



## EUROPEAN COMMISSION

Brussels, 14.1.2014  
C(2013) 5 final  
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*Dear President,*

*The Commission would like to thank the Senát for its Opinion on the proposal on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, 327/2013 and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official Controls Regulation); and on the proposal for a Regulation of the European Parliament and of the Council on Animal Health {COM(2013) 260 final}.*

*The Commission welcomes the detailed observations and suggestions made by the Senát and in reply to them would like to provide the following comments:*

*The proposed Regulation on animal health sets out the harmonised principles of animal health law at EU level, while allowing for the laying down of more specific provisions at EU level through delegated and implementing acts. This approach ensures a flexible and proportionate approach taking into account different situations in different Member States. It allows for dealing with an evolving disease situation in the future, and ensures swift action in the case of any new and emerging disease threat.*

*The issues reserved to the delegated and implementing powers are both technical and detailed. In current EU animal health legislation, such technical issues have been addressed in legislation adopted by the Commission on the basis of empowerments granted by the Council and the European Parliament. This has proven to be a successful way of working for decades. Moreover, bearing in mind that the EU has been criticised for its inflexibility with respect to some emerging threats in the past, taking this approach for the list of diseases to which the legislation applies allows much more flexibility and a quicker response to new risks. The Commission would also like to point out that the provisions proposed are fully in line with the Common Understanding on delegated acts between the European Parliament, the Council and the Commission, where Article 17(3) stipulates, inter alia, that 'The delegation of powers (...) may be revoked at any time by the European Parliament and by the Council'.*

*Milan Štěch  
President of the Senát  
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*In developing the derived legislation (delegated and implementing acts), the Commission intends to carry over the parts of existing legislation on animal health that function successfully now. In this process, it intends to consult widely in order to ensure that the rules laid down are as appropriate and as flexible as possible, while still ensuring a robust response to economic, social and environmental risks from animal disease threats. The Commission's intention is to reduce administrative burden as far as possible. The Commission is fully committed to working together with the Member States to establish the most appropriate and proportionate rules in delegated and implementing legislation.*

*The Commission would also like to highlight that the proposal reserves many powers for Member States, ensuring a good deal of flexibility on many issues. For example, the Member States would have flexibility to decide on their own vaccination policies; allow exemptions to the registration of establishments; permit exemptions from the obligation for certain movement documents; and allow certain movements of animals, amongst several other powers reserved to them.*

*The proposed Regulation on official controls lays down a common set of principles and rules on official controls and allows a consistent and integrated approach across the entire agri-food chain. All essential elements the Commission has identified, be they of general application or sector specific, are clearly laid down in the proposed Regulation. Where sector specific needs so require or where technical elements will need to be updated swiftly and regularly, the proposal allows the Commission to adopt delegated acts to lay down rules to supplement or amend specific sectorial non-essential elements in relation to official controls (e.g. mandatory risk based harmonised minimum frequencies of official controls, sector-specific control modalities, mandatory measures to be taken in case of sector-specific non-compliances). In some sectors, these specific needs are already established and Union rules exist (e.g. meat production, animal welfare, organic production).*

*According to Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules<sup>1</sup>, Member States already have the possibility to establish mandatory official control fees at a flat rate for all operators irrespective of whether they are controlled or not during the concerned period of time.*

*The proposed Regulation on official controls improves these provisions by requiring that, where the flat rate option is retained, mechanisms to (consistently) reward compliant businesses are also introduced so that the fees they pay are lower than those charged on other businesses (bonus-malus). The other option Member States of course have is to calculate the fees on the basis of the actual costs of each individual official control and to apply them to the operators subject to this control.*

*The exemption for microenterprises from mandatory official control fees is in line with the overall policy goals of the Commission aimed at economic recovery and ensures that the competitiveness of microenterprises is not adversely affected. The Commission would like to stress that the resulting loss of revenue to the competent authorities which this exemption entails is to be adequately compensated by the Member State (but not by overcharging larger businesses).*

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<sup>1</sup> COM(2013)265 final ; 2013/0140 (COD) of 6 May 2013

*Finally, the Commission is very much aware that financial penalties applicable to intentional violations of agri-food chain rules should be sufficiently dissuasive. While the establishment of specific sanctions for cases of non-compliance is a national competence, the proposed Regulation on official controls introduces the general obligation for the Member States to ensure that financial penalties applicable to intentional violations of agri-food chain rules are such as to offset at least the economic advantage sought through the violation.*

*The Commission hopes that these clarifications address the concerns raised by the Senát and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*