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Consultation Response

Review into the Integrity and Assurance of Food Supply Networks

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Summary

The horsemeat scandal highlighted the complexity of the food supply chain and the weaknesses in current controls. It has raised a number of wider issues that we hope the review can address. These fall into the following four areas:

- **Wider issues of policy and prioritisation** - the need to ensure a strengthened and clearly consumer-focused Food Standards Agency (FSA); to develop a clear consumer-focused food strategy that applies across government; and to recognise the importance of food standards issues, particularly in the current economic climate.
- **Research, surveillance and intelligence gathering** - ensuring that the Government has a much more in-depth understanding of the global food supply chain and its vulnerabilities; the need for more resources to be given to gathering intelligence from the food industry; targeted surveillance; better co-ordination with other countries and better economic analysis to identify potential opportunities for fraud.
- **Strengthened food industry controls** - including improved traceability systems; verification and auditing; more targeted testing along the supply chain; greater transparency of supply chains; and improved consumer information and labelling, including origin labelling.
- **Effective enforcement** - the need to give greater priority to enforcement; to effectively co-ordinate local authority enforcement activity given pressure on resources; a strengthened FSA role in co-ordinating and ensuring delivery; stronger penalties for failure to comply with legislation and a clear message that breaches to food labelling rules are a criminal offence.

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Introduction

Which? welcomes the opportunity to submit evidence to Professor Elliott's Review into the Integrity and Assurance of Food Supply Networks. The wide-scale contamination of meat products with horsemeat highlighted the vulnerability and complexity of many food supply chains. Our research showed that it led to a significant drop in confidence in the food industry as well as in food safety more generally and affected people's eating habits.¹

Consumers have come to expect a wide choice of food products, but many people are increasingly having to make choices based on the price of foods. It is, however, essential that people have confidence that the products that they buy are safe, of the quality that they expect and that they can make genuinely informed food choices. We therefore fully support this review and hope that the outcome will ensure that the current system of regulation and food industry controls is fit for purpose and will be able to deal with the challenges facing the food supply chain in the coming years.

General comments

Our comments on the specific questions that are raised in the Call for Evidence are set out below. There are, however, three broader issues that we think need to be emphasised from the outset.

- **The importance of a strong, independent, consumer-focused regulator.**

Which? campaigned for an independent Food Standards Agency (FSA) to be set up following the Bovine Spongiform Encephalopathy (BSE) crisis and a succession of food scares. It was clear at that point that food issues needed to be handled at arms' length from politics by an agency that had a clear remit to put consumer interests first. While policy is ultimately the responsibility of Ministers, the FSA was set up to take an evidence-based approach, to operate openly and transparently and to be independent. It also initially had responsibility for a range of food issues - food safety, food labelling and standards and nutrition issues. In 2010, the role of the FSA was weakened in England and Wales. In England, Food labelling and standards policy was put back in Defra and nutrition policy moved to the Department of Health with some aspects later moving to Public Health England. In Wales, the FSA retains responsibility for labelling and standards, but nutrition issues are now dealt with by the Welsh Government.

We are concerned that these changes have reduced the consumer focus in food policy and have meant that the FSA's role is a lot less clear. The Environment Food and Rural Affairs (EFRA) Committee concluded, following its inquiry into food contamination², that the split between Defra and the FSA caused confusion. We are also concerned that there is a lack of clarity of roles and, in any case, food labelling and standards policy, as well as nutrition policy, should be the responsibility of the Agency that has a clear remit to protect consumer interests, not balanced against industry promotion. We think it is essential that the FSA's role is boosted once again, that the machinery of government changes made in 2010 are reversed and that the FSA becomes a stronger, more pro-active regulator.

¹ An online survey of 2064 UK adults between 22-24 February 2013. Data were weighted to be representative of the general population.

² Food Contamination, House of Commons Environment, Food and Rural Affairs Committee, Fifth Report of Session 2013-14.



- **The need for an over-arching government strategy and effective co-ordination across government departments.**

Over the last few years, responsibility for food issues has become increasingly fragmented. Different government departments deal with different aspects of food policy and have different agendas. Many challenges are facing the food supply chain including economic pressures, volatile food prices, food shortages, the impact of climate change and obesity and diet-related disease. It is essential that there is an over-arching government strategy and better mechanisms in place for co-ordination between government departments and agencies.

- **The importance of strong messages around food standards and the importance of compliance and enforcement of legislation.**

We are concerned that food standards have not been given enough priority and the split between Defra and the FSA, together with the different approaches around the UK, means that there has been no clear strategy for dealing with issues around food standards and authenticity. We are also concerned that too much focus on deregulation, reducing burdens on business and light touch regulation, including recent proposals that breaches to food labelling law should no longer be a criminal offence, have sent the wrong signals.

Specific comments

1. What measures need to be taken by the UK food industry and government to increase consumers trust in the integrity of the food supply systems?

The horsemeat scandal has shaken consumer confidence in the food industry. While not a food safety issue, it has also raised wider concerns for consumers about the adequacy of controls over a complex supply chain. A Which? UK-wide survey conducted in February 2013, shortly after the scale of the contamination was realised, found that 44 per cent of people said that they trusted the food/ grocery sector to act in their best interest, compared with 58 per cent in January³. Consumer confidence in food safety also took a hit, dropping from 9 in 10 feeling confident when buying food in the supermarket in October 2012 to 7 in 10 in February 2013. More than half of consumers had changed their shopping habits with 30 per cent of consumers buying less processed meat and a quarter (24 per cent) buying fewer ready meals with meat in or choosing vegetarian options.

The actions that are needed to increase consumer trust in the integrity of food supply chains fall into the following areas:

- **Demonstrating that consumer interests are the Government's priority** - including strengthening the FSA and giving it wider responsibilities across the whole of the UK, including food labelling, standards and nutrition as well as safety, and improved consumer engagement in policy making.

³ 2060 UK adults were interviewed online between 4th and 7th January 2013.



- **Improved transparency, traceability and verification systems across supply chains** - the current requirements, based on one up one down do not go far enough and need to be enhanced so that retailers and manufacturers have a fuller understanding of the source of ingredients across the whole chain.
- **Better hazard analysis by Government** - the Government (ie. FSA), as well as the food industry, needs to conduct more research so that it is on top of the nature of food supply chains and can make a fuller analysis of the potential hazards.
- **Improved and co-ordinated intelligence gathering and surveillance** - this includes more pro-active analysis and co-operation to identify where there are opportunities for fraud, a clear strategy for testing and investment in analytical methods and robust systems for co-ordinating local authority activities.
- **Tougher enforcement and sanctions** - there must be a clear message that crime (or sloppiness) does not pay through strong enforcement, effective penalties and prosecutions when necessary.
- **Improved labelling and information** - improving origin labelling for meat products and a re-thinking Government proposals to decriminalise food labelling breaches and relax rules around food information on meat products sold loose.
- **Consumer-focused regulation** - ensuring that consumer interests are clearly taken into account as part of forthcoming reviews of legislation on issues such as meat controls and animal cloning.

2. The Terms of Reference for the Review require an approach that is proportionate to the risks involved to the consumer. What does this mean in practice?

It is important that the risk of consumers being misled, as well as health risks, are taken into account when determining what is proportionate. Financial loss to consumers and the upset caused by eating something objectionable, or just not what people think they are paying for, also needs to be taken into account. There will be a particular issue where there are religious or ethical preferences at stake. But our research shows that people in general are very concerned about food prices and many people have less money to spend on food. It is therefore important that they can have confidence that the food they buy is of the quality they expect.

When determining what is proportionate, the long-term, as well as short term, costs to consumers as well as to the food industry through a breakdown in consumer confidence also need to be reflected.

3. How can government, food businesses and regulators better identify new and emerging forms of food fraud?

We are concerned that the systems in place to identify potential risks, both in terms of food safety risks and fraud, are currently inadequate. The food supply chain is very complex and so it will not be possible to anticipate all forms of fraud, but there are several areas where we think improvement is needed:

- Greater investment by government to improve economic analysis of the supply chain to identify areas for potential substitution.
- Improved links, both formally and informally, with the European Commission, European Food Safety Authority, other EU member states, third countries and inter-governmental agencies, such as the World Health Organisation.
- Better systems for sharing of information by food companies, including exploring how the food industry can be required to provide more of its data and give an 'early warning' when problems are identified - particularly where key ingredients that are widely used across the industry are affected.
- More comprehensive and better co-ordinated surveillance activities by local authorities and an effective national system to share the results of testing so that trends can quickly be identified and gaps addressed.

4. Food supply chains have variable economic factors impacting on price at every stage. Which factors in relation to risks of potential fraud are most influential and are there trends developing?

Horsemeat was a case of quite basic substitution of a similar ingredient that was available much cheaper. Food prices will continue to be volatile, incentivising fraud. It is important that Government enhances its horizon scanning capability and conducts more targeted surveillance to identify potential problem areas, working with local authorities and with the food industry when appropriate.

It is also important to think beyond the UK. Supply chains are very complex so it is important to look at ingredients that may be used in other countries, even if they are not regularly consumed in the UK, as was the case with horsemeat.

5. Do consumers fully understand the way industry describes the composition and quality of the products on sale?

Food production has become very complex. It can be difficult for consumers to easily assess the ingredients that have gone into a product and how it was made. A wide range of ingredients will have been used and these may not always fit with people's expectations of what should be in a particular product. This includes the addition of water and various bulking agents to food, for example. People are therefore very reliant on food labels and should be able to expect that the information provided is accurate.

Which? conducted a national food debate at the end of 2012⁴, including four in-depth citizens' juries held around the UK and a quantitative survey. We found that many people were far removed from food production methods and had limited understanding of the complexity of supply chains. People looked to the food industry and government to ensure that there are effective controls in place and that they can trust what they buy is what it says on the label. Horsemeat has clearly shaken confidence in their ability to do this.

⁴ The Future of Food - Giving Consumer a Say, Which? Policy Report, April 2013.



The EU Food Information Regulations⁵ have improved labelling for consumers in several respects, as long as they are effectively enforced and implemented. This includes improvements to legibility, ingredient labelling, origin labelling and nutrition labelling. We are, however, concerned that some gaps in consumer information still remain. Our research shows that people are very interested in origin labelling. Eighty two per cent of people would like origin labelling extended to meat products, for example⁶. The new Regulation will only extend it to all types of meat, although a European Commission impact assessment on the feasibility of labelling meat products with the country of origin is due this Autumn.

We also consider that there is further scope to improve the way that the name of the food is displayed on some products so that it is clear where the 'real' name of the food is different from the more prominent marketing name for the products. The name of the food can often be in smaller writing and not in the main field of vision.

In this respect, we are concerned about Defra proposals to remove certain national rules as part of the implementation of the Food Information Regulations including plans to remove requirements to provide a full name of the food and quantitative ingredient declaration (QUID) for meat products sold loose. We are also concerned about proposals to decriminalise labelling laws, which in our view will send the wrong signal to potential criminals. We are also concerned that proposals to remove compositional standards for some products, such as certain cheeses and ice cream, which are covered by national measures, will offer no consumer benefits and may lead to a decline in quality with no cost saving for consumers.

We are pleased with recent developments in relation to the nutritional quality of products. The roll out of a national traffic light labelling scheme across all own brand products and products produced by several of the leading manufacturers will make the fat, saturated fat, sugar and salt levels clear for consumers. It is now important that the remaining food manufacturers adopt the scheme. The implementation of the EU's health and nutrition claims regulation⁷, including the adoption of an EU register of accepted and rejected claims means that consumers will have much greater confidence that they can rely on these claims. There are two outstanding issues: claims on botanical products and the establishment of nutrient profiles to ensure that 'health' claims are not made on products that are high in fat, sugar or salt and therefore unhealthy.

An additional area where greater clarity is still needed in relation to various ethical, environmental and quality labelling schemes that are on the market. Our research has found that there is limited consumer awareness of some of these schemes and what they mean, including how they are verified⁸. There is therefore scope for rationalisation and simplification.

⁵ EU Regulation 1169/2011 on the provision of food information to consumers.

⁶ 2060 UK adults were interviewed online between 4th and 7th January 2013.

⁷ EU Regulation 1924/2006 on nutrition and health claims made on foods.

⁸ Making Sustainable Food Choices Easier, Which?, September 2010; The Future of Food - Giving Consumers a Say, Which?, April 2013.



6. Has the consumer developed unrealistic expectations of the food industry and if so, what role is there for the food industry and government in doing something about it?

We do not consider this to be the case. Consumers expect the food industry to deliver on what it claims and to be able to rely on the information that is provided on food labels. There have been suggestions following the horsemeat incident that consumers should have questioned how some products could be sold so cheaply. But consumers should be able to assume that if something is on the market, it complies with legal requirements and is what it says it is.

On the one hand, food retailers in the UK are seen to carry enormous influence over suppliers, yet the horse meat affair prompted consumers to question how much control they exercise over their supply chains in practice.

7. Do government decisions about regulation and inspection get the balance right between producer, processor, retailer and consumer when it comes to food? Do further measures need to be taken by the EU or by the UK government to increase consumer trust?

- **Decisions about regulation**

There has been a large body of legislation developed at EU level over the last few years which fall under the over-arching General Food Law Regulation⁹. Generally the right balance has been struck. We are, however, concerned that consumer interests are not being given sufficient prominence in decisions about current regulatory initiatives and that insufficient attention has been given to ensuring that once adopted, regulations are effectively implemented and enforced.

We are, for example, concerned that there is an increasing focus on deregulation that is failing to give sufficient attention to consumer protection. The ‘one in, two out’ approach to regulation, assumes that regulation is unnecessary, rather than considering it as one option as part of a spectrum of policy tools. Better regulation should mean better regulation for consumers as well as for businesses.

There are also an increasing number of examples of where a refusal to regulate in England is putting consumers at a disadvantage compared to other parts of the UK because this anti-regulation approach is particularly strong in England. In the rest of the UK, for example, remedial action notices (RAN) have been introduced as a quick and effective tool to enable enforcement officers to require food safety improvements. These have not been introduced in England. The rest of the UK is also set to require the mandatory display of hygiene ratings by food businesses in order to raise standards. In England, this will remain voluntary.

This deregulatory focus, along with a light touch approach to enforcement, sends the wrong signals. Further measures are needed to ensure that there are effective sanctions in place. It is also important that the Government takes a consumer focused approach to key forthcoming EU legislation, including:

- The review of hygiene legislation, including meat controls in slaughterhouses. These must be targeted and risk-based with sufficient independent oversight.
- Proposals for approval and labelling of novel foods, including products of cloned animals and their offspring. Cloning raises concerns for many consumers

⁹ EC Regulation 178/2002 laying down the general principles and requirements of food law.



and so they need to be assured that there is an effective assessment and approval process and clear labelling that they can make informed choices.

The issue of genetically modified (GM) foods is also rising up the agenda. Despite some consumer concerns about the technology, the Government has made it clear that it thinks GM is the way forward. It is important that there is a more open debate about the potential role of new technologies and that the Government listens to and responds to consumer concerns.

- **Decisions about inspection**

We also consider that the approach set out in the Food Law Code of Practice¹⁰ generally gets the balance right and requires a risk-based approach. However, analysis of the data that the FSA collects on local authority delivery¹¹ shows that there are huge differences across local authorities in terms of actual delivery. Some are failing to rate the risk of a large proportion of their food businesses. There are also problems with some local authorities unable to ensure that a reasonable proportion the highest risk (A and B) premises in their area are broadly compliant with food hygiene requirements. The extent to which enforcement tools are used varies enormously, as does level of sampling, with some local authorities taking no samples.

The adoption of a nationwide food hygiene ratings scheme has been a huge step forward and will help to raise standards as well as give consumers information to make informed choices. It is important that this is displayed by all food businesses and, as highlighted above, we think that display of this scheme should be mandatory.

A greater focus needs to be given to ensuring local authorities are able to keep on top of their food hygiene and food standards responsibilities at a time of cuts in finances. This includes looking at better co-ordinating mechanisms and ensuring that the FSA identifies, supports, but ultimately ensures that failing local authorities raise their game.

There are two important pieces of EU legislation under review in relation to inspection this year, which we see as opportunities to enhance consumer protection: the EU official Controls Regulation and the review of the EU hygiene package of legislation, including meat controls:

- Official controls¹²: This legislation should help improve co-ordination between member states on standards issues. It emphasises the need for a risk-based approach to inspection and will expand on provisions to allow the charging of fees to a wider range of businesses. It will also stress that sanctions should be commensurate with the financial gain from non-compliance with legislation. These all seem positive improvements, provided that the system for charging of fees is carried out fairly and does not compromise the independence of food inspectors.
- Hygiene package¹³: A crucial issue for consumers in this package of legislation is changes to responsibilities for meat controls. We support moves to an approach focused on today's risks and pathogens, but think it is important that

¹⁰ Food Law Code of Practice, April 2012: <http://www.food.gov.uk/multimedia/pdfs/codeofpracticeeng.pdf>

¹¹ http://www.food.gov.uk/enforcement/monitoring/laems/#.Ue-U_Y1JOBI

¹² EC Regulation 882/2004 on official controls performed to ensure verification of compliance with feed and food law, animal health and welfare rules.

¹³ Regulation 852/2004 on the hygiene of foodstuffs; Regulation 853/2004 laying down specific hygiene rules for food of animal origin; Regulation 854/2004 on official controls on products of animal origin.



the changes to the legislation do not undermine the independence of meat inspection.

8. What impact could fraud have on the safety of food consumed in the UK?

The horsemeat incident highlighted how attempts to cut corners or substitute ingredients can easily have safety consequences. In this case, the risk of phenylbutazone used in horsemeat was considered very low. Previous food safety scares have however resulted from fraudulent practices which disregarded any impact on public health. Examples include the Irish and Belgian dioxin scares, where industrial oil ended up in animal feed, the contamination of food with illegal and potentially carcinogenic dyes which were substituted for chilli powder and the contamination of food with melamine.

9. What implications do the recent changes to the public health responsibilities of English local authorities have for food inspection and enforcement regimes?

We are not in a position to respond to this as it is not yet clear to us how these changes have impacted. Local authorities are better placed to respond. It is important that there is effective co-ordination across all agencies.

10. What control systems do food businesses have in place for assuring themselves that the food they supply is of the nature and quality they expect? How have these systems been tightened since the horsemeat fraud was identified?

This question is more for the food industry to answer.

11. How can large corporations relying on complex supply chains improve both information and evidence as to the traceability of food?

Opportunities for greater industry collaboration and openness need to be explored, particularly in relation to key ingredients that could be used in a wide range of food products. Companies should also look at how they can be more open about their supply chains with consumers, for example by providing information on their web-sites.

It is also important that consumers can see clear evidence of how they are verifying that they have sufficient controls in place, including ensuring adequate testing and sharing their results.

12. Should there be legislative requirements for tamper proof labelling, and/or to advise competent authorities of mislabelling if it is discovered in the supply chain?

We agree that there should be a requirement on food companies to inform the competent authorities where there is a breakdown in standards/ food fraud. We are unsure of the practicality of tamper proof packaging. It is worth exploring how it could be used and for which products, but cost implications for consumers as well as the usability of the product also need to be taken into account.



13. What additional information does the public need to be offered about food content and processing techniques? How can this information be conveyed in an easy to understand manner ?

There is a requirement for full ingredients listing and the new EU Food Information Regulations will clarify requirements around the name of the food. However, there is still a need for greater clarity, including around how this should be interpreted by enforcement officers and by the Courts. It is important that consumers do not gain a misleading impression of the quality of a product from how it is described.

Processing and production methods also remain an issue. It is important that consumers are not misled into thinking that a product is produced in a particular way, for example, through higher animal welfare standards than is the case. Production methods of concern must also be labelled.

A choice over GM foods, for example, is important for many consumers. The EU will debate rules over the products of cloning and their offspring later this year and it is important that these require labelling of products of clones and their offspring, given the ethical issues associated with cloning.

Some consumers may want more detailed information about issues such as animal feed, pesticides and specific methods of production. We think a balance needs to be struck in terms of providing information that is easy to understand and meeting consumer needs. Where an issue is very 'niche', other forms of communication, such as use of web-sites, could be used.

14. Whose responsibility is it to give the public assurances about the safety and quality of food?

Although it is ultimately the responsibility of food companies to comply with the law and ensure the safety and quality of the food that they produce and sell, the public will inevitably look to Government to ensure that this is the case. This was seen with horsemeat where the authorities and ultimately Ministers were seen to be responsible for failing to pick up the problem and were then expected to deal with it as swiftly as possible.

The FSA was set up post BSE to be an independent agency that puts consumers first. It should be responsible for assuring the public that there are sufficient controls in place and that the food industry is effectively policed.

15. How should information about traceability be presented to the public? What level of public understanding is there about traceability and food adulteration?

Consumers need to have reassurances that there is sufficient traceability in place that they can rely on the information that is provided, without necessarily knowing the details of how that traceability is ensured. One area where greater information about traceability would be useful, as we have suggested above, is in relation to the origin of ingredients.

More generally, there needs to be a wider debate about the nature of supply chains and how costs are distributed so that consumers have a better understanding of what they are paying for and the trade-offs that are often made. Our food debate research, which included four in-depth citizens' juries carried out around the UK, found that price was a priority for most people, but when issues such as health and sustainability were explained in more depth,



many people said that they would try and make choosing products on that basis a greater priority. They wanted clearer information to help them differentiate products on this basis.

16. Where multiple ingredients are used in food processing to create a dish, should country of origin information be made available for them all? What do the public care most about?

Which? research shows that many people value information about country of origin. A survey conducted in June 2011¹⁴ asked people how important it was that origin information was provided for different foods. The percentages who thought the information was important were as follows:

- Dairy - 73%
- Meat - 72%
- Milk used in dairy products - 68%
- Vegetables - 66%
- Fruit - 66%
- Meat used in processed foods - 65%
- Tea/ coffee - 50%
- Sugar - 44%.

In our October 2012 survey we asked people where they thought more information was needed on food packaging. The results were as follows:

- The quality of ingredients used - 61%
- Food safety standards - 58%
- Where the food is produced - 53%
- Nutritional content - 51%
- The method used to produce the food - 50%
- Animal welfare standards - 50%.

In February 2013, shortly after the horsemeat incident, 82 per cent of people told us in a survey that they thought that the country of origin should be provided for meat products. This is, therefore, an important issue for consumers. The EU Food Information Regulations will extend origin labelling to all types of meat and clarifies how the origin of foods is to be provided to prevent consumers from being misled where the origin of the main ingredients differs from the stated origin of the product. It also requires the European Commission to conduct impact assessments into origin labelling for a wider range of foods, including meat products and single ingredient foods.

We support the extension of origin labelling to meat products and dairy products. Defra guidance already encourages this on a voluntary basis and many retailers provide information, although fewer manufacturers have responded.

We would also support wider provision of origin information, but recognise that this may have price implications. We therefore support the provision on all of the main ingredients in a product on a voluntary basis. The Co-operative for example has had a policy to do this for several years. We also think that it is essential that the origin of the main ingredients should be provided where they differ from the place of production of the product and failure to

¹⁴ An on-line survey of 1009 members of the GB public, weighted to be representative of the GB population, was conducted in mid June 2011.



provide the information would be misleading - which will be a legal requirement once the Food Information Regulations come into effect.

17. Should caterers/restaurants and those providing food ready to eat direct to the consumer be required to provide more information? For example, should an item such as 'Fish and Chips' on a menu always state which fish has been used?

A large number of meals are eaten outside the home. Provision of information in this setting is more complex but we consider that there is scope for improvement. The EU food information regulations will make provision of allergen information mandatory. It is also a requirement to provide information on the use of GM ingredients.

We have supported initiatives to provide calorie information in chain restaurants and would like this to become mandatory as although some companies have responded positively on a voluntary basis, many have not.

We also consider there is scope for improvements to be made around provision of information about the quality of food that is provided. In the fish example, it is important that consumers know which type of fish they are buying - from a quality and a sustainability perspective. Meat products are another example. Although there is a requirement that meat products be correctly labelled by suppliers for caterers, information does not necessarily have to be passed on to the consumer. This can result in a situation where 'chicken' offered on a menu, for example, may actually be a 'chicken product' containing added water and other bulking ingredients. We therefore consider that this is an area that needs to be looked into in more depth to ensure that the information provided is in line with consumer expectations, allows people to assess the value for money they are getting and does not mislead them.

18. Are there shortcomings in the inspection and enforcement tools available to the FSA and local authorities?

We do not think that enough priority has been given to food standards work. With limited resources, it is right that local authorities take a risk-based approach, but this must also consider the risk of financial harm to consumers or the harm from eating something that they object to.

We think that there is currently too much focus on reducing the burden on businesses which may lead to local authorities taking too relaxed an approach to enforcement. It is also important that there are tough penalties in place that fit the crime and act as a disincentive. As set out above, we think that there are some tools that can be used across the UK to improve enforcement, allowing local authorities more options, in addition to criminal prosecutions. It should be mandatory for food businesses to display hygiene scores in all parts of the UK. Remedial Action Notices (RANs) should also be an option UK-wide. The use of improvement notices should also be an option for enforcing food standards legislation as they are for food hygiene breaches. We do not, however, agree with Defra's rationale that food labelling law needs to be decriminalised in order to allow for use of notices. Both options should be available.

More generally, it needs to be ensured that the Courts take food law breaches seriously so that if a local authority does take a prosecution, there is the possibility that it will be

successful. The Scudamore review¹⁵ into the implications of horsemeat for the Scottish Government and new Scottish food agency, for example, highlighted the importance of the Procurator Fiscal in Scotland having specialist expertise in this area.

19. Can substitution or adulteration ever be considered ‘harmless’?

Harm must be seen in terms of financial loss to consumers, as well as the harm caused by consuming something they do not wish to eat. This is enhanced where people have to avoid a particular ingredient for ethical or religious reasons or it does not fit with cultural norms.

20. Is it appropriate to base inspection and enforcement action on perceptions of risk, or should a zero tolerance approach be taken to all food fraud?

The aim should be to prevent food fraud. We appreciate that it is never going to be possible to give complete reassurances. Prioritisation will therefore be needed and should take into account a range of factors, including the likelihood of fraud in a particular area, the potential financial loss for consumers and food businesses, risk to health, but also perceived risk. This includes whether a type of fraud would also raise ethical, religious or cultural issues and the likely “yuck” factor. The types and numbers of consumers affected should also be taken into account, including where particularly vulnerable consumers may be affected.

21. Does current intelligence make best use of the evidence available, and take adequate account of risk factors such as commercial reputation and public confidence?

We do not think that the current approach to intelligence gathering is sophisticated enough. There needs to be more effective co-ordination across agencies within the UK, but also across the UK and globally. More formal mechanisms for information sharing need to be put in place as there is currently too much reliance on informal exchanges. While these will always be important, there needs to be a clear understanding of what should be reported and in what way. Requirements for industry declarations of fraud incidents and breakdown in controls need to be strengthened as well as regular meetings with the FSA to share potential problems before they become a reality.

More formal arrangements for sharing of information between local authorities, public analysts, Defra and the FSA also need to be put in place. The removal of organisations that used to fulfil this role, such as the Local Authorities Co-ordinators of Regulatory Services and then Local Government Regulation have meant that this information is largely shared in an informal basis by motivated individuals. We do not think that this is sustainable. It also needs to be ensured that all local authorities are part of the FSA’s Food Surveillance System (UKFSS) and report the results of their sampling and analysis, enabling common trends to be easily identified.

22. Does the Five Point Plan proposed by Commissioner Borg contain the necessary levers to achieve effective change? What further actions might be needed?

Much of this depends on how the five point plan is followed through, but we consider that the emphasis is right. In particular we support the actions to improve co-ordination and ‘early warning’ across the EU on food fraud; to increase testing; to improve the horse passport

¹⁵ <http://www.scotland.gov.uk/Topics/Health/Healthy-Living/Food-Health/NewFoodBody/AdvisoryGroupReport>



system; to make financial penalties commensurate with financial gain from fraud and food law violations and to look at improving origin labelling.

23. Is there evidence that the machinery of Government changes in 2010 for England (which led to Defra taking over responsibility for authenticity and compositional policy) have made food supply networks more vulnerable to fraud?

We do not think that the machinery of government changes were thought through properly. They have created a complicated situation around the UK with fragmentation of responsibilities. The EFRA committee inquiry into the contamination of meat products concluded that this led to unnecessary delays in the investigation of horsemeat contamination.

While it is difficult to provide conclusive evidence of the impact of these changes, we consider that they weakened the FSA and meant that there was confusion over the distinction between the FSA's enforcement and incident handling role and Defra's responsibility for food labelling and standards policy.

We think it is important that there is a joined up approach to food issues. Which? campaigned for the FSA in the aftermath of BSE and consider that it is still important that food issues - including nutrition, food labelling and standards as well as safety - are dealt with at arms' length from politics by an independent agency that is required to operate openly and transparently and put the consumer interest first.

24. Are there gaps in analytical approaches to support food testing, to verify authenticity and to enforce food law? Which areas in food authenticity should be prioritised for method development and validation to support testing?

This is a question that is best addressed by public analysts and local authorities. We are, however, concerned at the decline in sampling carried out by local authorities as a result of financial pressures. It is particularly worrying that some local authorities have not carried out any sampling in the past year. It is important that there is a more strategic approach to identifying analytical needs across the country so that there is the capacity to keep one step ahead of potential fraudsters.

The split of responsibilities between Defra and the FSA creates confusion in this area, although the FSA works with Defra and feeds into its food authenticity survey work programme. There is also a potential problem in that public analysts are declining and people are no longer going into the profession which must be addressed. Some local authorities are also using private laboratories as the official public analyst and so it needs to be ensured that this does not undermine research that needs to be carried out in the public interest or create any conflicts of interest or delays where the same company is also conducting testing for food companies.

25. What are the cost burdens and financial benefits to food businesses of current approaches to assurance, information and regulation? What have been the financial and other impacts of recent food frauds?

This is best answered by the food industry. Our research, set out above, shows that the horsemeat incident did impact on consumer confidence and led to people changing their eating habits.

26. What impact does increased sourcing of locally produced foods have on food authenticity and food prices? Is a shortening of supply chains likely to improve traceability?

Our research shows that many consumers want to buy British products and so welcome local supply chains. But people also expect a wide choice of foods, all year round, and so this may not always be feasible or sustainable. Shorter supply chains should make traceability easier, but does not remove the potential for fraud, so industry checks and verification systems will still be important. In line with the point that we made in our opening remarks about the need for a joined up food strategy, it is important that the strengths and weaknesses of UK agriculture and food production are looked at in a wider sense. Defra's Green Food Project and the Government's Agriculture Technology Strategy for example are also looking at opportunities for boosting UK production. It needs to be ensured that this is in line with consumers' expectations.

27. If additional testing of food products for authenticity is required across a wide range of commodities, can this be kept proportionate, relevant and timely?

This should still be based on intelligence, but also needs to reflect those products where there is the most opportunity for fraud and most financial gain from it. Lessons should be learned from the Food Safety Authority of Ireland and its targeted surveillance programme.

28. Additional testing for food authenticity across a wide range of commodities will have a significant cost. Who should be responsible for absorbing these costs?

There have been suggestions made that some form of levy could be applied to the food industry. This could be a way of supplementing central and local government resources and would reflect that the integrity of food supply chains is ultimately the responsibility of food companies. If such an approach was adopted, it would need to be ensured that it was fair, transparent and did not result in costs being passed through to consumers in the form of higher food prices.

29. Other than for allergens, how significant are the issues raised by trace contamination from carry-over from equipment previously used for other food types? What can be done to reduce the level of carry-over while ensuring that the response is proportionate? At what level of trace contamination is there a need to require separate production lines for different products?

The level of contamination that is acceptable will depend on the nature of the carry over and how acceptable or not the food 'contaminant' is to consumers. In some cases, particularly where there is a religious or ethical dimension, any contamination is likely to be unacceptable to consumers. Clearer guidance for what is acceptable and legally enforceable needs to be developed based on what is practically feasible in terms of industry practice and analytical sensitivity as well as consumer research to better understand what is acceptable to consumers. We have welcomed FSA funded research from both of these angles to help establish a threshold for different types of meat.