

Consultation response

Food Standards Agency

Implementation of the Official Controls Regulation in England

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Which? welcomes this opportunity to comment on how the Official Controls Regulation (EU 2017/625) will apply in England when it becomes applicable on 14th December 2019 if the UK remains in the EU or has agreed to an implementation/ transition period with the EU.

We would like to raise the following issues that we hope the Food Standards Agency (FSA) can take into account in drafting any Statutory Instruments (Sis) that are needed:

Importance of implementation: Which? supports the implementation of the Official Controls Regulation as this legislation was adopted in order to help ensure a more coherent regulatory approach and better targeting of risks. It will therefore provide enhanced consumer protection, helping to reduce foodborne illness and give a stronger focus to reducing food fraud, as foreseen during the updating of the Regulation.

Consumers are a directly affected group: Consumers therefore need to be included within the cost/benefit sections as one of the main affected groups. Failure to implement these measures would directly affect consumers as it will determine the level of protection they can expect and associated likelihood of exposure to food safety risks or deceptive practices, as is set out in the rationale for intervention section of the impact assessment. Implementation of the Regulation should result in improved consumer confidence which will have wider benefits for the food industry and wider economy, as well as reduced health costs.

Enforcement and sanctions: Which? is very concerned by the stated FSA commitment to reduce reliance on criminal offences and sanctions for feed and food law in England through greater use of civil powers and sanctions. This would remove an important deterrent and fail to reflect the severity of the consequences of food and feed law breaches for consumers. It is important that enforcement officers have an appropriate toolbox in order to ensure effective enforcement and compliance. This needs to include both civil and criminal penalties



depending on the nature and severity of the breach and the type of consumer harm that can result. In some cases, swift and flexible action will be needed so greater use of fixed penalty notices, for example, would be beneficial. However, it is essential that there remain strong criminal sanctions to deter non-compliance both for safety breaches and for food fraud or other crimes that can lead to consumer detriment, including financial and emotional detriment. Any move away from criminal sanctions would send the wrong message about how seriously breaches to food and feed law are taken.

Mandatory Food Hygiene Rating Scheme (FHRS) display: Transparency requirements are strengthened in the Regulation. In implementing these requirements, the FSA should also introduce a requirement on businesses and online food delivery platforms to display their Food Hygiene Rating Scheme (FHRS) scores. This would bring legislation and associated consumer protection in England in line with Wales and Northern Ireland, consistent with the evidence that mandatory display leads to improved hygiene standards and reduced foodborne illness.

**Which?
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Sue Davies, Head of Consumer Protection and Food Policy, Which?, 2 Marylebone Road, London, NW1 4DF, sue.davies@which.co.uk.