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Accompanying document to the

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the placing on the market and use of feed

SUMMARY OF THE IMPACT ASSESSMENT

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SUMMARY OF THE IMPACT ASSESSMENT

for the proposal on the modernisation and simplification of the legislation on the circulation and use of feed

1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

The first step in the project "revision of the feed legislation" was undertaken in 2003 when the Commission assigned an external study. This was followed in 2005 by an interactive policy making online consultation. In order to gather information relating to administrative burdens and other impacts a questionnaire was sent out in February 2007 to stakeholders and Member States (MS).

In parallel, expert interviews were undertaken to better fulfil the information needs particularly concerning financial impacts. In addition, stakeholder panel discussions were continuously held with the MS, the European Food Safety Authority (EFSA) and with stakeholders. A Commission Inter-Service Steering Group on the impact assessment was set up. The Commission's Impact Assessment Board examined the draft report on the impact assessment in its board meeting on 13 June 2007. The recommendations were taken on board thus improving it further.

2. PROBLEM IDENTIFICATION

2.1. EU-feed sector

In 2005, 5 million farmers raised livestock with a total value of 129 billion €. Feed[1] is the most significant cost factor, representing 47% of the value of EU animal products. Purchased compound feed amounted 37 billion €. The European feed industry (excluding pet food) offers direct employment for app. 100000 people in app. 4000 plants.

Technological progress, improvements in farm management and innovation have resulted in a continuous decrease of feed conversion ratios. For example, to produce 1 kg of egg in 1968, 3.1 kg of feed were necessary whilst in 2001 it was only 1.9 kg. In addition to the economical benefit there is also less effluents (carbon dioxide, nitrate, ammonia) per production unit.

About 62 million EU households have pets (most numerous 60 million cats, 59 million dogs). The size of the EU market is estimated to be about 6 million tonnes of pet food, produced by around 450 companies, and worth some 9 billion € a year. Direct employment is estimated to be 21000 people and indirect 30000 people.

[1] Feed can be categorised in feed materials, feed additives, compound feed and medicated feed.

2.2. Issues

Currently, the circulation of feed materials and compound feed is regulated by five old Council Directives and some 50 amending or implementing acts. The situation has evolved to an extent that the legislation is now extremely scattered with many cross references making it difficult to understand and implement in a uniform way. Further, only 2.6% of the EU-compound feed goes into intra EU trade indicating trade obstacles.

Listing of feed materials

It is important to have unambiguous designations and clear descriptions for the feed materials that are used to produce compound feed or that are directly fed to animals. The specific characteristics of these materials are essential to ensure the efficacy of the final product. Whilst such designations/descriptions are available for many feed materials, the listings are by no means exhaustive. Of most concern are the many new feed materials e.g. co-products of food processing or bio-fuel industry. The trend of an increasing supply in co-products for feed rations continues due to the stronger competition for the base grains between feed, food and fuel. Lack of clear product information contributes to a sub-optimal utilisation of these materials.

Authorisation procedures for feed

For bio-proteins (protein-rich products manufactured by certain technical processes), the range of materials included in this category has changed with the entry into force of the Regulation on feed additives. With this change there is now concern that the pre-market authorisation procedure for the remaining bio-proteins is too onerous and is disproportionate in relation to any potential safety concerns. Further, concern has been expressed that in the current legislation emerging feed materials (e.g. exotic plants) do not require any authorisation. Whilst there is a priori no evidence that such products provide safety concerns they are often circulated without clear product identity.

Labelling of compound feed for food producing animals

The legislation currently requires that feed materials used in compound feeds for animals other than pets be listed, in descending order, with the percentages by weight with a tolerance of +/- 15%. The specific recipe for a compound feed is essentially seen by the industry as intellectual property and having to disclose it means that competitors can easily take advantage of the investment that has been made in product development. Consequently the open declaration is seen by many as a disincentive to invest in research and development (R&D) of new feeds. The feed additive labelling in compound feed is outdated governed by an Article in the besides repealed additive Directive requiring streamlining.

Labelling of pet food

Concerns have been expressed that the current legislation on the labelling of pet foods does not adequately address customer needs with respect to information on the specific components of the final product. This may lead to the customer being confused, or at worse misled, as to what the feed they give to their pets contains.

3. OBJECTIVES

The project is included in the Commission's rolling programme of simplification. Thus, the general objectives are to:

- achieve legal clarity and a harmonised implementation,
- facilitate smooth functioning of the internal market,
- simplify technical requirements and remove unnecessary administrative burden,
- increase competitiveness of the EU feed and farming sector and
- enable users of feed to make an informed choice without being misled via modern labelling.

The operational objectives are for

- listing feed materials: the smooth functioning of the internal market by clear designations and proper information of the customer
- authorisation procedures: risk proportionate procedures to assure that emerging feed materials are adequately specified.
- compound farm animal feed labelling: Increase innovation and competitiveness by reducing unnecessary labelling requirements and further to update the labelling of feed additives;
- pet food labelling: Improve the appropriateness of the pet food labels and modernise the provisions.

4. ASSESSMENT OF THE MAJOR POLICY ISSUES

Unequivocally, a new comprehensive Regulation would introduce consistency and clarity throughout the EU feed sector.

4.1. Listing of feed materials

Option 1: Deletion of the non-exclusive list of feed materials

Option 2: Retention of the status quo

Option 3: Extending the current non-exclusive list of feed materials

Option 4: EU-list of feed materials elaborated by stakeholders (code of practice)

The impacts[2] on feed/food safety of all options seem to be neutral. The feed material list containing the designation, description and the analytical constituents to be labelled is deemed to be rather an instrument of product identification than of feed safety. In terms of user rights, the mere deletion of the current list could lead to poorer product identification whereas a completion of the list is deemed to result in better user information. To optimise feed users` production processes the extension of the list would increase the coverage of the feed materials and level of detail. Similarly, the code of practice would improve the specification and information on the feed materials.

Considering the harder competition for raw materials between feed, food and fuel, more co-products from the food or biofuel industry are used for feed. Therefore option 3 and 4 have positive impacts in terms of market information due to the lack in proper definition of these products. Assuming that the stakeholders can fill this information gap between businesses better than the legislator, option 4 seems, to produce better results than option 3. SMEs could take advantage of the comprehensive list because of the better product information for feed materials, freely at their disposal.

The deletion of the current list would decrease administrative burden. The extension of the list by the legislator would increase significantly the administrative burden. In option 4 there would as well be considerable costs but significantly lower.

Conclusion: The assessment supports the establishment of a comprehensive list of feed materials through co-regulation as the value added refers mainly to qualitative elements of feed marketing.

4.2. Authorisation procedures for feed[3]

Option 1-1: Bio-proteins - abandon the pre-market authorisation procedure

Option 1-2: Bio-proteins - retain status quo

Option 1-3: Bio-proteins - alleviate authorisation procedure

Option 2-1: Emerging feed - retain the status quo

Option 2-2: Emerging feed - request pre-market authorisation procedure

Options 1-2 and 2-2 requiring a pre-market authorisation procedure for bio-proteins and emerging feed materials would produce slightly better results concerning feed/food safety. Option 1-3 scored better than option 1-1 because even in a lighter procedure safety related aspects would be covered.

With respect to user rights and market transparency, options 1-2 and 2-2 (alleviated for 1-3) are seen to produce slightly better results due to the requirement for a risk assessment.

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2 Impacts on employment, user rights, environment and small/medium sized enterprises (SMEs) are only mentioned if any detected.

3 The predominant imports of oilcakes/–meals and maize products increasingly produced from GMOs have to be authorised according to specific EU-legislation which is not at stake here.

Considering the positive economic impacts of options 1-1 and 2-1, these seem to have a favourable impact on jobs. Concerning trade with Third Countries, options 1-1 and 2-1 would facilitate imports considering the possible gap between the authorisation of these products inside and outside the EU. Similarly, the competitiveness of both the companies putting into circulation and the potential purchasers of such products would be very positively influenced by options 1-1 and 2-1 and slightly positive by option 1-3. In line with the impacts on competitiveness, options 1-1 and 2-1 could release means for R&D to market new feed materials. SMEs do not usually have the resources to introduce and accompany applications for authorisation. Therefore options 1-1 and 2-1 would expand their potential business field.

The impacts on administrative burden have to been assessed for the potential producing company, for the institution doing the risk assessment (EFSA) and for the competent authorities in terms of the accompanying of the authorisation process and the market controls. Options 1-2 (alleviated option 1-3) and 2-2 cause considerable costs in each field.

Conclusion: The value added of a pre-market authorisation procedure in terms of feed safety does not reach a level to justify either for bio-proteins or for emerging feed materials the provision that all of them would have to undergo such procedure. Thus, bio-proteins and emerging feed would be normal feed materials that circulate under the responsibility of the feed business operator and the surveillance of the competent authorities.

4.3. Labelling of compound feed for food producing animals

Option 1-1: Feed materials - retention of the status quo

Option 1-2: Feed materials - indication in descending order by weight

Option 2-1: Feed additives - retention of the status quo

Option 2-2: Feed additives - mandatory declaration of the names

Though the percentage declaration of the feed materials (option 1-1) has been introduced as a means of public health and feed safety, the subsequently developed framework implementing the General food law suggests that the value added of the percentage declaration to support feed safety is marginal. Considering on the one hand the basic principle that all feed additives have to be authorised and safe, on the other hand that traceability is assured via identification systems for both the manufacturer and the concrete batch, a potential negative impact of option 2-2 is deemed to be marginal.

Options 1-2 and 2-1 could lead in the mid term to increased employment in the feed industry because of positive economic impacts.

Option 1-1 (alleviated option 2-2) is seen as very negative for the competitiveness of the EU feed industry which could influence also that of the EU-livestock farmers. Concerning market transparency, the difference between a mandatory percentage combined with a significant tolerance and descending order seems to be marginal. Requesting all additives to be labelled is seen to have a positive effect on transparency for the customer, however concerning appropriateness some claimed the labels to become overloaded.

As outside the EU there is no comparable system to the mandatory percentage declaration known to be in force, the abandonment could facilitate trade with Third Countries.

The impacts on R&D of option 1-2 are seen to be strongly positive thereby boosting innovation and investment in the feed industry. The negative impacts on know how protection have been stated for option 1-1 and for the mandatory labelling of all feed additives incorporated in the compound feed (option 2-2). SMEs successfully marketing speciality feeds based on extraordinary investment in product development could suffer from options 1-1 and 2-2.

The impacts on administrative burden of options 1-1 and 2-2 for the industry seem to be of lower significance considering the state of the art in the industries` packaging systems. For the MS, significant administrative burden linked to option 1-1 (alleviated option 2-2) with difficult analytical verification of the labelled values has been stated.

Conclusion: The results of the impact assessment support the deletion of the mandatory indication of the percentage by weight of feed materials in compound feed combined on the one hand with the possibility to voluntarily indicate the percentages and on the other side with the provision that the purchaser can get more information on request.

The labelling of feed additives in compound feed would be generally mandatory only for the sensitive ones. The remaining additives could be labelled on a voluntary basis possibly in line with a stakeholder driven Code of good practice, approved by Comitology.

4.4. Labelling of pet food

Option 1: Retention of the status quo and update additive labelling

Option 2: Indication of all the feed materials in descending order of weight and name all feed additives

Option 3: Provide additional information by means of Codes of good practice

The impacts on feed/food safety of the options are seen to be neutral. First of all, pets do not enter the food chain. Secondly, safety in production and circulation are assured by the revised Food Law.

The impacts on user rights of the options are ambivalent because on the one hand option 2 offers in all cases more market transparency and product information suggesting on the first sight a positive effect. On the other hand the average pet food customer wants a simple label easy to understand. If the aim that labels should be simple and understandable is included into the issue of user rights the impacts of option 3 seems to have positive effects.

The consultation did point out a negative impact on employment of option 2 resulting from negative consequences on competitiveness, know-how protection and administrative costs. Option 2 concerns the environment directly because of the increase of by-products with unappealing denominations that has to be disposed of instead of being fed to pets. Further, in decreasing the flexibility of the industry for the raw material sourcing option 2 would increase transport distances and cause therefore negative environmental impacts.

R&D in and competitiveness of the EU feed industry would be negatively influenced by option 2 because of disclosure of their recipes and increased costs especially considering the high portion of unbranded products produced specifically for retail. Option 3 could improve competitiveness due to more entrepreneurial freedom. The impacts of option 2 on intra- and extra-community trade would be in the first place a significant disruption in traditional trade flows which could hit the Third Countries heavily.

SMEs buying at “best market prices” would be particularly concerned by option 2 because they can not to the same extent than the big, multinational companies compensate fluctuating raw material sources. Option 3 would support SMEs because they could take advantage of the code without the need of a respective in-house department to provide for such benefits.

The impacts of option 2 on the industry are seen to be very negative particularly due to additional costs for sourcing raw materials, storage facilities and staff. Concerning administrative burden on the competent authorities, positive and negative impacts of option 2 seem to be balanced. Considering that the industry has already on her own initiative started to work on a code of good practice the supplementary costs of option 3 seem to be marginal.

Conclusion: The results of the impact assessment support the retention of the status quo in an updated form with respect to the raw material categories and the rules for feed additives focussing on the adequateness of the information for the average pet holder. Stakeholders should elaborate a code of good pet food labelling, approved by Comitology.

5. MONITORING AND EVALUATION

For monitoring and evaluation, the following indicators are proposed: Number and analytical properties of feed materials listed, hazards with an adverse public health effect, level of detail of the code for good pet food labelling and contentment of feed users.