has been respected and that all animals can be traced and checked. WSPA urges the European Commission to act to ensure the enforcement of existing animal welfare legislation in all EU Member States and that any meat or live animals imported from third countries meet the same standard. WSPA also advocates for long distance transport of animals to be stopped in order to improve animal welfare and traceability.

London Workshop One

Animal Health and Welfare Workshop: Tuesday 12th February (10-12noon)
Note of meeting and evidence to the report

Attendees
Agriculture and Horticulture Development Board
Soil Association
Royal College of Veterinary Surgeons
British Trout Association
Scottish Salmon Producers' Organisation

Protection of animals

Animal health and welfare legislation across the European Union (EU) aims to bring all Member States (MS) to the same level, but is inconsistently applied. This has led to a competitive disadvantage for some MS. e.g. the UK was/is disadvantaged by variations in application of battery cage and sow stall legislation.

If the UK wishes to remain at the vanguard of animal welfare law and take the plunge first on further reform, then this inherently builds in a difference between itself and other MS. The UK would be better off leading by voluntary example, promoting high welfare standards but not legislating to enforce this. Legislation to impose higher standards would add cost so further reform in this area should be market driven.

Another option might be to ensure that the institutions have adequate power to make sure that other MS fully implement EU law; an adequate stick as well as carrot.

One way of doing this could be to cut CAP payments for non-compliance. MS could lose a percentage of their payments. Although this would not work yet for aquaculture, the Commission is potentially looking in to introducing payments under the marine and fisheries fund.

Currently, infraction procedures to encourage compliance are very slow. Perhaps there is some way to introduce an 'express' process to enforce compliance.

Consumer protection

There is a relatively robust set of pan-European legislation to protect public health. Diseases don't respect borders so this is a clear example of where working together is necessary. Consumer confidence is critical to production and trade, and Europe relies on a consistent approach.

As a huge number of animal diseases are human-sourced (and indeed vice-versa), it could be beneficial to push a 'one health' idea in the future. This would entail regarding human and animal health and law as one and the same.

There are concerns about the influence of social and ethical concerns on policy developments. Some believe that for an area such as the welfare of animals at slaughter (i.e. stunning exemptions), society prevents higher welfare standards.

On food safety, sometimes EU law doesn't take into account local needs, i.e. the age of meat at mincing, where rules are driven by MS where the preference is often to consume it raw. The UK and Ireland are disadvantaged as rules are set to encompass all MS. The UK should be allowed to mince meat later, without it being marked as inferior quality, but the current system doesn't provide for such flexibility.

It is worth remembering that the UK does not always lead in these areas. There are also examples such as antibiotic resistance, where the UK falls behind the standards of other MS.

Trade (intra-EU)

It was widely stated that mutual recognition would be no less burdensome than harmonisation of EU law, and would entail a greater workload for commercial operators. In any case, without European law, there would still be a need for national law in these areas. This is also evident on trade with 3rd countries, where an enormous amount of negotiation and effort goes into recognising standards.

It was stated that the UK Government doesn't have the manpower to fully support commercial negotiations abroad. If more flexibility were allowed, the Government would need to strengthen its embassies to support future negotiations with other states.

It was generally agreed that harmonisation aids trade, rather than being overly burdensome.

There is a perception that there is differential application of state aids rulings, i.e. more national public sector support than should be allowed, or at least in comparison to the UK. As the UK abides by the letter of the law, this leaves it at a disadvantage.

Trade (extra-EU)

There are distinct pros and cons on whether trade with 3rd countries should be an exclusive EU competence, or whether the UK should have the flexibility to pursue bilateral agreements. For example, Scottish salmon is a small export when compared against all European products, but is significant to the UK. Currently, salmon and trout are not exported to South Africa because a previous European trade agreement is in place. On the other hand, markets have been opened with China thanks to European trade negotiations.

There is therefore an argument that the UK should have the flexibility to agree bilateral trade agreements when it comes to specialised commodities. This is particularly true with fish, where the UK's main competitors such as Norway, are not constrained by such restrictions.

It was pointed out that the EU's exclusive competence for trade with 3rd countries could potentially lead to a ban on UK exports if there is a disease outbreak in another European country. (Although an endemic disease outbreak could also damage export opportunities.) It was argued that this could be tackled through regionalisation, so that Europe is broken down into areas and thereby protecting exports where the disease is not a risk. On the other hand, it is important to note the effect of reputation and trust on trade in meat and animal by-products. Often other countries do not take a scientific base (e.g. China) when responding to such crises. Particularly concerning meat, these larger markets wish to inspect the source of food, and it

only takes one MS's sub-standard plant to delay the whole process. e.g. the UK is the only country without disease in seed potatoes. The UK would lose the opportunity to trade as it would be treated as one bloc.

However, the benefits of being treated as a trade bloc meant that the UK was able to recover European export markets more quickly than 3rd country markets after the BSE crisis with help from the European institutions. On the whole, the UK is trusted as being consistent with its application of satisfactory animal health, welfare and food standards.

Economics, growth and innovation

It could be argued that local businesses which do not export would be better off under national legislation. However, if this were permitted in the UK, then the same would apply in other MS, which in turn would damage UK exporters to the EU. This would also prevent national businesses from expanding and looking to export in the future.

Harmonisation prevents a race to the bottom on animal health and welfare standards. Instead, European law creates a baseline which is critical to provide fair competition. This then allows industry or MS, to be innovative and go beyond the common standards in order to give itself a competitive advantage or unique selling point.

There may be merit in the UK promoting itself as a nation with low health risks and high welfare standards, as a means to displacing imports and import penetration i.e. UK's high welfare standards in the pig sector, which put pressure on UK supply chains to stock British products. However, this is product area specific, and appeals particularly to our UK consumers which are welfare sensitive. Plus, food safety and animal welfare are very challenging things to use as a marketing tool. It may only take one slaughterhouse or one farm to undermine the reputation of the sector.

Innovation is hampered by European processes which often take years to come to a decision and become a commercial reality. European decision-making also leads to decisions which are the lowest common denominator in order to suit the needs of all MS.

On the other hand, these drawbacks are potentially balanced by the funding and research provided by the European framework. Not all innovation in Europe even needs to follow the legislative process.

Scientific, risk-based

It was noted that some MS do not base their policies on a scientific basis due to politics, image and societal preferences. It could be argued that the UK is itself guilty of this with regards to action on bovine TB.

It can be argued as to whether the precautionary principle is scientific or not. An example is spinal cord removal in sheep. As there is no data on the risks, it is assumed that they are significant. However, where the risk is known with beef, the rules are being relaxed. The precautionary principle can therefore result in an overreaction and should be coupled with proportionality.

Scientific evidence can take time to capture and process, yet Europe cannot fail to act just because there is no scientific evidence in a new area. Even where it is available, science isn't wholly neutral. Other factors such as the need to act or cost can affect policy decisions in a risk-based approach. The precautionary principle is commonsense; an acknowledgement of where the science is incomplete.

Differential interpretation/implementation

There is a definite perception that the UK interprets European legislation more strictly than other MS.

There are issues with differing MS capacity to react with regards to aquatic animal health. With one particular disease, there are four strains which have varying implications for different species of fish. When

European legislation was enacted, it was found that some MS did not have the reference laboratory capacity to differentiate between the strains, and so no distinction was made. Where a MS such as the UK has a higher technical ability and it has been corroborated by the institutions, then no restrictions should be placed upon their industry.

There may be merit in the idea of a specialist body independent to the Commission, charged with being the ultimate arbiter in what is credible under animal health and welfare legislation. This could potentially give the UK Government a credible mandate to act in areas where the political environment prevents them from doing so, e.g. Bovine TB.

Specific legislation

Are there specific pieces of legislation which cause difficulty for the UK? Is the principle of it being EU legislation is correct and it needs amending? Or should it be changed to national or international level?

An area which should be retained at a national level is the compositional standards of meat products, which comes down to societal preferences e.g. varying types of sausage across Europe. The safety and labelling should be harmonised, but the composition remain different.

There are several areas of European law surrounding veterinarians which ought to be modified, as they put animal health and welfare in the UK at risk:

1. Currently vets are automatically given right to work in the UK regardless of the quality of their training in other MS. There are cases where EAEVE (European Association of Establishments for Veterinary Education) have declared an establishment unsatisfactory, but the UK is still obliged to allow them to work in the UK.

2. Level of English competence – other MS vets must also be allowed to work in the UK regardless of their level of English competence.

3. The Working Time Directive is overly burdensome for small businesses.

It was stated that there ought to be more stringent rules in an area which affects animal health and welfare so fundamentally, and also impacts upon public health. EAEVE could perhaps be given some official capacity to work with underperforming training establishments. The UK helps set standards for veterinary nurses elsewhere in Europe, which is the sort of collaboration which improves quality of care across the continent.

It was stated that many of the issues raised in the course of the meeting could be resolved through further, active engagement with the EU.

London Workshop Two

Animal Health and Welfare Workshop: Thursday 14th February (2-4pm)

Note of meeting and evidence to the report

Attendees

Centre for Environment, Fisheries & Aquaculture Science
World Society for the Protection of Animals
Royal Society for the Protection and Care of Animals
Country Land and Business Association
Livestock Development Group, University of Reading
Veterinary Medicines Doctorate

British and Irish Association of Zoos and Aquariums
Equine Disease Coalition
Agriculture and Horticulture Development Board (Bpex & DairyCo)

Protection (animals and consumers)

It was noted that EU action on animal health had been very successful in combating diseases such as rabies through vaccination and Foot and Mouth Disease (FMD). Since this progress it was argued that there have been no major steps forward, and that enlargement had in fact impacted negatively on EU competence in some areas. For example, the EU was aware that Romania had a problem with Equine Infectious Anaemia (EIA), but no restrictions were put in place during their accession and EIA has now spread to other parts of the EU.
It was agreed that there are large discrepancies in compliance and implementation of animal health and welfare legislation across the EU, notably on the sow stall and battery cage directives. For example, the Directive on Zoo Licensing which came into force in 1999 has still not been implemented by several Member States (MS), none of which have been infracted. Other examples are the Balai Directive (1992) and the Aquatic Animal Health Directive (2006). It was also argued that several pieces of legislation are out-of-date e.g. African Horse Sickness which requires the culling of all infected horses, even though this is no longer necessary in all cases.

On the other hand, it was observed that there will no doubt be examples where the UK has also not fully implemented legislation and it remains advantageous to us not to do so. Moreover, there are examples where the UK has poor standards of compliance in the slaughterhouse sector.

One of the key issues which prevents action on non-compliance (particularly regarding sows and battery hens) is what should be done with the illegal products. It was argued that illegal products should not be allowed to be sold, but there is no competence to prevent this. It was also noted that MS would not wish to give more resources and power to the Commission to enforce non-compliance. An example of where the UK might even wish for less enforcement of EU law is on the current UK restriction on the export of ponies, which the Commission may argue should be permitted.

It was discussed whether industry could play a greater role in ensuring compliance. It was observed that assurance schemes can promote welfare but that the EU must provide the baseline standards and make sure they are applied.

On Food and Veterinary Office (FVO) inspections, some argued that industry should not be given any prior warning of an inspection. Others noted that the UK is itself moving away from on-the-spot inspections, so it would be contradictory to demand this at an EU level. On inspections, it was noted that most breaches are paperwork related, and actual welfare infringements are rarely picked up.

It was stated that the network of European Union Reference Laboratories has been beneficial for the sharing of expertise and resources across Europe, but it was questioned whether funding could continue in the face of budget reviews.

Trade (intra-EU)

It was agreed that de-harmonisation of single market legislation would be chaotic. There are in fact cases where there ought to be further harmonisation. For example, there is currently no European law to control beaver imports, which might result in the spread of animal disease in the UK. Plus, UK action is not always harmonised e.g action on bovine viral diarrhoea differs in Scotland.

On mutual recognition, it was noted that France, UK and Ireland's Tripartite Agreement (on travel of equidae) is a relevant case study demonstrating how mutual recognition could work, although it also shows how MS have diverging opinions on risk. It was noted that this sort of agreement would probably not work

with farm livestock, plus the agreement is being reviewed as it permits an unknown number of low value horses to be traded, unconditionally.

Trade (extra-EU)

Some attendees noted that the speed of bilateral trade agreements would be preferable for the UK, but only if we had the resources to act upon them. It was argued that the ability to trade bilaterally would be of particular benefit to producers in niche markets, e.g. Welsh lamb. Moreover, some third countries refuse to negotiate with the EU as a whole. There are also other anomalies e.g Russia refuses Polish pork and the UK itself was excluded on beef after BSE and FMD.

Others noted the EU's strong position when working together. It was argued that the EU should negotiate where possible, but if it fails then MS should have the competence to negotiate separately. Others pointed out that the UK may no longer have the global influence to negotiate bilateral deals.

It was argued that EU law does not provide enough incentive to prevent disease outbreaks and that there is a tendency to ignore areas free of disease when trade negotiations take place. For example, the EU requires vaccination against rabies for the movement of dogs and cats between the UK and Ireland where hitherto there was free movement. It was argued that it could be preferable to set up disease free regions where different rules apply.

Flexibility

Directives have been preferable to date as they allow for some flexibility. Attendees raised concerns on the trend towards greater use of Regulations.

In general it was observed that there is little room for dispensations or derogations on animal health, meaning where agreement has not been reached with reference to a specific disease there is limited opportunity to combat that disease. That said, the UK has, in the past, been able to make good use of derogations on rabies, where it had different rules in place.

Policy-making (science and risk-based, ethics, social pressures)

It was stated that the Lisbon Treaty Article 13 on the sentience of animals is an example of a social and ethical article. In general it was noted that it is difficult to balance different MS societal and ethical practices e.g. eating veal or horse meat. The welfare of circus animals is an example of where UK societal preferences differ greatly from some other MS.

It was also noted that in the 2010 EU barometer, animal welfare was found to be the top concern of UK respondents, and policy-makers should take this into account. It was argued that there is a growing market in the UK of those willing to pay more for greater welfare standards of livestock. That said, there were counter arguments that in the current economic climate many are not able/willing to pay more for produce produced under better welfare conditions.

Some argued that the EU did not have a good track record in forming science-based legislation e.g. GMOs/beef/BSE/cloning. In the past a small group of MS were able to work together to block progress on legislation going against scientific evidence, but this is now more difficult due to the large size of the EU.

Ethical and scientific aspects of welfare aren't separate things. e.g. GMOs are being used to improve animal welfare, but the perception is that it works against it. Consumers should be given the choice with clear labelling on GM products and they can decide what they wish to purchase.

Decision-making

The Standing Committee on the Food Chain and Animal Health (SCoFCAH) should allow quick and effective decisions to be made on animal health. Attendees raised concern that rapid European decision-

making may be lost because of slow negotiations within the European Parliament. It was argued that as officials have the time and expertise to examine the minutiae behind policy issues they should be responsible for making decisions in animal health. Concerns were also raised that veterinarians have lost their position of influence both in the UK and across the EU.

The decision-making process was also criticised in that the Commission is the only institution which can introduce legislation. Thus, if the Commission doesn't act, then no action is taken. Some lamented that comitology does not involve civil society and there is no opportunity to impact on decision-making.

It was argued that the European Parliament was very aware of animal welfare issues and that on balance it is an effective instrument for putting pressure on the Commission. On the other hand, others questioned whether it had the specialist expertise at all levels to be an effective actor on animal health and welfare.

Horse meat

It was argued that this issue does not relate to EU competence or the need for more or less European legislation. On the other hand, there is no EU requirement for the labelling of horsemeat, which some would argue should be introduced. The present problem primarily concerns trade descriptions and trading standards i.e an area where robust legislation is already in place but has been breached.

London Workshop Three

EU Animal Health Law Core Group: Friday 22nd February

Note of meeting and evidence to the report

Attendees

Animal Health and Welfare Board for England
British Veterinary Association
National Beef Association
National Pig Association
British Equestrian Federation
British Poultry Council
British Meat Processors Association

Protection of animals and consumers

It was agreed that there is evidence illustrating varying implementation of EU law across Europe. For instance, the Broiler Directive (Council Directive 2007/43/CE) is applied more restrictively in England than in other Member States (MSs). It was agreed that there is a perception that the UK Government follows legislation to the letter, compared to other MSs. While it can be disputed whether or not this is the case in practice, it was agreed that there should be no gold plating when applying EU legislation domestically. It was also felt that the UK can at times be too strict when transposing Directives whereas at times a more pragmatic, outcome-based approach might be equally effective.

There was agreement that interpretation and implementation varies from MS to MS depending on the piece of legislation, e.g. Italy goes far beyond the UK in its interpretation of law on salmonella or labelling of poultry.

It was observed that the best solution would not lead to a change in the balance of competences and increase national powers, but to make sure EU law is properly enforced. In the case of varying implementation on sow stalls, it was argued that the Commission was ahead of the ban, did not create action plans in advance and was apparently unable to react to failures in implementation until after the ban

came into force. The particular problem whereby illegal products can still be sold even if they breach EU law was also raised.

More generally, it was stated that EU competence and harmonised rules in animal health and welfare were important for providing governments with confidence that all MSs had the same baseline standards.

Trade

It was observed that bilateral trade agreements with 3rd countries can at times be more beneficial to the UK; particularly concerning niche markets where it allows UK negotiations to be more targeted. This is particularly the case for sheep genetic materials, sheep and sheep meat, where the UK is the biggest exporter in Europe. If trade were enforced as a sole EU competence, then these products would be a low negotiating priority. Moreover, some 3rd countries do not recognise the EU as a single market. China for example, will not accept pig exports from Northern Ireland because of trade across its border with the Republic of Ireland.

On the other hand, it was argued that from a protectionist viewpoint the weight of the EU safeguards UK production by preventing 3rd countries from swamping the market with cheap imports and pricing out European producers. The importance of EU trade agreements for bulk commodity products was also underlined.

Economics, growth & innovation

It was observed that the EU can sometimes be sluggish in keeping up with technological advancements, e.g.. desinewed meat. There have been cases where legislation has even harmed food safety. e.g animal intestine inspection contaminating the outside of a carcass.

It was argued that vets may hold too much power in the Commission, and there is need for greater multidisciplinary teams in European policy making.

Concerns were raised over the efficiency of EFSA, with criticism that its reports have been modified without scientific evidence to support their arguments. It was argued that EFSA is politicised and not sufficiently objective. This would therefore prevent it from playing a stronger overarching role as the scientific body on animal health and welfare law. On the other hand, it was argued that EFSA has a clear-cut responsibility for risk-assessment, which is beneficial compared to the many differing tasks of the UK's FSA. It was argued that the European Parliament is also often too driven by political interests.

Scientific

The EU needs the flexibility to quickly revaluate policy and make adjustments in light of scientific developments. Attendees were concerned that the current process does not allow for this. e.g. microbiological risk of poultry carcasses.

Where there is no scientific evidence available, then the precautionary principle should play a role. Bute is a current example of the precautionary principle; the medicine is not necessarily harmful to human health, but is treated as such because the effects are unknown and to date there has been no need for testing. However, it was argued that if the precautionary principle is used for veterinary medicines regulation then it will be very damaging to the UK's infrastructure. Some argue that antimicrobial resistance can be mitigated through preventing vets from dispensing medicines and the restriction of certain classes of antimicrobials. However, there is no scientific evidence to suggest that restrictions impact on antimicrobial resistance and the use of the precautionary principle should be resisted.

Attendees observed that as the UK Government does not easily give funding to the EU, it is sometimes difficult to obtain match-funding for promotional activities in Britain, where other MS may find it easier. The

UK government has not been as supportive of agriculture as other countries, which puts industry at a disadvantage. There is a question mark over whether best use has been made of RDPE funding.

When considering if there are areas which are currently not legislated but should be, attendees argued that greater use of third party accredited schemes and assurance schemes could be used to further ends in industry. Good evidence of industry role e.g. in applying Campylobacter standards. It would be particularly advantageous in that they allow considerable room for flexibility, permitting MS to work according to their culture. European organisations could be used to promote pan-European industry standards. Insurance schemes also need developing to help industry take ownership of risks.

London Workshop Four

Industry Stakeholder Food Law Workshop 7th February 2013

The workshop was a mixture of presentations and exercises to draw out the different issues related to European competence. Attendees represented a wide range of food businesses and trade associations. They covered many parts of the food chain, including primary production, the meat sector, wholesale, retail, food service, manufacturing and feed.

It was explained to the group that all evidence will be made publicly available. All attendees agreed that an unattributed note of the workshop could be used as part of the evidence once it had been agreed. This note presents the views collected during the workshop. The material presented to the workshop by Food Standards Agency officials is annexed.

Responses to the exercise: What is good and bad about EU level legislation?

This exercise was before going into any detail of the emerging issues to capture 'top of the mind' views.

Benefits to the UK of legislation being made at EU level

Single market/trade

- Makes exporting easier

- Non-barrier to trade

- Easier to operate across Europe, e.g. in retail, opening a coffee shop, manufacturing etc

- Open access to service – labour, skills, equipment etc

Trade with third countries

- EU is stronger a an unified trading entity

Harmonisation

- Consistency for single market trade

- 'Level playing field' (in theory)

-Free movement of trade across the EU due to consistency of standards

- Commonality facilitates trade

-Clarity of general requirements

National provisions

- EU legislation leaves space for national provisions in some areas

- Consistent application of laws across EU countries

Sourcing with confidence

- Confidence in imported EU foods

- Harmonisation of food hygiene laws etc makes it easier to source with confidence

Research/expertise

- Access to improved body of research/expertise

- Encourages networking and exchange of ideas

De-politicisation

- 'De-politicise' at national level

Disbenefits to the UK of legislation being made at EU level

Inconsistency/lack of clarity

- Results in multiple guidelines from multiple sources – inconsistency

- Lack clarity in detail

- Lost in interpretation

- Directives may be better for consistency

- EU law open to differing interpretations

- varying levels of enforcement

Different implementation/interpretation in Member States

- Derogations can mean varying implementation in Member States

- Local standards

Lack of flexibility

Insufficient flexibility built into legislation for SME and micro as opposed to large businesses

- Burden of compliance on small businesses that do not trade abroad

- Lack of flexibility

- EU legislation can be over prescriptive

- Can be over prescriptive or too vague

Trade

- Barrier to trade with third countries (can be a benefit – depending on where you sit in the process)

- Uncertain of 'level playing field' is at the right level

EU process issues

- EU can be slow to produce legislation which impedes trade and innovation.

- Lengthy legal process

- Lack of consultation/transparency

- Difficult to get involved in the legislative process

We don't always get what we want

- Difficulty in reaching acceptable agreements

- Compromise legislation imposed on different cultures

- Inability to influence change

- Concerns legislation can force countries to go backwards e.g. allergen labelling under FIR

- Specific Member States needs' overshadowed

Responses to an exercise on emerging issues

Following a presentation on the emerging issues, attendees discussed the topics in detail. Each table looked at two topics. The outcome of the discussions is presented. It was emphasised that there was no need to come to a consensus view.

Issue: Trade

- Better in than out – national interests.
- The single market is vital.
- The intention to prevent trade barriers is good, but in practice it is not guaranteed.
- Mutual recognition – without harmonised rules – can work with negotiation, but no legal comeback. It could be misleading to consumers.
- Codex as an alternative to EU law – possibly, maybe, in some circumstances.
- Codex decisions agreed by consensus can be cumbersome, very slow, easily derailed.
- Exclusive competence for trade with third countries is practical.
- EU level impacts (disease outbreaks) do not happen in practice. (Relates to exclusive EU level competence for negotiating trade agreements with third countries.)
- Trade agreements with third countries – importing standards good but do not encourage us to be proactive enough when exporting.
- Third countries tend to treat EU whole so Commission good at looking at barriers.
- Cultures, standards differ across EU.

Issue: Protecting consumers

- However good the legislation is there are always going to be rogue elements e.g. meat fraud.
- Legislators have insufficient understanding about how the different parts of the industry work in practice; so legislation is made, then the discussion takes place about how that will work in practice.
- Two areas in the interests of consumers no longer allowed under FIR – allergen's contains box on pack (but improved for catering) and GDA communication on pack.
- Much of food labelling is not of interest to consumers.
- Consumer education and responsibility still needed.
- Codex – lowest common denominator and slow – so not a good alternative.
- Cost to industry of recalls.
- EU legislation protects consumers more than without but whether or not effective depends on effective and consistent enforcement.

Issue: Economics, growth, innovation

- In practice, EU level rules are not applied consistently so market is not protected and competition is not fair.

- Many local businesses import ingredients so need EU legislation for protection.
- There is a place for both prescriptive (hygiene) and principle based (nanotechnology) legislation.
- Small businesses prefer prescriptive legislation as easier to understand. Guidance gives clarity without prescription.
- Risk assessment rather than legislation is too slow for innovation.
- Comitology is better for innovation.
- Legislation not too burdensome but paperwork can be.

Issue: Risk-based approach

- Risk-based approach good but has become increasingly politicised and emotional.
- Risk more appropriate than hazard.
- Risk tailored to MS consumption patterns.
- Risk needs to be assessed or precautionary principle or lowest detectable level used.
- Evidence required for “lack of risk”.
- Risk assessment should be separated from risk management.
- Legislation can be reactive and not proportionate to the risk e.g. BPA France, printing inks Germany.
- Precautionary principle not used appropriately.
- Consumer education about risk – cannot have a risk free life.
- Consumer responsibility e.g. allergens, nutrition etc.
- Cost to industry of recalls – need risk-based approach e.g. allergen thresholds.

Issue: Differential interpretation

- Directives were more flexible – regulations are more restrictive as they are immediately binding. Increasing use of regulations not directives.
- Leads to varying standards of implementation. Nevertheless prefer to be in EU for trade benefits than out.
- Perception is that UK is stricter but the Davidson Report suggested otherwise.
- Different cultures, focuses and priorities mean differing interpretations.
- Commission/FVO differing interpretations need to be sorted as can be disastrous e.g. desinewed meat.
- Slowness of guidance and interpretation e.g. FIR – allergens. Most retailers need to start changing labels now but cannot as some still being dictated to by lawyers in Europe.
- Central rules mean less local political interference.
- There are not too many National Rules in the food area and they are only allowed if not impacting on single market.

Issue: Process issues, devolution

- QMV not perfect but manageable.
- There seems to be a balance of power between the Commission, Council and EP.
- Tertiary legislation probably good as enables rapid response.
- Impact assessments good in theory but could do better in practice.
- Insufficient transparency in the process.
- EU level food law does not guarantee consistency in England, Scotland, Wales and Northern Ireland.
- Devolution creates additional burdens for businesses who trade across the UK e.g. Temperature control in Scotland, FHRS in Wales.
- Enforcement inconsistent across the UK.
- Commission approach on Allergens for non pre packed food can create inconsistencies.
- Lack of transparency with EU Nutritional tolerances – no consultation – No EU RITAs.

Responses to exercise looking at issues with specific legislation

The final exercise was to allow people to comment on specific legislation but then relating the comments back to where/how competence should be exercised. It was undertaken individually, without discussion, and so does not represent consensus views.

Legislation should be national not EU

- Water in bacon.
- Meat Products Regs should stay. (National legislation.)
- Cheese etc compositional standards legislation should stay.
- Any national measures would cause barriers to trade and mutual recognition would negate measures.

Legislation should be EU, but amended

- Calories should be allowed instead of saying kcal in the future.
- Allergen boxes currently used by some should in future still be allowed under FIR/FIC.
- FIR/FIC (Labelling) – allergens, calories etc.
- FIR – should allow additional allergen information in the UK.
- FIR – clearer direction on what variation will be allowed at national level and be amended to be fit for propose and clarity e.g. KJ is not understood in the UK so it should be calories. Also clear guidance to indicate if traffic lights are a health claim.
- Spirit Drinks Regs and Wine Regs should allow the opportunity to meet responsibility deal and potential minimum pricing.
- Reg 853/2004 should be amended to not apply to premises producing only domestic produce.
- Reg 852/3/4 (Food Hygiene) is not properly risk-based.
- OFFC (882) is not properly risk-based.
- Marketing Standards Fruit and Vegetables to prevent food waste.
- Poultry Marketing Standards bans freezing which destroys Campylobacter.
- Welfare at Slaughter (1099) is in danger of gold-plating through National Measures.
- UK has gold-plated Gluten Regs.

Legislation should be at world level, not EU or national

- Animal Health and Public Health.
- Food Contact Items Regs should be Pan EU e.g. BPA – France.

Legislation is not needed

- Beef Labelling Regs should be completely subsumed into FIR.
- Traceability back to the first origin throughout the chain is not needed. One step traceability is sufficient.

More legislation is needed

- More legislation in Compositional Standards as there is a decline in standards due to economic pressure.

London Workshop Five

Enforcement Stakeholder Food Law Workshop 15th February 2013

The workshop was a mixture of presentations and exercises to draw out the different issues related to European competence. Attendees represented a range of local authorities and public bodies.

It was explained to the group that all evidence will be made publicly available. All attendees agreed that an unattributed note of the workshop could be used as part of the evidence once it had been agreed. This note presents the views collected during the workshop. The material presented to the workshop by Food Standards Agency officials is annexed.

Responses to the exercise: What is good and bad about EU level legislation?

This exercise was before going into any detail of the emerging issues to capture 'top of the mind' views.

Benefits to the UK of legislation being made at EU level

Single market/trade

- More advantages to larger businesses, retailers and manufacturers who can buy cheaper food across the EU.

-Free trade across the EU saves on costs of regulation.

-Directed control removes funds from local issues.[Could also be seen as a disbenefit]

-Allows Member States to negotiate content.

-Allows control of contamination within a trade area.

-Free movement of trade.

Trade with third countries

-Allows controls on third countries and their imports.

Harmonisation

-Harmonised standards across EU.

-'Level playing field' for business and consumers regardless of where they are.

-'Level playing field' in terms of free trade and what legislation is in place.

National provisions

-Flexibility across EU on how official controls are carried out in each Member State.

Consumer benefits

-Bacterial control e.g. *Salmonella* reduction in poultry/eggs and in pigs, Antimicrobials in food and feed.

-Consumers benefit from a wider variety of foods at reasonable prices.

-Imported foods with problems picked up and information shared with other EU states (via

De-politicisation

-Allows flexibility on gold plating in some cases.

TRACE system).

-FVO audits (third party),

-Consumer trust.

Disbenefits to the UK of legislation being made at EU level

Inconsistency/lack of clarity

- Does not cover all countries in the world.

-Lack of understanding of the reasons for EU legislation by small businesses.

-Inconsistency in enforcement.

-National legislation still prevents harmonisation across EU.

-Multiple language food labels good for businesses but bad for the consumer (cluttered and difficult to read).

Lack of flexibility

- Appears to be very little room to manoeuvre when applying laws in similar businesses whether large or small.

- One size does *not* fit all (all of the time).

-Cultural and social differences across EU make it difficult to please everyone with 'one size fits all' legislation.

-Small retailers and caterers spend a lot of time adhering to regulations applicable to all sectors.

Trade

- Perception is that businesses feel 'enforcement' varies in Member States and therefore "trade equality" does not exist.

-Local interpretation of regulations varies between Member States.

-EU focus on free trade overlooking localism i.e. LA focus is on micro and SMEs.

EU process issues

-Seen as a 'distant' imposition of rules.

Other

-No remedial action notices in English legislation for 852 premises.

-Horsemeat scandal influenced by media.

Responses to an exercise on emerging issues

Following a presentation on the emerging issues, attendees discussed the topics in detail. The outcome of the discussions is presented. It was emphasised that there was no need to come to a consensus view.

Issue: Trade

- General agreement that it is good to trade within EU.
- Focus on imported food from third countries, as assuming EU food/ingredients are all meeting standards.
- Primary Authority enforcement plans have given rise to different enforcement at local levels resulting in more self regulation for large businesses where assumptions are made that this includes surveillance systems such as sampling.
- EU size means that its "bargaining powers" with third countries is greater.
- Traceability requirement under 178/2002 should be subject to a minimum standard.

Issue: Protecting consumers

- EU legislation is robust, standards are high
- Consumer protection does not just rely on legislation but enforcement of legislation.

- National measures could lead to burdensome two-tier system and be a barrier to trade. However may fit better for some local issues where EU legislation is considered disproportionate e.g. approval of small businesses.
- Consumer expectations can be thwarted by protective legislation e.g. food hygiene/part cooked food (rare burger issue).
- Trade of food – internet sales; need clarification on point-of-sale in legislation.
- Third country trading – EU legislation benefits consumer protection as standards are higher than may be if international (but it is restrictive to businesses).
- Incidents/RASFF system publicly available to consumers. Helps co-ordinate enforcement across EU and is therefore good for consumer protection.
- All RASFF information provided is useful for informing enforcement authorities and for intelligence on risk-based sampling and therefore increased consumer protection (potentially).

Issue: Economics, growth, innovation

- Legislation is restrictive in itself, no matter where it is set.
- One size does not fit all. Different sizes of business do not correlate with risk.
- Regulation 853 is burdensome on small businesses and can restrict growth. Local/national legislation would suit these businesses if they did not expand.
- Free trade both used and abused.
- Businesses like to be told what to do which equals prescriptive legislation. Enforcement would possibly prefer regulation principals which will allow for innovation.

Issue: Risk-based approach

- What risk is being assessed? Is it risk to trade/business or risk to health, e.g. *Salmonella* in eggs in one Member State?
- Hazard versus risk. In EU legislation it is easier to regulate hazard but national guidance also does this e.g. new *E.coli* cross contamination guidance.
- Is EFSA's scientific opinion on risk, turned into legislation based on whether it is reactive to an incident (e.g. sprouted seeds and VTEC) or proactive?

Issue: Differential interpretation

- Too many layers. Should the EU be more prescriptive to prevent this? Local Authority members do not understand official controls.
- Different interpretations in each country.
- Devolved nations – are differences risk-based e.g. raw milk, temperature controls etc?
- Industry guides – who collates these across Europe?
- Qualifications of those who carry out compliance.
- SME/micro businesses could suffer (the majority of LA enforced premises are micro-catering businesses). However, high-risk products can be produced in SME/ micro businesses.

Responses to exercise looking at issues with specific legislation

The final exercise was to allow people to comment on specific legislation but then relating the comments back to where/how competence should be exercised. Due to the workshop overrunning this was discussed only briefly.

- Ice in drinks (e.g. in pubs) – an area that is unregulated at present and where there are safety concerns.

- Soda guns etc can present hygiene problems.
- Concern about the Primary Authority system – felt that this allows some firms too much leeway and makes it difficult for other authorities to take action.
- Sampling methods should be standardised.
- Quality standards should be kept – important for consumer protection.

When there is a suspicion that a business is connected with an outbreak of foodborne illness it can be difficult for Local Authorities to shut the premises down at an early stage. This can lead to tensions between the Local Authority and the Health Protection Agency.

Belfast Workshop

Northern Ireland Enforcement Community Workshop 1 February

Note of meeting and evidence to the review

- There was general agreement that trade is good for the UK and that harmonised EU rules are useful.
- It was noted that sometimes the UK is put at a disadvantage compared with other Member States who do not necessarily reach the harmonised standards by the necessary date (e.g. chicken cages and pig welfare standards).
- There can be different interpretation in different Member States (e.g. what constitutes meat products and meat preparations).
- There was concern that if rules were decided at the Codex level, rather than in the EU, that would water down standards. It was noted that things that are acceptable in third countries and often not acceptable in the EU. It was questioned why this should be in a risk based system.
- It was noted that where limits for things such as dioxins were exceeded FSA might still say that there is no risk. This can be difficult to explain to businesses.
- Shellfish movement documents rely heavily on businesses giving the correct information. Where there can be big financial gains this can be a weakness in the safety system.
- It was noted that the generic hygiene legislation (especially 852) was very similar to earlier domestic legislation and that the UK had achieved a lot of what it wanted in the negotiation process.
- The RASFF system was generally supported and the sharing of information was thought to be a good thing. Restrictions can be placed on imports from third countries. However, sometimes the actual risk associated with the problem and cost in respect of the size of the withdrawal are unjustified, e.g. Sudan 1 and dioxins.
- Finance for Local Authorities is very tight. Where a Local Authority has a port this can place an extra burden on the LA, but no extra funds are available. It would be good if there was central funding that recognised this.
- It is expected that consumers are well protected and the balance is probably about right.
- It was felt that the UK interprets things too strictly and other Member States take more lenient approaches. However, in the case of DSM and MSM, the FVO viewed the UK's controls as insufficiently strict enough.
- Guidance from the EU would be useful to promote consistency.
- There was a variable impression of the FVO and the perception that where the value of production goes up, they become more interested in the issue.
- Interpretation of what is caught by the definition of Food Business Operator is very strict and not risk-based. It may be an area to be looked at further.
- Risk based controls are beneficial. However, larger businesses like guidance to be supplied with more generic legislation, but smaller businesses just like to be told what they have to do.
- Many people perceive the controls on TB reactor milk as unnecessarily strict and not risk based.

- There are also issues to do with approvals. For instance, a very small business making handmade butter and selling to restaurants in Dublin has to be approved.
- There was a suggestion that there should be less prescription about official controls, but this could lead to risks at Border Inspection Posts if they take different approaches – it might lead to businesses shopping around for the port of entry that suits them best. This might lead to a downward spiral in control.

Brussels Workshop

Animal Health and Welfare Workshop: Tuesday 19 February

Draft note of meeting and evidence to the report

Organisations represented

International Federation for Animal Health Europe	Channel Islands Brussels Office
European Livestock and Meat Trades Union (UECBV)	Welsh Assembly Government EU Office
European Community of Consumer Cooperatives	Scottish Government EU Office
Office of Alyn Smith MEP	British Agriculture Bureau (NFU Brussels)

Scientific risk-based approach for the protection of animals & consumers

1. A view was expressed that many pieces of veterinary medicines legislation are old and were produced at a time when there was less of a risk-based approach. This means that many of the requirements are too onerous.
2. With regards to ethics and its influence on policy, it was felt that some Member States (MS) are too controlling and force their view on other MS. In some cases e.g. the ban on growth promoting hormones, the ban happened despite scientific evidence – in other words it was felt in this instance that the science was misused to support social and ethical views. There was an agreed view that the UK is more advanced in terms of using evidence and adopting a scientific-risk based approach on issues like GMO/cloning.
3. It was recognised that many involved in drafting legislative proposals at the European Commission have no scientific background and that this possibly reinforced the need for stronger links between the European Food Safety Authority (EFSA) and European committees so that the precautionary approach is used on fewer occasions. It was felt that the precautionary principle was justified where evidence was not yet clear or balanced, but that it must be used sparingly. The neonicotinoid issue was given as an example where some argue the precautionary principle should not be used.
4. While legislation is sometimes adopted on the basis of social/ethical views rather than science, it is important to remember social and ethical considerations vary across MS. The European Union's motto "*unity in diversity*" emphasises the fact that there is no such thing as a European consumer, no 'one voice'. On the question of GMOs, for example, if decision-making were devolved to individual countries their decisions could have ramifications for others.
5. As a whole it was agreed that it was too early to judge whether the involvement of the European Parliament had improved the decision-making process as the Treaty of Lisbon has not been in force long enough.
6. There was discussion about the role of the Codex Alimentarius Commission, a UN based organisation and a possible alternative to EU level competence. The UK is locked into the EU position at Codex; MS rarely input because food law is harmonised and the Commission speaks on their behalf, which can

upset third country trading partners. However it was recognised that the EU has a more powerful voice when it can speak on behalf of the MS, so the benefits and disadvantages have to be weighed against each other.

Differential interpretation

7. Participants discussed the differential interpretation of EU legislation across the EU and the varied impact on MS, not least the distortion of intra EU and EU-third country trade. The European Commission has gone some way to resolve this difference of interpretation across MS e.g. in the area of food regulation, but needs to play a leadership role in providing guidance to ensure the single market is not adversely affected. It was also pointed out that differential interpretation has a significant impact on small and medium enterprises (SMEs).
8. Non-transposition/implementation of Directives is another issue resulting in varying impact across MS. Recent examples of non-compliance are in relation to Directive 2008/120/EC (laying down minimum standards for the protection of pigs) and Directive 1999/74/EC (welfare of laying hens). Many MS are not compliant and seem to have no intention of complying. In these cases the Commission has so far not exercised its powers of enforcement. There is a European Parliament opinion on those two pieces of legislation to the effect that the EU needs more power to compel MS to work with the Commission on meeting the deadline. There is anger among MEPs that MS have had many years to comply and have not done so. This undermines trust in EU rules and the requirements imposed on farmers. Non-compliance by some MS causes market distortions and again, negatively affects SMEs.
9. The Commission's Food and Veterinary Office (FVO) publishes reports on lack of MS compliance. A clearer legal basis is needed for the FVO role – some MS are resistant to that based on subsidiarity concerns, seeing it as interference.
10. Veterinary medicines require harmonised EU legislation so that products can be licensed in an efficient manner and encourage innovation. If recognised in one MS, veterinary medicine should be made available in other MS. The legislation does not prevent mutual recognition and it's an underexploited opportunity, both within the EU and in relation to trade with third countries, as standards in other countries such as Australia and Switzerland are not that far away from EU standards.
11. There was a plea that before considering non-legislative solutions, i.e. moving from EU to domestic competence and considering options for industry to self regulate, we need to carefully consider reasons for change. It is important to ensure change is not being made for the sake of it. There currently exists a useful hybrid of self regulation and central regulation. Regulation is a tool to reach a certain objective (e.g. public health) but self regulation can sometimes achieve that faster and more cost-effectively. MS systems have developed separately; in the UK pharmacists are very effective and the system could be used elsewhere.
12. When considering competence it was worth noting the Commission's advice that EU legislation should be viewed as a minimum standard not a ceiling, thereby giving MS the scope to go further if they wanted to. It was however noted that if they did so it was often criticised as 'gold-plating'. An example was given of the proposed regulation relating to the spreading of compost and digestate on land. The UK has a quality protocol but the proposed EU legislation has a lower standard than the UK and if it went through the UK would be forced to adopt the lower standard and could not use UK technology. Those MS that don't currently have any rules are pushing for lower standards.
13. More generally, it was noted that in smaller jurisdictions like the Channel Islands (which are part of the EU for the purposes of trade in agricultural products by virtue of Protocol 3 of the UK Accession Treaty), the balance of competences between the EU and UK is an important issue. Access to EU wide standards for consumer and animal protection is overall beneficial, as is access to EU wide networks for sharing information on animal and plant diseases and on food safety issues. However, the administrative burden of implementing relevant EU legislation can be quite onerous for such small jurisdictions, which therefore supported efforts to simplify regulation.

Future developments

14. The prospect of an EU-US Free Trade Agreement is challenging and it will bring social and ethical issues into play on the EU side, which the US is likely to view as protectionist.
15. The forthcoming reviews of animal health law, hygiene law and official food and feed controls law were mentioned. On hygiene, the direction of travel is for a more risk-based approach which accords with the UK view that more responsibility should be transferred to business. In relation to official food and feed controls, MS have competence on the way in which their services are structured to deliver those controls but there's a question around charging for them - currently some MS do and others don't.
16. Prior to the last two enlargements (2004 and 2007) it was said that decision-making would be impossible, but this has not happened and won't necessarily affect progress in the areas of animal health, welfare and food safety. The biggest implication will be budgetary, especially if Turkey joins, but standards are likely to remain the same.
17. Public-private partnerships should be stimulated to the greatest extent possible; companies approve and it should help bring more efficiency. For example, the rabies vaccination is seen as an opportunity for business. Tools now exist to control rabies which means the disease is being pushed further east, with campaigns being funded around the EU's external borders.
18. Finally, it was felt that horsemeat was perhaps a good issue to bring into the discussion on whether industry should regulate itself. The issue was lack of compliance with existing rules, and checks in the system to detect crime. A parallel was drawn with the prevalence of fake medicines. As long as rules exist there will be people who break them and they should be prosecuted. The rules on traceability allowed us to identify the distribution chain very quickly but not where the fraud occurred. Intelligence-led checking is important – Ireland was the first to find horsemeat contamination of beef burgers and we can learn from that.

Edinburgh Workshop

Scottish Enforcement Community Workshop 16 January

Note of meeting and evidence to the review

- One or two colleagues stated that they are largely responsible for official control delivery and as they were not involved in the legislative creation process, did not mind at what level the legislation was created, or who made it, provided that it is effective, relevant and proportionate. A discussion on the merits of the level at which legislation is made seemed academic to some.

- With respect to membership of the EU, it is a question of being in or out to some. Membership has a variety of advantages, including that harmonised food law facilitates trade, provides a consistency of approach, ensures that business has to work to the same standards and provides a level playing field for business and enforcers alike. The status quo appears to be working well in the main, but there will always be anomalies with legislation as one size can never suite all.

- Recent issues have emerged with third country delegations from Russia, China and the US. Visits concluded that some of the EU based controls in approved establishments were below the standards expected for export to their respective countries. To potentially approve, open up or expand export markets requires Food Business Operators (FBOs) to adopt food safety standards above the level imposed by EU legislation. This has become a commercial decision for the FBO if they wish to export, but reflects that trade could be further improved if controls were set at a worldwide level.

- The RASSF system is a real benefit for the consumer and enforcers across the EU. It should continue to improve over time; however, feedback on the outcome of incidents never appears to be provided.

- The UK does not appear to be very effective at lobbying in the EU.

- As most food law competence derives from Treaty Articles that are designed to facilitate trade, and trade figures illustrate the importance for the UK of trading with other Member States (MS); it seems sensible to have a system that allows business to thrive and consumers to benefit from improved choice.

- Having said this, with respect to consumer protection, Article 168(4) (b) has helped create the basis for EU wide hygiene legislation directly to protect public health and the interests of consumers. This is an advantage and provides a level playing field across the community.

- When the EU food law was based predominantly on EU Directives rather than directly applicable Regulations, the UK was criticised of gold plating when implementing domestic legislation. Other MS have been criticised for introducing controls that fell short of the objectives of respective Directives.

- Whilst introducing directly applicable Regulations across the EU prevents flexibility to interpret Directives in a way each MS might favour, it does ensure consistency and assurance. The EU Regulation is the lowest common denominator for the food industry to comply with and for MS to implement and enforce.

- The FSA is effective at notifying enforcers of prospective EU legislative changes and providing information via consultations on EU legislation and domestic implementing legislation. However, most officers are too far removed from the EU legislative making process and lobbying of the Commission by the Central Competent Authority for their comments to be heard. They do not feel they are appropriately consulted with by policy teams to input comments on the practical implications of controls and influence the content of the EU legislation. In fact industry appears to have better opportunities to input their comments to policy teams at dedicated forums and influence the content of future legislation through lobbying, than the enforcement community delivering official controls.

- When consultations are published on domestic implementing legislation, individual officers who have the technical knowledge and are best placed to respond on the practical implications of its content can find it difficult to do so. Some Local Authorities have procedures where responses to consultations must go through committees of elected members, rather than from technical experts themselves. These mechanisms are time consuming and can mean deadlines are missed.

- National measures permitting MS derogations from the requirements of EU legislation can create flexibility for the UK to implement controls that seem appropriate for the domestic market. However, individual MS may create controls that vary widely across the EU and lead to inconsistency across MS.

- There is a question about small businesses processing products of animal origin and whether they are required to be the approved. In the UK, some FBOs are caught by the approval requirements and must be specifically assessed for compliance with Regulation (EC) 853/2004 and be subject to additional controls. The current interpretation of marginal, localised and restricted in the UK catches certain small to medium sized businesses and feedback suggested it would be better to expand the interpretation to a national geographical area and then the requirements would only be triggered when FBOs trade more widely e.g. internationally. This would remove some of the bureaucracy.

- Risk assessments have not always been undertaken in a proportionate way and some food alerts have resulted in an overreaction to the actual risk posed, e.g. Sudan dyes.

- Examples of issues with current EU legislation include:

    - The Beef and Veal Labelling Regulations are too prescriptive.

    - The electronic identification of sheep under the Sheep and Goats (Identification and Traceability) (Scotland) Regulations 2006 are an unnecessary burden.

- The introduction of the EU Hygiene package saw the removal of the butchers' licensing scheme. The licensing scheme had been very beneficial.
- The registration of food businesses under Regulation (EC) 852/2004, places an obligation on the FBO to register with the Competent Authority but no time limit exists for them to do so.
- The registering of child minders as food premises are unnecessary and a burden to business and Local Authorities.
- Does evidence actually demonstrate that the approval process provides greater assurance and hygienic controls than would be required if the FBOs had to comply only with Regulation (EC) 852/2004 requirements?

References to Health Protection Agency (now Public Health England) evidence

i EU measures help reduce human Salmonella cases by almost one-half. European Food Safety Authority January 2012. Available at: http://www.efsa.europa.eu/en/press/news/120130d.htm

[ii] Elson R, Little CL, Mitchell RT. Salmonella and raw shell eggs: results of a cross-sectional study of contamination rates and egg safety practices in the United Kingdom catering sector in 2003. J Food Prot. 2005 Feb;68(2):256-64.

[iii] Little CL, Walsh S, Hucklesby L, Surman-Lee S, Pathak K, Hall Y, de Pinna E.,Threlfall EJ, Maund A, Chan CH. Salmonella contamination in non-UK produced shell eggs on retail sale in some regions of England. Euro Surveill. 2006 Nov 23;11(11).

[iv] Little CL, Surman-Lee S, Greenwood M, Bolton FJ, Elson R, Mitchell RT, Nichols GN, Sagoo SK, Threlfall EJ, Ward LR, Gillespie IA, O'Brien S. Public health investigations of Salmonella Enteritidis in catering raw shell eggs, 2002-2004. Lett Appl Microbiol. 2007 Jun;44(6):595-601.

[v] Little CL, Walsh S, Hucklesby L, Surman-Lee S, Pathak K, Gatty Y, Greenwood M, De Pinna E, Threlfall EJ, Maund A, Chan CH. Survey of Salmonella contamination of non-United Kingdom-produced raw shell eggs on retail sale in the northwest of England and London, 2005 to 2006. J Food Prot. 2007 Oct;70(10):2259-65.

[vi] Little CL, Rhoades JR, Hucklesby L, Greenwood M, Surman-Lee S, Bolton FJ, Meldrum R, Wilson I, McDonald C, de Pinna E, Threlfall EJ, Chan CH. Survey of Salmonella contamination of raw shell eggs used in food service premises in the United Kingdom, 2005 through 2006. J Food Prot. 2008 Jan;71(1):19-26.

[vii] Zenner D, Janmohamed K, Lane C, Little C, Charlett A, Adak GK, Morgan D. The serotype case-case design: a direct comparison of a novel methodology with a case-control study in a national Salmonella Enteritidis PT14b outbreak in England and Wales. Epidemiol Infect. 2013 Jan 16:1-8.

[viii] Commission Regulation (EC) No 1688/2005 of 14 October 2005 implementing Regulation (EC) No 853/2004 of the European Parliament and of the Council as regards special guarantees concerning salmonella for consignments to Finland and Sweden of certain meat and eggs. Available at: http://www.food.gov.uk/multimedia/pdfs/salmonellarules.pdf

[ix] Irvine WN, Gillespie IA, Smyth FB, Rooney PJ, McClenaghan A, Devine MJ, Tohani VK; Outbreak Control Team. Investigation of an outbreak of Salmonella enterica serovar Newport infection. Epidemiol Infect. 2009 Oct;137(10):1449-56.

[x] Commission Implementing Regulation (EU) on the traceability requirements for sprouts and seeds intended for the production of sprouts. Available at: http://www.food.gov.uk/multimedia/pdfs/serco10030

[xi] Harker KS, Lane C, De Pinna E, Adak GK. An outbreak of Salmonella Typhimurium DT191a associated with reptile feeder mice. Epidemiol Infect. 2011 Aug; 139(8):1254-61. Epub 2010 Oct 14.

[xii] Salmonella Enteritidis PT1 associated with consumption of liquid egg product. Health Protection Report. Volume 6 No 42; 19 October 2012.