



## Toms Confectionary Group

### Working Group Food Law

EU Food Legislation has developed tremendously over the last 10-15 years to respond to growing concerns with food safety as the main goal. There has been little regard to the fact that the food legislation is one of the keys to the competitiveness of the food industry. Substantial effort has been put into improving the food safety. It is now time to focus on the functioning of the internal market and to improve the competitiveness in the food sector. In this context the WG should emphasize that the regulatory framework should support rather than limit the global competitiveness in the food sectors.

We have identified the following issues as problems that need to be addressed in the WG. Some of the issues can be considered as being critical factors that need to be addressed and which stem from the food legislation framework.

#### Challenges

- Support rather than limit the global competitiveness. We should give serious consideration to the possibility to make the regulatory framework more simple and more proportionate. Harmonisation is not fully achieved, as the national derogations and interpretation of the regulatory framework as well as enforcement differs between the member states. The administration, level of implementation and the enforcement should therefore be more harmonised all over EU. When the regulatory framework is implemented and administrated in different ways it courses distortions in the functioning of the internal market. Companies will have to apply not only to the EU regulatory framework but also to the different implementation in the member states. The Commission should focus on ensuring that the implementation and the administration of its regulatory framework is harmonised. Also we should give serious consideration to how the sanctions and enforcement, especially the use of recalls could be harmonised. This could be done by introduction of harmonised guidelines for implementation of the food regulations by the member states and introduction of a principle that recalls should only be used if there is a risk to the food safety. The national control bodies should explain the legislation and focus on compliance assistance rather than sanctions and demands for recalls.
- Alternatives to legislation. We should give serious consideration to alternatives to legislation. Jointly agreed self regulatory commitments should be promoted and recognized as comparable alternative or complementary option to serve policy objections. Jointly agreed self regulatory commitments has the benefit that the administrative burdens will be reduced and such regulatory commitments should be recognised as a way to achieve commitment in the sector.
- Authorisation procedure and the pre-market approvals. The authorisation procedures should be less lengthy in order to secure return in investments and to ensure access to raw materials. We should give serious considerations to introduction of

fast track procedures. EFSA has established a fast track procedure for microorganisms. The Qualified Presumption of Safety (QPS) concerns only microorganisms at the moment but provides a generic assessment system for use within EFSA for other cases of premarket approvals. The QPS procedure could be compared with the American GRAS (Generally Recognized as Safe) system used by FDA. Existing external assessments on the safety or similar evaluation should be taken into account and result in a fast track procedure in EFSA and in the comitology system. When a product has been evaluated by an authority outside the EU (like FDA or JECFA in which EU is represented) simplified procedures should apply. The claims regulation contains another fast track procedure in article 13(5). The comitology procedure is replaced with a hearing procedure, when EFSA has issued a positive evaluation. The replacement of the comitology procedure with a hearing procedure could be extended to other cases of premarket approvals under the condition that EFSA considers the product as being safe and not posing a threat to the food safety.

- Zero tolerance in low level presence of GMOs in commodities and trade. Experience has shown that there is a strong need to change the GMO Regulation, leave the zero tolerance and accept a low level presence of GMOs on commodities and trade. Partly due to the politisation of the issue it takes about 30 months for a GMO application to be approved in the EU system comparable to 15 months for the approval procedure in some third countries like the USA.
- Rapid alerts. There has been a huge increase in the rapid alerts over the last years, which creates distortion on the market. We need responsible rapid alerts and an evaluation of the impact before issuing a rapid alerts. We should consider to perform an evaluation of the use of rapid alerts in the different member states. The Commission shall evaluate if the rapid alerts are justified and should ensure that use of rapid alerts is harmonised in the member states.

## **Recommendations**

- The existing and all new food legislation should be evaluated and where necessary replaced with a legislation that supports the global competitiveness in the food sectors without posing a risk to food safety.
- The administration, level of implementation and the enforcement in reality should harmonised all over EU. The Commission should focus on ensuring that the implementation, the administration and the enforcement of the regulatory framework is harmonised. This could be done by introduction of harmonised guidelines for implementation of the food regulations by the member states and introduction of a principle that recalls should only be used if there is a risk to the food safety. The control bodies should explain the legislation and focus on compliance assistance rather than sanctions and demands for recalls.
- Jointly agreed self regulatory commitments should be promoted and recognized as comparable alternative or complementary option to serve policy objections.
- The Commission should ensure that use of rapid alerts is harmonised in the member states.
- Fast track procedures should be introduced for the premarket approvals.