



## OPINION OF THE HIGH LEVEL GROUP

**Subject:** Priority area *Food Safety*

### I. Background

- (1) The High Level Group of Independent Stakeholders on Administrative Burdens (HLG) was set up *inter alia* to advise the Commission on suggestions for administrative burdens reduction measures coming from the Consortium<sup>1</sup> and from stakeholders through the internet consultation.<sup>2</sup> The Consortium has submitted a draft report concerning administrative costs and burdens in the priority area of "Food Safety", as well as a series of reduction draft recommendations. The suggestions submitted by stakeholder representative organisations ("off-line" consultation) have also been considered at this stage. The suggestions received from the "on-line consultation"<sup>3</sup> are still being processed (translation, review) and will be examined at a later stage.
- (2) The priority area "Food Safety" is one of 13 areas of European legislation investigated in the framework of the Commission's Action Programme for reducing administrative burdens in the EU<sup>4</sup>. The priority areas were selected on the basis of a 2006 pilot study and are estimated to account for a large part of administrative burdens of EU origin. The seven legal acts chosen for the Food Safety priority area are expected to cover a big proportion of burdens imposed on businesses operating in the agri-food sector, as well as some commercial activities. This does not preclude other areas of legislation being investigated in further stages of the Action Programme. At present, the scope of the measurement covers four main topics:
1. Traceability of live animals and meat products
  2. Animal welfare
  3. Product labelling (including price) and packaging
  4. Plant health
- (3) After a scrutiny of the Consortium's report and initial reduction ideas, and

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<sup>1</sup> Capgemini, Deloitte, Rambøll management; assigned by the Commission to measure administrativeburden based on certain EU legislation and to identify measures to reduce this burden.

<sup>2</sup> Cf. Commission Decision C(2007)4063, Art. 2.

<sup>3</sup> Cf. [http://ec.europa.eu/enterprise/admin-burdens-reduction/online\\_consultation\\_en.htm](http://ec.europa.eu/enterprise/admin-burdens-reduction/online_consultation_en.htm)

<sup>4</sup> Cf. COM(2007)23, COM(2008)32, 35, COM(2009)15, 16.

taking into account some input from the Commission, Mr. Murray and Mr. Pesonen, who were appointed as reporting members for the priority area Food Safety, have prepared the present opinion. This opinion deals with the initial 9 recommendations of the consultants and is the first opinion of the HLG on the priority area of Food Safety. Further opinions may be published later covering online suggestions, as well as offline suggestions and more recommendations by the consultants received after the adoption of this opinion.

## II. General Comments

- (4) Food safety is of supreme importance to every man, woman and child. The task of the HLG is to seek EU measures that appear to be unnecessarily or excessively burdensome in that the same policy objectives (in this case a high level of food safety) can be achieved in a less burdensome manner. In assessing what is or is not an unnecessary administrative burden, some account must also be taken of the importance of consumer confidence in the food chain. Legislation that assures high standards of food safety will not be effective if consumers have little confidence in it.
- (5) The administrative burden reduction work must take account of the specific constraints underlying the Food Safety legal acquis of the European Union. A series of crises concerning human food and animal feed (BSE, dioxins etc) exposed weaknesses in the design and application of food legislation within the EU and the need to restore consumer confidence. This led the European Commission to include the promotion of a high level of food safety among its policy priorities over the last few years, a policy that is supported by most stakeholders.
- (6) The HLG is convinced that there is room to improve the procedures relating to food safety and make them more business-friendly. Some stakeholders, such as cattle farmers, have developed expectations that paperwork would be reduced.

## III. Findings and recommendations of the Consortium; initiatives started by the Commission

- (7) The draft report of the Consortium indicates that in-scope Food Safety rules cost European businesses around €5.3 bn. EU-wide<sup>5</sup>.
  - On the basis of three Directives and four Regulations, a total of 38 EU Information Obligations (IOs)<sup>6</sup> and Possibilities Stated in the EU Legal Acts<sup>7</sup> were identified.

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<sup>5</sup> This figure, like all those in this section, is still under review and may still change significantly.

<sup>6</sup> A legal obligation placed on businesses to provide information on their action or production, either to public authorities or to private parties. This should be construed in a broad sense, i.e. including labelling, reporting, registration, monitoring and assessment needed to provide the information.

<sup>7</sup> "EU Information Obligations" (IOs) are requirements imposed on Member States and businesses by the Directives. Some EU legislative acts also mention the *possibility* for Member States to ask for additional information (i.e. "...Member States may ... require the inclusion of other statements in

- The transposition of the 38 IOs resulted in 1,055<sup>8</sup> national IOs across the 27 Member States.
- Of the €5.3 bn. administrative costs, 99.99 % stem from EU requirements, whereas 0.01 % (€0.79 million) is due to national obligations going beyond EU requirements.
- Two IOs — “Drawing up and keeping available transport and planning information” and “Drawing up of a disinfection register” — alone account for €1.6 bn. in administrative costs, representing 30 % of the total administrative cost arising from EU IOs. Both IOs stem from Regulation (EC) No 1/2005 on animal health during transport and related operations.

(8) The HLG has taken note of work under progress in Commission services on several initiatives to increase governance and efficiency of European Food Safety law which would contribute to the objectives of the Action Plan. An overview on these initiatives can be found in an annex to this opinion.

#### **IV. Advice and view of the HLG**

(9) The HLG reporting members for the priority area of food safety have examined the initial reduction ideas contained in the priority area report and in the draft "reduction recommendations" formulated by the Consortium on the basis of their investigations with businesses and stakeholders. The total reduction to be achieved by these measures is about €1.25 bn.<sup>9</sup> For the purpose of this opinion, the measures have been classed in three categories:

- creation or extension of e-government solutions;
- practical measures to facilitate red tape compliance for companies;
- adjustments to EU law to reduce information obligations.

(10) Much of the current administrative burden in animal transport and welfare derives from the fact that reporting and record keeping is still largely paper based. The HLG strongly supports the consultants’ recommendations for a move to electronic technology, so that Member States can make life easier for businesses by facilitating storage and communication of data required by administrations. This concerns the following consortium recommendations:

- Online database for bovine life event registration (5 IOs concerned): potential administrative burden reduction (ABR): €200 m.
- Online database for Ovine/Caprine life event registration (4 IOs concerned): ABR: €110 m.

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the annual accounts in addition to the documents referred to in the first sub-paragraph ...”). Such Possibilities Stated in the EU Legal Act were documented by the Consortium as they often pave the way for additional legislative requirements introduced at national level.

<sup>8</sup> There is not a one-to-one relationship between the number of IOs and the implementation of Possibilities Stated in EU Acts and national IOs. Not all are implemented in all Member States.

<sup>9</sup> This is a first estimate, on the basis of assessment by consortium consultants.

- Online database for registration of transport of animals (4 IOs concerned): ABR: €627 m.
  - Online database for registration of plants (3 IOs concerned): ABR €7 m.
- (11) The HLG also supports the adjustment to EU law needed to remove unnecessary or duplicative administrative requirements. This concerns primarily the Consortium’s recommendation to render optional the annual inventory in Member States where this information can be extracted automatically from the national database (registration of ovine and caprine animals). ABR: €572,000.
- (12) After a first screening, the HLG in principle supports the following proposals from the Consortium, intended to make it easier for companies to comply with red tape requirements. However, the HLG sees the need to study them further and asks the Commission to examine the feasibility of putting these recommendations into practice:
- Harmonise and simplify formal activities of veterinarians. (5 IOs concerned): ABR €200 m.
  - Harmonise animal transport inspection standards across the EU, and improve the connection of the frequency of inspections with the transportation time: ABR €500,000.
- (13) Directive 98/6/EC<sup>10</sup> requires that the unit price of many food (and non-food) products be displayed at point of sale. The Consortium recommends that small shops be exempted from this requirement. Under Article 6 of the directive, Member States are free to do so for a “transitional” period of unspecified length – at a total estimated potential saving of some €53 m. Some Member States have chosen this option and others have not. Some Member States applied the exemption for a period and have since removed it. In light of the estimated savings potential the HLG is of the view that Member States should make use of the exemption.<sup>11</sup> The directive was reviewed in depth in 2006 and will be reviewed again as part of the general review of the consumer acquis. In these circumstances the Group does not recommend any change in the directive.

## V. Further Work

- (14) Given the importance of the subject, there is a very large body of EU legislation on food safety. In addition to the acts reviewed by the consultants, there are likely to be many other food safety measures that would merit review under the Action Programme for the Reduction of Administrative Burdens.<sup>12</sup> A starting point for any such review may also be found in the numerous suggestions for reductions of administrative burdens received online and offline as part of the

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<sup>10</sup> Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers

<sup>11</sup> Mr Hontelez and Mr Murray disagree with this sentence.

<sup>12</sup> Cf. also Annex 9 of COM(2009)16, which contains first proposals by the Commission to extend the list of EU acts to be measured.

process of public consultation. The HLG is prepared to extend its work on existing food safety legislation, taking as a starting point the submissions received online and offline.

Brussels, 4 March 2009

## Annex: Initiatives already started by the Commission

- Fishing Vessels: a fast-track action removing unnecessary hygiene requirements imposed on small fishing vessels was adopted in October 2007<sup>13</sup>.
- Border veterinary inspection posts: as of 1 January 2009, border posts with Switzerland have been withdrawn by the Commission, following alignment of Swiss import conditions to EU standards, substantially reducing the paperwork required in trade with the EU's largest market for food products<sup>14</sup>.
- Food Improvement Agents: The June 2006 Commission package was adopted in co-decision and published in the official journal dated 31 December 2008.<sup>15</sup> The new Regulations introduce harmonised EU legislation on food enzymes for the first time and upgrade current rules for flavourings and additives. The texts aim to clarify and update current legislation in this area and to create a simplified common approval procedure for food additives, flavourings and enzymes, based on scientific opinions from the European Food Safety Authority (EFSA). The extent of the administrative burden reduction is not yet calculated.
- HACCP<sup>16</sup>: the exemption of micro-enterprises from certain HACCP (Hazard Analysis and Critical Control Point) requirements would alleviate the burdens on small bakers, grocery shops, market stalls etc, compared to those imposed on larger stores. This proposal is blocked in the co-decision process in spite of a trilogue compromise, illustrating how difficult it may become to reconcile administrative burden reduction with the preservation of the highest safety standards in the political discussion. The administrative burden reduction is not calculated yet.
- Animal by-products Regulation<sup>17</sup>: the proposal introduces clarifications *inter alia* to health rules for animal by-products and reduces administrative burdens by the recognition of approvals of establishments under other Community legislation and by the exemption of establishments producing products for uses outside the feed chain (example: oleochemical plants). The administrative burden reduction is estimated at about €900 m.<sup>18</sup>

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<sup>13</sup> Regulation 1243/2007 of 24/10/2007.

<sup>14</sup> Commission Decision 2008/807/EC.

<sup>15</sup> 4 Regulations (EC) No 1331 to 1334/2008 of the European Parliament and of the Council of 16 December 2008 concerning respectively 1/ a common authorisation procedure for food additives, food enzymes and food flavourings, 2/ food enzymes 3/ food additives and 4/ flavourings and food ingredients with flavouring properties.

<sup>16</sup> Regulation 852/2004 on Food hygiene.

<sup>17</sup> Proposal COM(2008) 345 final of 10 June 2008 for a regulation of the European Parliament and of the Council laying down health rules as regards animal by-products not intended for human consumption.

<sup>18</sup> Source: impact assessment published on:  
[http://ec.europa.eu/governance/impact/docs/ia\\_2008/sec\\_2008\\_1994\\_en.pdf](http://ec.europa.eu/governance/impact/docs/ia_2008/sec_2008_1994_en.pdf)

- Labelling and marketing of animal feed and pet food<sup>19</sup>: a new Regulation will consolidate and abridge existing legislation, abolish the pre-market authorisation procedure for certain products (bio-proteins) and suppress certain labelling obligations, while maintaining the same high level of protection of animal health, animal welfare and public health. The administrative burden reduction is not yet calculated.
- Raising the age of testing for "at risk" bovines (BSE): following Commission Decision<sup>20</sup>, while maintaining the same level of protection, the number of animals subject to BSE testing will be reduced, leading to substantial savings in testing costs and in the accompanying paperwork. The administrative burden reduction is not yet calculated.
- Review of consumer acquis: A new proposal for a Directive on Consumer Rights<sup>21</sup> aims to ensure a high level of consumer protection and establish the real retail internal market, making it easier and less costly for traders to sell across borders. It merges 4 existing EU consumer directives into one set of rules<sup>22</sup>. It updates and modernises existing consumer rights, bringing them in line with technological change (e-commerce, online auctions) and strengthening provisions in problem areas – for instance door to door selling. The proposal also strives to improve harmonisation (currently Member States may introduce more stringent consumer guarantees on a national basis) and bring about a more consistent regulatory environment. The administrative burden reduction is estimated at €1.4 bn.<sup>23</sup>

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<sup>19</sup> Proposal COM (2008)124 final for a Regulation of the European Parliament and of the Council on the placing on the market and use of feed.

<sup>20</sup> 2008/908/EC: Commission Decision of 28 November 2008 authorising certain Member States to revise their annual BSE monitoring programme (notified under document number C(2008) 7288

<sup>21</sup> Proposal COM(2008)614 final for a Directive of the European Parliament and of the Council on consumer rights.

<sup>22</sup> Sale of consumer goods and guarantees (99/44/EC), Unfair contract terms (93/13/EC), Distance selling (97/7/EC), Doorstep selling (85/577/EC)

<sup>23</sup> Source: Not published annex to impact assessment published on [http://ec.europa.eu/governance/impact/docs/ia\\_2008/sec\\_2008\\_2545\\_en.pdf](http://ec.europa.eu/governance/impact/docs/ia_2008/sec_2008_2545_en.pdf)