

British Frozen Food Federation



T&L update 55

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Country of origin labelling

The Food Standards Agency has published a report on 'country of origin' labelling from Oxford Evidentia. 'Country of origin labelling: A synthesis of research' is available from the FSA website at <http://tinyurl.com/yblwrfj>

The study is described as a synthesis of research, carried out to bring together findings from five research studies on country of origin labelling. The studies were commissioned by the Food Standards Agency. The five research studies are an evidence review, a qualitative behavioural project, an omnibus survey, a Citizen's Forum and a survey of the uptake by retailers and food manufacturers of FSA guidance on country of origin labelling.

Key findings highlighted by the FSA are:

- there is low engagement with, and understanding of, country of origin labelling and although consumers are aware of country of origin labelling, it is not a priority when shopping
- price is usually more important than food labelling information, but with regards country of origin labelling, the willingness to pay is mediated by consumers' values, priorities and beliefs
- there is low understanding of country of origin labelling, and there is evidence of confusion about the meaning of origin labelling, particularly in relation to animal products and whether it refers to where the animal was born, reared, slaughtered or processed

The Report Executive Summary lists the following **Key Findings**:

- The evidence review revealed that general food labels in the UK are read on initial purchases by approximately half the population only. When asked about what information they looked for when purchasing food for the first time, only 11% of respondents in the NatCen survey said that they looked for country of origin labels. However, when asked specifically in a separate question whether they looked for country of origin information, the proportion that said that they did rose to 52%.
- Though consumers are aware of country of origin labelling, this information is not a main concern when shopping.
- All studies presented evidence of confusion as to whether "country of origin", (particularly with animal products) refers to where animals are born, raised, slaughtered or processed. The term refers to the place of the last substantial change.
- The country of origin literature is replete with evidence of "consumer ethnocentrism", "food nationalism" and "food patriotism". This generally refers to the belief that one's own country or region produces safer and better food than other countries or regions.

- A link has been identified amongst consumers between the perceived freshness and local origin of food products.
- Evidence on what is the most important information on labels is mixed. According to the evidence review, country of origin ranks alongside price and use-by/best-before dates as the most commonly sought information on food labels. However, the behaviour study, the Citizen's Forums study, and the omnibus consumer survey reviewed for this report each found that price and use-by/best-before information were considered to be more important for consumers than country of origin.
- The evidence on the price and willingness to pay for country (or region) of origin products is mixed. Consumers who have a commitment to local, organic and "natural" methods of food production are likely to pay a modest premium despite their economic circumstances.
- Standard-assured logos are often misunderstood, as consumers often believe them to be assurances of complete safety and country of origin.
- Consumers felt it would be beneficial for COOL to be displayed prominently so it is easily found.
- The time available for food purchasing also affects consumers' use of food labels. So too does the format of many food labels (size, fonts, style of language), and consumers' values and attitudes to food production, distribution, and preservation.
- Food labelling on most products presents consumers with more information than they can reasonably process, resulting in information overload. This often leads to confusion, misunderstanding and uncertainty which, in turn, causes scepticism and mistrust of food labels.
- Consumers would like country of origin labelling to include easily visible strong images indicating country of origin from the consumers' perspective (i.e. where the product began or was raised).
- The country of origin label is an important indicator for consumers of both the quality and safety of food. A key feature of country of origin labelling is the traceability of food products, particularly their origin, production and distribution histories.

Meanwhile in a related area, the **Food Standards Agency in Scotland has produced draft guidance for consumers** in Scotland on 'Country of origin Information on food labels'. Details of the consultation exercise can be found at <http://tinyurl.com/y9aw4kd>. There appears to be no corresponding activity for consumers elsewhere in the UK.

The National Food and Drink Policy for Scotland, launched on 25 June 2009, included the aim that the Scottish Government would work with the Food Standards Agency to revise guidance on country of origin labelling to make it more understandable and easier to access for consumers.

FSA Scotland notes that existing FSA guidance on country of origin labelling is intended to provide technical information to the food industry and enforcement staff. As such it is not directly aimed at explaining origin information to consumers.

FSA Scotland has applied the principles set out in the existing guidance to develop new draft guidance for consumers in Scotland which gives an easy to read background to the rules on country of origin labelling and highlights those foods where specific labelling rules apply.

Additional nutrition claims approved

Only a limited number of nutrition claims for foodstuffs are permitted, detailed in the Annex to the EU's Nutrition and Health Claims Regulation (EC) No 1924/2006.

A further five claims have now been approved, with details published in the EU's Official Journal in Commission Regulation (EU) No 116/2010.

The new claims are for

- Source of Omega-3 Fatty Acids
- High Omega-3 Fatty Acids
- High Monounsaturated Fat
- High Polyunsaturated Fat
- High Unsaturated Fat

The claims concerning omega-3 fatty acids distinguish between the two types of omega-3 fatty acids, which have different physiological roles and for which different levels of consumption are recommended.

Thus a claim that a food is a **source of omega-3 fatty acids** (and any claim likely to have the same meaning for the consumer) may only be made where the product contains at least 0.3 g alpha-linolenic acid per 100 g and per 100 kcal, or at least 40 mg of the sum of eicosapentaenoic acid and docosahexaenoic acid per 100 g and per 100 kcal. The limits for a claim that a food is **high in omega-3 fatty acids** are set at double these levels.

A claim that a food is **high in monounsaturated fat** (and any claim likely to have the same meaning for the consumer) may only be made where at least 45 % of the fatty acids present in the product derive from monounsaturated fat under the condition that monounsaturated fat provides more than 20 % of energy of the product. The limits for a claim that a food is **high in polyunsaturated fat** are defined in the same way.

A claim that a food is **high in unsaturated fat** (and any claim likely to have the same meaning for the consumer) may only be made where at least 70 % of the fatty acids present in the product derive from unsaturated fat under the condition that unsaturated fat provides more than 20 % of energy of the product.'

Commission Regulation 116/2010 can be downloaded from the EurLex website at <http://tinyurl.com/y99rdl9>. The Regulation comes into force on 2 March.

When these new claims were being discussed (and approved) by the EU's Standing Committee on the Food Chain and Animal Health, the UK abstained from the final vote and requested the following statement to be inserted in the minutes:

"The UK abstained from the vote because of concerns that the lack of distinction between long and short chain omega-3 fatty acids and low threshold levels in the Commission's Regulation will undermine UK Government food-based dietary guidelines. Oily fish is the only significant source of the long chain omega-3 fatty acids which offer heart health benefits and claims which suggest otherwise will mislead consumers."

The Committee delivered a favourable opinion by qualified majority.

A further series of changes to the nutrition claims Annex have been under consideration, involving both new claims and changes to existing claims.

Changes to existing claims

- Energy-reduced
- Reduced [name of the nutrient]
- Increased [name of nutrient or other substance]
- With no added sugars
- Very low sodium/salt

New Claims

- Contains same quantity of energy and/or [nutrient/s or other substance/s] as [name of food]
- No added sodium/salt
- Now contains X% less of [energy, sodium/salt, fat or saturated fat]

Proposed changes to existing claims include changing the limit for reduced / increased claims to 25% from the existing level of 30%. This will bring the EU back into line with Codex definitions.

FSA Guidance

The Food Standards Agency has also issued for consultation draft updated guidance to compliance with Regulation (EC) 1924/2006 on nutrition and health claims made on food. The deadline for responses is 23 March. Full details are available from the FSA website at <http://tinyurl.com/y9mteww>

The FSA identifies key changes in the draft guidance:

- New guidance on health-related charity and national association endorsements.
- Revised section on health claims making reference to recommendations by doctors and health professionals to ensure the interpretation of this provision of the Regulation is clear.
- Updated in light of discussions with UK stakeholders and other Member States on some other interpretive issues to provide additional clarity and to reflect the fact that progress that has been made in implementing the Regulation, for example some transition periods and deadlines laid down by the Regulation have now passed.

The Nutrition and Health Claims (England) (Amendment) Regulations 2010

The Food Standards Agency is also consulting the Nutrition and Health Claims (England) (Amendment) Regulations 2010, with a closing date for comments of 29 March. Full details are on the FSA website at <http://tinyurl.com/y9km29v>

The new Regulations will amend the Nutrition and Health Claims (England) Regulations 2007 and will **introduce an ambulatory reference to Regulation 1924/2006**.

This will allow the national enforcing regulations to automatically cover any additional nutrition claims that may be agreed at the European and added to regulation 1924/2006, without the need for amending regulations at the national level each time changes are agreed.

An EU Regulation authorising additional nutrition claims is now in place (above), and further additions and changes to the list of nutrition claims are to be expected.

There are parallel consultations for each of Scotland, Wales and Northern Ireland, available from www.food.gov.uk/consultations/

Community Register of nutrition and health claims made on food

The European Commission has established a Community Register of nutrition and health claims made on food, as foreseen in Article 20 of Regulation (EC) No 1924/2006. This can be accessed from the Europa website at <http://tinyurl.com/yh23g8m>

The Commission says that the Register will be updated regularly. It cautions that the Register serves information purposes only.

“The legal status of nutrition and health claims made on foods is solely governed by the relevant Community legal acts and the general principles and specific conditions set in the Regulation (EC) No 1924/2006 on nutrition and health claims made on foods. The Community legal acts concerning the authorisation of each claim entered in the Register constitute the legal basis for the placing on the market and use of the claim concerned, but do not constitute an authorisation for placing on the Community market the food constituent(s) subject to the claim. “

For health claims, there are sections for both Authorised claims and for Rejected claims

Diet and Nutrition Survey

The Food Standards Agency has published findings from the latest National Diet and Nutrition Survey (NDNS). The NDNS is commissioned by the FSA and the Department of Health to provide nationally representative data on the dietary habits and nutritional status the UK population.

These are the first results from what is to be a rolling programme of surveys. Fieldwork for the first year of the

programme was undertaken from February 2008 to March 2009.

In its previous format, the NDNS programme comprised a series of cross-sectional surveys, each covering a discrete age group. The programme was set up in 1992 and surveys of pre-school children, young people, and older people were carried out in the 1990s, with the most recent NDNS of adults aged 19 to 64 years carried out in 2000/01.

The new NDNS rolling programme is a continuous cross-sectional survey of the food consumption, nutrient intakes and nutritional status of people aged 1.5 years and older, living in private households in the UK, carried out in all four countries of the UK and designed to be representative of the UK population.

Full details are available from the FSA website at <http://tinyurl.com/yd54cou>

Previous NDNS surveys of adults used slightly different data collection methods from the new rolling programme, but earlier results have been re-analysed so that they are directly comparable with results from the new survey. Appendix K of the new report provides information about making comparisons with earlier reports and re-modelled data from the previous NDNS is presented in chapter 5 and Appendix K.

Overall, the research shows that the picture of the diet and nutrition of the UK population is broadly similar to previous surveys in the NDNS series carried out between 1992 and 2001. The FSA notes that the findings do not identify any new or emerging nutritional problems in the general population, and identifies a number of small but positive changes:

- Saturated fat intakes in adults have dropped slightly to 12.8% of food energy, compared with 13.3% in 2000/01, and men and children are eating less added sugar.
- The population's trans fat intakes have also fallen slightly and are now at 0.8% of food energy, which is well within recommended levels.
- On average, adults are eating 4.4 portions of fruit and vegetables a day with over a third of men and women now meeting the '5-a-day' guideline.

However, despite these encouraging indications, intakes of saturated fat are still above the recommended level of 11% of food energy intake, and at 12.5%, population intakes of added sugars still exceed the recommended 11%.

Other findings include:

- People are still not eating enough fibre- current average intakes are 14g per day for adults, some way below the recommended 18g.
- Consumption of oily fish, which is the main source of beneficial omega 3 fatty acids, remains low. Both adults and children are eating well below the recommendation of one portion per week.
- Iron intakes among girls aged 11 to 18 years and

women are still low in many cases – which can lead to iron deficiency and anaemia. However, overall, vitamin and mineral intakes among the population are slightly improved.

There are no detailed figures presented for salt (sodium). Sodium intakes will be reported in the NDNS rolling programme using urinary excretion, derived from 24-hour urine collections, which are part of the survey protocol. However, the results from the urine analysis are not included in the first report as the sample size for year one is too small to report.

Data are reported for contributions of food groups to sodium intake, but these are based on calculations from the dietary intake which is incomplete because discretionary use of salt in cooking and at the table is not captured in the dietary record.

eatwell

It has also been announced that the Food Standards Agency is to expand its 'eatwell' website to bring together all government information on food that is aimed at consumers. Advice on food safety and healthy eating will be integrated with information on a wide range of other topics relevant to consumers' food choices, with a particular focus on environmental and wider sustainability issues.

The Agency says that it will work closely with other government departments and bodies over the coming year to gather up-to-date information, and it plans to launch the remodelled website in spring 2011. More information is available from the FSA website at <http://tinyurl.com/yfle4yy>

The Cabinet Office 'Food Matters' report highlighted the need for government to take a more joined-up approach and recommended that the FSA's current advice be expanded to create an integrated source of online Government advice for consumers on the impacts of food on health and the environment.

F-Gas Support

F-Gas Support, the Government-funded team set up to help organisations understand their obligations under the EU's Fluorinated Greenhouse Gases and Ozone Regulations, has updated two of its information sheets

- RAC 3 – key obligations
- RAC 8 – HCFC phase-out

This follows the coming into force of the recast version of the EU's regulation on substances that deplete the ozone layer (EC 1005/2009, available to download from <http://tinyurl.com/ydzkxod>), which brought in new or changed requirements for leak checking, record keeping and labelling of equipment.

The updated information sheets are available from the Defra website at <http://tinyurl.com/yjd36lq>

F-Gas Support also reminds organisations that they should no longer be using virgin R22 or other HCFCs for servicing and maintenance of refrigeration and air-conditioning equipment. Only recycled or reclaimed HCFCs can now be used for servicing and maintenance. Any stocks of virgin HCFCs should be returned to fluid suppliers for disposal.

The F-Gas Support helpline can be contacted on 0161 874 3663 (email: f-gas-support@enviros.com)

Defra Consultation

Defra is currently consulting on proposal for legislation that will prescribe offences and penalties applicable to infringements of EC Regulation 1005/2009 on substances that deplete the ozone layer, together with proposed powers for authorised persons to enforce these Regulations.

The consultation also seeks views on an amendment to the Fluorinated Greenhouse Gases Regulations 2009 relating to the interim personnel certification provisions for stationary refrigeration and air conditioning. The amendment is described a technical rather than a substantive change.

Full details are available from the Defra website at <http://tinyurl.com/y8eo9jq>

IIR Conference on Sustainability and the Cold Chain

Readers are also reminded that the International Institute of Refrigeration Conference on Sustainability and the Cold Chain is being held in Cambridge from 29 – 31 March 2010.

Full details are available from the Institute of Refrigeration website (via www.icccuk2010.com) which now includes a provisional list of around 80 papers that will be presented at the Conference.

The International Institute of Refrigeration (IIR), is an intergovernmental organization comprising over 60 countries. It is a forum for exchange of scientific and industrial know-how, thus promoting in companies, laboratories and organizations, progress and expansion of knowledge on refrigeration, air-conditioning, heat-pump and cryogenic technology and its use.

FSA Five-Year Strategy

The final version of the FSA strategy for the period 2010 to 2015 has now been published. Full details are available from the FSA website at <http://tinyurl.com/y94w8xg>

The five outcomes the Agency aims to deliver are:

- food produced or sold in the UK is safe to eat
- imported food is safe to eat
- consumers understand about safe food and healthy eating, and have the information they need to make informed choices
- food products and catering meals are healthier

- regulation is effective, risk-based and proportionate, is clear about the responsibilities of food business operators, and protects consumers and their interests from fraud and other risks

The annual budget needed to achieve each of the five outcomes for 2011/12 onwards is estimated to be £151m.

The FSA says that the Strategy for 2010–2015 will be reviewed annually and changed as necessary. Details on how the Agency will evaluate success and impact against the five outcomes is now published in a separate ‘table of impacts’. This table was previously included in the draft strategy document that was considered by the FSA Board in November, but has now been separated out and published separately.

The Agency is also due to publish its Science and Evidence Strategy early in 2010. A draft document was discussed by the FSA Board at its meeting in December.

Recommendations on lower-fat products

The FSA has published for consultation draft recommendations on lower-fat products. The consultation concerns voluntary recommendations for industry for

- reductions in levels of fat and saturated fat in meat products,
- increased availability of smaller single-portion savoury snacks, and
- increased promotion of lower-fat products including dairy products.

The consultation also covers the compositional legislation for ice cream and cheddar cheese, which does not presently allow reformulated versions of products that contain less than specified fat contents to be marketed as ice cream or cheddar cheese respectively.

The proposal is one aspect of the FSA’s ongoing saturated fat and energy intake programme, which aims to help consumers reduce their saturated fat intakes and better balance their energy intakes with their energy needs.

Ice Cream composition

The composition of ice cream is controlled by specific national legislation and following discussions with industry the FSA suggests that the rules in place may have the effect of lessening product innovation to produce ice cream with lower fat levels. The Agency is keen to encourage businesses to explore the potential for the supply, sale and promotion of lower-fat ice cream, and is therefore exploring the scope for an amendment to current legislation to enable lower-fat varieties to be designated ‘ice cream’.

The Food Labelling Regulations 1996 (regulation 42(1) with Schedule 8, Part I) restrict the use of the term ‘ice cream’ as follows:

“The description ‘ice cream’ shall not be applied to any food other than the frozen product containing not less

than 5% fat and not less than 2.5% milk protein, not necessarily in natural proportions, and which is obtained by subjecting an emulsion of fat, milk solids and sugar (including any sweetener permitted in ice cream by the Sweeteners in Food Regulations 1995), with or without the addition of other substances, to heat treatment and either to subsequent freezing or evaporation, addition of water and subsequent freezing.”

Products with fat levels below 5% have been developed and are available on the market. However they cannot be marketed as ‘ice cream’ and usually carry a description such as ‘ice dessert’.

The FSA is suggesting that UK legislation should be aligned with the Code of Practice for Edible Ices that is maintained by the European trade body EUROGLACES (the European Ice Cream Association).

The EUROGLACES Code was first issued in 1996 and has been revised twice, firstly in 2003 and again in 2006. The following comment was made in relation to the 2006 revision, when a minimum fat content for ‘ice cream’ was dropped from the Code:

“Ten years after the first edition, the rising incidence of largely preventable diseases such as obesity and diabetes, and the dietary/lifestyle recommendations on how to address this have inspired EUROGLACES to review the Code.

“The resultant liberalisation of selected compositional standards will enable a wider range of product options to be offered to consumers who are increasingly aware of the influences of diet and physical activity on health and wish to make informed choices within the context of a balanced diet and active lifestyle.”

The EUROGLACES Code deals extensively with ‘Reserved Denominations’. The 2006 revision states that the denomination ‘ice cream’ is reserved for a product complying to the basic definition and being an emulsion typically composed of water and/or milk, edible fats, proteins and sugars. Annex III, compositional criteria, states that proteins (dairy and non-dairy) are optional and that edible fats (dairy and /or non-dairy) are mandatory.

The Code requires products called ice cream to contain fat but does not set a minimum fat content, nor does it require a minimum milk protein content. Fats are defined within the Euroglace standard as being of dairy, egg or vegetable origin.

Readers should note that there is no compositional control for the term ice cream from the EU. Also, the proposals from the FSA would only affect the use of the simple description ice cream. **The term ‘dairy ice cream’ is subject to separate compositional standards, which would continue unchanged.**

Full details can be found on the FSA website at <http://tinyurl.com/yas35uf>. The EUROGLACES Code of Practice can be found at <http://tinyurl.com/yg94bo4>

The text opposite is extracted from the full FSA consultation document:

Annex B: Consultation on the scope for amendments to the compositional legislation for ice cream [and cheddar cheese]

Summary

1. Representations from industry stakeholders suggest that current national compositional rules within the Food Labelling Regulations (FLR) 1996, that define which products can be called cheddar cheese and ice cream, are serving as a barrier to reformulation and marketing of healthier options in line with Government objectives. The current Regulations do not allow reformulated versions of these products, which contain less than the specified fat contents, to be marketed as ice cream and cheddar cheese respectively. Companies regard this as problematic when trying to convey the nature of the product to consumers and often use descriptions such as iced desserts and cheddar-type / style cheese. We are aware of the potential disincentive this is for food companies who are able to produce good quality products and that this has the potential to be a source of confusion for consumers.

2. It is our understanding that the compositional controls were consolidated into the FLR for the purpose of maintaining quality and ensuring that consumers are not misled. However, following discussions with stakeholders (including consumer groups) in light of current public health concerns and the significant advances in food technology since the FLR, we are conducting a consultation exercise putting forward potential amendments to these controls. The intended effect of amendments is to allow industry greater flexibility and offer consumers a wider range of healthier options that are named in a more meaningful way and easier to understand, which potentially makes them more accessible.

3. A scoping document has been included to assess the impacts of a potential amendment to the national compositional requirements for ice cream and cheddar cheese.

Ice cream

4. Although ice cream is generally seen as an indulgent product, sales and the quantities consumed have increased greatly over the last 10 years. Indeed, between 1997 and 2007 there has been a 37% increase in ice cream consumed in the home.

5. The composition of ice cream is controlled by national compositional rules laid down in the Food Labelling Regulations 1996 (see appendix). These require products called ice cream to contain at least 5% fat and 2.5% milk protein, and are unique to the UK (please note the dairy ice cream compositional standards are beyond the scope of the proposed amendments). In contrast at a European level the European Ice Cream Association's (Euroglaces) code of practice for edible ices has been adopted by many businesses as an industry standard. The code of practice requires products called ice cream to contain fat but does not set a minimum fat content, nor does it require a minimum milk protein content. Fats are defined within the Euroglace standard as being of dairy, egg or vegetable origin.

6. Discussions with UK industry have highlighted that ice cream producers are able to innovate and reformulate to bring lower-fat ice cream products to market, with levels as low as 3% fat (low fat) currently possible. However, companies wishing to market healthier or low / lower-fat products (including versions of existing products) must use alternative names and marketing strategies to convey the

nature of the product to consumers e.g. terms such as iced desserts. Companies have highlighted that the use of such terms is limiting and has the potential to result in consumer confusion about the product, and with other products in the market place.

7. Preliminary discussions with ice cream producers have indicated a preference to align the UK's compositional controls for ice cream with the Euroglace code of practice. This would mean removal of the requirement for a minimum 5% fat content for ice cream, although the presence of some fat would be mandatory, and the removal of the minimum requirement for milk protein. The benefits of this could potentially be:

- (a) businesses would be encouraged to develop and market lower-fat products;
- (b) less risk of consumer confusion about the nature of lower-fat products; and
- (c) manufacturing standards for ice cream businesses which operate in the EU would be more consistent.

8. This is just one possible way in which UK compositional controls might be amended. Alignment with the Euroglace code of practice, rather than a reduction in the minimum fat content required for ice cream within the current controls, is considered by industry to offer the greatest flexibility for future innovation.

9. The importance of communicating the nature of these lower-fat products and changes in their composition to the consumer to ensure their expectations are met and they are not misled, has been discussed with industry and consumer groups.

Q32. We would welcome views from all stakeholders on how this might best be achieved.

10. The Agency would like to gather views from stakeholders on a proposal to:

- align existing compositional controls for ice cream with the European Ice Cream Association's (Euroglace's) code of practice for edible ices. This would limit the compositional controls to the mandatory presence of fat.

11. Please note that we are not proposing an amendment to the legislation within the FLR governing which products can be called dairy ice cream (minimum 5% milk fat), there would therefore remain a clear distinction between the compositional requirements of dairy ice cream and ice cream.

12. The Agency would also like views from stakeholders on the following questions:

Q33. Would alignment of UK legislation with the Euroglace definition of ice cream be a suitable approach that would promote innovation whilst maintaining sufficient consumer protection?

Q34. How would the nature of products be conveyed to consumers?(e.g. nutrition claims, declaration of fat content, through front of pack labelling, in the nutrition panel or ingredients list labelling)

Q35. Are there alternative approaches to amending the legislation that should be considered (e.g. changes to the minimum fat content)? Please explain any approaches you recommend and why?

Packaging Essential Requirements

The Packaging (Essential Requirements) Regulations 2003 (amended in 2004, 2006 and 2009) implement parts of EU Directive 94/62 on Packaging and Packaging Waste and set out certain requirements that all items of packaging must meet before being placed on the UK market.

The Essential Requirements are, in summary:

- Packing volume and weight must be the minimum amount to maintain necessary levels of safety, hygiene and acceptance for the packed product and for the consumer.
- Packaging must be manufactured so as to permit reuse or recovery in accordance with specific requirements.
- Noxious or hazardous substances in packaging must be minimised in emissions, ash or leachate from incineration or landfill.

Government guidance on the regulations was updated in 2008 and is available to download from <http://tinyurl.com/ydym87o>

LACORS working with the Department for Business Innovation and Skills have now produced a 'Guidance Tool for Enforcement Officers', which LACORS describes in a recent newsletter as follows:

"While most manufacturers make an effort to keep packaging to a minimum, because unnecessary packaging adds to the cost and waste, a small minority do not.

"Council trading standards officers, who are responsible for enforcing the Packaging (Essential Requirements) Regulations (PERR), have a new tool to help them in the war against excessive packaging.

"To help officers in the difficult task of deciding if packaging is excessive LACORS, in association with BIS, has released the PERR guidance tool. The tool guides the process of assessing compliance: how to ask companies appropriate questions to understand what the packaging is for and to obtain the necessary information or compliance evidence that is needed.

"Council trading standards officers have the power to take action against a company if there is noncompliant packaging, but they can not demand changes to packaging. Trading standards officers can advise that a company will be committing an offence if they do not change the packaging in accordance with PERR and take follow up action."

The guidance tool provides a summary of the essential requirements, and an explanation of councils' wider obligations on waste and the relevant key national indicators. It provides information on what packaging is; the waste hierarchy (re-use and recovery); the BSI/CEN standards on packaging and the environment; and case studies and examples of good practice in packaging.

It comprises two parts – a 42-page booklet (containing background information and case study material), and

three flow diagrams, one for each of the three main strands of the Essential Requirements, namely for

- (i) packaging that has not been minimised,
- (ii) re-usability, recoverability and
- (iii) hazardous substances / heavy metals.

Full details are available from the LACORS website at <http://tinyurl.com/ye7p49g>

The guidance booklet can be downloaded directly from <http://tinyurl.com/ya96792>, and the flowcharts from <http://tinyurl.com/ybg2huv>, <http://tinyurl.com/yzvklxh>, and <http://tinyurl.com/ygzofx2>

The Guidance booklet, addressing enforcement officers, states:

"Anyone putting packaging on the UK market (this can be packers, fillers, brand owners, or importers) must be able to show that their packaging is compliant with the Regulations, by providing technical documentation as necessary. They must have a system of control appropriate for their business which covers all regulatory requirements. They should operate, monitor, document and update this system for reasons of due diligence. It is advisable, although not a legal requirement, for them to identify reasonable steps to be compliant and act on them. Your role as a Trading Standards Officer is to enforce the PERR by checking that companies that put packaging on the UK market do indeed meet the requirements laid out above."

General background information on the Essential Requirement regulations is available from the BIS (BERR) website at <http://tinyurl.com/ykm8qla>.

INCPEN

Readers may remember the Responsible Packaging Code of Practice, which was produced by INCPEN, originally in 1998, and updated in 2003. The code was endorsed by government and supported by LACORS. It can be downloaded from <http://tinyurl.com/yja928k>.

INCPEN and LACORS also produced joint guidance notes on complying with the Packaging (Essential Requirements) Regulations ('Common Understandings & Common Sense') – available to download from <http://tinyurl.com/yhkkmxl>

Packaging Campaign Benchmark & Audit Project

Readers may also be interested in the results of a project carried out by Essex County Council over a two-year period. The aim of the project was said to be to achieve a reduction of unnecessary packaging and the elimination of non-compliant or noxious packaging. Details of the project (edited because of commercial sensitivities), which focussed on local packers, fillers and importers, can be found on the LACORS website at <http://tinyurl.com/yf63hzx>

There were two phases to the project:

- a baseline study to determine in detail the current status of packaging systems and to challenge packers etc by reference to 'Best in Class'; and

- a follow-up study to measure improvements in those systems, as a result of trading standards intervention

LACORS notes that the available reports were intended for elected members and senior county officials in Essex, and not for a wider (trading standards) audience, but suggests that the reports show how the project evolved, and could be useful for any LA considering a similar project.

LACORS Guidance on HACCP requirements

LACORS has published updated guidance for enforcement officers on the interpretation, judgment of compliance, and enforcement aspects of the Article 5 HACCP requirements of EC Regulation 852/2004 on the hygiene of foodstuffs.

The guidance was previously issued in 1997, but has now been amended and re-issued following a period of consultation at the end of 2009

LACORS says that because the majority of the advice is not really new, it is likely to be in line with current approaches at most authorities.

The introduction to the guidance notes:

“Article 5 of EC 852 requires businesses to analyse their operations, identify activities with the potential to cause harm and then satisfy themselves that adequate controls and monitoring are in place to protect consumers. Article 5 also requires the resultant system to be verified, documented (as appropriate) and reviewed. This represents a significant legal responsibility and a challenge to local authorities in assessing compliance and enforcement.

“Authorities must recognise that each case should be treated on its own merits. Officers will have to make professional judgments about securing compliance across the range of businesses they deal with. Nevertheless, this guidance should help to achieve consistency of approach in those judgements. In all situations, protection of the public remains central to an authority’s actions.

Further details are available from <http://tinyurl.com/y8ezgvcw>

Proposal for a Food Information Regulation

The detailed consideration by the newly elected European Parliament of the Commission’s **proposal for a regulation on the provision of food information to consumers** is now underway, still at the first reading stage. Consideration of the proposal in the previous Parliament was held over to the new parliamentary session because of the very large number of amendments that had been tabled and in view of extreme time pressure ahead of the impending European elections.

The proposal is being examined by three Parliamentary committees. The lead committee is the Committee on the Environment, Public Health and Food Safety (ENVI), with rapporteur Renate Sommer (PPE group) continuing in the same role. The report that is finally agreed by the ENVI committee will go to the full Parliament as part of the overall co-decision process.

The proposal is also being examined by the **Committee on the Internal Market and Consumer Protection (IMCO)**, and by the **Committee on Agriculture and Rural Development (AGRI)**. Each of these Committees will adopt a formal opinion on the proposal, led by draftswoman Christel Schaldemose (S&D group) for IMCO, and by draftsman Marc Tarabella (S&D group) for AGRI. These Opinions will be taken into account by the ENVI Committee.

The draft report from ENVI rapporteur Renate Sommer, and draft opinions for the AGRI and IMCO Committees were each considered at meetings of the respective Committees in December 2009. Each of the Committees has continued its process during January meetings, with further amendments proposed by individual Committee members added to those already tabled in the draft Report and Opinions.

For the ENVI Committee there are a total of 575 amendments under consideration (including the 201 in the draft report from the rapporteur). The detail of these can be seen under Agenda item 26 from the Europa website at <http://tinyurl.com/yjl6lv2>

The ENVI Committee is expected to vote at its March meeting, to produce the report that will then be considered by the full Parliament

For the IMCO Committee there are a total of 282 amendments under consideration (including the 79 in the draft opinion from the draftswoman). These are available under Agenda item 4 from <http://tinyurl.com/yzbzvmx>

For the AGRI Committee a total of 293 amendments were under consideration (including the 84 in the draft opinion from the draftsman). The AGRI Committee reached the voting stage voted at its January meeting, and the adopted Opinion can be found at <http://tinyurl.com/ykejmf>. The Opinion includes **122 amendments to the Commission’s original proposal.**

Deliberations of the Committees can be followed online, either live from the ‘EP Live’ website at <http://tinyurl.com/ylyz4oh>, or after the event from the EP live Multimedia Library at <http://tinyurl.com/yjouhkm>

There are some strong opinions evident in the Parliament and its far from clear what compromise position may eventually be reached

A flavour of the views can be seen from the extracts over the page – firstly extracts from the rapporteur’s ‘Explanatory Statement’ in her draft report to the ENVI Committee, and secondly from the ‘Short Justification’ included in the Opinion adopted by the IMCO Committee.

DRAFT REPORT on the proposal for a regulation of the European Parliament and of the Council on the provision of food information to consumers (COM(2008)0040 – C6-0052/2008 – 2008/0028(COD))
Committee on the Environment, Public Health and Food Safety: Rapporteur Renate Sommer

In principle, your rapporteur welcomes the Commission's proposal for a regulation.

However, the EU labelling system outlined in the proposal for a regulation does not strike your rapporteur as one suited either to reducing red tape and simplifying legislation or to helping consumers obtain better food information.

Some of the provisions contained in the proposal are unrealistic and would, in addition to creating other problems, generate substantial additional costs for food manufacturers and traders, so that food prices would have to be raised merely on account of new labelling regulations.

These shortcomings in the Commission proposal jeopardise the survival of many small and medium-sized enterprises (SMEs) in the food industry.

As far as consumers are concerned, they would be more likely to find the proposed plethora of mandatory information, and the forms in which it is to be conveyed, confusing than enlightening.

What is more, the proposal to grant Member States considerable leeway to adopt their own rules seems completely incomprehensible: it would further fragment the internal market in the food sphere and render the proposal for a regulation under consideration here absurd.

What is more, it is mystifying that the Commission should have chosen to submit its proposal now, since the very first EU-wide scientific study into the influence of food labelling on consumers' purchase decisions began only in August 2008. This study, which is being funded under the Seventh Framework Research Programme, should ideally form the basis for this legislative proposal concerning food information.

Your rapporteur therefore regards substantial amendments to the Commission proposal as essential.

The Commission justifies its proposal to allow Member States to develop their own labelling systems by invoking the subsidiarity principle. Your rapporteur takes the view, however, that national labelling systems would be more likely to confuse consumers once and for all, undermine legal certainty and lead to massive additional distortions of competition on the internal market, since there is every chance that national labelling rules which were not legally binding would in fact have the same impact as mandatory requirements.

In your rapporteur's view, however, cramming an excessive amount of nutritional information, expressed per 100 g or 100 ml or per portion, or even consisting of several different

particulars, for example expressed in grams and as the percentage of the recommended daily intake for a given population group, onto the front of food packages would ultimately result in the information in question being ignored.

In order to bring it into line with the present regulation, Regulation (EC) No 1924/2006 on nutrition and health claims made on foods needs to be revised. At the same time, your rapporteur recommends deleting entirely Article 4 of the latter Regulation, as it has become clear in the meantime that the nutrition profiles described there could not be based on scientific findings but only set arbitrarily by the Commission. Arbitrary legislation on food would mean more red tape, legal uncertainty and distortions of competition, as well as jeopardising the balanced nutrition of the population of Europe.

A compulsory system of colour coding of food using the 'traffic light' model, which a few food companies are currently using for ready-made and partially ready-made products ('convenience products'), would have similar effects. The limit values for classification using the three traffic light colours, red, amber and green, are set arbitrarily, and the range within any one of these colours is too big.

The aim of harmonising labelling rules in keeping with internal market principles would be rendered absurd by the proposal to allow Member States to adopt special national provisions.

What is more, the fact that the Commission drew up the proposal for a regulation without consulting outside experts is both remarkable and alarming. It is also mystifying that the proposal should have been submitted at a time when, although the results of piecemeal scientific research are available, a broad-based study covering all the Member States has only just been started.

Your rapporteur is therefore proposing a comprehensive revision of the approach suggested by the Commission.

Finally, it should be pointed out that food labelling is only one of many aspects of nutrition-related information. It can supplement, but not replace, efforts to make the public aware of what constitutes a relatively healthy lifestyle, for example by means of campaigns and education measures. What is more, in our society laws cannot and must not release members of the public from responsibility for their own actions or release parents from responsibility for their children.

OPINION of the Committee on Agriculture and Rural Development for the Committee on the Environment, Public Health and Food Safety on the proposal for a regulation ... on the provision of food information to consumers
Short Justification

Introduction:

This new regulation will repeal two directives:

- Directive 2000/13/EC on the labelling of foodstuffs,
- Directive 90/496/EEC on nutrition labelling for foodstuffs.

The purpose of the regulation is to establish a legal framework regulating the information appearing on foods. A general awareness of the importance of eating healthier food provides the context. European consumers are becoming

more and more conscious of the contents of food products as a result of the information campaigns run both by the Commission and by Member States. Moreover, several industrial groups have already begun to improve their labelling in response to consumer demand.

This regulation should lead to consumers having clear, legible and easily understood information allowing them to make fully informed food choices.

Guidelines proposed in the opinion of the Committee on Agriculture and Rural Development

- information which must appear on foodstuffs

In addition to the mandatory particulars proposed by the Commission, the Committee on Agriculture and Rural Development has adopted a compromise requiring the inclusion of particulars concerning provenance for certain types of product. The reference to the origin of foods has been deleted: when reference is made to the country of origin of a particular food, this may be the country in which the item in question was last processed (Council Regulation (EEC) No 2913/92 establishing the Community Customs Code). The Committee on Agriculture and Rural Development, however, would like the packaging to indicate the place where the fruit or vegetables were harvested, the place where the fish were caught, the place where the animals were born and reared, etc. and not the place where they were cooked or smoked. This is why he prefers to talk about the place of provenance of a food. Every member of the public must be told where each food he or she consumes comes from, so that he or she can make a more informed choice (for example whether or not to buy local produce) and is aware of a product's ecological footprint. These imperatives of transparency and traceability are the principles underpinning consumers' rights.

The Committee on Agriculture and Rural Development is thus insisting on a reference to the country of provenance for processed foods and mono-ingredient foods (the latter being defined as any food which, setting aside salt, sugar, spices, water, additives, flavourings or enzymes, contains only one ingredient) and for the primary meat and dairy ingredients contained in composite foods. In addition, in the case of meat other than beef and veal the place of provenance can be a single place only if the animals concerned were born, reared and slaughtered in the same country or place. In all other cases the various places of birth, rearing and slaughter should be specified.

Mandatory particulars must be presented in a clear, legible and easily understood way in order to rule out any confusion among consumers. The 3 mm print-size requirement is inappropriate: it will merely serve to increase the size of packages, causing further environmental pollution. This is why the Committee on Agriculture and Rural Development is proposing that the size of the mandatory items of information should be tailored to the size of the package concerned, with a minimum print size of 1 mm for packages whose largest side or label has an area of between 25 and 100 cm² and a minimum print size of 2 mm for packages whose largest side or label has an area in excess of 100 cm². In addition, it is vital to ensure that there is a sufficient degree of contrast between the printed characters and the background.

Information and training programmes are needed at European level with a view to ensuring that labels can be readily understood and to enhancing the effectiveness of this regulation. European consumers need to have greater in-depth knowledge if they are to make informed choices. Some countries now run adult education programmes, through evening classes for example, and have also started educational programmes for children at a very young age. Secondary schools in Belgium have 'health committees' made up of teachers, educators and cooks, who work to promote healthy food and a balanced diet. It is vital that these programmes should be encouraged throughout Europe

so that consumers are given the information and skills they need to choose a healthier and more balanced diet. Associations working to this end are a vital means of making EU citizens more aware of these matters and must be supported and strengthened.

Moreover, new information and communication technologies may be employed in cases where the Commission authorises provision of some mandatory particulars by a means other than labelling. It is possible to envisage consumers being able to obtain all mandatory particulars at the moment of purchase through the use of electronic terminals placed in supermarkets.

- the mandatory nutrition declaration

The Committee on Agriculture and Rural Development takes the view that, in order to ensure that consumers are better informed, it is vital that details of the trans fatty acid, protein and fibre content of foods should be added to the mandatory nutrition declaration. A distinction should also be made between natural and added sugars. However, he opposes the addition of any further information, for one logical reason: too much information obscures the message. The Committee on Agriculture and Rural Development has also amended the provisions of the Commission proposal dealing with the mandatory nutrition declaration. It is calling for an indication of the energy content, expressed in kcal, to be given at the bottom right of the upper side of the packaging and the rest of the nutritional labelling to be displayed in the same visual field as a single table.

- alcoholic beverages

The exemption of alcoholic beverages from these proposals is justified precisely on the grounds that they contain alcohol. It would be wrong to label these products in a way that could mislead consumers or encourage inappropriate consumption of these products. Equally, it would be wrong for these proposals to discriminate, and distort competition, between competing products. In the Commission's original proposal, wines, beers and spirit drinks were exempted from the requirement to indicate mandatory particulars for a period of five years. That is why the Committee on Agriculture and Rural Development is proposing, for the sake of greater fairness, that all alcoholic beverages (i.e. beverages containing more than 1.2% alcohol), with the exception of so-called alcopops, should be exempted from this requirement.

Young consumers are easily misled by these drinks, because the taste of the strong alcohol they contain is disguised by their fizzy sweetness. They must not therefore be exempted: the list of ingredients and the nutrition declaration must appear, so that young consumers are aware of what these drinks contain.

- non-prepacked foods

The Committee on Agriculture and Rural Development supports the Commission proposal that the labels on non-prepacked foods should include details of allergens. However, with a view to maintaining the status quo and not imposing too many constraints on sellers of nonprepacked foods, it is proposing to reverse the Commission proposal as regards the other mandatory particulars: indication of these particulars should not be compulsory unless a Member State adopts rules requiring all or some to be indicated. In addition, consumers should be provided with information about allergens at their request, at the point of sale.

Presidency and Council

The Swedish Presidency of the EU submitted a progress report to the Council of Ministers (at the Agriculture and Fisheries Council on 14 December) at the end of its six-month term. A copy of the report is available from the Europa website under document reference 15964/09 at <http://tinyurl.com/yhvg15a>

The report reviews the activities of the Council Working Party on Foodstuffs, which has now met regularly under four presidencies – Slovenian, French, Czech and Swedish.

The report suggests that it is possible to consider that there is effectively agreement on Articles 3-7, 10-12, 16, 18, 19, 23, 26, 27, 28, 30, 31, 36, 39, 40, 42-43, 49 (which “should not raise any further questions, except if changes were to become necessary as a result of the redrafting of the Annexes”).

Other issues are dealt with under the following headings:

- Responsibilities:
- Review of the mandatory particulars
- Legibility
- Name of the food:
- Exemptions for alcoholic beverages:
- Mandatory nutrition declaration:
- Additional nutritional declaration:
- Voluntary nutrition declaration:
- Expression as a percentage or per portion:
- Presentation / Field of vision:
- Voluntary schemes
- Compatibility between the Regulation and the national legislation:
- Transitional period
- Relations with health/nutrition claims:

Under the heading ‘**Next steps**’, the draft report makes the following points:

“The merging of different legislative acts in a single Regulation should eventually lead to a clearer, more consistent and easy-to-follow legal framework in the field of food labelling. However, the legislative work of simplification requires even more effort in order to avoid repetitions, contradictions, incoherencies or legal gaps. Moreover, the innovative part of the legislation needs to be carefully examined in order to evaluate its practical consequences and the viability of its implementation.

“Given the number of issues yet to be resolved, the complexity of the file and the interdependence among the different issues, the examination of the proposal could not be completed under the Swedish Presidency.

“There is still work to do at Working Party experts level with a view to enabling the Council to reach a political agreement on the proposed Regulation.

“A first reading agreement with the European Parliament seemed, since the beginning, impracticable. It would be worthwhile if informal contacts between the Council and the European Parliament’s re-designated rapporteur, Ms Renate Sommer, would continue in order to synchronise the work of both institutions during their first reading, so as to pave the way for a possible second reading agreement.”

The table opposite highlights those elements of the Commission proposal where there is effective agreement in the Council Working Group – after two years of deliberations.

The Council Working Party on Foodstuffs will continue its work under the Spanish and Belgian Presidencies (January-June, and July-December 2010 respectively).

Update reports from the FSA which covers discussions in the Council Working Group meetings can be downloaded from the FSA website at <http://tinyurl.com/yhv7274>

Survey of Consumers’ Attitudes to Food Labelling

The Food Safety Authority of Ireland (FSAI) has published ‘**A Research Study into Consumers’ Attitudes to Food Labelling**’. The survey provides an insight into consumers’ understanding and views of food labelling **on the Irish market**. Full details are available at <http://tinyurl.com/y8oeg6g>

The FSAI press release notes that the survey reveals that while one in four consumers in Ireland always read food labels when shopping for food, 27% said they rarely or never consult them. Food labelling was considered informative by nearly three quarters of consumers surveyed, and the main reasons these consumers read food labels is to look for nutrient information, calorie content, or to determine if the food contains specific ingredients.

Eighty seven percent of consumers considered the nutrition table on a label to be very or fairly important, but most would prefer to see nutrient values stated per

portion, than per 100 g or 100 ml. Over 70% of consumers surveyed said they were very or fairly concerned about salt in food, so it is important that food labelling is presented in a way that allows consumers to identify lower salt options. Currently, the salt content of a food is declared as ‘sodium’, but the majority of consumers said that they would prefer to see a ‘salt’ value on the label instead, although labelling both would be acceptable.

On a voluntary basis, food manufacturers often highlight nutrition information by placing signpost labelling on the front of packs, following a Traffic Light format, a Guideline Daily Amount (GDA) format, or a combination of the two. When consumers were shown a Traffic Light label, two GDA labels and a label which combined both schemes; 53% opted for either of the two GDA labels, whereas 39% considered the traffic light label most informative. However, only 8% of consumers considered the combination label the most informative.

**Proposal for a Regulation of the European Parliament and of the Council on the provision of food information to consumers
Brussels, 30.1.2008 COM(2008) 40 final 2008/0028 (COD)**

Chapter I – General Provisions

Article 1 – Subject matter and scope

Article 2 – Definitions

Chapter II – General Principles on Food Information

Article 3 – General objectives

Article 4 – Principles governing mandatory food information

Article 5 – Consultation of the Authority

Chapter III – General Food Information Requirements and Responsibilities of Food Business Operators

Article 6 – Basic requirement

Article 7 – Fair information practices

Article 8 – Responsibilities

Chapter IV – Mandatory Food Information

Section 1 – Content and Presentation

Article 9 – List of mandatory particulars

Article 10 – Additional mandatory particulars for specific types or categories of food

Article 11 – Derogations from the requirement for mandatory particulars

Article 12 – Weights and measures

Article 13 – Availability and placement of mandatory food information

Article 14 – Presentation of mandatory particulars

Article 15 – Distance selling

Article 16 – Language requirements

Article 17 – Omission of certain mandatory particulars

Section 2 – Detailed Provisions on Mandatory Particulars

Article 18 – Name of the food

Article 19 – List of ingredients

Article 20 – Omission of the list of ingredients

Article 21 – Omission of constituents of food from the list of ingredients

Article 22 – Labelling of certain substances causing allergies or intolerances

Article 23 – Quantitative indication of ingredients

Article 24 – Net Quantity

Article 25 – Minimum durability date and 'use by' date

Article 26 – Instructions for use

Article 27 – Alcoholic strength

Section 3 – Nutrition Declaration

Article 28 – Relation with other legislation

Article 29 – Content

Article 30 – Calculation

Article 31 – Forms of expression

Article 32 – Expression on a per portion basis

Article 33 – Additional forms of expression

Article 34 – Presentation

Chapter V – Voluntary Food Information

Article 35 – Applicable requirements

Article 36 – Presentation

Chapter VI – National Provisions

Article 37 – Principle

Article 38 – National provisions on additional mandatory particulars

Article 39 – Milk and milk products

Article 40 – Alcoholic beverages

Article 41 – National measures for non-prepacked food

Article 42 – Notification procedure

Article 43 – Detailed rules

Chapter VII – Development of National Schemes

Article 44 – National Schemes

Article 45 – Presumption of conformity

Article 46 – Community measures

Article 47 – Implementing rules

Chapter VIII – Implementing, Amending and Final Provisions

Article 48 – Technical adaptations

Article 49 – Committee

Article 50 – Amendments to Regulation (EC) No 1924/2006

Article 51 – Amendments to Regulation (EC) No 1925/2006

Article 52 – Repeal

Article 53 – Entry into force

Annex I – Specific definitions – as referred to in Article 2(4)

Annex II – Ingredients causing allergies or intolerances

Annex III – Foods for which the labelling must include one or more additional particulars

Annex IV – Foods which are exempted from the requirement for the mandatory nutrition declaration

Annex V – Name of the food and specific accompanying particulars

Annex VII – Quantitative indication of ingredients

Annex VIII – Net quantity declaration

Annex IX – Date of minimum durability

Annex X – Alcoholic strength

Annex XI – Reference intakes

Annex XII – Conversion factors

Annex XIII – Expression and presentation of Nutrition Declaration

Food 2030 strategy

Readers will be aware that Defra has published Food 2030, the Government's new food strategy for the period to 2030.

There are a number of associated publications that will be of interest. All are available directly or via further links from <http://tinyurl.com/yarosn9>

- **Food 2030 strategy** – full strategy document and Food 2030 summary
- **UK Cross-Government Food Research and Innovation Strategy**
- **Indicators for a Sustainable Food System**, and Associated fact sheets
- **The Agricultural price spikes 2007/2008: Causes and policy implications** – Report with a series of separate Annexes
 - Annex 1: The macro-economic relevance of agriculture and food prices
 - Annex 2: Grain stocks and price spikes
 - Annex 3: Export restrictions on food over 2007/08: An analysis of their impact and evaluation of policy options
 - Annex 4: Policies and responses to the 2007/08 price spikes in selected countries
 - Annex 5: The role of demand for biofuel in the agricultural commodity price spikes of 2007/08
 - Annex 6: Speculation and the food price spikes of 2007/08
 - Annex 7: International grain markets
 - Annex 8: The international supply response in 2008
 - Annex 9: Issues over the medium term
 - Annex 10: Research and development

Also available from <http://tinyurl.com/yaxrbp7> is **Synthesis report on food related consumer behaviours – Project EV0510**

Main Report with separate Annexes A and B, and Executive Summary

The 'Food 2030' strategy and the 'Indicators for a Sustainable Food System' are a natural progression following Defra's earlier publication of the results of the food security assessment for the UK.

The 'Secure and Sustainable Food' package included an online discussion seeking views on the future of the UK food system ('Food 2030'), an update on progress on the 2008 Cabinet Office report 'Food Matters', and a draft set of indicators for the sustainability of the food system (issued for consultation in August 2009).

The Food 2030 strategy is structured around six core issues for the food system:

1. Enabling and encouraging people to eat a healthy, sustainable diet
2. Ensuring a resilient, profitable and competitive food system
3. Increasing food production sustainably
4. Reducing the food system's greenhouse gas

emissions

5. Reducing, reusing and reprocessing waste
6. Increasing the impact of skills, knowledge, research and technology

Defra describes its approach in terms of:

- Coordinating food policy across Government

"Defra coordinates all UK Government policies on food. The Secretary of State for Environment Food and Rural Affairs chairs a dedicated Cabinet sub-committee on food, formed in October 2008. And to make sure that Government gets the best advice on food policy, a Council of Food Policy Advisers was established at the same time, for a duration of two years."
- Working in partnership with the food and farming industries, consumers, the third sector and international organisations

"Achieving a sustainable and secure food system for 2030 depends on everyone in the food system working together."

"The final section of this document describes how all parts of the food system can help us achieve our goal, and sets indicators for measuring our progress."

"This includes sharing knowledge and good practice with others in Europe and internationally, in support of our EU and international objectives, particularly given much of what Government and industry is doing in the UK is seen as new and innovative. Likewise we will continue to look for opportunities to learn from others."
- Basing our work on sound science

"High quality research and evidence will be really important in guiding what we do and in making things fit together. Alongside Food 2030, a cross-Government Strategy for Food Research and Innovation has been launched to provide a framework to coordinate food research and innovation."
- Building on existing work

"There is a lot of good work going on across the food supply chain. Reviewing and evaluating the success of this work will inform what further action will need to be taken to achieve our vision."

"We will look to learn from previous experiences and build on successful examples of delivering sustainability in the food system, for example the Milk Roadmap, and the Love Food Hate Waste campaign."
- Using the most appropriate ways of achieving what we want

"We will try and find the best way of doing things and will only regulate where we need to."

Note that this is a UK Government strategy, but many aspects of food policy are devolved.

"There are separate food policy arrangements in Scotland,

Wales and Northern Ireland and we can learn from each other. We are working with the Devolved Administrations to ensure that as the UK, we share a common understanding of the future of food policy and can collaborate whenever it makes sense to do so.

“As members of the European Union, the UK food sector benefits from being part of the single market. It also means much of our food policy is influenced by EU legislation. And as the biggest trading block in the world, the EU is a powerful figure on the international stage.

“EU engagement will therefore continue to be a priority, particularly in emphasising the importance of integrated food policy that meets the needs of Europe’s citizens, and enables a competitive and sustainable food system that supports global food security.

“Beyond Europe we will continue to ensure that food security, including the food security of developing countries is given the highest international attention.”

Under the heading ‘Delivering Food 2030’ the strategy identifies that there are key challenges for all parts of the food system, for Government and the third sector.

Farmers: Improve profitability, productivity and competitiveness, and produce safe food sustainably and in line with what the market wants. Build a highly skilled and innovative sector. Manage risk and plan for climate change.

The fishing industry: Ensure that fishing is a highly skilled industry, attractive to new talent and using the right technology to fish sustainably. Help fishing to provide livelihoods for coastal communities. Manage risk and plan for climate change.

Food processors: Develop sustainable supply chains. Improve resource efficiency, and build a highly skilled and innovative sector. Manage risks and plan for climate change. Ensure food safety.

Retailers: Develop and maintain resilient supply chains and help consumers lead greener and healthier lives. Improve resource efficiency, and build a highly skilled and innovative sector. Manage risks, and plan for climate change. Ensure food safety.

Food Service: Develop and maintain sustainable supply chains and help consumers lead greener and healthier lives. Improve resource efficiency and build a highly skilled and innovative sector. Manage risk and plan for climate change. Ensure food safety.

Government: Set clear strategic goals. Address market failures (through regulation where appropriate). Press for action globally on food security and food poverty. Provide accurate information to consumers. Lead by example through public food procurement and support for the industry.

Local and Regional bodies: Support action locally to help businesses, including primary producers, and consumers to get what they need.

Consumers: Find out more about food – how and where it is produced, and how to eat healthily. Use their influence

and spending power to support those who produce sustainable and healthy food. Waste less food.

Research and education bodies: Undertake high quality research on the challenges we face. Improve public confidence in science.

Third sector: Use their networks and trust in communities to help deliver some of the goals described in this Strategy, working with all parts of the food chain.

Indicators for a Sustainable Food System

Following the recent consultation exercise, Defra has further refined the indicators which are intended to provide a measure of the progress in delivering the Food 2030 strategy. They are categorised according to the same themes as within the Food 2030 Strategy:

- Encouraging and enabling people to eat a healthy, sustainable diet
- Having a resilient and economically sustainable food system
- Increasing food production sustainably
- Reducing the food system’s greenhouse gas emissions
- Reducing, reusing and reprocessing waste
- Having the appropriate research, skills, knowledge and technology

Agricultural price spikes 2007/2008: Causes and policy implications

The 2007/08 agricultural price spikes pushed a further 200 million people worldwide into hunger. The purpose of this report is to analyse the causes of the price spikes, and examine policy options to reduce the severity and frequency of such spikes in the future.

If this is of interest, you may also wish to see the EurActiv page ‘Global food prices and CAP reform’ at <http://tinyurl.com/y8jq46s>

UK Cross-Government Strategy for Food Research and Innovation

This Strategy was developed by a cross-government group under the chairmanship of the Government’s Chief Scientific Adviser, Professor John Beddington. The Strategy is said to provide, for the first time, an overarching government framework for food research and innovation across the UK Current programmes are placed within the context of broader policy goals and research challenges.

“Highlighted throughout are examples of past successes, good practice and where joint working is already strong, on specific research and on cross-cutting issues. The Strategy also recognises the need for further commitment to co-ordination and sets out how this will be pursued.

“There are real challenges ahead for policy makers and researchers, and for the food industry from producers to retailers, with pressures on our food system set to increase sharply in the decades ahead. However, the UK has great strengths in its science base and in industry on

which it can draw to meet these challenges, and to exploit the opportunities for innovation and new markets that exist. Innovation in a commercial context clearly takes place predominantly in industry. However, Government has a key role in stimulating this not only through the impact of its research investments but also by investing in education and skills, and through effective regulation, procurement policies and setting of product standards.”

“Key initiatives highlighted in this Strategy include:

- a new multi-partner food security research programme, co-ordinated by BBSRC and delivered jointly with relevant Research Councils and government departments, and including close engagement with industry and the third sector.
- a new Technology Strategy Board led Sustainable Agriculture and Food Innovation Platform, co-funded by Defra and BBSRC with up to £90M over 5 years, to fund innovative technological research and development in areas such as crop productivity, sustainable livestock production, waste reduction and management, and greenhouse gas reduction;
- a doubling of research investment in agriculture by DFID over the next five years to provide farmers in developing countries with access to technologies and to help national governments with more effective agricultural policies, based on a robust evidence base.
- to exploit opportunities in the European Research Area through co-ordination mechanisms such as ERA-NETs and Joint Programmes, and collaboration through the Research and Technology Development (RTD) Framework Programme more generally;
- a major Foresight study looking over the long term at the ability of global food systems to feed the predicted future world population of 9 billion healthily and sustainably, set to launch its findings in October 2010;
- a new BBSRC Advanced Training Partnership scheme to provide a range of specialist high level training (masters, professional doctorate and continuous professional development) to meet industry needs in partnership with the higher and further education sectors;
- the development of new indicators to monitor research collaboration, innovation and skills within the suite of indicators being introduced by Defra for a sustainable and secure food system”

The Food Research Group (FRG), including representatives from the Devolved Administrations in Scotland, Wales and Northern Ireland, aims to provide leadership in addressing the issues set out in the Strategy, and will oversee its implementation. The Group’s wider links have been strengthened through the new Food Research Partnership (FRP) established to bring FRG members together with senior representatives and experts from industry, the research community and others outside government. The FRP has provided further valuable input to the development of the Strategy to promote a more coherent

and coordinated approach on food research and innovation across the UK.

Synthesis report on food related consumer behaviours

This research report was completed for the Department for Environment, Food and Rural Affairs, by a consortium led by The Social Marketing Practice, comprising AD Research & Analysis, Alex Inman Consulting, Icaro Consulting, Residua and Tara Garnett.

“This project synthesises the evidence on the factors driving consumer food behaviours and applies the findings in the context of individual behaviour change for sustainability. The aim is to provide an accurate, up-to-date picture of existing policy-relevant evidence on consumer behaviour and attitudes to food and environment in the UK. Food behaviour is very complex and requires an understanding of numerous different behaviours, throughout all phases of consumption from purchase through to disposal. The generic evidence base on food choice is vast and stresses factors interacting and impacting at individual, social, contextual and societal levels. Yet the evidence on the sustainability impacts of these behaviours and specifically on what the public’s role is in reducing these impacts is still emerging.”

The review was commissioned jointly by three Defra units – the Sustainable Behaviours Unit, the Communications Directorate and the Food Policy Unit –to provide an accurate, up-to-date picture of existing policy-relevant evidence on consumer behaviour and attitudes to food and environment in the UK.

Setting the Table:

Finally, readers may also wish to note the recent report from the Sustainable Development Commission, ‘**Setting the Table: Advice to Government on priority elements of sustainable diets**’.

The Sustainable Development Commission is the Government’s independent adviser on sustainable development, reporting to the Prime Minister, the First Ministers of Scotland and Wales and the First Minister and Deputy First Minister of Northern Ireland. It is an executive non-departmental body.

This report assesses the environmental and health impacts of changing patterns of food consumption. The press release highlights that the report finds that “eliminating waste, cutting fatty and sugary foods and reducing meat and dairy consumption would make the biggest contribution towards improving health and reducing the environmental impacts of the food system. It concludes that there is strong evidence that many changes in consumption which benefit the environment also have the added advantage of improving nutritional health in the UK.”

Further details are available from the SDC website at <http://tinyurl.com/yd65c3q>.

Note however that this report is not part of the Food 2030 ‘collection’, although the SDC press release does point out that the report was commissioned by Defra as part of its Food 2030 project.

Greenhouse gas emissions from the UK food system

How Low Can We Go? An assessment of greenhouse gas emissions from the UK food system and the scope for reduction by 2050 is the title of a report commissioned jointly by the Food Climate Research Network and WWF.

It can be downloaded from the FRCN website: <http://tinyurl.com/yawgs2c>

In 2008, the Food Climate Research Network published a report which estimated that consumption of food in the UK, from agriculture through to consumption, accounts for 19% of all the greenhouse gas emissions generated through the goods and services consumed. It also argued that a reduction of up to 70% should be possible by deploying a mix of technological improvements and changes in consumption.

WWF-UK and FCRN have joined forces in commissioning work that would first, re-examine total food chain emissions **taking into account emissions arising from agriculturally induced land use change**; and, second, investigate whether and if so how a 70% reduction in GHG emissions might be achieved.

This report, undertaken by a team of researchers from Cranfield University, Ecometrica and Murphy-Bokern Konzepte, is the result.

FRCN notes that previous estimates by the FCRN and others have found that the food chain accounts for around 20% of the UK's greenhouse gas emissions, but that this newly published report finds that, once food related land use change impacts are included in the calculation, the contribution from food rises to 30% of the UK total.

"The new report assesses various scenarios for achieving a radical 70% cut in emissions from food. Both technological and behavioural initiatives are examined, including decarbonisation of the energy used in the food chain, improved efficiencies, and changes in the consumption of meat and dairy products.

"The report concludes that no one solution can reduce emissions by 70%. Both technological improvements and changes in our eating habits – a reduction in the consumption of meat and dairy products - will be needed. FCRN and WWF-UK are urging Government and industry decision makers to recognise that a focus on technology is not enough – food consumption patterns need to change too."

The report also presents data that will be of particular interest to BFFF members including:

- Estimates of GHG emission for different food types depending on the temperature of storage and delivery (Table 5)
- GHG emissions data for cold storage in home and the food service sector used in this study (Table 7)

Additional information requirements for frozen food of animal origin

The European Commission has proposed amending the hygiene regulation (EC) 853/2004 to require food business operators to ensure that frozen food of animal origin intended for human consumption meets certain additional information requirements, in particular regarding the date of production, the date of freezing and the date of minimum durability.

The proposal stated out in 2007 with the Commission suggesting that its proposed changes would help in reducing food fraud, although many other parties (including the FSA) have expressed concern that the proposal may not achieve this objective.

The proposal was being actively developed by the Commission but progress through the Brussels system was interrupted during 2008. The Commission explained that the proposal had had to be referred to the Commission unit dealing with Impact Assessments, and that the proposal could not proceed until been cleared internally.

The Commission has now returned to the proposal, with the emphasis on clarifying the possible administrative burden.

Copies of the proposal can be downloaded from the FSA website as <http://tinyurl.com/c4papg>. This is revision 9 of the text (document reference 1489/2007) and is dated 18 June 2008:

- Draft COMMISSION REGULATION ... amending Regulation (EC) No 853/2004 of the European Parliament and of the Council as regards the requirements applicable to frozen food of animal origin intended for human consumption (SANCO/1489/2007 Rev 8)

The Commission proposal would apply additional information requirements on frozen food of animal origin, at all stages until the product is finally labelled for final sale (to consumer or food service operator) in accordance with the food labelling directive (2000/13/EC) - when existing rules would continue to apply, or the product is used for further processing.

The Commission states that experience with implementation of Regulation (EC) No 853/2004 has exposed certain difficulties as regards the storage of food of animal origin. By indicating the date of initial freezing of such food the food business operators would be better able to judge the suitability of the food for human consumption and to estimate its durability.

There is also a second proposal with a similar history dealing with additional traceability requirements for all products of animal origin

- Draft COMMISSION REGULATION ... laying down implementing measures regarding the application of traceability requirements in respect of food of animal origin under Regulation (EC) No 178/2002 of the European Parliament and of the Council (SANCO/1490/2007 Rev 8)

Copies of this second proposal can be downloaded from the FSA website as <http://tinyurl.com/ppjw78>. This is revision 8 of the text (document reference 1490/2007) and is dated 16 June 2008

The proposals are being discussed in the Commission's Hygiene Implementation Working Group. The most recent update report from the Food Standards Agency concerning the Working Group shows that the Commission presented the results of a questionnaire that had been completed by member states on the possible impact of the two proposals:

"The Commission outlined the background to the proposal and presented a paper summarising Member State views on the potential impact on the Competent Authority and food business operators (FBOs). It considered the proposal covering traceability should be well received, as there were no major administrative burdens and clear advantages to both Competent Authorities and FBOs. For the

proposal on frozen products, the position was less clear as while there were benefits, administrative burdens were anticipated, and this was a concern within the Commission. There was strong support from many Member States for the proposals, particularly for further controls on traceability, with only a very small minority (including the UK) considering current legislation was sufficient."

A paper is available from the Commission ('Summary of Answers Provided by the Member States') but this does not provide any useful insight into the reasoning of individual member states

FSA stakeholder update reports can be found on the FSA website at <http://tinyurl.com/ygtpffx>

The panel below reproduces the detail of the changes proposed.

SANCO/1489/2007: Requirements applicable to frozen food of animal origin intended for human consumption

The following Section IV is added to Annex II to Regulation (EC) No 853/2004:

"Section IV. Requirements applicable to frozen food of animal origin

Until the stage at which a food is labelled in accordance with Directive 2000/13/EC or used for further processing, food business operators must ensure that frozen food of animal origin intended for human consumption meets the following requirements.

1. Relevant information must be made available in an appropriate form to the food business operator to whom the food is supplied and, upon request, to the competent authority.
2. (a) The relevant information referred to in point 1 must comprise:
 - (i) The date of production. In the case of carcasses or half carcasses, the date of production means the date of slaughter,
 - (ii) The date of freezing, if different from the date of production.
 - (iii) The date of minimum durability.

(b) Where a food is made from a batch of raw materials with different dates of production and of freezing, the oldest dates of production and of freezing must be made available.
3. The dates referred to in points 2 shall not be changed or removed until the food is labelled in accordance with Directive 2000/13/EC or used for further processing."

SANCO/1490/2007: Traceability requirements in respect of food of animal origin under Regulation No 178/2002

Without prejudice to other specific Community provisions concerning the traceability of food of animal origin, food business operators shall ensure that the following additional information concerning consignments of food of animal origin is made available in an appropriate form to the food business operator to whom the food is supplied and, upon request, to the competent authority.

- (a) An accurate description of the food,
- (b) The volume or quantity of the food,
- (c) The name and address of the food business operator supplying the food,
- (d) The name and address of the consignor if different from the food business operator supplying the food,
- (e) The name and address of the food business operator to whom the food is being sent,
- (f) The name and address of the consignee if different from the food business operator to whom the food is being sent,
- (g) A reference enabling the lot, batch or consignment, as appropriate, to be identified, and
- (h) The date of dispatch.

EFSA assessments of smoke flavourings

EFSA has completed the review of the safety of 11 smoke flavourings used in the EU. Based on this work, the European Commission will establish a list of smoke flavouring products authorised for use in foods.

Out of the 11 smoke flavourings evaluated by EFSA's Panel on food contact materials, enzymes, flavourings and processing aids (CEF), experts found that the margins of safety for two of the products were large enough not to give rise to safety concerns when considering the uses and use levels specified by the manufacturers. For eight others, the smaller margins of safety did give rise to safety concerns and for one of those smoke flavourings the Panel could not rule out concerns regarding possible genotoxicity (damage to the genetic material of cells)

given the available data. The Panel could not assess the safety of one further smoke flavouring due to the lack of adequate data available.

A summary sheet is available to download from <http://tinyurl.com/ye5xwwh>, and full information from <http://tinyurl.com/y93z9q3>

The Panel also issued a separate statement on how the margins of safety should be interpreted for these smoke flavouring products. It says that what constitutes an "acceptable" margin of safety varies in each case and depends on several factors including the chemical properties of the product in question and the toxicological data which are available.

LACORS Guidance Notes on Doner Kebabs

LACORS has issued guidance notes on the composition, description and labelling of doner kebabs. The guidance is described as being for local authorities, but includes separate sections covering:

- Guidance for local authority enforcement officers (section 3)
- Information for manufacturers of doner kebabs (section 4)
- Information for caterers selling doner kebabs (section 5)

Details are available from the LACORS website at <http://tinyurl.com/ybs9oo4>

The guidance document states that its aim is to provide local authority food enforcement officers with information that can be used to effectively guide manufacturers and sellers of doner kebabs about the legal requirements and best practice relating to the composition, labelling and description of doner kebabs. In addition, information is provided that may assist both manufacturers and sellers of doner kebabs to improve the nutritional value of the product they are offering.

The guidance has been produced following a nationally coordinated food standards survey focusing on doner kebabs. The survey was carried out by trading standards and environmental health departments in local authorities across the UK. The results of the survey were collated by LACORS and a report published about the findings in January 2009

Key findings from the survey are reported as:

- **Composition and labelling**
 - 33.6% of doner kebab samples contained sheep meat only
 - 6 samples contained pork
 - 35% of samples collected contained a different profile of meat species to that declared on the ingredients list
 - on 128 occasions the product labels did not comply with all legal requirements
- **Nutrition**
 - the average kebab contains 98 per cent of the recommended maximum daily salt intake.
 - the average kebab contained nearly 1000 calories – half a woman's recommended daily calorie intake.
 - the average kebab contains 148 per cent of the recommended maximum daily intake of saturated fat.
 - the worst kebabs contained 1990 calories before salad and sauces, 346 per cent of a woman's recommended maximum saturated fat intake and 277 per cent of the recommended maximum daily salt intake.

The survey (**The composition and labelling of doner kebabs - a LACORS coordinated food standards survey: Number 9, January 2009**) can be accessed from the web address above.

Food Waste (and Resource Efficiency)

WRAP has completed two reports on food waste. The first of these, '**Down the Drain**', presents the findings of a study in which householders recorded the quantities of food and drink that they were disposing of down the drain. This is estimated to total around 1.8 million tonnes annually. Individual types of food and drink disposed of in the greatest quantities are milk, carbonated soft drinks, and fruit juice/smoothies.

The second report, '**Household Food and Drink Waste in the UK**', effectively updates WRAP's 2008 report ('The food we waste') by incorporating data from the 'Down the Drain' report, and also reflecting other new data.

The report covers household food and drink waste disposed of via various routes but does not cover any non-household waste, associated with agricultural production,

food manufacture, retail / wholesale, foodservice, other business waste streams (eg from offices), or street waste/litter bins, etc.

Household waste disposal methods include kerbside collection of residual waste, specific food-waste collections, household waste recycling centres, home composting and fed to animals, and disposal to sewer. Food and drink waste is categorised as avoidable, as possibly avoidable, or as unavoidable. Avoidable waste is further split by the reason for disposal: cooked, prepared or served too much; not used in time; or other reason

It is now estimated that 8.3 (± 0.31) million tonnes per year of food and drink waste is generated by households in the UK. This is the equivalent to 330 kg per year for each household, or just over 6 kg per household per week. This estimate is higher than that in the earlier 'Food We Waste' report due to the new estimate of food and drink waste disposed of via the sewer.

Of this total, 5.8 million tonnes per year (70%) is collected by Local Authorities – mainly in residual waste stream (general bin) and food-waste kerbside collections. A further 1.8 million tonnes per year is disposed of via the sewer.

5.3 million tonnes per year is classified as avoidable – approximately two-thirds of the 8.3 million tonnes total, with the remaining 3 million tonnes split equally between possibly avoidable and unavoidable waste. Of the avoidable food and drink waste, 2.2 million tonnes is leftover after cooking, preparing or serving and 2.9 million tonnes is not used in time.

The most prominent food groups by weight are fresh vegetables and salad (23% of total waste), drink (16%), fresh fruit (13%) and bakery (10%). There is also a large variation in the proportion of purchases that are wasted between different types of food and drink. For instance, 7% of milk purchases are wasted, 36% of bakery, and over 50% of lettuce and leafy salads (by weight).

As an overview, the amount of food (including liquid and solid foods but excluding drink) wasted per year is 25% of that purchased (by weight). For food and drink, the 8.3 million tonnes per year of waste represents 22% of purchases (again, by weight).

WRAP estimate that to purchase the avoidable fraction of the food and drink waste would cost people in the UK a total of £12 billion per year, an average of £480 per household per year. The greenhouse gas emissions associated with avoidable food and drink waste is the equivalent of approximately 20 million tonnes of carbon dioxide per year- roughly 2.4% of greenhouse gas emissions associated with all consumption in the UK.

Full details are available from the WRAP website at <http://tinyurl.com/yb8e5xu>

Resource Efficiency

WRAP has also published the results of research carried out by the Stockholm Environment Institute into how resource efficiency can help the UK meet its climate change targets.

[The United Nations (UNEP) definition refers to resource efficiency as ‘... reducing the environmental impact of the consumption and production of goods and services over their full life cycle’.]

The research looked at potential ways of increasing resource efficiency in the production and consumption of goods and services, and covered both UK domestic emissions and those related to consumption of goods and services imported from abroad.

For production, the ideas included: lightweighting, using different and less environmentally damaging materials, using less materials to achieve the same result, building sustainably, and making best use of our existing infrastructure, rather than building something new. Of these, lightweighting or ‘lean production’ is by far the most effective strategy.

For consumption, the strategies suggested were: using goods to the end of their life, changing our diets and reducing food waste, renting instead of buying some products, and taking goods to be refurbished.

Full details can be found on the WRAP website. As well as the full report, there is an executive summary, and a series of data appendices (Excel format) at <http://tinyurl.com/ya86oy2>

Guidance on the use of the consumer protection from unfair trading regulations

LACORS has issued guidance notes on the use of the **Consumer Protection from Unfair Trading Regulations 2008 in Relation to Food Standards and Food Labelling Matters**, available from <http://tinyurl.com/yb9loy2>

LACORS writes that the guidance provides a general update on the provisions of the regulations illustrated by a number of practical examples.

The Consumer Protection from Unfair Trading Regulations 2008 (CPR) – SI No 1277 – came into force on 26 May 2008 and effectively replaced parts of the Trade Descriptions Act 1968 (TDA).

The notes below are taken from the LACORS guidance and outline how the CPR fit within the overall legislative framework and the approach taken by LACORS to providing guidance

- the guidance is concerned solely with food matters but the CPR 2008 applies to all goods and services.
- the CPR complements but does not replace existing food legislation such as Sections 14 and 15 of the Food Safety Act 1990. LACORS notes that the Government has indicated that “Section 14 appears to be primarily concerned with maintaining quality and safety standards for food rather than protecting

consumers' economic interests"

- the CPR 2008 implements the EC "Unfair Commercial Practices" Directive 2005/29 and certain aspects of the EC "Sale of Goods" Directive 1999/44. The CPR 2008 applies to business to consumer transactions.
- separate Business Protection from Misleading Marketing Regulations 2008 (BPR 2008 – SI No 1276) implement the EC Misleading and Comparative Advertising Directive 84/450 and deal with trade to trade commercial practices.
- the CPR 2008 prohibits unfair commercial practices which harm the economic interests of the "average consumer" but also including "vulnerable consumers". Both terms are defined within the CPR 2008.
- Regulation 3 refers to Schedule 1 which contains a list of specified commercial practices which are in all circumstances considered to be unfair. However, they are not likely to apply to food products.
- Regulation 5 prohibits misleading actions (e.g. labelling, presentation, marketing which mislead the consumer about the nature of a food).
- Regulation 6 prohibits misleading omissions (e.g. situations where the individual elements comply but the lack of an indication about the overall impact of the whole label or the setting in the correct content is omitted).
- as a package these provisions [Regulations 5, 6] effectively replace the "false to a material degree"; "likely to mislead" provisions of the Trade Descriptions Act 1968.
- throughout the CPR 2008 but specifically within Regulations 5 and 6 reference is made information or the lack of it which influences the consumers "transactional decision". This phrase is defined within Regulation 2(1) as "any decision taken by a consumer whether it is to act (to purchase) or refrain from acting (not purchasing) ...".
- although a significant proportion of the TDA 1968 has been revoked some important sections remain in force which may have a bearing in relation to food products.
- one example is Section 36 on Country of Origin which brings in the concept of "treatment or process resulting in a substantial change". It should be noted that this only applies to the TDA 1968 and does not apply to the CPR 2008. Also that it only applies to products imported into the UK from Third Countries.
- LACORS guidance takes the form of a numbered of Scenarios or worked examples which appear as Annexes
- Annex 1 – Scenario 1 – Processes and Claims– Bread How might the CPR 2008 apply to situations where certain claims may be applied to bread and similar products which suggest that they have been produced from raw materials in on-site bakeries when this is in fact not the case.
- Annex 2 – Scenario 2 – Pictorial Representation How might the CPR 2008 apply to the placing of

pictorial representations of national flags or other country specific icons or landmarks (Eiffel Tower, Statue of Liberty etc) on food products when the product is not manufactured in the country implied by the use of pictorial representations?

- Annex 3 – Scenario 3 – Spirit Drinks – Manner of Presentation
- Annex 4 – Scenario 4 – Composition and Claims – Smoothies
A range of products are marketed under the generic name "Fruit Smoothies". These products are composed of a blend of fruit purees and fruit juices in variable proportions. Most ingredient lists % QUID the different types of fruit puree/fruit juices present. There is no legal definition of a "Smoothie" but evidence suggests that this was originally a fruit puree only product but which has latterly encompassed blends with fruit juice.
- Annex 5 – Scenario 5 – Spirit Drinks – Substitution

Unfair Commercial Practices

The European Commission has also produced recent guidance on the Implementation and Application of Directive 2005/29/EC on Unfair Commercial Practices

The Commission Staff Working Document (SEC(2009) 1666) is available from <http://tinyurl.com/y9yrzqx>

"The document aims at providing guidance on the key concepts and provisions of the Directive perceived to be problematic. It includes practical examples showing how this Directive works. The guidance aims at developing a common understanding and a convergence of practices when implementing and applying the Directive. However, this document has no formal legal status and in the event of a dispute, the ultimate responsibility for the Directive's interpretation lies with the Court of Justice of the European Union.

"The guidance is based on the results of the cooperation with Member States and stakeholders, which the Commission has carried out in the years which followed the adoption of the Directive. Following an informal working practice group and various consultations, the Commission's Health and Consumers Directorate General has drawn up this staff working document which seeks to address a number of issues raised by national authorities and stakeholders."

Nanotechnologies and Food

The House of Lords Science and Technology Committee has criticised the food industry for failing to be transparent about its research into the uses of nanotechnologies and nanomaterials.

Details of the Report 'Nanotechnologies and Food' can be found at <http://tinyurl.com/yzfpalb>

More about the House of Lords Science and Technology Committee can be found at <http://tinyurl.com/y9lvwm>

In the report, the Committee notes that transparency and honesty are key components for ensuring public trust in both food safety and scientific developments, and argue that the approach of food companies in not publishing or discussing details of its research in this area is unhelpful.

The Committee acknowledges that the food industry is right to be concerned about negative public reactions to developments in nanotechnologies but asserts that appearing to be secretive about its research "is exactly the type of behaviour which may bring about the public reaction it is trying to avert."

The Committee also urges the Government and Research Councils to adequately fund research into potential health and safety risks arising from the use of nanomaterials in the food sector.

The report highlights that there are significant gaps in the understanding of how nanomaterials impact on the human body, and that it is not currently possible to predict what risks specific nanomaterials may present. There is only a limited amount of research looking at the toxicological impact of nanomaterials, and just one research team working on the impact of nanomaterials on the gut in the United Kingdom.

The Committee calls on the Research Councils to establish more proactive forms of funding to encourage research bids which address the severe shortfalls in research required for the effective risk assessment of nanomaterials in food. It states that the Government should ensure that research is commissioned which focuses specifically on the behaviour of nanomaterials within the body and particularly the gut.

The report argues that such research is needed for effective and reliable risk assessments which will be crucial in ensuring the public are confident about the safety of nanomaterials in food.

The report recommends that the Food Standards Agency should contribute to consumer confidence in the use of nanomaterials in food by maintaining a publicly available register of food and food packaging containing nanomaterials. This register could be made available online. The Committee argues that this is a more appropriate mechanism for ensuring that accurate and up to date information on the use of nanomaterials is available to the public than a requirement that all food products containing nanomaterials be labelled.

The Committee calls for nanomaterials to be defined clearly in food legislation to ensure that all uses of nanomaterials in food are subject to appropriate risk assessment procedures. They recommend that regulatory definitions should use a change in functionality, i.e. how a substance interacts with the body, as the criterion that distinguishes a nanomaterial from its larger form, to make sure that any nano-sized materials with novel properties are included.

The report also recommends that the Government work with other EU nations to clarify what is meant by the

phrase "properties that are characteristic to the nanoscale" in the draft definition proposed for the revised Novel Foods Regulation, by the inclusion in legislation of a more detailed list of what these properties comprise.

The Committee also raises concerns about the potential for the illegal importation of food products containing nanomaterials not approved for use in food in the EU. The report points out that it is difficult to regulate food products ordered on the internet, and that there is a danger that UK consumers could be exposed to products that have not been approved as safe by the EU.

The Committee points out that tests to check whether imported food contains nanomaterials are not yet available to border and port authorities. The report suggests that, although there is no evidence that the use of nanotechnologies in food presents a clear and present threat to consumer safety, these concerns should be dealt with by providing consumers with information about products containing nanomaterials, and by the Government ensuring that practical tests are developed for enforcement authorities to use on imported food.

Lord Krebs, who chaired the Science and Technology Committee's inquiry into Nanotechnologies and Food, said:

"The use of nanotechnologies in food and food packaging is likely to grow significantly over the next decade. The technologies have the potential to deliver some significant benefits to consumers but it is important that detailed and thorough research into potential health and safety implications in this area is undertaken now to ensure that any possible risks are identified. The Government and Research Councils have a responsibility to ensure that this research takes place and must now take a proactive approach to identifying and funding appropriate research.

"The food industry must also be more open with the public about research it has undertaken in this area and where it sees nanomaterials being used in food production in the future. The lesson from the public reaction to GM foods is that secrecy breeds mistrust, and that openness and transparency are crucial to maintain public confidence.

"The public can expect to have access to information about the food they eat, but it is equally important that that information should be comprehensive and balanced. That is why we consider the right approach to providing information about nanomaterials in the food sector is through a public register, rather than by the blanket labelling of nanomaterials which may not be helpful in assisting consumers to make informed choices."

Towards A Strategic Nanotechnology Action Plan

The European Commission has recently completed an online public consultation '**Towards A Strategic Nanotechnology Action Plan (SNAP) 2010-2015**'. The Commission writes as follows:

"Nanotechnologies hold great potential in areas as diverse as health, energy production and efficiency,

transport and manufacturing. The Commission is considering a new Action Plan for Nanotechnology, addressing the technological and societal challenges of the next five years and strengthening the research and innovation efforts, with increased emphasis on sustainable development, competitiveness, health, safety and environmental issues.

“The objective of this public consultation is to invite views on the needs in nanotechnology in the next five years, as perceived by experts active in the field and by the public at large.”

The Commission says that it will publish a summary paper of responses and may publish individual contributions.

An action plan for Europe 2005-2009

The Commission has also published its Second Implementation Report regarding **Nanosciences and Nanotechnologies: An action plan for Europe 2005-2009** (document reference COM(2009)607 final, download from <http://tinyurl.com/yzxfjg>)

Consumer Labelling of Nanomaterials in the EU and US

Readers may also be interested in the output of a recent collaborative research project involving Chatham House, the LSE, the Environmental Law Institute and the Project on Emerging Nanotechnologies at the Woodrow Wilson International Center for Scholars. **Regulating Nanotechnologies in the EU and US: Toward Effectiveness and Convergence** set out to investigate the regulatory challenges posed by nanotechnologies and to assess the effectiveness of existing approaches on both sides of the Atlantic. The project is innovative in taking a comparative perspective and in contributing to the early identification of regulatory methodologies and best practices that promote regulatory convergence between the EU and US.

Project Outputs included:

- **Consumer Labelling of Nanomaterials in the EU and US: Convergence or Divergence?** (Briefing Paper)
- **Securing the Promise of Nanotechnologies: Towards Transatlantic Regulatory Cooperation** (EEDP Programme Paper)
- **Regulating Nanomaterials: A Transatlantic Agenda** (Briefing Paper)

Regarding Consumer Labelling, the Briefing Paper makes the following Summary Points:

- Consumer labelling of nanomaterials is set to become an important and potentially controversial issue on the transatlantic regulatory agenda.
- With an estimated 1,000 nano-enabled products already on the market, calls are rising for mandatory consumer labelling of nanomaterials.
- The US and EU currently do not have a general labelling requirement for nanomaterials, but certain product-specific labelling rules in the food and cosmetics area may apply to nanomaterials.
- While US authorities have to date failed to respond

to calls for comprehensive nanomaterials labelling, draft versions of the EU's revised novel foods and cosmetics laws already contain such requirements.

- In the light of the potential divergence between US and EU approaches to consumer labelling of nanomaterials, governments should consider the implications of such a development for international trade and potential means of promoting the development of common approaches.

Full details are available from the Chatham House website at <http://tinyurl.com/yl3q9lk>

Voluntary guidelines on communicating portion size to consumers

The IGD has published voluntary guidelines on communicating portion size to consumers.

The voluntary guidelines detailed in the report were developed by IGD's Industry Nutrition Strategy Group. The group has previously published a number of reports looking at portion size communication including 'A review of existing approaches' (2008), 'Understanding the consumer perspective' (2009) and 'Portion size communication in therapeutic practice' (2009).

IGD says that implementation of these voluntary guidelines will help businesses to provide consumers with the information they need to move towards a healthy balanced diet. The report does not give recommendations on actual portion sizes, but focuses on communication. Information used in development of the guidelines includes:

- A review of portion size information currently provided on food labels
- Consumer attitudes to portion size information
- Portion size communication by healthcare professionals

Recommendations are provided on further developments to help communicate portion size to consumers

Full details are available from <http://tinyurl.com/yaonxjo>

Review of FSA Target Nutrient Specifications for manufactured foods used in school meals

The Food Standards Agency is reviewing its voluntary target nutrient specifications (TNS) for manufactured foods used in school meals that were published in May 2006. To assist our review.

The FSA has been reviewing the range of manufactured products currently supplied to schools and their composition compared to the TNS. It says that the TNS, are being used as a benchmark for caterers procuring foods and by manufacturers and suppliers when reformulating.

The FSA has concluded that its preferred option is to concentrate on revisions to the TNS to improve consistency between the specifications and the Agency's recently published, revised voluntary salt reduction targets, as well as updating the product categories to reflect work across the UK on similar specifications and current practice in schools.

These and other possible approaches will be described in more detail in a formal consultation, expected to be launched shortly.

Regulation 5 of the Meat Products Regulations

The FSA has been consulting on proposals for reducing the administrative burden when Applying Regulation 5 of the Meat Products Regulations 2003

There are separate consultations for England, Wales, Scotland, and Northern Ireland. Full details for England are available from <http://tinyurl.com/yap9l7s>

The purpose of the proposal is to assess various options for reducing certain administrative burdens. This follows on from the cross-Government Administrative Burdens Measurement Exercise carried out in 2005 which set out to measure the administrative burden to business of complying with information obligations required under legislation (form filling, record keeping, notifying activities, requesting authorisation, providing information to third parties for example labelling, etc.).

This estimated that the information obligation of Regulation 5 of the MPRs costs business in England around £11.2 million annually.

The FSA says that it has been considering ways to reduce the administrative burden while maintaining the current level of information provided to consumers.

Four options are considered in the consultation papers:

1. Do nothing: No savings on administrative burdens.
2. Remove all of Regulation 5 and Schedule 3: By removing Regulation 5 and Schedule 3 there will be no specific requirements for added ingredients to be included in the name of a product, other than those set out in Regulation 8 of the Food Labelling Regulations 1996 (as amended). This option provides the maximum savings on administrative burdens in the region of £11.2M.
3. Amend current MPRs retaining the key provisions of Regulation 5: The key provisions for added water and animal proteins in Schedule 3 are retained in Regulation 5. Schedule 3 is revoked. Savings on administrative burdens are expected to be in the region £5.6M.
4. Guidance with step by step flow diagrams (Regulation 5 unchanged): There will be no changes to the existing legislation. Regulation 5 and Schedule 3 will be retained. A set of step by step flow diagrams will be issued as additional guidance to allow easy and quick compliance. Thresholds for added water will be maintained. Animal ingredients of different species will be required in the

name of a product. Savings on administrative burdens is expected to be the second highest (after option 2) in the region of £9.7M.

The following notes are provided for information. They are taken from the FSA impact assessment document:

Regulation 5 and Schedule 3 of the MPRs require that where a meat product, which looks like a cut, joint, slice, portion or carcase of meat or cured meat, contains added ingredients they must under certain circumstances be declared in the 'Name of the Food'. This is in addition to the general labelling requirements in the Food Labelling Regulations 1996 (as amended)

Examples of regulation 5 meat products include chicken portions with added beef proteins, and ham with added water. The regulation does not apply to things such as fresh raw meat that contains no added ingredients; or to comminuted products such as canned corned beef, sausages, or burgers, as these do not have the appearance of 'whole' meat; or to meat in sauces/ready meals etc. where it is obvious that ingredients have been added.

Regulation 5 of the MPRs is a national provision which was notified to and accepted by the European Commission under the Technical Standards Directive 98/34/EC. Two key aspects of regulation 5 are requirements to label added water (above 5%) and added ingredients (including proteins) of different animal species in the name of meat products.

Schedule 3 of the MPRs lists other added ingredients and sets out the circumstances in which these are not required in the name of a meat product. Ingredients that are exempt from 'name of food' requirements in Schedule 3 include any additives, curing salts, garnish or decorative coating, salt herb or spice used as seasoning, sugar added for sweet taste. It is to be noted that added starches and proteins used for technological purposes are no longer exempted by Schedule 3. This is to bring them into line with European legislation. Instead, these ingredients must still be assessed on whether or not they need to be included in the name of a food under the requirements of the general Food Labelling Regulations (FLRs), SI 1996 No. 1499 .

The requirements of regulation 5 apply to both pre-packed and loose meat products.

Provision of calorie labelling at point of choice in catering outlets

The Food Standards Agency has published consultation papers on the development of a voluntary scheme to provide consistent calorie labelling at point of choice.

Full details are available from <http://tinyurl.com/ycrvx56>

The FSA has been working with the catering industry to introduce voluntary calorie labelling at the place where people choose their food. Over 20 companies agreed to provide calorie labelling in a pilot scheme in some or all of their outlets during summer 2009. Consumer responses and business impact has now been evaluated and the FSA

says that it has now developed proposals for a voluntary calorie labelling scheme in order to encourage increased voluntary adoption of calorie labelling, in a consistent manner, across the catering industry.

The proposals are summarised as follows:

Principles for a calorie labelling scheme – principles are proposed that are informed by the outcomes of the evaluation, and which build on the initial criteria that were used by businesses for calorie labelling in summer 2009. The Agency welcomes stakeholder views on these principles.

Obtaining calorie information – businesses have highlighted the challenge of obtaining accurate and consistent calorie information. The Agency seeks stakeholder views on the help it can provide for businesses.

Outline costs and benefits – the Agency seeks stakeholder views on the costs and benefits outlined in the draft impact assessment.

Experience of nutrition information in catering settings – the Agency invites catering businesses to provide information about their experiences of providing nutrition information to consumers at point of choice, and to share any consumer research they may have.

Next steps – the Agency seeks stakeholder views on how it can involve stakeholders in the implementation of a calorie labelling scheme.

FVO Programme 2010

The EU's Food and Veterinary Office has published its Programme of Audits and Inspections for 2010. This is available from <http://tinyurl.com/y8zpf9p>

The document cautions that there is always a degree of uncertainty attached to any SANCO inspection plan.

“Of necessity, it must remain flexible to enable it to respond to emergencies, other urgent issues and unforeseen circumstances. As in previous years, adjustments to the plan will be required as the year progresses. Inspections in response to emergencies can only be made by cancelling or postponing planned missions. Also, the carrying out of certain inspections will depend on the timely availability of resources.

“An update of the programme will therefore, as usual, be presented in June 2010.”

Commission Guidance on Regulation 178/2002 on General Food Law

The European Commission (DG SANCO) has published revised Guidance on the EU's General Food Law Regulation (EC) N° 178/2002

'Guidance on the Implementation of Articles 11, 12, 14, 17, 18, 19 and 20 of Regulation (EC) N° 178/2002 on General Food Law' can be downloaded from the Europa website at <http://tinyurl.cm/ycredwzu>

Articles 11 and 12 and Articles 14 to 20 of Regulation 178/2002 applied with effect from 1 January 2005, and Commission guidance was first published in January 2005.

This original guidance has now been updated, with a new section developed on food safety requirements, and the sections on traceability, withdrawal/recall and export of food and feed, redrafted with a view to simplifying, clarifying and completing them.

The Standing Committee on the Food Chain and Animal Health approved the revised version of the guidance document at its meeting of 26 January 2010.

The following issues are addressed:

- Food safety requirements (Article 14);
- Responsibilities (Article 17);
- Traceability (Article 18);
- Withdrawal, recall and notification for food and feed (Articles 19 and 20) in relation to food and feed safety requirements (Articles 14 and 15);
- Imports and exports (Articles 11 and 12).

Background

Readers will remember that the Food Standards Agency first issued its own Guidance Notes on the legislative requirements of the General Food Law Regulation in December 2004, but this was followed very quickly by the more detailed guidance from the Commission in January 2005. The Agency Guidance was subsequently revised to take account of the EU Guidance and was reissued in March 2005, incorporating the EU Guidance as an Annex.

The FSA then consulted in July 2005 on how well the EU Guidance had been working. This was intended to inform a review of the Guidance by the European Commission.

The Agency said that the reaction from business was that the European Guidance was resulting in disproportionate costs to the food industry. The EU Guidance classifies traceability information in two categories, the first to meet the legal requirements and the second to be followed as best practice. Responses from food businesses indicated that following such best practice guidance could result in additional costs.

The FSA therefore redrafted its Guidance Notes, to focus primarily on the legal requirements. The revised draft was issued for consultation between November 2006 and January 2007, with finalised Guidance issued in August 2007.

Compared with the EC guidance, the FSA said that its guidance notes:

- gave a greater discretion to food businesses over

time requirements for keeping traceability records

- changed the need for immediate production of traceability records in certain cases to a need to produce these within 'a short timescale'
- concentrated on the requirements of the legislation and providing minimal advice on good practice

The Agency view was that the FSA guidance notes were more appropriate for food businesses in the UK. This approach was agreed with the European Commission.

The FSA Guidance covered Articles 14, 16, 18 and 19 of the EU's General Food Law Regulation (EC) 178/2002, but incorporated directly (as Annex 3) the relevant text from the Commission's original Guidance on Articles 11, 12, and 17, where the FSA did not wish to offer new guidance.

The FSA Guidance is available from the FSA website at <http://tinyurl.com/ybz7wez>

Regulation 178/2002 can be downloaded from the EURLex website at <http://tinyurl.com/ydfwzyl>

Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety

- Article 11 – Import of Food and Feed
- Article 12 – Export of Food and Feed
- Article 14 – Food safety requirements
- Article 16 – Presentation
- Article 18 – Traceability
- Article 19 – Withdrawal, recall and notification
- Article 17 – Responsibilities (of business operators and member states).

Because of earlier concern over the treatment of traceability requirements in the Commission's original guidance, an extract from the revised guidance is reproduced below.

III.3.2. Implementation of traceability requirements

i) Identification of suppliers and customers by food business operators

A food business operator should be able to identify any "person" from whom food/raw materials are received. This person can be an individual (for example a hunter or a mushroom collector) or a legal person (such as a business or company).

It should be clarified that the term "supply" should not be interpreted as the mere physical delivery of the food/feed or food producing animal. This term refers more to the transfer of ownership of the food/feed or food producing animal. However, brokers must be considered as a form of supplier for the purposes of this Article, whether or not they take physical possession of the goods. Identifying the name of the person physically delivering is not the objective pursued by this rule and it would not be sufficient to guarantee the traceability along the food chain.

A food business operator must also identify the other food/feed businesses to whom it provides its products (excluding final consumers). In the case of trade between a retailer such as a supermarket and a restaurant, the traceability requirement still applies.

Cold store operators and transporters are food businesses and they should also keep traceability records.

ii) Internal traceability

- Without prejudice to sector specific rules, the Regulation does not expressly compel operators to establish a link (so called internal traceability) between incoming and outgoing products. Nor is there any requirement for records to be kept identifying how batches are split and combined within a business to create particular products or new batches.
- Nevertheless an internal traceability system would contribute to more targeted and accurate withdrawals.

Food business operators are likely to save costs in terms of time of a withdrawal and in avoiding unnecessary wider disruption. This in turn would help maintain consumer confidence. Traceability systems also provide information within food businesses to assist in process control and stock management. The decision on whether to adopt an internal traceability system and the level of detail should be left to the Food Business Operator, commensurate with the size and nature of the food business.

iii) Traceability systems laid down by specific legislation

Apart from specific legislation establishing food safety traceability rules for certain sectors/products, such as Beef Labelling, Fish Labelling and GMOs, there are specific regulations laying down marketing and quality standards for certain products. These regulations often have fair trade purposes and contain provisions about the identification of the products, the transmission of the documents accompanying the transactions, the keeping of records, etc.

Any other system of identification of products existing within the framework of specific provisions may be used to satisfy the requirement established by Article 18, insofar as it allows the identification of the suppliers and of the direct recipients of the products at all stages of production, processing and distribution.

However, the traceability requirements of the Regulation are general requirements and are therefore always applicable. Food Business Operators should determine whether sectoral traceability provisions already meet Article 18 requirements.

iv) Information to be kept

Article 18 does not specify what type of information should be kept by the food and feed business operators. However, to fulfil the objective of Article 18, the following information should be kept at least.

- Name, address of supplier, and identification of products supplied;
- Name, address of customer, and identification of products delivered;
- Date and, where necessary, time of transaction / delivery;
- Volume, where appropriate, or quantity:

It may be that if printed traceability records are kept, these will already have on them the date and time of delivery as well as the name and address of the supplier and customer. If not, the date should be specifically recorded, and the time if there is more than one supply/ delivery in a particular day. Whilst not compulsory, it would also be very helpful if details are kept of any reference or batch number enabling the product to be identified.

Food crises in the past have shown that tracing the commercial flow of a product by keeping invoices was not sufficient to follow the physical flow of the products, as food/feed could be, for example, sent for storage. Therefore, it is essential that the traceability system of each food / feed business operator is designed to follow the physical flow of the products.

v) Time of reaction for traceability data availability

- Article 18 requires food and feed operators to have in place systems and procedures to ensure the traceability of their products. Although the Article does not provide any details about these systems, the use of terms “systems” and “procedures” implies a structured mechanism able to deliver the needed information upon request from the competent Authorities.
- When developing a traceability system, it does not necessarily mean that Food and Feed Business Operators need to have a dedicated system. It is the need to provide information that is important, not the format in which it is kept. The traceability records should be sufficiently organised to enable availability ‘on demand’, without unduly delaying the requirements imposed by Article 19.

- A traceability system is good when it delivers accurate information in a fast manner; this would help to satisfy the objective pursued as described in Recital 28 of the Regulation. A delay in the delivery of this relevant information would undermine a prompt reaction in case of crisis.

vi) Time for keeping Records

Article 18 does not specify a minimum period of time for keeping records, and therefore it is for the businesses to decide, bearing in mind that failure to produce adequate records would constitute an offence. On a broad basis, it is considered that commercial documents are usually registered for a period of 5 years for taxation controls. It is suggested that this 5 year period, where applied from date of manufacturing or delivery to traceability records, would be likely to meet the objective of Article 18.

However, this common rule would need to be adapted in some cases:

- For highly perishable products, which have a “use by” date less than 3 months or without a specified date¹², destined directly to final consumer, records could be kept for the period of 6 months after date of manufacturing or delivery.
- For other products with a “best before” date, records could be kept for the period of the shelf-life plus 6 months;
- For products without a specified durability date, the general rule of 5 years could apply.

Finally, it should be taken into account that, apart from the traceability provisions of Article 18 of the Regulation, many food businesses are subject to more specific requirements in terms of record keeping (type of information to be kept and time). Competent authorities should ensure that they comply with these rules.

Guidance on EU Organic Standards

New EU legislation on organic standards came into effect on 1 January 2009. Defra issued guidance for the new standards early in 2009, but has now updated its guidance in January 2010. The updated guidance can be downloaded as <http://tinyurl.com/y8r27f9> (‘Guidance Document on European Union Organic Standards’).

The Guidance remains incomplete as Defra waits for further clarification in certain areas:

- Conversion of livestock (Paragraph 28)
- Determining Exemption of Retailers and Mass Caterers (Appendix 1)
- Definitions, actions, sanctions and timescales (Appendix 5)

Paragraphs 5 and 6 deal with ‘Who is Subject to the Regulations’.

Exemptions continue for ‘**mass caterers**’ and for ‘**operators who sell organic products directly to the final consumer or user**’, but the position for ‘**wholesalers and storage operations**’ has changed.

Defra provides the following information:

“This requirement on operators is a relatively recent one which only came into being on 1 January 2009 following the coming into force of the new European Regulations on organic food (Council Regulation (EC) 834/2007, Commission Regulation (EC) 889/2008 and Commission Regulation 1235/2008).

“During the course of the negotiations to revise EC Council Regulation 2092/91 it was felt that in order to maintain and protect the integrity of the organic sector that wholesale and storage operations should come under the inspection control system. Article

28(1) of Council Regulation (EC) 834/2007 requires anyone in the EU who produces, prepares, stores, imports from a non-EU country or markets organic products to be registered with an organic control body.

“We are mindful of the additional obligation this places on operators. We have therefore introduced a light touch to our interpretation of the requirement. We have decided that after the initial physical inspection of premises by control bodies

required prior to the approval and registration of storage operators, operators will not have to undergo the burden of the customary physical annual inspections most organic operators usually experience.

“Following the initial physical inspection operators will if approved only undergo physical inspections every few years (3 years) to verify compliance with organic legislation.”

5. Article 28 (1) of 834/2007 explains that those in the EU who produce, prepare, store, import from a non-EU country, export to a non-EU country or market organic products must make themselves known to the competent authority for the Member State in which they are situated and comply with the control system for organic production. This is done through registering with a control body; paragraphs 65 to 77 below explain how this works. However, Article 1 of 834/2007 explains that “mass catering operations” as defined in its Article 2 (aa) are not subject to the EU control system. Such operations may however be subjected to national rules as is the case in some EU Member states. Pending the introduction of such rules in the UK, mass catering operations are simply subject to general consumer protection law.

6. Two other classes of operator are also not subject to the full impact of the control system. Article 28 of 834/2007 permits Defra to exempt from the control system operators who sell organic products directly to the

final consumer or user provided they do not “produce, prepare, store other than in connection with the point of sale, or import such products from a third country”. This provision has been used to continue to exempt retailers selling prepackaged goods and their distribution hubs from the control system. Since 1 January 2009, when 834/2007 came into effect, wholesale and storage operations have been subject to the control system. However, the Regulation’s Article 27(3) provides for any wholesalers and storage operations dealing with prepackaged goods not to be subject to the annual verification required to be applied to all other operators. These operators must be registered and, as a minimum, be subject to an initial physical inspection, followed by a physical inspection at least every three years. Where appropriate, desk reviews will be conducted in the intervening years. For this purpose wholesalers are those who take title to the prepacked product and storage operations are operators which handle prepacked goods but do not take title to the product.

The relevant EU legislation is:

- Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 from <http://tinyurl.com/y88epzr>
- Commission Regulation (EC) 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control from <http://tinyurl.com/ya42488>

- Commission Regulation (EC) 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries from <http://tinyurl.com/y8enoww>

More information on **Organic certification bodies and standards** is available from the Defra website at <http://tinyurl.com/yaxdwtg>

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Members of the British Frozen Food Federation requiring further information about any item in this newsletter should contact Ian Farley, Technical and Legislative Co-ordinator

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