

26 October 2009

Review of Regulatory Framework
SUMMARY REPORT OF RESPONSES TO CONSULTATION
FROM STAKEHOLDERS

The Review of Regulatory Framework consultation was issued on 09 July 2009 and closed on 16 October 2009 (publicised closing date of 09 October was extended for a week after several consultee requests).

- 1 We were trying to gauge both awareness of the Regulatory Framework document, especially among FSA policy makers, and stakeholders' perception of the FSA's performance against the Framework.
- 2 The assessment came from consultees' responses to the questions in the consultation and staff responses to similar questions asked by a contractor on our behalf. We also reviewed other already available relevant data.
- 3 The questions asked were:

- Q1: To what extent would you say that the FSA's regulatory interventions:
- 1.1 are evidence-based, proportionate, and risk-based?
 - 1.2 use the market, where appropriate, to achieve change?
 - 1.3 focus on practical and deliverable solutions?
 - 1.4 minimise regulatory and administrative burdens where this does not compromise outcomes?
 - 1.5 drive improvement and reward good performance, whilst seeking firm action against those who persistently fail to meet acceptable standards, or negligently expose the consumer to serious risk?
 - 1.6 take account of ethical issues surrounding food?
- Q2. To what extent would you say that as a regulator the FSA:
- 2.1 supports voluntary approaches, using the market to achieve change, provided they deliver proportionate consumer protection and are consistent with the requirements of EU law?
 - 2.2 expects businesses to act responsibly, and encourages and recognises those that do so?
 - 2.3 seeks to work collaboratively with responsible businesses, and/or their representative organisations, to protect consumers?
 - 2.4 works with enforcement bodies to help responsible businesses comply and to penalise those that are wilfully and repeatedly noncompliant, or seriously negligent with respect to consumer safety?
 - 2.5 works with other regulators to minimise the burdens on businesses, for example through joint inspection regimes and data sharing, where this does not jeopardise regulatory outcomes?

Q3. **Particularly aimed at consumers:** do you think regulations on food should focus **primarily** on:

- making sure food is safe?
- healthy eating for all?
- making sure food information is comprehensive and easy to understand?
- setting food compositional quality standards?
- making it as simple as possible for businesses to comply and so perhaps keeping down prices and keeping a wide range of products?

4 The FSA is grateful to those stakeholders who responded and sets out in the table below responses in order of the questions asked. Those parts of the responses that summarise views on the Framework have been highlighted in yellow. The supporting examples, which have all been raised previously with the relevant FSA policy expert(s), have been included for completeness but specific responses are not given in the table below. A summary of changes to the original proposal(s) resulting from stakeholder comments is set out in the final table, as are the planned next steps.

5 A list of stakeholders who responded can be found at the end of the document.

6 The Framework document will be amended in light of the results of the review and published for a second, shorter consultation in late January 2010.

7 Once amended after the re-consultation, the Framework will be presented to the FSA Board for approval. It will then be published on the website.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.1 To what extent would you say that the FSA’s regulatory interventions are evidence-based, proportionate, and risk-based?		
Respondent	Comment	Response
Ajinomoto	Ajinomoto supports the current regulatory framework and believes that this approach, underpinned by the FSA’s core values, can deliver the objective “to protect the health of the public and the interests of consumers in relation to food and drink”. In theory and applied consistently the framework should ensure that the FSA makes evidence-based decisions, drawing on the best scientific evidence (and market/consumer data) available, enabling the Agency to frame and apply regulations and interventions in a manner which is appropriate, proportionate and transparent to all stakeholders.	Noted.
Aunt Bessie’s	The ones I am aware of appear to be based on sufficient evidence to warrant intervention.	Noted
Cambridge Manufacturing Company Limited	Cambridge Health and Weight Plan (CHWP) feels that the FSA has a solid framework in place that is applied in a consistent manner when undertaking regulatory interventions. Especially, CHWP appreciate the support the FSA has shown to our sector as demonstrated by the officials’ effort to understand Very Low Calorie Diets, the fact they are based on science, the European legislation that regulates them, and the potential difficulties posed by future legislative frameworks. We also appreciate that the FSA has been willing to take favourable action on our behalf in Europe. We would also hope that the FSA continues to take steps to ensure that all policy is based on sound science and evidence, and that investment in good science from the UK Industry is rewarded. We are particularly keen that the FSA ensures that science is used as the basis for formulating European food legislation, and that this point is brought across in any EU negotiations on such legislation.	Noted
Consumer Focus	It is important that the FSA is at the forefront of developments where ethical considerations may be more apparent than scientific evidence, such as cloning, nanotechnology and GM. We welcome the FSA efforts in this regard, for example working alongside Government with an independent steering group to facilitate public debate on GM	Noted
Derby City Council	Decisions do appear to be taken on this basis and the Authority is aware of the FSA’s ongoing research programme, which supports the FSA’s decisions.	Noted
Food and Drink Federation	We fully support the principles of good regulation in FSA’s Framework for Regulatory Decision Making. However, given that more than 90% of regulation is set at an EU level, FSA has limited scope to act unilaterally in determining regulatory interventions. It is therefore extremely important that FSA policy leads are skilled and competent to effectively negotiate at an EU level to ensure that the UK voice is heard. It is also important that FSA	Noted.

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1.1 To what extent would you say that the FSA’s regulatory interventions are evidence-based, proportionate, and risk-based?		
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	<p>engages with all stakeholders and carries out regulatory impact assessments at an early stage in the EU negotiations in order to understand the impact of EC proposals on the UK and that the UK provides a level playing field by not over interpreting EU legislation.</p> <p>We are particularly concerned that, in certain cases, FSA does not appear to take on board the concerns raised by key stakeholder such as industry and has not fully appreciated the implications of some EC proposals on the UK. This, in our view, has led to ineffective lobbying in Brussels. A recent example was negotiations on the draft EC Regulation on <u>official controls on imports of certain feed and food of non-animal origin</u>. We believed the EC’s draft proposal increased the burden on importers of food commodities without enhancing the protection of the consumer and may constitute a technical barrier to trade. We requested a full impact assessment to be completed by the Commission and we were disappointed that FSA voted for adoption of the legislation within Council.</p> <p>We were also concerned about the draft EC Regulation concerning the <u>composition and labelling of foodstuffs suitable for people intolerant to gluten</u>. We welcomed the introduction of quantitative levels for determining ‘gluten-free’ and ‘low gluten’ products but we have ended up with legislation that practically prohibits industry from communicating information helpful to coeliac sufferers in relation to normal foods. In our view, FSA has taken an overly strict approach to implementation of the legislation and it was not until Coeliac UK legally challenged FSA’s advice that the Agency agreed to consider a more flexible approach.</p> <p>We have also raised concerns about FSA’s approach for <u>handling business requests for flexibility in the use of approval numbers</u> under the EU hygiene regulations. This overturned a common, though infrequent, practice of food business operators requesting temporary permission to use an approval number other than that given to the establishment where the product was processed. In our view, the approach being advocated by FSA, represents an overly strict interpretation of the legislation. Furthermore, the arrangement whereby requests are directed to a single point of contact at the Agency could lead to delays and result in significant costs being incurred by businesses related to the potential losses in product, packaging and manufacturing flexibility particularly for short shelf life products.</p> <p>Notwithstanding the above, we welcome FSA’s recent intervention in relation to a DH proposal to extend the requirement of current statutory notification of infectious diseases to</p>	<p>The following issues have already been raised with relevant FSA policy experts.</p> <p>See above.</p> <p>See above.</p>

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1.1 To what extent would you say that the FSA’s regulatory interventions are evidence-based, proportionate, and risk-based?		
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	<p><u>laboratories</u> who may detect pathogens in food samples sent to them by industry. This proposal went beyond the requirements of EU law and would have imposed additional legislative burden on the UK industry without any additional protection for the consumer. It would also have acted as a disincentive to food businesses to undertake microbiological testing in the first place. It was concerning that the proposal had been in development for sometime without consulting key stakeholders on the impact but we welcomed the fact that FSA decided not to proceed with it.</p> <p>The “Southampton study”¹ and FSA’s handling of post-publication media and public reaction would, in our view, fail on all counts. The Agency a) reacted to media and public reaction rather than to the real evidence of effect of consumption of the colours, which by any analysis of the study set against actual consumer exposure was extremely small; b) pushed the problem of public (media and consumerist) reaction on to the industry instead of seeking to manage it, which should have been the role of the Agency; c) steered the Board to a decision which ran counter to EFSA’s opinion; d) adopted a policy of a “voluntary industry ban”, with a hard deadline, without any appreciation of the economic impact on industry or consideration of how this would actually take effect. This has the effect of disadvantaging UK production against foreign imports, on which no such ban can be enforced. This indicated a complete absence of appreciation of implications in Europe. Moreover, the Agency pressed hard for measures to be adopted in the new Additives Regulation (warning labelling), without any strong evidence base and with no regulatory impact assessment, despite strong protests from industry. This has placed enormous costs on industry, including waste of executive time in dealing with what should have been a minor issue, whilst demonstrating no benefit, certainly not in safety terms, to consumers. Left alone, the industry would have acted voluntarily to reformulate to remove the Southampton colours, as was already the case for many UK manufacturers even before the study was published. Nevertheless the Agency has continued to press industry to remove the few remaining uses of the colours, even though this is technically very difficult or economically unviable. In some cases products that have been on the market for decades may fall by the wayside for lack of suitable alternatives to the artificial colours. There has been little attempt to reward effort</p>	<p>Noted.</p> <p>Already raised with relevant FSA policy experts.</p>

¹ Food additives and hyperactive behaviour in 3-year-old and 8/9-year-old children in the community: a randomised, double-blinded, placebo-controlled trial, *McCann et al*, *The Lancet*, 6 September 2007

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.1 To what extent would you say that the FSA’s regulatory interventions are evidence-based, proportionate, and risk-based?		
Respondent	Comment	Response
	<p>where products have been reformulated, other than an obscure website, the parameters for inclusion in which were never clear, and which is perceived by many companies as damning them by association. This was not the Agency’s finest hour.</p>	
Food and Environment Research Agency	<p>‘Targeted risk-based research and surveillance’ has been identified as a priority across the whole FSA Strategy to improve food safety and to improve the balance of the diet. This should then inform regulatory interventions and ensure that they are evidence-based, proportionate, and risk-based. The type and amount of research commissioned is key to the effectiveness of this. FSA has a large fragmented research contractor base delivering mainly small, short-term projects for the FSA, this means that research linked to longer-term issues is not necessarily been done.</p> <p>For example short-term projects can focus on what can be measured and therefore what can be changed by intervention. This is fine for acute health effects (microbiological) or healthy-eating outcomes supported by epidemiology data but does not address public health risks e.g. of chemical contamination.</p> <p>We understand the need for an emphasis on consumer perception of the work done by FSA: a critical scientific evaluation of the output is also important with an objective analysis of the public health impact of their work. This is most effectively done by working in partnership with researchers to jointly solve problems. The award of longer-term contracts e.g. NRLs, Dioxin and other POPS (persistent organic pollutants) and rolling surveillance programmes, also helps address longer term issues with risk-based evidence and helps ensure the maintenance of specialist research teams with experience and excellence in problem-solving which the FSA needs.</p>	Noted.
International Sweeteners Association (ISA)	<p>ISA fully supports the core values of the FSA’s framework for regulatory decision making, particularly the principles of openness and transparency and of acting on the best available evidence. We welcome the Agency’s practical application of these important principles for decision-making as part of the regulatory process.</p> <p>ISA believes that an evidence-based approach to decision making is essential and a pre-requisite to any regulatory intervention, above all to ensure that the measure is necessary and indeed proportionate to the potential risk. A consistent application of this approach to decision making is an important part of achieving the FSA’s objective of protecting public</p>	Noted.

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	<p>health and the interests of consumers.</p> <p>In order to encourage a clear, harmonised and consistent understanding of the reason for the Agency’s decision, it is also important to use an evidence-based approach in all communication about the decision. This includes communication to consumers and communication to other food safety bodies such as the European Food Safety Authority (EFSA), particularly given the increasingly close working relationship between national agencies and the EFSA on various food safety issues.</p> <p>Finally, in line with statutory responsibility, ISA supports the inclusion of the consideration of costs and benefits in terms of improvement to public health in deciding whether to intervene.</p>	
Local Authorities Coordinators of Regulatory Services (LACORS)	<p>It is important that the FSA on behalf of the UK and UK local authorities influences EC approaches and legislation to help make sure these are where possible evidence-based, proportionate, and risk-based. We are pleased therefore that the need to lobby at EC level has been recognised in the new (draft) FSA strategic plan, and the Agency recognise the need to continue to work closely with LACORS on arrangements for proportionate oversight of local authorities where this is necessary and justified.</p> <p>FSA action required in response to very small concentrations of Sudan 1 contamination and more recently irradiated food supplements has be criticised for not being risk based. The development of the FSA scores on the doors proposed national scheme has also been raised as a possible example where evidence, in this case from existing local authority work, might have been taken better account of by the FSA as part of evidence based approach (see below)</p> <p>In general yes they are, however there are some examples where this might not have been the case, one area to keep under review is the extent to which the EC might affect the FSA approach.</p> <p>We suggest that it is important to maintain links with other government departments to try and ensure as far as possible, a joined-up approach to evidence, risk and regulation from government generally. It is suggested that the FSA regulatory framework should be consistent and compatible with the equivalent in other government departments if this not already the case.</p>	Noted.

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1.1 To what extent would you say that the FSA’s regulatory interventions are evidence-based, proportionate, and risk-based?		
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	<p>The forthcoming autumn consultation will be an opportunity to liaise with other Departments to try and achieve cross government approaches. This should recognise the key local authority role in implementing EC legislation across a range of regulatory functions whose relative risk needs to be balanced to help determine a proportionate programme of local delivery within a framework of local priorities.</p> <p>Whilst we realise that interventions to audit and monitor local authorities’ delivery of regulation need to satisfy European requirements, they should also be proportionate and consistent with the scrutiny of other non-food areas of EC regulation implemented by local authorities. If the detailed approach of FVO inspectorate visits do not reflect the flexibility for risk based decision making which is available in some areas of EC food legislation, this needs to be questioned.</p>	
National Farmers Union	<p>We would argue that the FSA and FSA Board are risk averse and very precautionary when it comes to certain policy areas. For example the splitting of carcasses for sheep over 12 months old and the work on skin-on sheep meat products are examples of where the precautions far outweigh any risk to the consumer.</p> <p>The NFU also believes the new requirement for food chain information (FCI) to accompany all cattle and sheep destined for slaughter is not proportionate or risk based. This regulation asks farmers to provide amongst other minimum information the disease status, if the animal is diseased etc, and whether the withdrawal periods for veterinary medicines have been adhered to. However livestock producers are already required to maintain on-farm veterinary medicine records and adhere to withdrawal periods for veterinary medicinal and other products before an animal or animal product enters the food chain. The regulatory requirement is enforced by a number of official and non-official regulators through cross compliance requirements (SMR 11 feed and food law, SMR 10 substances used in stock farming, SMRs 16, 17 & 18 animal welfare) and through membership of farm assurance schemes. We do not believe that the introduction of food chain information will lead to food business operators adopting a more targeted, risk based approach to anti and post mortem inspection, although we would agree a move towards risk based inspection for clean stock is a step in the right direction.</p> <p>On foodborne disease related interventions we believe the lack of ‘source apportionment’ data (i.e. what are the sources, and the relative importance of these sources, of pathogens / contamination that cause foodborne disease) can severely compromise the FSA’s ability to</p>	<p>The following issues have already been raised with the relevant policy experts.</p> <p>See above.</p>

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.1 To what extent would you say that the FSA’s regulatory interventions are evidence-based, proportionate, and risk-based?		
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	<p>direct its controls and interventions to the point in the food chain that would have the greatest effect. Without this it is difficult to be proportionate or risk based.</p> <p>The current situation with the dairy sector being a special case amongst primary production sector in the way it is inspected for food hygiene regulations does not fit with the aim of being risk based and proportionate. Dairy farmers are subject to government statutory dairy inspections which overlap with dairy assurance scheme inspections. Figures from AHDH inspections indicate there is little or no confidence in the hygiene standards on the majority of farms due to the inspection frequency afforded to them. We feel this is unjust as there is absolutely no evidence to back this up in terms of milk failure or food safety breakdowns on farms.</p> <p>However the NFU can point to examples where a risk based and proportionate approach has been taken. The discovery and response of the FSA to atypical scrapie is an example of Government and industry working together to produce guidance which is risk based. This was a collaborative approach that did not affect the sale of sheep meat. On another positive note the work done by the FSA to improve and make the MHS more cost effective and efficient through risk based inspections has been greeted as a step in the right direction by the industry.</p> <p>On a final point we feel the FSA could stand alongside the industry and Government to lobby the EU to try and gain relaxations with some of the TSE and by-products rules and act in a proactive way which reduce burdens and maintain consumer confidence in products produced in the UK.</p>	<p>Already raised with relevant policy experts.</p>
Northern Ireland Food Advisory Committee	This has been well demonstrated through campaigns such as the salt campaign and reformulation.	Noted.
Royal College of Physicians	By and large they are. Where insufficient evidence is available, or where there is conflicting evidence, this is usually acknowledged and the advice of appropriate experts is sought.	Noted.
Royal Society of Chemistry	Where major health issues are concerned, e.g. salt reduction, FSA appears to have been at great pains to gather and evaluate, often with the help of external reviews, the evidence. The expert scientific advisory committees, together with the social science, and the overseeing general advisory committee play major roles in this process. Its process of setting strategic aims with the various stakeholders’ involvement tends to ensure that the	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.1 To what extent would you say that the FSA’s regulatory interventions are evidence-based, proportionate, and risk-based?		
Respondent	Comment	Response
	<p>priorities for the Agency are broadly the right ones and supports proportionate action.</p> <p>There is considerable evidence that the monitoring aspects of labelling and related compositional issues is not uniformly and effectively carried out by local authorities. These defects will have impacts on the long term viability of provision of services by the Public Analysts, their staff and laboratories.</p> <p>The overall process is less good for consumer choice and value for money issues where the FSA must rely for day-to-day regulation on fragmented local authority actions.</p> <p>There is also the question of conservatism in risk assessments. The FSA tends to be more conservative (a stricter 'gatekeeper') in judgements concerning hazard and risk for chemicals used in or in contact with food than, for example, the Authorities dealing with chemicals generally.</p> <p>The FSA seems to deal in acceptable/unacceptable risk, rather than acceptable/tolerable/unacceptable risk. <i>De facto</i>, since the FSA tends to regard small exceedances of standards as non life-threatening, some attention must be paid to tolerability. This is logical since risks from food are based on exposure levels, and the derivation of specific food intake data requires certain arbitrary judgements. There have been cases (mercury levels in fish) where the FSA has indicated that levels above the regulatory level are acceptable provided that there is no excessive intake of the food affected. This is a difficult judgement to make because there may be people whose diets comprise a disproportionately high amount of tinned tuna for example, but this should not deny the rest of the population access to a 'normal' quantity.</p> <p>The FSA needs to demonstrate that regulations relating to food safety are evidence based and take into account that although risk can and should be minimised, it cannot practicably be completely eliminated.</p>	
Safefood	Safefood fully supports the FSA's evidence-based approach and transparent practice.	
Seafish	The surveys conducted in partnership with local authority seem be based on evidence of misleading practices found by local authorities during routine checks, where it is thought these may indicate fraud on a wider scale, for example Basmati rice and added water in chickens.	

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	<p>Where false labelling was found action could then be taken and also these surveys inform the consumer. However the surveys should consult with independent experts to make sure the focus of the survey is correct. For example there have been several surveys on switching of cod and haddock in fish and chip shops, few switches were found as there is no financial incentive and any identified were found to be due to poor stock control, rather than intentional fraud. A bigger issue is in pangasius being passed off as cod or the consumer being misled by insufficient rather than false labelling.</p> <p>In publishing the results of these surveys the public is informed of the risk so can consider purchases more carefully, check labels etc. However the results are not always presented in a fair and accurate way. For example where a survey was conducted on farmed and wild caught fish, where fish did not declare a production method it was considered to be declaring ‘wild caught’ and when the fish was found to be farmed, deemed to be falsely labelled. This fish should have been labelled with the production method but was not falsely labelled. The reporting of this survey that large amounts of fish were falsely labelled damages the reputation of the industries involved.</p> <p>Sometimes FSA surveys can appear to be based around newly developed test methods rather than a need to protect the consumer.</p>	
Smithfield Market Tenants’ Association	<p style="background-color: yellow;">These are still not sufficiently targeted in proportion to risk.</p>	Noted.
The Government Chemist	<p>Where major health issues are concerned, e.g. salt reduction, FSA devotes great effort to gathering and evaluating evidence, often with the help of external reviews. The expert advisory committees, including scientists and social scientists, and the overseeing general advisory committee are key in this process. The Agency’s process of setting strategic aims with stakeholder involvement is effective in ensuring that the priorities for the Agency are broadly the right ones. In combination, this supports proportionate action.</p> <p>The process is less good for consumer choice and value for money issues where FSA must rely for day to day regulation (across all the range of regulatory options) on local authority action, necessarily potentially fragmented owing to the structure of Local Government.</p> <p>As regards safety issues, the complexity of food chain technology and almost limitless</p>	

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Respondent	Comment	Response
	range of potential contamination events means that interventions cannot always be fine-tuned in the early stages of incident management. The precautionary approach then dictates thoroughgoing risk management, typically involving batch testing at critical control points such as the ports of entry to the UK. By co-operating with EU and global networks, the FSA has advanced an evidence-based, proportionate and risk-based approach in such circumstances underpinned by grant funding for imported food surveillance and enforcement.	
Trading Standards Institute	On the whole TSI would agree that the interventions are carried out on this basis. There are, however, still occasions when more could be done to explain and provide better background information to enforcement bodies about why a particular intervention has been decided upon.	Noted.
Which?	<p>On the whole, we consider that the FSA’s regulatory interventions are evidence-based, proportionate and risk-based. We have some concerns that the current focus on reducing administrative and policy burdens could undermine this if it is not sufficiently evidence-based.</p> <p>As we have previously highlighted to the FSA, we were very concerned that the evidence that supported the FSA’s prioritisation of legislation for simplification/administrative burden reduction was surprisingly flimsy and went against its usual evidence-based approach. We hope that this can be addressed as the FSA considers what part it should play in the Better Regulation Executive’s focus on policy burden reduction which could have very serious consequences for consumer protection.</p>	<p>Noted.</p> <p>This issue has already been raised with the relevant FSA policy expert.</p>

1.2 To what extent would you say that the FSA’s regulatory interventions use the market, where appropriate, to achieve change?		
Respondent	Comment	Response
Aunt Bessie’s	I think the FSA make good use of the market to achieve change due to there being evidence to support the need for change this is usually welcomed/appreciated by the market.	Noted.
Consumer Focus	<p>The FSA has successfully harnessed consumer power to provide an incentive for food businesses to change their behaviour, eg in advocating a front of pack traffic light nutrition labelling system. Utilising the market has also been successful in salt reduction through food category specific salt targets.</p> <p>Major publicity campaigns using all media, including TV advertising, to promote key messages, eg on salt intake, traffic-light labelling and cooking food safely are also important in influencing consumers and therefore the market. Investment in these and consumer behaviour change initiatives including using social</p>	Noted.

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1.2 To what extent would you say that the FSA’s regulatory interventions use the market, where appropriate, to achieve change?		
Respondent	Comment	Response
	marketing techniques should continue to push the market to make change for the consumer benefit.	
Food and Environment Research Agency	<p>The Agency has an important and challenging job in communicating with the public via its website which it seems to perform very well. Providing clear information and advice is key to achieving change: the clear messages on dietary salt and fat appear to be well received and making a contribution to altering diets.</p> <p>A whole culture change is required in the UK consumer to address <i>improvement in the balance of the diet</i> and this will not be easy. However, it has been achieved for smoking and is underway with alcohol consumption, so should not be impossible with some aggressive promotion. It will be vital to involve the major suppliers and retailers of fast food in this process. They will need to both deliver and to advertise/promote healthy food: the consumer is not going to be convinced that they need to change if fast food retailers are not moving towards this goal. Key to this will be the setting of targets for continued reduction in fat, salt and sugar and the pace of introduction of this in retail outlets.</p>	Already raised with relevant policy experts.
LACORS	<p>The potential of scores on the doors is recognised by the FSA and their focus on this area of work is good, although an earlier lead might have prevented local authorities developing a range of different schemes. It is also worth noting that some would argue that recent decisions on the detail of the suggested FSA scheme were not really based on the practical evidence of schemes which are already operating. Given that the FSA model will be substantially different from the vast majority of systems which have been tested, it has been suggested that the proposed national scheme will not be grounded on the basis of clear evidence. Some local authorities suggest influence of the food industry in determining the development of the scheme has been disproportionate.</p> <p>Some local authorities have suggested that the FSA was slow to see the potential to develop an FSA national award scheme in England for caterers, and this was a missed opportunity to harness market forces to promote healthy eating. In the vacuum local authorities have developed a range of different schemes.</p> <p>The promotion of front of pack nutritional labelling <i>linked in with</i> consumer awareness campaigns are good examples of using market forces to try and achieve change.</p>	Already raised with relevant policy experts.
National Farmers Union	<p>On nutritional interventions e.g. salt reduction, the desire to use consumer-facing campaigns and work with the industry on reformulation does indicate that FSA are trying to use this approach. However, it is important this takes into account the realities and highly competitive nature of the food market, which requires regulators and individual civil servants to have a good understanding of industry and willingness to genuinely work in partnership.</p>	Noted.

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1.2 To what extent would you say that the FSA's regulatory interventions use the market, where appropriate, to achieve change?		
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	In food safety terms, the market already exists as an incentive for business to perform well i.e. it does not make sense to poison one's consumers. However it can also be an incentive for unscrupulous or badly run businesses to try to cut corners in order to cut costs. Good businesses will not want this to happen as incidents and bad experiences risk reducing customer and regulator trust in the whole food industry. Giving responsibility to businesses to ensure food safety via the EU food hygiene legislation reflects this situation. While the FSA overall clearly took this approach with the food hygiene legislation as a whole, it is important that the local authorities and enforcement officers are convinced that giving responsibility in this way is a legitimate way to achieve change.	
Northern Ireland Food Advisory Committee	This is thought to be an area of strength and is currently getting better. Scores on the Doors is considered to be a good example of how the Agency's regulatory interventions use the market to achieve change.	Noted
Royal College of Physicians	Mainly this is so – but whether this is sufficient needs to be considered. Good examples are the efforts to reduce salt in pre-prepared food (e.g. curry) where media attention was brought to bear on manufacturers. Similar examples relate to market forces on fast food chains and reducing access of school children to such 'fast-foods' and the improvement of school meals.	Noted.
Royal Society of Chemistry	This is a particular skill set that FSA would appear to have developed to good effect.	Noted.
Smithfield Market Tenants' Association	We do not believe this is the case with meat. For example, we feel there has been resistance to change since the BSE crisis.	
The Government Chemist	This is a particular skill set that FSA has developed to good effect. There may be some further opportunities to work with suppliers on the validation of marketing claims which might fall outside the scope of current legislation, as an alternative to developing formal regulation. Hypothetical examples of statements that avoid direct health claims might be 'incorporates stay-fresh technology' or 'tastes great as you reach the bottom of the plate'. In principle, innovations such as nanoparticle technologies could deliver on both these claims, but whether they actually do so needs to be verified. The environmental sector is introducing a new market-led regulatory tool, environmental technology verification (ETV), which is expected to be formally adopted across the EU by the end of 2011 and might provide a benchmark for the type of action I am suggesting here.	Noted.
Trading Standards Institute	It is the TSI view that the FSA does generally try to influence the market to achieve change when appropriate, although it must be vigilant and assess other interventions when this does not work.	Noted.
Which?	As virtually all food legislation is an EU competence, there are limits to what the FSA can legislate. Even where there is a clear case for doing so, it can take a long time and complex negotiations in Brussels to make any progress. The FSA therefore relies heavily on the market in order to tackle areas where there is consumer detriment and action is needed by the food industry in the absence of legislation.	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.2 To what extent would you say that the FSA’s regulatory interventions use the market, where appropriate, to achieve change?		
Respondent	Comment	Response
	<p>In some situations, such as work to reduce the salt levels in products, this type of approach has worked well and has managed to achieve a significant amount of change in a short period. We consider this to be because industry saw that it was in its interest to respond. There was also a clear basis on which to act, based on the advice of the Scientific Advisory Committee on Nutrition (SACN). This was helped by complementary FSA initiatives such as public salt awareness campaigns, the introduction of clearer front of pack nutrition labelling and surveys highlighting the scope for salt reduction. But ultimately, there was also a recognition that if salt levels are reduced gradually, consumer tastes and preferences can be changed. Industry recognised that it was most effective to work as specific sectors in order to make reductions with the reassurance that competitors were making changes too, limiting the risk of consumers switching brand.</p> <p>Using the market as a mechanism for adoption of an effective front of pack (FOP) nutrition labelling has been much less effective. Although the FSA has made evidence-based recommendations about the scheme that is most useful, FOP labelling is a very competitive issue. Retailers and manufacturers have seen this as a fundamental aspect of their marketing and some have felt threatened by the level of transparency a clear FOP nutrition labelling scheme would bring. Despite repeated FSA efforts to persuade a larger number of ‘adopters’ by continuing development of the evidence base for action, many still refuse to use the scheme. This also illustrates a broader issue when using voluntary approaches to achieve industry action in order to help consumers make healthier food choices. The public health objectives of reducing intakes of foods high in fat, sugar and salt and increasing consumption of fruit and vegetables may directly conflict with the commercial interests of companies who produce these foods and want to increase sales. Companies with a wider product portfolio may be more likely to co-operate.</p> <p>Food safety is seen as less of a competitive issue, but given the more direct health consequences if interventions are not implemented effectively is generally dealt with through legislation. The FSA’s development of a ‘scores on the doors’ scheme to drive up hygiene standards in food businesses is, however, an example of where a more market-based approach is being used. The scheme has the dual benefits of enabling consumers to make informed decisions, while also driving up standards because of the threat to business of a poor hygiene rating. The decision to introduce the scheme is based on evidence from other countries, including the United States and Denmark, where similar schemes have contributed to a reduction in food borne disease. However, it has taken the FSA a long time to appreciate the benefits of a UK-wide scheme, although this is now under development. It remains to be seen whether a voluntary approach to adoption of the FSA scheme by local authorities and to display of the scores by businesses will be successful, particularly where businesses are given low scores. This seems to be an example of where</p>	<p>Already raised with relevant policy experts.</p> <p>Already raised with relevant policy experts.</p>

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.2 To what extent would you say that the FSA’s regulatory interventions use the market, where appropriate, to achieve change?		
Respondent	Comment	Response
	<p>the FSA is taking a voluntary approach because of the pressure from elsewhere within Government to reduce regulation, rather than because a market-based approach to adoption of the scheme will deliver the best outcome.</p> <p>The FSA’s handling of food supplements also stands out as one issue where we have been concerned about how the FSA has reached a decision on the nature of the intervention that it would like to see. After an initially pro-active, science-based approach to assessing the risks posed by certain high-dose vitamin and mineral supplements, the FSA modified its approach with a greater emphasis on voluntary labelling, rather than on limiting the availability of high-dose supplements that could pose a risk to health. This issue is ultimately being dealt with at European level, but it is important that the FSA deals with this issue in line with its Regulatory Framework.</p>	

1.3 To what extent would you say that the FSA’s regulatory interventions focus on practical and deliverable solutions?		
Respondent	Comment	Response
Aunt Bessie’s	I am not sure the solutions are always deliverable, especially without significant costs, whilst the solutions may be desirable cost unfortunately has to play a major part.	
Consumer Focus	The FSA has approached initiatives such as salt reduction in practical and deliverable ways with a package of initiatives reflecting often complex causal interrelations. Results show a reduction in salt intakes, indicating that a multi-directional approach, including in this case, influencing the wider environment through working with caterers, retailers and manufacturers on reformulation labelling as well as consumer campaigns can prove fruitful.	Noted.
Derby City Council	At times, guidance issued at a local level can seem impractical. If further clarification is sought from the Agency’s advisers, responses can at times be inconsistent. Improvement in this area would clearly support better enforcement at a local level.	Noted.
Food and Environment Research Agency	The evidence –base for FSA regulatory interventions may be incomplete: given some concern that the overall science impact of projects is constrained by budget and delivery concerns for research projects. FSA needs to ensure that they engage with science partners.	Noted.
LACORS	In general yes – Safer Food Better Business and Food Safety Week being good examples.	
National Farmers Union	The aim must be to achieve an outcome and not simply to go through a process, the latter being the general tendency for Government officials. There is indication from the new FSA strategic plan in development, which focuses strongly on outcomes, that this is being addressed. Understanding the nature of all parts of the food industry is essential to be able to take practical approaches to regulation and put in place	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.3 To what extent would you say that the FSA’s regulatory interventions focus on practical and deliverable solutions?		
Respondent	Comment	Response
	<p>measures that are appropriate and deliverable in a holistic business context. It is necessary for the FSA to trust industry stakeholders to know what is practical and deliverable for them to achieve the desired outcomes. The engagement with industry stakeholders tends to be good, although this can depend upon individuals and is perhaps not always as smooth as it could be.</p> <p>An example of where a focus on practical and deliverable solutions could be improved is on the removal of the spinal cord for sheep. The UK slaughters more sheep of various ages than many other member states yet there has not been a risk based solution to removing the spinal cord of sheep which does not devalue the product during the processing stage implemented.</p> <p>We also have concerns on the Food Chain Information requirement in the EU food hygiene legislation. Until appropriate traceability systems for cattle and sheep are in place it is not practical to roll out a paper based system for food chain information, particularly for animals traded through livestock markets.</p> <p>However we do have examples of where the FSA has focused on practical and deliverable solutions, engaging well with industry stakeholders. There has been a recent industry and Government initiative that has benefited the poultry industry. By working closely with the FSA the poultry industry has successfully reduced the risk to consumers from salmonella to low levels.</p>	<p>Already raised with relevant policy experts.</p> <p>Already raised with relevant policy experts.</p>
Northern Ireland Food Advisory Committee	The consultation process should help to safeguard this aspect of the Agency’s regulatory interventions. It is important to ensure flexibility where new technologies call for a revisiting of practice.	
Royal College of Physicians	This is so and good examples include improving school nutrition by focusing on appropriate school meals. The traffic light food labelling is a good example of a scheme that allows all members of society to assess the nutritional value of a product ‘at a glance’. However, this also means that difficult but possibly important problems may not be adequately addressed e.g. focus on voluntary agreements whereas a more prescriptive, (i.e. legislative) approach might be considered in some cases (e.g. school nutrition).	
Royal Society of Chemistry	Yes – the public scrutiny that attends FSA decision making ensures this. FSA should be encouraged to sponsor research to produce new, innovative and imaginative solutions to current and predictable analytical problems in food and in animal feed, such as the recent problems with melamine and dioxin.	
Seafish	The agency can be too fixed on a one solution fits all approach and not giving different interpretation based on the different practices of an industry. For example where the Agency’s interpretation of the meaning of ‘Fresh’ food not having been frozen may be the understanding for the majority of foods, for fish it is widely understood that fish is frozen at sea to maintain quality and by putting this fish at a marketing disadvantage the consumer may be getting poorer quality fish.	

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.3 To what extent would you say that the FSA’s regulatory interventions focus on practical and deliverable solutions?		
Respondent	Comment	Response
Smithfield Market Tenants’ Association	We believe that interventions do focus on such solutions.	
The Government Chemist	The public scrutiny that attends FSA decision making helps to ensure a strong focus on these attributes. FSA should also remain alert to innovative and imaginative solutions. Effective guidance can help regulated businesses of all shapes and sizes to co-operate with and deliver against the Agency’s practical objectives. For example, I was encouraged to see that recent guidance on food contact materials gave a clear indication of data requirements and the circumstances in which laboratory testing would be appropriate ² .	
Trading Standards Institute	Generally TSI would agree with this view. However, more work needs to be done to develop links with practitioners to properly explore how the solutions may succeed in reality.	Noted.
Which?	The FSA does generally focus on practical and deliverable solutions. Examples of this would include its work around Safer Food; Better Business to help smaller businesses adopt a Hazard Analysis Critical Control Point (HACCP) based approach. Its work on promoting healthier choices has also focused on helping industry to make the necessary changes (eg. salt, fat and sugar reductions) by developing clear targets that companies can work towards, initially by 2010 and then by 2012, enabling a gradual shift.	

1.4 To what extent would you say that the FSA’s regulatory interventions minimise regulatory and administrative burdens where this does not compromise outcomes?		
Respondent	Comment	Response
Consumer Focus	Unnecessary regulation harms consumers when the true costs of regulation are passed on by business to consumers or taxpayers, as the costs of regulation grow. We consider the better regulation team within the FSA as a positive and necessary use of resource to ensure appropriate regulatory intervention.	
Derby City Council	There seems to be a heavy emphasis on this. At times outcomes may suffer, eg the requirement to display Scores on the Doors certificates, is argued as administratively burdensome.	Already raised with relevant policy experts.
LACORS	The work of the Better Regulation Advisory Group shows commitment in this area. We would emphasise that avoiding regulatory burdens for local authorities needs to be recognised as very important at a time when resources for authorities are under more pressure than ever. Work to help local authorities coordinate	Noted.

² FSA, Guide to United Kingdom legal compliance and good practice for business documentation - materials and articles in contact with food, June 2009: <http://www.food.gov.uk/multimedia/pdfs/publication/legalcompliancefoodpackaging.pdf>

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.4 To what extent would you say that the FSA’s regulatory interventions minimise regulatory and administrative burdens where this does not compromise outcomes?		
Respondent	Comment	Response
	and link in with other inspectorates should be explored where this might offer the possibility of greater efficiency and less duplication.	
National Farmers Union	<p>There is clearly the requirement to assess the impact of regulations but it can be difficult to predict what the burden will be before they are applied and enforcement begins. We would encourage an approach that reviews impact assessments, evaluating the costs placed onto business from regulation and enforcement.</p> <p>However, the FSA are currently consulting on the requirement for food chain information before slaughter. This consultation does not appear to have a full impact assessment carried out on the costs to the industry versus the potential benefits to the consumer and food business operator. It is likely that some retailers will stipulate further requirements on the back of this which will increase the cost of this requirement which for cattle and sheep keepers will already place huge, unnecessary burden on the industry, without providing any meaningful information beyond what is already available. We would therefore argue in this case that the FSA has not fully explored the possibilities regarding minimising regulatory and administrative burdens placed on the industry.</p> <p>Within the red meat sector there are a number of controls which could be covered by inspection assistants or quality control personal which would not require MHS or FSA staff. This would not compromise the outcome to the consumer and could drive down running costs of the FSA.</p> <p>One area that could be used to minimise regulatory and admin burdens is the production of guidance in order to clarify non-prescriptive regulations. This has been used successfully in some cases e.g. safer food, better business, but it is not always worded or formatted in a way that would be directly useful for the farming sectors.</p> <p>One area that the FSA has identified is around animal feed record keeping requirements. There had been confusion over farmers’ requirements which led to the FSA re-drafting, shorter and clearer guidance for farmers on this area, which we welcome.</p>	<p>Already raised with relevant policy experts.</p> <p>Noted.</p>
Northern Ireland Food Advisory Committee	There is a concern that in some cases, things are done in a particular way because that is ‘the way in which they always have been done’. It is appreciated, however, that the Agency does try to simplify procedures where possible and to strip out duplication. It is recognised that the intention to reduce administrative burdens is there but there is more to be done on delivery.	Noted
Royal College of Physicians	Again yes, but whether this is appropriate in all cases could be questioned. Legislation to ensure some goals is not always a bad thing.	Noted.
Royal Society of Chemistry	FSA has a reasonable record in reducing regulatory and administrative burdens e.g. the simplification and	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.4 To what extent would you say that the FSA’s regulatory interventions minimise regulatory and administrative burdens where this does not compromise outcomes?		
Respondent	Comment	Response
	<p>consolidation of mineral water regulations and certain compositional requirements; the regulation of the safety of speciality cheeses was also imaginatively handled. There is also evidence in e.g. contaminant Interested Party letters of sensible negotiation at European and Codex level with regard to mycotoxin and heavy metal limits that are protective of consumers but not impossible for businesses to adhere to.</p> <p>Owing to the technical complexity of such issues the Agency must work hard to ensure that such efforts are not, on the one hand misconstrued or, on the other hand, not open enough to consumer scrutiny and/or understanding to render it demonstrable that food safety remains the prime criterion of changes in regulations etc..</p>	
Seafish	<p>From a seafood perspective we consider the Agency consults well with industry to establish the most appropriate way to implement legislation. For example to new fish hygiene charges, where the interpretation was developed in partnership with industry and regulators to reduce burdens.</p>	
Smithfield Market Tenants’ Association	<p>We believe the FSA has made steps towards achieving this.</p>	
The Government Chemist	<p>FSA has a good track record in reducing regulatory and administrative burdens e.g. the simplification and consolidation of mineral water regulations and certain compositional requirements; the regulation of the safety of speciality cheeses was also imaginatively handled. There is also evidence in e.g. contaminant IP letters of sensible negotiation at European and Codex level with regard to mycotoxin and heavy metal limits that are protective of consumers but not impossible for businesses to adhere to. Owing to their technical complexity the Agency must work hard to ensure that such efforts are not, on the one hand misconstrued or, on the other hand not open enough to consumer scrutiny to render it demonstrable that safety remains the prime criterion.</p>	
Trading Standards Institute	<p>If this question refers to burdens on business, the TSI view is that the FSA is more tuned into the reduction of these than before. However, due to the nature of European law, this is not always possible.</p> <p>TSI would suggest that the FSA give greater prominence to consultations on potential effects of legal changes so that businesses are more aware of what may happen and become more involved in that early stage of the process rather than raising issues once the legislation is in place.</p>	Noted.
Which?	<p>The FSA has fully engaged with the broader Government initiative to reduce regulatory and administrative burdens, perhaps initially a little too enthusiastically and unquestioningly from a consumer perspective. The exercise has, however, resulted in some positive outcomes. For example, an initial focus on redrafting the Meat Products Regulations because of a concern about the burden of the name of the food labelling requirement, has now focused on making it much simpler for businesses to understand the legislation</p>	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.4 To what extent would you say that the FSA’s regulatory interventions minimise regulatory and administrative burdens where this does not compromise outcomes?		
Respondent	Comment	Response
	through much simpler guidance, rather than removing important consumer information. This should also benefit consumers through improved compliance. It is important that any further initiatives are evidence-based and do not compromise public health or consumer protection more broadly.	

1.5 To what extent would you say that the FSA’s regulatory interventions drive improvement and reward good performance, whilst seeking firm action against those who persistently fail to meet acceptable standards, or negligently expose the consumer to serious risk?		
Respondent	Comment	Response
Consumer Focus	<p>Firm action is required to tackle food safety issues. The FSA could do more to improve consumer trust in areas such as misleading labelling.</p> <p>Regulators hold information about the compliance records of businesses which inform consumer choice and stimulate improved business compliance. For example the FSA publishes restaurant food hygiene inspection results, which give restaurant owners a commercial incentive to improve their practices.</p> <p>Similar action to publish properly contextualised firm-specific data on misleading labelling will help improve consumer trust in food businesses.</p>	Noted.
Derby City Council	This is embedded within the Agency’s enforcement policy, which we believe works very well. The local “Scores on the Doors” scheme has certainly improved performance.	
LACORS	Generally yes, and see also 2.2 and 2.4 below.	
National Farmers Union	<p>Until recently the FSA and other bodies such as the MHS have not rewarded good performance, with regard to fewer inspections or reduced inspection fees for well-performing business. All businesses have been treated the same. A risk based solution with reduced inspections and therefore reduced cost, has recently been introduced within the red meat sector. This has resulted in resources being better distributed to those abattoirs, processing plants or retail outlets which do not meet the required standards.</p> <p>While not applying directly to farms, we believe the experience of scores on the doors will highlight issues on this aspect for the FSA.</p> <p>A more reasoned and sensitive approach to publishing information than ‘naming and shaming’ has been very welcome. ‘Naming and praising’ is certainly a better approach, although care must be taken not to be divisive as has been suggested by some in the nutrition campaigns re: formulation and front of pack signposting.</p>	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.5 To what extent would you say that the FSA’s regulatory interventions drive improvement and reward good performance, whilst seeking firm action against those who persistently fail to meet acceptable standards, or negligently expose the consumer to serious risk?		
Respondent	Comment	Response
	Improving trust between industry and FSA enforcement bodies, especially local authorities, is essential to drive improvement. The inconsistency that exists within Local Authority enforcement needs to be resolved – the quality of advice, support and interpretation varies from one authority to another. We believe the Local Better Regulation Office will have an important role to play here.	
Northern Ireland Food Advisory Committee	<p>There is evidence that the Agency’s interventions fulfil this. Again, Scores on the Doors represents a good example of how this has been put into practice. It should be considered, however, whether the term ‘reward’, as used in this question, should be replaced with the word ‘recognise’.</p> <p>The recognition of the Farm Assured schemes in assessing risk for primary production is another good example. However, more could be done in this area in the retail and manufacturing sector.</p> <p>It is the nature of enforcement that for reasons beyond the control of the Agency, it may not be possible to put into effect the action sought against those who persistently fail to meet standards.</p>	Noted.
Royal Society of Chemistry	In the face of considerable difficulty and sometimes vested interests FSA has, thus far, used its powers sparingly, relying on persuasion and influence – e.g. scores on the doors to achieve higher standards of microbiological food safety and better control of food storage and preparation. It should be noted that the demonstration that there are regulatory ‘teeth’ when these are required is hampered by fragmented local enforcement and an apparent unwillingness to agree national priorities, as noted in 1.1 above.	
Smithfield Market Tenants’ Association	We feel that the FSA is moving in the right direction, but that there are still inconsistencies in approach.	Noted.
The Government Chemist	In the face of considerable difficulty and sometimes vested interests FSA has used its powers sparingly, relying on persuasion and influence – e.g. scores on the doors to achieve higher standards of microbiological food safety and HACCP control, which embeds significant incentives and reward opportunities in terms of business reputation. There are many other examples to cite. I would reiterate however that more effective demonstration that there are regulatory ‘teeth’ when required is hampered by fragmented local enforcement.	
Trading Standards Institute	This will inevitably be linked to resource provision in local authorities. The relevant legal provisions that authorities have to take into account must also be considered. TSI would also urge the FSA to look at alternative enforcement strategies for food standards work as the options available at the moment (written warning/prosecution) are restrictive for both regulators and business. If the prosecution option is felt appropriate, it often leads to embedded positions which do not help produce an outcome that will benefit consumers - it is also a costly process. That is not to say prosecution is never needed as an option, but	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.5 To what extent would you say that the FSA’s regulatory interventions drive improvement and reward good performance, whilst seeking firm action against those who persistently fail to meet acceptable standards, or negligently expose the consumer to serious risk?		
Respondent	Comment	Response
	other regulatory tools, such as undertakings, could produce a better outcome for business, consumers and regulators if they were available for food standards.	
Which?	We consider that there is more that the FSA can do in order to gain a better national picture of how effectively specific regulations are implemented and enforced and whether an appropriate level of action is being taken consistently by local authorities. The introduction of hygiene scores will help with this for enforcement of food hygiene legislation, but it is also important to understand the extent to which local authorities are monitoring food labelling and standards and taking action when necessary. It is also important that the FSA gives local authorities support when needed to take important prosecutions and we are aware that there is a fund for this purpose. Local authority resources will be limited when dealing with large multi-national companies and the legal expertise available to them. This may mean that they may not want to take the risk, given the resource implications and financial consequences if the case fails, even when there is a strong case for taking a prosecution. More generally, we think that the FSA surveillance and survey work is very important as a way of judging compliance with legislation and/or FSA guidance and highlighting good and bad practice in order to drive up standards. It is essential that the FSA continues to take a transparent approach to the publication of this information. Responsible businesses should have nothing to fear from transparency.	Noted.

1.6 To what extent would you say that the FSA’s regulatory interventions take account of ethical issues surrounding food?		
Respondent	Comment	Response
Aunt Bessie’s	I think that the FSA do take ethical issues surrounding food into consideration and help to raise the profile of issues within the industry.	
Consumer Focus	The FSA needs to be at the heart of cross-Government working to ensure a more sustainable food system. The FSA has appeared reluctant to embrace the sustainability agenda. This is difficult ground for the FSA because there are potential conflicts to resolve between nutrition needs and sustainability principles, for example around fish consumption. Defra (and the devolved administrations) are responsible for achieving the sustainable production of fish, but the FSA has a role to promote the nutritional benefits of eating more fish. These trade-offs are hard for consumers to figure out, so it is important for there to be a source of independent advice for them to turn to. We look forward to taking part in the debate on these issues when the FSA publishes its programme on healthy sustainable food advice.	Noted.
LACORS	Yes, though it was noted that sustainability issues were not reflected prominently in the draft strategic plan.	Noted.
National Heart Forum	We note that ethical considerations are not explicitly mentioned among the key principles within the FSA’s	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.6 To what extent would you say that the FSA’s regulatory interventions take account of ethical issues surrounding food?		
Respondent	Comment	Response
	<p>regulatory framework. This omission weakens both FSA’s obligations and its ability to take account of ethical issues. We therefore recommend that an appropriate form of words should be included. There are various ethical dimensions surrounding food issues that should be reflected in the way the FSA regulates. From a public health point of view, these include:</p> <ul style="list-style-type: none"> ▪ Supporting consumer rights to safe, healthy food ▪ Supporting consumer rights to clear, meaningful and honest information about the food they eat ▪ Duties to protect children and vulnerable consumers from commercial pressures towards unhealthy foods ▪ A duty to support efforts to tackle diet-related diseases ▪ A duty to tackle, and not exacerbate, inequalities in diet-related ill-health ▪ A duty to promote food-related policy which is sustainable in environmental, economic and social terms. <p>In accordance with its founding priority, the FSA has introduced robust systems to regulate for food safety in relation to microbial and toxic products, but not for its obesogenic effects. Food safety remains an important issue, but the burden of diet-related chronic diseases is placing unsustainable demands upon public services and the social costs are enormous and increasing. The FSA now needs to step up efforts to respond to the pressing objective of promoting healthy eating.</p> <p>To date, the FSA’s initiatives on public health nutrition – on front of pack and menu labelling, on food reformulation and on food marketing to children - have relied exclusively on voluntary approaches and not on regulatory interventions. If the FSA’s regulatory framework took explicit account to the ethical considerations underpinning the objectives of healthy food for all, comprehensive food information and protections from commercial pressures, it would enable the FSA to build on the successes it has achieved to date, by regulating in the public health interest where necessary and where it has the competency. There is compelling international evidence for example from health and safety legislation that voluntary approaches need to be supported by a regulatory framework to be effective.</p> <p>For example, the NHF recognises that the Food Standards Agency’s current approach to encourage voluntary reductions in salt in foods has achieved success in many food categories. We note the FSA’s assessment that legislation to require salt reductions by law is likely to incur significant costs and raise enforcement issues. For these reasons we support the continued voluntary approach. However, it is important that the legislative option should be kept open in the event that some categories or manufacturers refuse to co-operate with voluntary reductions, and impede this important public health</p>	

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

1.6 To what extent would you say that the FSA's regulatory interventions take account of ethical issues surrounding food?		
Respondent	Comment	Response
	<p>measure.</p> <p>There are stark inequalities in health and life-expectancy between people living on low and high incomes, and between particular vulnerable groups and the rest of society. By extending the reach of the FSA's regulatory interventions beyond food safety and into public health nutrition, the Agency will strengthen its capacity to tackle inequalities in people's access to safe, nutritious and sustainable food and information about food.</p>	
Northern Ireland Food Advisory Committee	<p>The Agency tries to meet its statutory regulations with regard to ethical issues surrounding food. It is questionable, however, whether within its current remit the Agency can be expected to do any more than this and should not do it if consumer's health were thus compromised.</p>	
Royal College of Physicians	<p>FSA has had difficult ethical problems such as folic acid fortification. These have been handled transparently. Again where significant doubt exists, for example with vitamin D, they have awaited the development of a clear consensus or further evidence. As stated above, if doubt exists, this has been made clear.</p>	
Royal Society of Chemistry	<p>Strictly regulatory ethical issues are probably confined to regulation of food labelling – e.g. welfare standards, that are European and Defra responsibilities. This demonstrates that FSA works in an even more complex landscape than would be supposed by merely thinking about food safety for the consumer. It is also the case that ethical reservations about certain foods, based on religious considerations, while they are covered by FSA, appear not to have been prioritised by successive consultations on the Agency's strategic directions. Proper control of these issues will involve considerable effort and financial support to produce effective, reasonable cost analytical protocols, for use by manufacturers and public assurances and prosecutions for defective products by PAs.</p>	
Smithfield Market Tenants' Association	<p>The question and/or the steps taken are not clear.</p>	
The Government Chemist	<p>Strictly regulatory ethical issues are probably confined to regulation of food labelling – e.g. animal welfare standards might be a good example that is a European and Defra responsibility. This demonstrates that FSA works in an even more complex landscape than would be supposed. It is also the case that ethical reservations about certain foods, based on religious considerations, while they are covered by FSA, have not been prioritised by successive consultations on the Agency's strategic direction. The same may be said for the wider sphere of consumer choice, in which ethical issues play a significant part, for example as to the species of meat (if any) that are acceptable to the purchaser. Turning to GM, FSA has transparently implemented the regulatory decisions taken at EU level but as food security becomes a primary consideration, it may be necessary to facilitate more nuanced consumer choices over particular technologies and their intended agricultural effects.</p>	
Trading Standards Institute	<p>TSI feels that the FSA does this.</p>	

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

2.1 To what extent would you say that as a regulator the FSA supports voluntary approaches, using the market to achieve change, provided they deliver proportionate consumer protection and are consistent with the requirements of EU law?		
Respondent	Comment	Response
Aunt Bessie's	Not sure about this one - as regards salt I feel that the FSA are trying to enforce the traffic lights system via the EU law and that not all the industry are wanting to adopt the system.	
Consumer Focus	<p>While the FSA has an extensive toolkit with respect to food safety, it has few powers related to other matters, such as its role in promoting healthy eating.</p> <p>The FSA must therefore rely on consumer empowerment and encouraging voluntary approaches from the food industry, or ask Government to introduce change. While voluntary approaches are not necessarily a bad thing, a lack of powers in this area does reduce its options and stakeholders will be aware of these constraints in negotiations. This makes it important for the FSA to show it is ready to call on Government to introduce mandatory measures when necessary. Consumer Focus recognises that there are limitations here, for example it is not possible to introduce legislation in areas which have been fully harmonised at EU level.</p>	
Derby City Council	We are not convinced that voluntary approaches are the best method for effective regulation. Our enforcement experiences support this view. We agree, however, that approaches need to be consistent with EU Law.	
Food and Drink Federation	<p>We are strongly of the view that FSA's Regulatory Framework should be applied to its non-regulatory interventions under which FSA introduces 'voluntary' bans, aspirational targets and naming and shaming against best practice guidance.</p> <p>We are concerned that a lack of clear differentiation between legal requirements and voluntary guidance has led to additional burdens on business. In our view, unduly prescriptive guidance can lead to outcomes which may not always be in the interests of consumers or industry. FSA's <u>guidance on the use of the term natural</u> is a case in point. This guidance is highly prescriptive and can be interpreted by enforcement authorities, and in turn by the Advertising Standards Authority, as if it is the legal basis for advice. We also question the evidence base for the criteria for the use of the terms fresh, pure, natural etc. Certainly some terms such as 'original' were put to a research panel in 2005 but the 2008 revision of the guidance appeared somewhat speculative. None of the amendments were backed by actual consumer research and the criteria for 'natural' go into such detail that it would not be understood by the actual consumer.</p> <p>We are concerned by the FSA's decision to go against the recommendation of the Scientific Advisory Committee on Nutrition and not remove the protein cap from its <u>nutrient profile model</u>. This decision went</p>	<p>Already raised with relevant policy experts.</p> <p>Already raised with relevant policy experts.</p>

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

2.1 To what extent would you say that as a regulator the FSA supports voluntary approaches, using the market to achieve change, provided they deliver proportionate consumer protection and are consistent with the requirements of EU law?		
Respondent	Comment	Response
	<p>against the principles of better regulation and created a period of regulatory uncertainty. We also question the strength of existing evidence linking <u>portion size</u> with energy intake and obesity as a basis for FSA’s recommendation to increase the availability of smaller portion sizes. Additional research is needed before industry is required to make costly alternations to product lines which may be unnecessary if the action does not elicit the desired outcome.</p> <p>We are also concerned by some of the approaches adopted by FSA which have been disproportionate and place additional burdens on the UK industry without any additional protection for the consumer. FSA’s decision to impose a ‘voluntary’ ban on the six <u>colours</u> identified by the Southampton study as possibly being associated with hyperactivity in young children is a case in point. In our view, a more proportionate response, and one which would not have disadvantaged UK industry over and above its European competitors, would have been to wait until the outcome of the safety evaluation of these colours by EFSA. More recently the priority given to the <u>aspartame</u> study is not proportionate to any risk posed to consumers by the use of aspartame. We also consider that the way in which this study has been commissioned has not been open and transparent – the research tender has not been made publicly available and the objective of the study is not entirely clear.</p> <p>We are disappointed that FSA’s approach on voluntary <u>front of pack nutrition labelling</u> has been to champion a single scheme based on traffic light colours particularly given that there are now twice as many products featuring simple GDA labelling in market, than those using some form of colour coding or complex hybrid system, and given that GDA labelling is shown to have a significant positive impact on consumers. Industry should be commended for the leadership it has shown on the provision of front of pack nutrition labelling in whatever format and we would argue that, given that FSA has no power to regulate in this area and with new EU legislation due to be agreed in the next 12 to 18 months, the most proportionate and cost-effective approach at this stage would be for FSA to work with industry to encourage consumers to use the information that is now widely available to them in retail stores to help make healthier food choices.</p> <p>Notwithstanding the above, we commend the approach taken by FSA on <u>trans fat</u> following its review in 2007 which concluded that voluntary measures to reduce trans fat levels were sufficient and that no legislative action was necessary in the UK.</p> <p>We also welcome FSA’s collaborative work with industry on <u>incident prevention</u> although we are concerned that this work has appeared to have stalled in the last 6 months. This is an area where we feel that real progress can be made and we hope that this is seen as a key priority for the Agency.</p>	<p>Already raised with relevant policy experts.</p>

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

2.1 To what extent would you say that as a regulator the FSA supports voluntary approaches, using the market to achieve change, provided they deliver proportionate consumer protection and are consistent with the requirements of EU law?		
Respondent	Comment	Response
LACORS	<p>See answers 1.1 & 1.2 above.</p> <p>We would also comment that industry guides to good hygiene are an example of a voluntary approach to clarifying a very useful agreed interpretation of what EC law requires. Whilst it is realised that the production of these guides should be driven by industry itself – it might be argued that the FSA could do more to support/facilitate the update of a number of out of date guides and the production on new ones where appropriate, for example in the area of catering, baking and butchers premises in the light of the recent Pennington Report.</p>	Noted.
National Farmers Union	<p>We have previously welcomed, and were heavily involved in, the approach taken by the FSA to reduce the level of statutory inspections under the EU Food Hygiene Regulations for farmers belonging to a farm assurance scheme, in recognition of the high standards to which they already operate. This demonstrates that the FSA are willing to support industry initiatives and in practice means that only 2% of assured farms will face statutory inspections, compared with 20% of non assured farmers, therefore reducing the burden on these businesses.</p> <p>However we remain concerned and frustrated at the lack of progress in extending this to dairy farmers. We recognised that maintenance of the highest standards of food safety is paramount but do not support the FSA's view on the risks posed by dairy. There is absolutely no reason why dairy cannot follow the same model considering it was accepted for the other sectors, and has been in place for over three years now, and is recognised by the European Commission as an acceptable model.</p> <p>Another area that is relevant in this section is Food Chain Information. As highlighted previously in this response we believe this will increase burdens on the industry for no additional benefit to the consumer. In stakeholder meetings with the FSA we have put forward and explored ways of implementing this requirement whilst attempting to minimise the burden on both producers and processors. We have proposed solutions to this including reporting by exception and highlighting the duplication this regulation will impose. However it appears the FSA view of this has not changed as the consultation looks to implement this regulation fully for all cattle and sheep from 1 January 2010. This may require stronger negotiation in Brussels, and this should be a target for training and development of staff in the FSA.</p>	<p>Already raised with relevant policy experts.</p> <p>Already raised with relevant policy experts.</p>
Northern Ireland Food Advisory Committee	The Committee is content that, as a regulator, the Agency does try to promote a voluntary approach and that this voluntary approach does not go outside EU law. E.g. front of pack nutritional labelling.	
Royal College of Physicians	Almost entirely – see above for whether this is a desirable balance. In view of the deteriorating nutritional status in both children and adults we would suggest that this is not entirely the correct approach. Without doubt the long-term effects of these current nutritional practices will result in significant economic (i.e.	Noted

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

2.1 To what extent would you say that as a regulator the FSA supports voluntary approaches, using the market to achieve change, provided they deliver proportionate consumer protection and are consistent with the requirements of EU law?		
Respondent	Comment	Response
	healthcare) and social burdens and it might be argued that legislative intervention would speed the improvement of this situation without impacting too severely on personal freedoms. However this would be a delicate balance.	
Royal Society of Chemistry	The FSA has made use of this part of its remit reasonably effectively but does not support acceptable levels of monitoring at the retail market level, as noted earlier.	
Safefood	Safefood fully supports the FSA's evidence-based approach and transparent practice.	
Smithfield Market Tenants' Association	We do not believe this is the case with the meat industry; meat is treated as a high-risk product.	Noted.
The Government Chemist	The FSA makes extensive use of this part of its toolkit. In fact, the market is largely at liberty to obtain and present evidence of compliance, continuous improvement and positive change to improve consumer protection on its own terms.	
Trading Standards Institute	Generally TSI feels that the FSA does this when appropriate within the constraints mentioned.	
Which?	The FSA is supportive of voluntary approaches where these are appropriate. Some examples have already been highlighted. In most cases, however, regulatory interventions are most effective in the food area in order to ensure effective consumer protection. The recent European Food Safety Authority (EFSA) assessment of 540 health claims under Article 13.1 of the Regulation on health and nutrition claims, for example, has highlighted that despite a general requirement that food labelling should not be misleading, many food companies have been making misleading health claims on their products because it has been an effective way of marketing products to consumers increasingly interested in healthy eating. The new Regulation requires that health claims are now independently substantiated and of this batch assessed by EFSA, only around a third were supported by the evidence. This highlights how in such a competitive market, some issues cannot be left to voluntary approaches.	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

2.2 To what extent would you say that as a regulator the FSA expects businesses to act responsibly, and encourages and recognises those that do so?		
Respondent	Comment	Response
Derby City Council	Agree with statement and FSA's guidance on this matter.	
LACORS	Generally yes. However there may be more scope to explore 'earned autonomy' type approaches and recognition of third party accreditation in future to help both recognise business good practice and allow authorities to prioritise limited local resources in future.	Noted.
National Farmers Union	<p>We would raise similar points to the response above. The Hygiene regulations themselves give responsibility to businesses and FSA have been good at taking this principle into the way they applied the regulation. However we are frustrated and disappointed at the lack of ambition and effort from the FSA to make this work within the dairy sector.</p> <p>There is room for further improvement within the red meat sector and the FSA must allow food business operators within red meat plants to be able to make decisions and act responsibly with regard to SRM removal, Vertebral column removal and anti and post mortem with regard to livestock both entering and leaving their plants particularly those slaughtering cattle under 48 months old. This should be based on risk and previous inspection results.</p>	Already raised with relevant policy experts.
Northern Ireland Food Advisory Committee	The Committee is content that the Agency does expect business to act responsibly. It is noted that, in general, businesses should not be rewarded for simply fulfilling their obligations but should be penalised for failing to do so. There may therefore be a case for the Agency raising its expectations of the actions of businesses and should be vocal about its high expectations.	Noted
Royal College of Physicians	Our impression is that the FSA has worked very well with business and their combined efforts have had significant benefits. The most obvious example is that of the work between the major food distributors and the traffic light labelling of food packaging developed by the FSA which is simple, easy to recognise and from some of our Fellows' observations effective.	
Royal Society of Chemistry	This is a necessary set of preconditions for FSA's current mode of operation.	
Smithfield Market Traders' Association	Approaches are still not sufficiently HACCP-based.	
The Government Chemist	This is a prime tenet of FSA thinking at a strategic and campaigning level. However, in some fields, the scope and extent of laboratory testing is principally dictated by local pressures and ad hoc concerns. In these circumstances, a shared, coherent national vision of the requirements for due diligence would encourage responsible businesses to strive for recognition.	
Trading Standards Institute	TSI is not in a position to comment on this.	

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

2.2 To what extent would you say that as a regulator the FSA expects businesses to act responsibly, and encourages and recognises those that do so?		
Respondent	Comment	Response
Which?	In our view, the FSA does a lot to highlight good industry practice – for example, companies that have made salt reductions, caterers who are adopting healthier practices, retailers and manufacturers who have adopted its front of pack labelling scheme and caterers using calorie labelling. Through publication of its surveys, it also highlights good and bad practice, although in recent years seems to have become more cautious about naming brands. The development of a hygiene scores scheme will also be a way of doing this and we would like to see a revised version of the Hygiene Assessment Score (HAS) system reintroduced for slaughterhouses.	

2.3 To what extent would you say that as a regulator the FSA seeks to work collaboratively with responsible businesses, and/or their representative organisations, to protect consumers?		
Respondent	Comment	Response
Aunt Bessie's	Think that this is something the FSA do well, not always in as timely fashion as should be. My personal experience was regarding Sudan 1 and do not feel that the FSA acted quickly on the information that was provided to them	Noted.
Cambridge Manufacturing Company Limited	We feel that the FSA could support responsible businesses even more by developing a better strategy for negotiation in Europe. There are occasions where we believe that more pro-active advocacy with European audiences could produce better regulation, which better protects the interests of British industry.	Noted.
Derby City Council	There appears to be a focus on working with larger businesses, but less so with smaller businesses. This is particularly important to address as most food businesses are those small/medium enterprises.	Noted.
LACORS	Generally yes – though see also 1.2	
National Farmers Union	The FSA is generally good at engaging with stakeholders. For farming they generally have to work through the NFU and do not tend to go to farming businesses unless they are very large. However we do have a representative on the BRAG group. We welcome the stakeholder events held by the FSA on pre-consultation exercises and there have also been a number of stakeholder events on better regulation and simplification initiatives which have been well attended. This shows there is a willingness from the FSA to work on areas that aim to reduce the burden on business while protecting consumers. We believe the FSA make an effort to involve the right stakeholders and organisations.	
Northern Ireland Food Advisory Committee	There are signs that the Agency is improving in this regard. There is more to do but the right tone has been set and the Agency is on the right path.	Noted

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

2.3 To what extent would you say that as a regulator the FSA seeks to work collaboratively with responsible businesses, and/or their representative organisations, to protect consumers?		
Respondent	Comment	Response
Royal College of Physicians	We believe there has been a clear and successful effort to work with business on behalf of consumers.	
Royal Society of Chemistry	To date this has been a major aspect of FSA's work.	
Smithfield Market Tenants' Association	We believe that this is happening, that interactions are not purely prescriptive.	
The Government Chemist	I recognise that this is a major thrust of FSA work. It could lay the foundations for a consistent and transparent approach to due diligence of the kind envisaged under 2.2.	
Trading Standards Institute	TSI is aware of some FSA work with responsible businesses.	
Which?	The FSA involves stakeholders at the various stages of its policy making processes. In some areas, such as the development of the traffic light labelling scheme, it has gone to great lengths to do this, involving industry and other stakeholders in the design of its consumer research and at all subsequent stages. We have always found that 'tripartite' type initiatives work best when determining what is the most appropriate action to be taken, involving consumer and enforcement stakeholders as well as industry (e.g. in the form of voluntary guidance). This can help to avoid a 'lowest common denominator' type of approach.	

2.4 To what extent would you say that as a regulator the FSA works with enforcement bodies to help responsible businesses comply and to penalise those that are wilfully and repeatedly noncompliant, or seriously negligent with respect to consumer safety?		
Respondent	Comment	Response
Aunt Bessie's	Think that this is something that works fairly well. Under a recall situation the FSA worked well with our enforcement body.	
Consumer Focus	The FSA is very dependent on local authority regulatory services to identify problems on the ground. It is crucial that there are adequate resources and reporting mechanisms to ensure that all relevant information is fed back centrally.	
Derby City Council	We agree, but this is driven very much by local authorities' enforcement policies, rather than via the FSA	
LACORS	Generally yes. Support from the FSA in this area is important. Good examples of helpful support include: SFBB and associated grant money / FSA local authority training initiatives / FSA fighting fund / support on food fraud issues/ centrally produced advice & leaflets/ resources made available during food safety week. More recognition of the important work done by local authorities in documents like the regulatory framework would be welcomed. It is notable that local authorities play a very significant part in delivering a shared agenda of food advice and enforcement locally – but are not referred to specifically by name in any part of the document. Such recognition would help build on the FSA's good work in providing the support	Noted

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

2.4 To what extent would you say that as a regulator the FSA works with enforcement bodies to help responsible businesses comply and to penalise those that are wilfully and repeatedly noncompliant, or seriously negligent with respect to consumer safety?		
Respondent	Comment	Response
	mentioned in the paragraph above and in making connections regionally through the regional presence unit. LACORS and the FSA have worked well together over many years to help achieve effective proportionate enforcement, however there have been a few cases recently where LACORS have not consulted or involved as we would have wished, we would highlight the need for good liaison and communication to continue.	
National Farmers Union	Relations with local authorities and trading standards do not always seem to be entirely smooth and constructive, but these bodies will be better placed to provide a response here.	
Northern Ireland Food Advisory Committee	The Committee is content that the Agency fulfils this goal. Additionally the Agency rightly works with enforcement bodies to help all businesses comply with respect to consumer safety. As noted above the FSA will seek to ensure robust action against persistent offenders and has more to do in this area.	Noted
Royal Society of Chemistry	This is a less satisfactory area for reasons given above – see responses to Q1.1 and 1.5	Noted.
Smithfield Market Tenants' Association	We believe that this is happening, that interactions are not purely prescriptive.	
The Government Chemist	This is a more problematic area for reasons given above – see responses to Q1.1 and 1.5. Perhaps a sound starting point would be to ensure that enforcement bodies stand to benefit from co-operation with and through the Agency. For example, the FSA, having access to science ranging from product authorisation dossiers to horizon-scanning research, needs to ensure that this knowledge base is accessible in a relevant format to all stakeholders with a role in upholding compliance and consumer safety. The repository of information freely available in 'foodbase', that has been populated with the Agency's science project final e-reports, is highly commendable and needs to be vigorously disseminated to regulators outside FSA.	Noted.
Trading Standards Institute	See answer to 1.5 above. Looking at the introduction and use of other regulatory sanctions would be a clear demonstration of this.	
Which?	The FSA does put a lot of effort into working with local authorities, but we think that there is more that the FSA could be doing in order to ensure the effectiveness of enforcement. This includes ensuring that prosecutions are taken when they are needed. We are concerned that the FSA's failure to include food labelling and standards issues as a theme within its strategic plan could also undermine local authority efforts in this area and discourage resources from being allocated to this important area of work, particularly in the current recession when there is a greater focus on cutting costs. In particular, lessons need to be learned from the Pennington Inquiry into the September 2005 Outbreak of E coli O157 in South Wales which made recommendations relating to local authority enforcement, including the important role that unannounced inspections play; the way that the FSA audits local authority enforcement; and the failure of the Meat Hygiene Service to fulfil its enforcement function.	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

2.4 To what extent would you say that as a regulator the FSA works with enforcement bodies to help responsible businesses comply and to penalise those that are wilfully and repeatedly noncompliant, or seriously negligent with respect to consumer safety?		
Respondent	Comment	Response
	It would also be timely for the FSA to revisit the idea of a prosecutions register in order to help drive up compliance through greater transparency. This was proposed a few years ago, but was not developed. It is also important to ensure that there is an effective way of monitoring compliance and market coverage when voluntary mechanisms are used to achieve a particular policy outcome.	

2.5 To what extent would you say that as a regulator the FSA works with other regulators to minimise the burdens on businesses, for example through joint inspection regimes and data sharing, where this does not jeopardise regulatory outcomes?		
Respondent	Comment	Response
Derby City Council	This authority supports the validity of joint working, to minimise burdens on businesses, but normally this is to the detriment of our resources and flexibility.	
LACORS	Generally yes – though as suggested at paragraph 1.4 above, work to help local authorities coordinate and link in with other inspectorates should continue to be pursued where possible. We would comment that the work the FSA undertook to create better links with Ofsted in respect of childminders does not appear to have been as successful as had been hoped.	Noted.
National Farmers Union	<p>There definitely seems to be a reluctance to work with other regulators to minimise the burden on farm businesses. Whilst we can highlight the example of working with assurance schemes and classifying these farms as low risk for hygiene inspections as a best practice example, with the dairy hygiene side there is a tension with AHDH to work with assurance schemes and an apparent wish by FSA to protect them. This is not in any way helping the dairy sector move in line with other primary production sectors for this particular regulation. We are surprised by the FSA stance and the lack of ambition and effort to make this work for dairy producers.</p> <p>We could also highlight other areas where improvement is needed. Defra has been running an on-farm inspection project board for a number of years now with the intention to join up farm inspections between regulatory agencies to reduce the burden on farmers. Although there is one FSA representative on this group, looking at the dairy hygiene pilot, the lack of other FSA representation for other regulatory areas is noticeable. There needs to be more joined up thinking and policy making between Defra and the FSA where farmers (primary production) is involved.</p> <p>We do not believe the FSA has made any attempt to share inspection information with the RPA on the OFFC activity carried out by Local Authorities and the Cross Compliance SMR 11 inspections carried out by</p>	<p>Already raised with relevant policy experts.</p> <p>Noted.</p>

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

2.5 To what extent would you say that as a regulator the FSA works with other regulators to minimise the burdens on businesses, for example through joint inspection regimes and data sharing, where this does not jeopardise regulatory outcomes?		
Respondent	Comment	Response
	<p>the RPA. This has resulted in duplicated inspections for farmers. We also feel possibilities could be explored for joining up with assurance schemes on feed hygiene.</p> <p>Therefore it could be argued that the FSA focus primarily on Local Authorities and Environmental Health Officers and do not engage as much as could be possible with other farm or Government regulators.</p> <p>We also believe the FSA has a tendency not to share any information that it gathers from things like post mortem and anti mortem inspections information. Abattoirs and processing plants have good records of these inspections and therefore they could be sent to producers and stakeholders to ensure that any issues occurring in the livestock are highlighted before they pose a threat to the consumer.</p> <p>There is potential to work with farm assurance, retailers and other inspectors to reduce the amount of visits and audits needed, especially for the red meat sector, which has the highest level of inspection for any sector.</p>	
Northern Ireland Food Advisory Committee	There are examples of good practice but there is more that could be done in partnership with other regulators. There may be information systems which could be used more effectively to reduce the burden on the Agency.	Noted
Royal Society of Chemistry	This is one of the avowed aims of FSA. How this has operated can only be answered by those working within the enforcement network.	
SITPRO	SITPRO has links with the FSA and has worked with them to publicise consultations such as this one and the current one on the 'Draft Official Feed and Food Controls (England) Regulations 2009'. The FSA participated in the Pre-Budget Report project to reduce the regulatory burdens on business. This was a joint HMRC and BIS led project where SITPRO managed the consultation with business. With the advent of the relaunching of the Defra Import Export Consultation Exchange (DICE) as part of the SITPRO Ports and Borders Advisory Group, the trade expressed a strong wish that the FSA should form part of the Defra representatives on this group. Although the FSA has not been in attendance at the two meetings we have had to date, we hope that they will join us in furthering the trade facilitation agenda set by the PBR.	
Smithfield Market Tenants' Association	We have not seen this demonstrated.	
The Government Chemist	This is an avowed aim of FSA and I have always found the Agency to live up to cooperative partnership working, but being outside the enforcement network am unable to comment further.	
Trading Standards Institute	TSI views this work as still at an early stage and that there are more opportunities for synergies to be achieved both at local and central government levels. These measures will hopefully also reduce burdens	

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

2.5 To what extent would you say that as a regulator the FSA works with other regulators to minimise the burdens on businesses, for example through joint inspection regimes and data sharing, where this does not jeopardise regulatory outcomes?		
Respondent	Comment	Response
	on regulators and free resources to better enable satisfactory outcomes for all to be obtained.	
Which?	We are not in a position to respond to this question as it is directed at businesses and local authorities.	

3. Particularly aimed at consumers: do you think regulations on food should focus primarily on:		
<ul style="list-style-type: none"> • making sure food is safe? • healthy eating for all? • making sure food information is comprehensive and easy to understand? • setting food compositional quality standards? • making it as simple as possible for businesses to comply and so perhaps keeping down prices and keeping a wide range of products? 		
Respondent	Comment	Response
Aunt Bessie's	<ul style="list-style-type: none"> • making sure food is safe - HIGH - Think this should be a high priority • healthy eating for all - LOW - Think that information should be provided to enable people to make informed decisions. • making sure food information is comprehensive and easy to understand - HIGH Think this should be a priority over point above to enable people to make their own choices • setting food compositional quality standards LOW -I don't think this is necessary and could become over complicated • making it as simple as possible for businesses to comply and so perhaps keeping down prices and keeping a wide range of products MEDIUM - Think this is an excellent idea and would be welcomed by most manufacturers. 	Noted.
British Science Association conducted their own online survey and received four responses	Ranked importance of five questions as follows: <ul style="list-style-type: none"> • making sure food is safe? 100% (4) • healthy eating for all? 75% (3) 25% (1) • making sure food information is comprehensive and easy to understand? 50% (4) • setting food compositional quality standards? 50% (4) • making it as simple as possible for businesses to comply and so perhaps keeping down prices and keeping a wide range of products? 75% (3) 25% (1) 	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

<p>3. Particularly aimed at consumers: do you think regulations on food should focus <u>primarily</u> on:</p> <ul style="list-style-type: none"> • making sure food is safe? • healthy eating for all? • making sure food information is comprehensive and easy to understand? • setting food compositional quality standards? • making it as simple as possible for businesses to comply and so perhaps keeping down prices and keeping a wide range of products? 		
Respondent	Comment	Response
Consumer Focus	<p>The FSA programme work in reducing public intake of salt (healthy eating for all) is an example where a regulatory approach may not be as appropriate as utilising other tools. The FSA work including public education campaigns and dialogue with business for salt reduction has had some success without a legislative platform being put in place.</p> <p>There is a need for work to ensure consumers are not misled and a regulatory approach may be suitable in this area. Concerns over nutrition and health claims, marketing terms and references and labelling data have been raised in the media, by Non-Governmental organisations and noted by the FSA's own research. If consumers are to regain their trust in food labels, strong leadership by the FSA is needed and this may include a regulatory approach.</p>	Noted.
David Whitley	Food should be thought of in terms of its 'intelligence' value rather than its energy and metabolic building properties. Also stress levels in society need to be reduced.	Noted.
Derby City Council	<ul style="list-style-type: none"> • making sure food is safe? High • healthy eating for all? Medium • making sure food information is comprehensive and easy to understand? Medium • setting food compositional quality standards? High • making it as simple as possible for businesses to comply and so perhaps keeping down prices and keeping a wide range of products? Low 	Noted.
Food and Drink Federation	We consider that regulations on food should focus on making sure that food is safe and making sure that food information is comprehensive and easy to understand.	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

3. Particularly aimed at consumers: do you think regulations on food should focus **primarily** on:

- making sure food is safe?
- healthy eating for all?
- making sure food information is comprehensive and easy to understand?
- setting food compositional quality standards?
- making it as simple as possible for businesses to comply and so perhaps keeping down prices and keeping a wide range of products?

Respondent	Comment	Response
National Heart Forum	<p>Regulations on food should focus on:</p> <p>Healthy eating for all A reliance on self-regulation and voluntary actions to address food marketing to children, healthier food reformulation, front of pack nutritional signposting and menu labelling has achieved only partial results because some companies have chosen to support healthy eating initiatives while others have not or have acted slowly or in a piecemeal way. Well-judged regulation can complete what voluntary action has started; ensuring universal application of measures and acting as a backstop to ensure that progress made on a voluntary basis is not rolled back once public or government pressure for change eases. The FSA has an important role to provide independent monitoring and evaluation of voluntary measures. We also note that the FSA also has a key advisory role with Government and should provide independent opinion on the need for and mode of regulation.</p> <p>Making sure food information is comprehensive and easy to understand</p> <ul style="list-style-type: none"> ▪ The FSA must prioritise efforts to ensure that the front of pack nutritional labelling scheme which performed best in the independent evaluation is adopted as a standard system by the food industry and included within the proposed EU food information regulation. ▪ The work with catering outlets to provide calorie labelling should in due course be extended to align this initiative with wider dietary goals and include information on other key nutrients in a format that is consistent with front of pack schemes. ▪ The FSA should expand its work with food companies to ensure that food information also provides consumers access to reliable guidance towards low impact, sustainable food choices. <p>Setting food compositional quality standards As well as the current focus on salt, saturated fat and calorie density, the FSA should be actively working towards the elimination of trans fats from food products and monitoring carefully trans fat intakes in high risk consumers (especially children and young people and those who are high consumers of take-aways</p>	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

<p>3. Particularly aimed at consumers: do you think regulations on food should focus <u>primarily</u> on:</p> <ul style="list-style-type: none"> • making sure food is safe? • healthy eating for all? • making sure food information is comprehensive and easy to understand? • setting food compositional quality standards? • making it as simple as possible for businesses to comply and so perhaps keeping down prices and keeping a wide range of products? 		
Respondent	Comment	Response
	and processed foods) and trans fat levels in key categories such as fast foods.	
Northern Ireland Food Advisory Committee	<ul style="list-style-type: none"> • making sure food is safe – high priority • healthy eating for all – low priority • making sure food information is comprehensive and easy to understand – high priority • setting food compositional quality standards – low priority <u>except</u> on products where consumers can be easily misled as a result of paucity of information • making it as simple as possible for businesses to comply – high priority. Any regulation should be straightforward to comply with and easy to implement. Regulations should be fit for purpose. 	
Rachel Hicks, Just Rachel Quality Desserts	<ul style="list-style-type: none"> • making sure food is safe – very high priority • making sure food information is comprehensive and easy to understand – high priority • making it as simple as possible for businesses to comply – high priority • setting food compositional quality standards – high priority • healthy eating for all – medium/low priority 	Noted.
Royal College of Physicians	Concerned that this question is phrased to deliver one answer that could be misinterpreted.	The question was designed to gather the views from consumers of the relative store they set by each aspect of the FSA’s work.
Safefood	“Making sure food is safe” and “healthy food for all” are over-arching goals, while the latter three points are means to achieve these goals. It is difficult to say whether ensuring food is safe or creating an environment where there is healthy food for all is more important. From a purely regulatory point of view, controlling food safety may be more important given that healthy eating is influenced by many, many factors.	Noted.
Seafish (from a consumer’s perspective)	Ranked in priority where 1 is highest and 5 lowest: <ul style="list-style-type: none"> • Making sure food is safe (1) • Healthy eating for all (5) • Making sure food information is comprehensive and easy to understand (2) 	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

<p>3. Particularly aimed at consumers: do you think regulations on food should focus <u>primarily</u> on:</p> <ul style="list-style-type: none"> • making sure food is safe? • healthy eating for all? • making sure food information is comprehensive and easy to understand? • setting food compositional quality standards? • making it as simple as possible for businesses to comply and so perhaps keeping down prices and keeping a wide range of products? 		
Respondent	Comment	Response
	<ul style="list-style-type: none"> • Setting food compositional standards (4) • Making it as simple as possible for business to comply and so perhaps keeping prices down and keeping a wider range of products (3) 	
Trading Standards Institute	TSI is of the view that regulations should focus on all these issues as they all impact on broader strategic aims.	Noted.
Which?	<p>We do not think that it is helpful to determine when regulation, compared to other types of intervention, is appropriate based on the subject matter alone. The FSA will need to intervene to achieve change in order to fulfil its responsibility of protecting public health and other consumer interests in relation to food in all of these areas. An imminent risk to health is most likely to require the swift introduction of legislation so that consumers are protected. But regulatory solutions may also be most effective for some interventions to reduce the risk from longer- term health and other risks, whether through food-borne contaminants, over-consumption of less healthy nutrients or detriment in the form of financial loss from false descriptions or misleading claims, for example.</p> <p>The FSA therefore needs to use the framework to determine the most appropriate form of intervention that will achieve the required outcome. This will need to take into account issues such as:</p> <ul style="list-style-type: none"> • the nature and scale of the consumer detriment • the urgency of ensuring compliance and scale of risk from non-compliance • the likelihood of compliance using different types of interventions • is there a sufficient financial or other incentive (eg. loss of trust in the brand) to comply? • what is the nature of the industry sector affected? • how diverse is it and what level of market coverage would be likely by a voluntary vs a statutory approach? • how serious are the consequences of insufficient market coverage? • are the short-term costs of compliance likely to act as a disincentive for industry to take the required action, despite longer term health or social benefits? • whether there a high degree of uncertainty or specialist skills required to take the necessary action (eg. 	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

<p>3. Particularly aimed at consumers: do you think regulations on food should focus <u>primarily</u> on:</p> <ul style="list-style-type: none"> • making sure food is safe? • healthy eating for all? • making sure food information is comprehensive and easy to understand? • setting food compositional quality standards? • making it as simple as possible for businesses to comply and so perhaps keeping down prices and keeping a wide range of products? 		
Respondent	Comment	Response
	<p>is independent oversight most appropriate for example for risk assessment, is a higher level of prescription/ government guidance required?)</p> <ul style="list-style-type: none"> • what does FSA consumer research show that consumers expect, eg. how do they weigh up the risks and benefits of action or inaction? 	

OTHER COMMENTS:		
Respondent	Comment	Response
Advisory Committee on Pesticides	<p>The Committee did not answer the consultation questions because the members noted that ‘several of the questions require a considerable amount of information in order to formulate a fully-informed response’ and that the structure of the consultation was ‘opaque’. The Committee therefore gave the following points instead:</p> <ul style="list-style-type: none"> • the Committee considers that the primary focus for FSA should be on food safety rather than healthy eating, which should primarily be the responsibility of the Department of Health; • members commended the strong science and evidence base supporting the work of the FSA and noted that the awareness of consumer concerns was very strong within the agency. 	Noted.
Ajinomoto	<p>As to focus, the Agency's priorities should be framed by its primary objective and mandate "to protect the health of the public":</p> <ul style="list-style-type: none"> • Safe food for all consumers is the main priority; • Regulation, where necessary, should be used in order to deliver this objective and should be framed in a manner which encourages good compliance; • 'Voluntary' approaches should be used only where they deliver proportionate consumer protection (as in voluntary withdrawals of wrongly labeled food-stuffs, for example) and when underpinned by evidence of the need (for reasons of consumer protection) for such an approach; • All regulation and other interventions should be based on the best scientific evidence available; • All regulation should be proportionate to the benefit and risk involved; and • Communication with, and advice to, consumers in relation to the rationale for intervention (by regulation 	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

OTHER COMMENTS:		
Respondent	Comment	Response
	<p>or otherwise), or the reasons for not intervening, should be clear, easy to understand and impartial (evidence- rather than opinion-based).</p> <p>Finally, as a company operating internationally and with food ingredients which are regulated at a European level, it would be helpful if the Food Standards Agency worked together with the European Food Safety Authority to ensure harmonised decision making and, in particular clarity and consistency in communication in order to avoid confusing consumers and undermining trust in our regulatory processes.</p>	
Cambridge Manufacturing Company Limited	<p>We appreciate that FSA officials attend a great number of meetings and working groups in Europe, and that they make efforts to communicate the results of these meetings to stakeholders, primarily through the interested parties' letters. However, we feel that the European legislative process still often lacks transparency, and would welcome any efforts to improve this situation. While we do find the interested parties' letters useful, there is often a delay between a meeting taking place and the information being made available. As a business, time is often of the essence in preparing the best possible response to any important developments, and so we would appreciate information being made more readily available. Perhaps it would be possible to make more information on the legislative process available on your website, including easily digestible, up-to-date information about the progress of legislation and any action required on our behalf.</p> <p>Greater transparency in this area would also make it simpler for businesses to provide input. Ultimately, greater involvement of companies in the development of relevant legislation will lead to better compliance.</p>	Noted.
Consumer Focus	<p>The Consumer Focus <i>Rating Regulators</i> report 2009 noted that the FSA is best in class for transparency and has a strong consumer-focused culture. It notes that the FSA has 'comprehensive systems in place to identify food safety risks, but it has sometimes been reluctant to take a lead on other policy matters, such as issues related to new technologies and sustainability¹' The 'Framework for Regulatory Decision Making' provides a clear signal about how the FSA intends to achieve its objectives. Key principles of intervention include taking into account the consumer interest and the risks of inaction. These are vital to ensure consumer confidence in the FSA. These important areas should be incorporated into the Agency Strategic Plan 2010-2015 currently being developed.</p>	Noted.
Herring Buyers Association	<p>The consultation should have been simpler. In the consultation on stakeholders' perception it is difficult to answer many of the questions without a wide knowledge of the regulatory interventions that have been made. It is therefore difficult to comment on sections 1 and 2. Section 3 asks for what FSA should focus on. That is easier - it should focus primarily on making food safe (which is what it was set up for). Lower priority should be given to food compositional and quality standards. Involvement in Sustainability issues should definitely be outwith the FSA remit. Making sure compliance is simple should be a high priority - too much is</p>	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

OTHER COMMENTS:		
Respondent	Comment	Response
	consumer driven without thinking of manufacturing consequences - are there enough practical people on the Board?	
LACORS	<p>We welcome the objectives of this consultation to review and check awareness of the framework amongst FSA policy makers. There is a danger that documents like this one and related the high level statement of intent agreed between local government and the agency (which emphasised partnership working for mutual benefit etc) can get forgotten, particularly at a time of staff changes and turnover. Infact it seemed to LACORS that the statement of intent may not have been referred to when the current (draft) strategic plan was written. Perhaps some thought needs to be given as to how these kinds of documents can be kept in the forefront of policy makers' minds.</p> <p>More generally on the framework document, it was noted that no direct mention is made to local authorities as regulators. For example at paragraph 3 the word 'we' gives the impression the FSA actually do most of the day to day regulation work, similarly paragraph 6 and the 3rd bullet on page 8 gives this impression.</p> <p>Given the importance in the framework of using markets and non regulation methods for securing compliance it is suggested that social marketing might be referenced in the document, at least as a footnote. For example it could be referenced in the section on 'key principles' of how to interview at the bottom of page 10 and 11 and in the section on evidence based approaches and gathering evidence / information about the underlying reasons for why people might not be choosing the desired behaviour.</p> <p>Bearing in mind the above point, renaming the document might be considered to avoid giving the impression regulation is the only solution which can be considered.</p>	Noted.
National Farmers Union	<p>We welcome the principles contained within the Regulatory Framework and believe it contains a laudable number of aspirations. Using evidence, being risk based, proportionate and transparent are obviously important factors when making policy decisions which impact upon business. We are pleased to see the principles of the framework set against the background of better regulation and the reduction of admin and policy costs are a priority for business whilst ensuring that consumer protection is not compromised.</p> <p>We feel it would be excellent if all FSA teams working on everything from front of pack labelling to TSEs and dairy hygiene were genuinely guided by the framework. However you will see from our responses below that we consider there to be gaps in some aspects of the FSA's regulatory performance against the standards contained within the framework. This leads us to question the awareness of the document amongst all staff and whether the framework should be referenced in training and development at all levels within the Agency, and the Board.</p> <p>We also believe the FSA should use the framework in negotiations in Brussels etc when looking at EU</p>	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

OTHER COMMENTS:		
Respondent	Comment	Response
	legislation, especially considering most of food regulation is European, and at Codex. In some cases there will be little the FSA can do once the legislation has been published.	
Nick Clayton	<p>Before I retired from being an Official Veterinary Surgeon in the MHS about five years ago, I found that the suggested regulatory tools for intervention were not being followed.</p> <p>I think the FSA should be split into two: the Food Safety Authority and a separate forum for the examination of what does or does not constitute a good diet.</p>	Noted.
Philip Bladon	No response to consultation questions, but made the point the FSA should be using international units in all its publications, especially kilojoules rather than calories.	Already raised with relevant policy experts.
Royal College of Physicians	<p>The FSA needs to recognise (perhaps continue to recognise) the scale of mortality and morbidity arising from nutritional factors (heart disease, obesity, diabetes, cancer) compared to those arising from traditional food safety concerns. That is not to minimise the hazards from food contamination, but rather to note that long-standing and effective mechanisms are in place to manage that problem, mainly at sub-national level. We suggest that the FSA needs to focus on problems that must be handled at national level such as nutrition policy.</p> <p>In general, recognising the scale of nutrition related illness and its projected increase, perhaps FSA needs to reconsider the balance between a near solely market led approach as now, and the introduction of more directive policies.</p>	Noted.
Royal Society of Chemistry	Generally FSA has actually done a good job at gaining and retaining public confidence. In order to maintain the confidence of all the stakeholders, including both the public and food manufacturers and suppliers, the FSA should continue to listen to consumer concerns, explain decisions, and ensure transparency in its decision making processes.	Noted.
Scotch Whisky Association	We are extremely grateful for the regular dialogue with FSA on a wide range of issues. We much appreciate the readiness to discuss legislative developments and/or proposals. At present the most important of these is the proposed new food labelling Regulation which is being considered by the European Parliament and Council Working Group. We fully support the ostensible aim to harmonise and simplify labelling law, but we feel there are provisions in the text which do the opposite.	Already raised with relevant policy experts.
Sustain	<p>Rather than answering the specific consultation questions, Sustain made the following points:</p> <ol style="list-style-type: none"> 1. It is enshrined in legislation that the primary role of the Food Standards Agency is to protect the interests of consumers in relation to food. Sustain continues to believe that this is the right remit for the Agency and that consumer protection should be the core aim of your work. 	Noted.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

OTHER COMMENTS:		
Respondent	Comment	Response
	<p>2. We are concerned that the principles enshrined in the proposed regulatory framework, such as “proportionate” and “risk-based” are, in fact, synonyms for <i>less</i> regulation. For example, introducing the concept of proportionality into the regulatory framework implies there is a trade-off between the needs of consumers and the needs of businesses, and that some problems for consumers, which regulation could solve, will be left unaddressed because it is not “proportionate” to do so. This could conflict with the Agency’s legal remit which, very specifically, was written to stop the organisation being constrained by having to manage this kind of balancing act.</p> <p>3. Equally, the emphasis on market solution flies in the face of the Cabinet Office Strategy Unit’s seminal ‘Food Matters’ report, which was very clear that the market will not provide the long term changes we need to make the food system more sustainable - economically, socially or environmentally. We are therefore surprised to see the emphasis on using the market as the first resort to implement change, when there is clear acceptance within HM Government strategy that this will be insufficient.</p> <p>4. We therefore believe the major principle of the Agency’s regulatory approach should remain putting the needs of consumers first. We believe this is best achieved by the Agency adopting the precautionary approach advocated by the Nuffield Council on Bioethics³. This means Agency should regulate where it fears that the interests of consumers are being adversely affected and that the primary aim of this regulation should be to protect consumer interests and not balance these against the interests of industry.</p> <p>5. We are also concerned that there are some occasions when the FSA’s regulatory actions do not meet the principles set out in its regulatory framework. For example, the evidence from the World Cancer Research Fund (WCRF)’s 10 year long systematic review⁴ into the evidence of the dietary causes of cancer is that all consumption of some processed meat products raises consumers’ risk of bowel cancer. It is clearly not in the interests of consumers to have an increased risk of bowel cancer and the evidence provided by the WCRF is of the highest scientific standard. We would therefore have expected the Agency to take regulatory measures to protect the interests of consumers, for example labelling processed meat products to ensure that consumer are aware of the risk they are taking. We were therefore very disappointed that the Agency, with seemingly no evidence to support its view, decided not to regulate to protect consumers. Indeed, it even decided to inform consumers that</p>	

³ Public Health: ethical issues (Nuffield Council on Bioethics, 2007)

⁴ Food, Nutrition, Physical Activity and the Prevention of Cancer: a Global perspective (World Cancer Research Fund, 2007) www.wcrf-uk.org

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

OTHER COMMENTS:		
Respondent	Comment	Response
	<p>“Processed meats, such as ham and salami, can form part of a balanced diet and parents shouldn’t be concerned about occasionally including these in their children’s lunchboxes.”⁵ Such advice does not seem to be based on evidence, or put the interests of consumers first or be based on the precautionary approach.</p> <p>6. Similarly, the Agency’s response to the Southampton Study into the affect of certain azo-dyes on children’s behaviour continues to contravene the regulatory principles set out in the document. Without wishing to repeat Sustain’s previous criticism of the way the study was handled, we continue to believe that it would be a good example of ‘risk based’ regulation for the Agency to now look at the effect on children’s behaviour of the azo-dyes not examined in the Southampton Study, but which are chemically identical to those now subject to a voluntary ban. Sadly, there is no sign of this occurring.</p> <p>7. Having mentioned these two examples of where we believe the FSA has got it wrong (and there are more examples), it is important to highlight areas of good practice where we believe the Agency has done the right thing. For example, Sustain believes that the Agency’s regulatory work on nutrition, in particular its work on nutrient profiling and signpost labelling clearly puts the interests of consumer first. We recognise that both of these areas of work have been controversial but the Agency has worked assiduously to use evidence to work in the consumers’ interest.</p> <p>In conclusion, we recommend that the Food Standards Agency’s major principle underpinning its regulatory approach should remain putting the needs of consumers first. This will usually require not only using the best available evidence but also the precautionary approach. All the evidence we have seen, in food and elsewhere in the economy, shows that the market will not provide the long term changes we need to make the food system more sustainable - economically, socially or environmentally, so the FSA’s regulatory role will remain vital.</p>	
The Goat Veterinary Society	<p>Principally we believe that the remit of the FSA should be that of ensuring that food is safe, and produced to an appropriate standard. The FSA should distance itself from ethical and ‘Healthy eating’ matters, particularly as what constitutes the latter are all too often a matter of opinion, skewed by biased interpretation by self interest groups of whatever science is available that might back that opinion.</p> <p>Ensuring that whatever food we eat is safe, and where appropriate hygienically produced, should be the sole remit of the FSA, which should give it a clear sense of purpose, untrammelled by matters of likely scientific dispute. The FSA should seek to achieve that by consensus and guidance where possible but with</p>	Noted.

⁵ From the FSA media statement: Agency advice on children's lunchboxes, Monday 17 August 2009. <http://www.food.gov.uk/news/newsarchive/2009/aug/lunch>

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

OTHER COMMENTS:		
Respondent	Comment	Response
	the backing of enforceable law where it may be needed.	
Which?	We think that the FSA's Regulatory Framework is still the right approach and do not see any need for a change of approach. Some further clarification may be helpful, but we would be very concerned if the FSA changed the way it determines when to intervene and narrowed down the tools that it uses to achieve the policy outcomes necessary to fulfil its statutory obligations on behalf of consumers.	Noted.

SUMMARY OF CHANGES MADE:	
Comment	Response
Most respondents agreed strongly with the principles in the Regulatory Framework.	The Framework document will be shortened at the suggestion of the FSA policy makers who use it. However, the principles will be retained and the rest of the text will be incorporated into more specific guidance for FSA policy officials on, for example, working with the devolved administrations and EU negotiating and influencing. The revised Framework will be published on the external website.

ACTIONS TO BE IMPLEMENTED:
<ul style="list-style-type: none"> • Revision of the Framework document and re-consultation. • Drafting, with input from policy officials, of supporting, more specific guidance covering other topics such as EU negotiating and influencing and working with the devolved administrations. • Presentation to the FSA Board of the revised Framework document and report on the review of it. • Publication of the revised Framework.

SUMMARY OF SUBSTANTIVE COMMENTS TO THE FSA CONSULTATION – REVIEW OF REGULATORY FRAMEWORK

RESPONDENTS

1. Advisory Committee on Pesticides
2. Ajinomoto
3. Aunt Bessie's
4. British Science Association
5. Cambridge Manufacturing Company Limited
6. Consumer Focus
7. David Whitley
8. Derby City Council
9. Food and Drink Federation
10. Food and Environment Research Agency
11. Herring Buyers Association
12. International Sweeteners Association
13. Just Rachel Quality Desserts
14. Local Authorities Coordinators of Regulatory Services
15. National Farmers Union
16. National Heart Forum
17. Nick Clayton
18. Northern Ireland Food Advisory Committee
19. Philip Bladon
20. Royal College of Physicians
21. Royal Society of Chemistry
22. Safefood
23. Scotch Whisky Association
24. Seafish
25. SITPRO
26. Smithfield Market Tenants' Association
27. Sustain
28. The Goat Veterinary Society
29. The Government Chemist
30. Trading Standards Institute
31. Which?