



28th May 2013

Karen McCallum-Smith
Directorate for Chief Medical Officer & Public Health
Room 3.EN
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Dear Karen,

A HEALTHIER SCOTLAND: CONSULTATION ON CREATING A NEW FOOD BODY

Thank-you for the opportunity to participate in the above consultation.

The Scotch Whisky Association (SWA) represents 90% of the Scotch Whisky industry. Scotch Whisky is Scotland's leading single product export. Annual shipments in excess of £4.3bn in Customs value represent over 80% of Scotland's and 25% of the UK's food and drink exports.

GENERAL COMMENTS

We believe an assessment of the potential downsides to consumers and additional management resources, administrative burdens and new working arrangements for businesses should be considered alongside the drafting of the primary legislation for the new Food Body for Scotland.

The activity of the any national food body plays a part in creating the right operating environment for the food and drink sector - and companies within it - to flourish. Any future independent body - in addition to protecting public health, will have a central role to play in maintaining and building on Scotland's food and drink reputation. We hope the new body will enable the food industry to thrive and will become a one stop shop for all food related legislation and policy.

We believe it is also critical for Ministers to ensure that the cost-burden on food businesses is proportionate for the regulatory functions carried out by the new independent body.

As highlighted in our submission to the previous consultation, we continue to have concerns how an independent food body will work alongside UK, EU and international decision making bodies. Reassurances and clarity on how an independent body for Scotland will negotiate with Europe and how Scotland's perspective will be fed into the development of food legislation is required.

A major drawback we see is that new food body may make recommendations to introduce laws that are not reflected in the remainder of the UK. We believe this would be a disincentive for UK companies wanting to invest in new and existing Scottish facilities or place contracts with Scottish food producers, particularly if they have to supply certificates confirming they are in compliance with Scottish law whilst being processed under possible differing UK law.

Currently, the FSAS works closely with FSA with respect to handling food incidents and we urge Ministers to ensure this efficient and effective process is continued under an independent body.

Not all the specific questions are relevant to our sector and we have therefore limited our response to a focused number of questions.

SPECIFIC QUESTIONS

- 1. Should the scope of the new food body extend beyond the current scope of the FSA in Scotland? If yes, what specific extensions of scope would you suggest, and why?*

On the whole, we believe the new food body for Scotland should mirror its current role and responsibilities. Furthermore, any proposed widening of the scope of the FSA in Scotland should be supported by a feasibility study to assess the benefits and cost implications regarding any increased responsibilities. Any additional responsibilities must be appropriately resourced to ensure the existing functions are not unduly impacted.

One area where the new food body could provide distillers with additional support is coordinating the development of a central hub to report findings of fake or unsafe spirits so that Local Authority bodies across Scotland and elsewhere could be informed of them.

Presently the existing FSA takes responsibility for products deemed to be unsafe to humans. HMRC takes on responsibility where suspicious products pose a risk to tax revenues and Trading Standards step in for cases of inappropriate labelling within their own areas. There remains a regulatory gap however for food fraud where goods are labelled to look like something that they are not (for example a spirit that says it is 'Scotch Whisky' on the label but is in fact a mixture of whiskies from other countries). Such goods may carry a genuine duty stamp and may pose no risk to health and may be labelled appropriately but they may be misleading consumers and undermining the reputation of Scotch and indeed individual brands of spirit. The Association and our Member companies continue to face difficulties in obtaining information from the relevant authorities with regards to findings of suspicious goods as there is presently no requirement for the regulators to share information with the licensed trade. We would wish to see the new food body have a responsibility to work actively with the licensed trade to share information and intelligence.

In Europe, we have an on-going issue of concern with the importation of bulk spirits labelled as "whisky". Although the goods may comply with the laws of their home countries, they do not meet the EU whisky definition. We would like to see the Scottish FSA to have robust systems in place to prevent such products circulating in Scotland.

- 4. What steps do you think could be taken to ensure the new food body is able to access the best available independent expert advice it needs to underpin its work on food safety and public health nutrition in Scotland? Please give reasons.*

The FSAS currently receives a significant amount of its expert advice from FSA London. We would wish the new body to agree a Memorandum of Understanding with the FSA to ensure this free flow of information and advice continues.

5. *Do you consider that the new food body should focus its research and surveillance activities on issues that are particularly pertinent to Scottish citizens or should it also contribute to science and evidence programmes on wider issues which have relevance to the UK as a whole? Please give reasons.*

SWA believes it is important for the new food body for Scotland to contribute to science and evidence programmes on wider issues which have relevance to the UK and internationally. Our products are exported to over 200 markets globally and Scotland must participate in the science supporting global food standards. On the whole, our raw materials are where possible, are sourced locally, but we must ensure our national regulator is active in food safety horizon scanning, research and science across the globe.

7. *Do you have any further suggestions for how the new food body could establish a strong independent evidence base for food safety, food standards and nutrition policy? Please give reasons.*

SWA believes it is important that the new food body has the ability to source and analyse data from external sources, and therefore utilise the expertise within the food industry. In particular, this is important for food stuff which has particular problems in analysis or interpretation of analysis (such as distilled drinks). Furthermore we believe the new food body should also be able to use data from brand owners who will have unique information on their products and may be useful to particular food surveys for example. The publication of industry data will be dependent upon commercial sensitivity.

Where possible, independence could be demonstrated by the industry body having a quality system which has some element of being independently audited (such as by UKAS).

12. *Do you have any views on how the new food body should assure delivery of official controls and meet the relevant EU obligations? Please give reasons.*

As stated above, continued effective communication with the FSA London and with Europe is critical to ensure effective national food regulations and compliance with these.

13. *Are there any additional or alternative relationships that you would suggest that would help the new food body achieve the Scottish Ministers' objective of longer, healthier lives for the people of Scotland? Please give details and reasons.*

As stated above, ensuring a continued close working relationship with the FSA London Incident Unit.

15. *Do you agree with the suggested approach to ensuring the new food body's independence from Government and the food industry? Do you have any further suggestions for how the new food body could best establish and maintain its position as an arms-length part of Government? Please give reasons*

The creation of a new food body brings about an opportunity for Ministers to clarify the roles and responsibilities regarding risk assessment and management.

The Association would be keen to set up a meeting with the Scottish Government to discuss this matter in more detail. We will be in touch in the coming weeks to agree a date.

Yours sincerely,

Morag Garden
Environment & Scientific Affairs Manager