

EUROPEAN PARLIAMENT AND COUNCIL REGULATION 767/2009 OF 13 JULY 2009 ON THE PLACING ON THE MARKET AND USE OF FEED

GUIDANCE FOR STAKEHOLDERS

This question-and-answer guidance note provides advice on the interpretation and implementation of certain aspects of EC Regulation 767/2009 on the placing on the market and use of feed. It has been compiled both in response to specific questions asked by enforcement authority and feed industry stakeholders, and has been updated to take account of the current position.

This guidance note is intended for the use of enforcement authority and feed industry stakeholders (importers, merchants, feed compounders and others, including producers of feed for pets and other non-food-producing animals). All feed businesses covered by EC Regulation 767/2009 must comply with all those provisions which apply to their activity. There are no exceptions for small and medium-sized enterprises.

This guidance note cannot cover every situation and stakeholders may need to consider the legislation itself to see how it applies in their particular circumstances. However, this guidance note should help stakeholders comply with the law. Businesses with specific queries may wish to seek the advice of their local enforcement authority, which will usually be the trading standards department of the local authority in Great Britain and the Department of Agriculture and Rural Development in Northern Ireland.

Legislative Background

Regulation 767/2009 replaced and updated a number of existing measures on aspects of the marketing, labelling and composition of animal feed, bringing their provisions together into a single comprehensive document. The Regulation also introduced a demarcation -- based on their additive content -- between premixtures and complementary feeds; requires the scientific substantiation of any claims made for a feed product; establishes a procedure for the authorisation of new nutritional purposes for which dietetic feeds may be promoted; and made provision for the introduction of a Catalogue of feed materials and Codes of Practice for good labelling.

EU Regulations are directly applicable in all Member States, but in order to give them effect in the UK it was necessary to provide for their enforcement by designated authorities. For EU Regulation 767/2009, this was achieved via the Animal Feed Regulations 2010, which revoked and replaced the Feeding Stuffs Regulations 2005. The Animal Feed Regulations 2010 also provide for the enforcement of a number of

other feed-related measures which were not repealed by Regulation 767/2009, and disapply the Agriculture Act 1970 where it conflicts or overlaps with the provisions of Regulation 767/2009.

There is separate but parallel legislation in each of the four countries of the UK. The full titles and numbers of this legislation are as follows:

- The Animal Feed (England) Regulations 2010 (S.I. 2010 No. 2503)
- The Animal Feed (Wales) Regulations 2010 (S.I. 2010 No. 2652) (W 220)
- The Animal Feed (Scotland) Regulations 2010 (S.I. 2010 No. 373)
- The Animal Feed Regulations (Northern Ireland) 2010 (S.R. 2010 No. 355)

The Regulations can be found online at <http://www.legislation.gov.uk/browse/uk> (enter the year and number of the measure in the search box at the top of the page).

A copy of Regulation 767/2009 can be found online at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:229:0001:0028:EN:PDF>

Details of other animal feed legislation can be found on the Food Standards Agency's website at:

<http://www.food.gov.uk/foodindustry/farmingfood/animalfeed/animalfeedlegislation>

Further Information

Any queries about the content of this guidance should be directed to the relevant office of the Food Standards Agency, as follows:

England -- Animal Feed and Animal By-Products Branch: Tim Franck, telephone 020 7276 8471, e-mail <tim.franck@foodstandards.gsi.gov.uk>; or Joseph Nicholas, telephone 020 7276 8462, e-mail <joseph.nicholas@foodstandards.gsi.gov.uk>.

Scotland -- Safety, Policy and Regulation Development: Simon Craig, telephone 01224 285 151, e-mail <simon.craig@foodstandards.gsi.gov.uk>.

Wales -- Food Policy: Jayne Griffiths, telephone 029 2067 8908, or Vicki Reilly, telephone 029 2067 8952, e-mail <food.policy.wales@foodstandards.gsi.gov.uk> (for both).

Northern Ireland -- Primary Production Unit: Anthony Higgins, telephone 028 9041 7761, e-mail <anthony.higgins@foodstandards.gsi.gov.uk>; or Gerard Smyth, telephone 028 9041 7760, e-mail <gerard.smyth@foodstandards.gsi.gov.uk>.

QUESTIONS AND ANSWERS

1. *Why are horses and rabbits now classed as food-producing animals?*

There was previously some doubt over how certain aspects of EU feed legislation applied to feed for horses and rabbits because of differences in some of the labelling requirements for feed for food-producing animals and feed for non-food-producing animals. Because of the intra-EU trade in feed for horses and rabbits, there is a need for a common understanding of these requirements. Article 3.2(c) therefore defines “food-producing animal” to include “any animal that is fed, bred or kept for the production of food for human consumption including animals that are not used for human consumption but that belong to a species that is normally used for human consumption in the Community”.

This effectively means that any species of animal which is commonly consumed by humans anywhere in the EU falls within this definition irrespective of how it may be regarded in the UK.

2. *Does this legislation apply to feed for wild animals as well?*

Yes, it does.

Previously, feed for “creatures living freely in the wild” was subject only to the controls in Directive 2002/32 on levels of undesirable substances, in part because in some cases it is not possible to separate the production of feed for wild animals from that for other animals, nor in some cases its storage and marketing prior to purchase and use. (For example, dried mealworms may be fed to both wild birds and farmed poultry.) Feed for game intended to be shot and processed for human consumption had already been brought within the ambit of other EU legislation, specifically Regulation 178/2002 on the general principles of food law (which includes feed law) and Regulation 183/2005 on feed hygiene. Bringing feed for wild animals within the scope of Regulation 767/2009 because of the associated animal welfare and food chain safety issues is therefore consistent with its treatment under these other three measures.

3. *Why have certain provisions of EU Regulation 178/2002 been extended to feed for non-food-producing animals such as pets?*

Feed for non-food-producing animals, in particular pet food, was already subject to a range of EU legislative requirements, such as labelling and controls on undesirable substances. However, Articles 15 and 16 of EU Regulation 178/2002 -- which require that feed is not placed on the market if it is unsafe and that the labelling of feed should not mislead -- previously applied only to feed for food-producing animals. It was logical to extend these provisions to cover feed for all other animals in order to strengthen the safety requirements for such feed. This is accomplished by Article 4 of Regulation 767/2009.

4. *What is the purpose behind the adoption of guidelines to distinguish between feed materials and feed additives?*

Article 2.3 of EU Regulation 1831/2003 on feed additives already allows for a decision to be made on whether a substance is a feed additive within the scope of that Regulation. Article 7 of Regulation 767/2009 now states that the Commission “may adopt guidelines clarifying the distinction between feed materials, feed additives and other products such as veterinary drugs”. The Article also gives the Commission the power to adopt measures to clarify whether a certain product constitutes a feed. Depending on its classification, various claims may be made about a product’s qualities and effects.

However, it is not always obvious from the composition or intended uses of a particular product how it might be classified. The adoption of guidelines for the classification of such “grey area” products is intended to help reduce or eliminate future uncertainties, and thus give both feed producers and feed users clearer information about the products concerned.

5. *Why has the Commission removed some substances from the register of feed additives and reclassified them as feed materials before the guidelines have been drawn up?*

This is partly a consequence of the re-authorisation of feed additives required under Article 10 of Regulation 1831/2003 and partly because of a simplificatory approach adopted by the Commission, which considered that there were inconsistencies in the treatment of some substances authorised as additives and analogous substances listed as feed materials. (The UK shared this view.) The Commission considered that, as part of the development of the Catalogue of feed materials under Article 24, these inconsistencies could be resolved in advance of the guidelines being drawn up. The Commission considers that this reclassification will help to reduce administrative burdens on both the feed industry and enforcement authorities.

The list of former additives now to be regarded as feed materials, with a list of products whose status was formerly unclear but which are not to be regarded as additives, was published as Commission Regulation 892/2010 of 8 October 2010.

6. *What will happen to products such as boluses, pastes and drenches which have an additive content above the maximum allowed in Article 8?*

In future, it will be legal to market such products only if they have been accepted as products for particular nutritional purposes (i.e. dietetic feeds) under Article 10. To achieve this, an application by a manufacturer or other interested party must be made to the Commission, with a dossier to demonstrate that the product fulfils a particular intended purpose and that it has no adverse effects on animal and human health.

There are transitional measures set out in Article 32.2 applying to such products which were legally on the market before 1 September 2010, allowing them to remain on the market so as long as an application for consideration as a dietetic feed had

been made by 31 August 2010. The products may continue to be marketed pending a decision on the application.

Our understanding is that twelve such applications for new nutritional purposes have been provisionally accepted, although further information has been requested from their applicants.

7. *What constitutes “scientific substantiation” of a company’s claims for its products?*

The evidence to be provided is likely to vary depending on the nature of the product and the claim being made. In some circumstances, a single study by a company of its own product may be sufficient; in others, more extensive data from clinical trials by third party laboratories may be required. The working assumption, however, is that a manufacturer making a claim is able to substantiate it and that there is documentation available which sets out that substantiation. The corollary of this is that a claim which cannot be supported may need to be withdrawn.

Industry guidance on the substantiation of claims in respect of pet food is provided in the EU Code of good labelling practice for pet food which has been drawn up under Article 25 of Regulation 767/2009. The code has been adopted by the Commission and is available at

http://ec.europa.eu/food/food/animalnutrition/labelling/docs/pet_food_code_20102011_en.pdf A code of good labelling practice for compound feed for food-producing animals, provision for which is also made under Article 25, is in preparation by the European feed industry but its formal adoption by the Commission and Member States is not imminent.

8. *What would trigger the reference of dubious claims by enforcement authorities to the Food Standards Agency, and what is the mechanism for this?*

Article 13.1(b) of Regulation 767/2009 provides for reference of a claim to the Commission where there is doubt about its substantiation, but is silent on the criteria for and the mechanism of referral; these are likely to develop over time. The Food Standards Agency nevertheless considers that such referrals should be the exception rather than the rule, and that in most cases where claims have not been substantiated the matter should be dealt with by enforcement authorities.

Where enforcement authorities do have serious doubts about the veracity of claims, they should consider referring them to the Animal Feed and Animal By-Products Branch, Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH, e-mail <joseph.nicholas@foodstandards.gsi.gov.uk>. The Agency will then consider referring the issue to the Commission.

Enforcement authorities should note that the Agency does not yet know what procedure the Commission may adopt for the consideration of such references, nor what timetable may be set for a response. These too are likely to develop over time.

9. *Are there working definitions of terms such as “high protein” and “high energy” against which enforcement officers will compare products making such claims?*

No, there are not. The EU Code of good labelling practice for pet food referred to in question 7 above provides some guidance on these points but, irrespective of this, it will be the responsibility of individual feed business operators to provide evidence to support any such claims for their products' composition or function in response to requests from enforcement authorities.

10. *What are the controls on potentially misleading descriptions or pictures on feed labels?*

Article 11.1 requires that “the labelling and the presentation of feed shall not mislead the user”, in particular as to the intended use or characteristics of the feed, or by attributing to the feed effects or characteristics that it does not have, or by suggesting it has special characteristics which are in fact common to all similar feeds.

This is similar to the controls on misleading statements in previous legislation, transposed into law in paragraph 24(2) of Schedule 3 to the Feeding Stuffs Regulations 2005 (as amended -- there was separate but parallel legislation for England, Scotland, Wales and Northern Ireland). However, the question of whether a particular description or image on a particular label is misleading is likely to be determined on a case-by-case basis. Sometimes the issue will be clear-cut, and sometimes there may be more scope for interpretation. Enforcement authority officers are likely to form a view based on their general experience of and expertise in issues of commercial representation. In cases of dispute, where the authority considers the labelling to be misleading and the feed business operator does not, the ultimate decision will of course rest with the courts.

11. *Why has the authorisation procedure for new bioprotein products been discontinued? How will these products be treated in future?*

The Commission considered that the requirement for a dossier assessment of new bioproteins had become a disincentive to innovation in this area. These products are now classified as feed materials, and listed in the Catalogue of feed materials provided for under Article 24. The Commission considers that this reclassification is consistent with the simplificatory approach it has adopted in other areas of feed law.

The Commission has said that bioprotein products which were previously submitted for consideration under Directive 82/471 but which had failed to gain authorisation will be considered for addition to the list of prohibited ingredients at Annex III of Regulation 767/2009.

12. *Must feed business operators use the Catalogue of feed materials?*

The content of the Catalogue, which will be revised from time to time, is chiefly the responsibility of the feed industry but will also be agreed by the Commission and Member States and published in the *Official Journal of the European Union* as a

Commission Regulation. It is a non-exclusive list of the names and descriptions of the most commonly traded feed materials, which also contains requirements for labelling declarations for analytical constituents such as protein, fibre and moisture. However, Article 24.5 states that the use of the Catalogue by feed business operators is voluntary. It is therefore open to operators to use another name for a feed material if they wish.

Article 24.5 also states that a name in the Catalogue may be used only if all relevant provisions of the Catalogue are complied with, including the definition of the material and the compulsory declarations for analytical constituents. One consequence of not using a name in the Catalogue could be that operators may find they have to develop an alternative definition for the feed material in question.

13. *Is there scope to develop a UK version of the Catalogue which includes an extra column for abbreviated names for certain feed materials?*

No, there is not. The Catalogue, which is published as a Commission Regulation, is intended to ensure the harmonisation of names and descriptions throughout the EU. Any national variation would be counter to this purpose.

14. *What if a feed business operator uses a name that is not listed in the Catalogue?*

In that case, we would expect the name to be one that clearly identifies the nature and origin of the feed material and does not mislead the purchaser. It may be that it will be difficult to use an alternative name for certain generic materials such as wheat and barley without potentially misleading a purchaser.

15. *Why does the Catalogue include chapters for materials of animal origin -- aren't these covered by Regulation 1069/2009 on animal by-products not intended for human consumption?*

The chapters covering land animal products and marine animals and their products concern the descriptions to be used and the analytical declarations to be made for these materials. This is entirely independent of Regulation 1069/2009, which is concerned with the treatment, processing, storage and transport of material of animal origin, and the identification of those materials which may and may not be used in feed.

16. *What is the purpose of the Register of feed materials, and how will it interact with the Catalogue?*

The Register was introduced at the request of the then-rapporteur for the European Parliament, who had previously called for a positive or restricted list of feed materials. The Register is intended to serve as a means of notifying the introduction to the market of new feed materials, perhaps in advance of an entry for them in the Catalogue (which would include an agreed description and the required analytical declarations). The Register is wholly under the control of the European feed industry and can be found online at <http://www.feedmaterialsregister.eu> Questions about the

criteria and procedures for the registration of feed materials should be directed to the website's owners.

The content of the Catalogue has been and will continue to be revised from time to time and is also chiefly the responsibility of the feed industry. However, the fact that a particular feed material may not be listed in it is not a bar to that material's use in feed.

The Commission is reportedly of the view that the Catalogue and the Register, taken together, should comprise a comprehensive list of all feed materials used in the EU. This would mean that all feed materials, whether placed on the market for the first time or already on the market, should be included in either the Register or the Catalogue.

It should be noted that the Catalogue and the Register are not intended as feed safety measures, and the fact that a material is listed in them does not mean the material can be fed to all species in all quantities. It is for feed business operators to ensure that they adhere to any prohibitions, restrictions or warnings which may be attached to an individual material.

17. *What is the role of the Codes of Practices on good labelling?*

Article 25 provides for the drawing up of two Codes: one for compound feed for food-producing animals (which may include a section on feed for fur-producing animals) and one for pet food. The Codes will be drawn up by the feed industry in consultation with Member States, EFSA and feed users. At present, only the Code on pet food has been agreed and published.

Article 25 states that the aim of the Codes is to "improve the appropriateness of the labelling", in particular on the presentation of labelling (e.g. colour and font sizes), the use of claims, and guidance on voluntary declarations. Use of the Codes by industry is voluntary, but adherence to the provisions of a Code may be indicated on the labelling provided a manufacturer complies with all relevant provisions of that Code.

18. *What are the implications for multi-lingual labels?*

This is covered by Article 14.1, which requires the mandatory labelling particulars to be given "in the official language or at least one of the official languages of the Member State or region in which it is placed on the market". This is similar to the previous requirement -- transposed as regulation 9(5) of the Feeding Stuffs Regulations 2005 (as amended -- there was separate but parallel legislation for England, Scotland, Wales and Northern Ireland) -- for feed intended for export to another Member State to be labelled in the language of that State.

19. *Who is responsible for the labelling in cases where a product is manufactured under contract by one business for sale by another?*

This is laid down in Article 12.2, which specifies that the person responsible for the labelling "shall be the feed business operator who first places feed on the market or,

where applicable, the feed business operator under whose name or business the feed is marketed". In practice, it is likely that feed manufactured under contract by one business for sale by another will fall within the second of these specifications, and the business which sells the product is therefore responsible for the labelling. In our opinion, "feed business operator" refers to an operator based in the EU (so in the case of imports from outside the EU, it would be the importer), which would be consistent with the previous requirement in paragraphs 11(c)(ix) and 17(1)(c) of Schedule 3 to the Feeding Stuffs Regulations 2005 (as amended -- there was separate but parallel legislation for England, Scotland, Wales and Northern Ireland).

20. *Is labelling required for integrated poultry units manufacturing their own feed for feeding to their flocks?*

In such cases, Article 12.2 should be read with Article 4.2(b), which requires operators placing feed on the market to ensure that feed is labelled, packaged and presented in accordance with this Regulation and other applicable EU legislation. The logical conclusion is that where a feed is not marketed there can be no person responsible for placing it on the market, and thus that a label is not required.

This would appear to apply whether the poultry unit is registered or approved as a single establishment or whether the unit producing the feed is a different establishment from that producing the chickens and/or eggs, in order to generate a sale or transfer from one unit to the other -- we do not think that the definition of "placing on the market" in Regulation 178/2002 applies to accountancy-style transactions of this nature. Where the transfer is within an enterprise under the control of a single operator, the provision of information by a supplier to a recipient is clearly absent. However, the enterprise as a producer of poultry and/or poultry products must be able to demonstrate the traceability of the feed it produces, and in the absence of labelling it is incumbent on it to keep and maintain detailed internal records.

21. *What are the requirements for the labelling of establishment numbers?*

The general mandatory labelling requirements set out in Article 15 include the labelling of approval numbers. This requires the declaration of the approval number for the establishment under the control of the person responsible for the labelling; this number will have been granted under either EU Regulation 1774/2002 (now 1069/2009) on animal by-products or EU Regulation 183/2005 on feed hygiene. If the person responsible for the labelling has more than one establishment number, that granted under Regulation 183/2005 should be used.

Article 17.1(c) requires that in those cases where the producer (i.e., the feed's manufacturer) is not the person responsible for the labelling, the label should declare either the producer's name/business name and address, or a number. This would be, as appropriate, the producer's approval number or the registration number issued under either Directive 95/69 or Regulation 183/2005, or the number given to a third country establishment via the third country establishment representative system (Article 24 of Regulation 183/2005). If the feed's producer has not been granted an establishment approval or registration number, then one may be requested for them.

We advise that an identifying number be requested from the enforcement authority which registered the feed business operator; enforcement authorities may find it convenient to use the same format for identifying numbers as for registration numbers.

(Although Regulation 183/2005 requires businesses to register or obtain approval, it does not require them to be assigned an establishment registration number or that number to appear on the label. However, the Agency advised enforcement authorities at the time the Regulation came into force that it would be good practice to continue to issue registration numbers as an aid to the identification of establishments.)

22. *What are the requirements for the labelling of establishment numbers on feed from third countries (i.e. non-EU countries)?*

The requirements of Articles 15(c) and 17.1(c) apply to feed from third countries.

Previous legislation (Directive 98/51) required third country establishments exporting feed containing certain additives to the EU to have a representative in the EU and Member States to place these representatives on a register. Although this legislation was revoked by Regulation 183/2005, the third country representative requirement has been retained by Article 24 of that Regulation. In the UK, the Food Standards Agency is responsible for receiving applications for, and maintaining the register of, representatives of third country establishments.

Under this system, a third country establishment may have been provided with an identifying number, which can be used for the purposes of Article 17.1(c). However, in a number of cases a third country establishment may not have an identifying number (for example, because it does not come within the scope of Article 24 of Regulation 183/2005). In these cases, the feed business operator which imports the feed may request a number, which would be issued by the Food Standards Agency.

23. *How should the required information -- both mandatory and additional -- be set out?*

Regulation 767/2009 does not specify the format in which labelling information should be set out. Article 14 requires only that labelling information be “conspicuous, clearly legible and indelible”.

24. *What is the timetable for the adoption of maximum limits for residues of processing aids?*

Article 4.3, read with paragraph 1 of Annex I, requires that feed materials be free from chemical impurities resulting from their manufacture and residues of processing aids unless a maximum content for these is laid down in the Catalogue of feed materials. Under Article 32.3, there is a derogation for feed materials which contain such impurities to continue to be marketed provided they comply with the conditions in the Annex to Directive 96/25. This derogation expires on 1 September 2012.

It is the responsibility of the feed industry to propose maximum limits for adoption by the Commission and Member States, and that these should be set by 1 September 2012. Our understanding is that the feed industry is now considering the issue.

25. *Does the declaration of additives subject to a maximum content apply for all species, or only the species named in the additive authorisation?*

Paragraph 1(a) of Chapter I of Annexes VI and VII requires the declaration of additives “where a maximum content is set for any kind of target species”. Any additive for which the authorisation specifies a maximum inclusion rate must therefore be declared according to the requirements laid down in Chapter I of Annex VI as regards food-producing animals and Chapter I of Annex VII for non-food-producing animals.

26. *Urea labelling previously required the declaration of the inclusion rate and the percentage of protein it supplied in the final feed. Is this still the case?*

The labelling requirements for urea products and compound feed which contains urea were set out in Commission Directive 84/443 of 26 July 1984, which amended the Annex to Directive 82/471 on certain products used in animal nutrition. Although both Directives have been repealed, the labelling requirements were carried forward into EC Regulation 1831/2003 on feed additives by virtue of Article 10.1 of that Regulation. The labelling requirements are therefore unchanged from those which applied previously.

27. *If an additive is included voluntarily in the list of analytical declarations, should it also be declared as part of the feed’s composition?*

Whether an analytical declaration is made for an additive in the additional labelling information permitted under Article 22 is entirely independent of any mandatory requirement to label its presence as an ingredient.

Whether it is mandatory to label the additive content of a compound feed or a feed material will depend on whether the additive is listed in paragraphs 1(a) to 1(c) of Chapter 1 of Annexes VI and VII -- namely, additives where a maximum amount (maximum inclusion rate) is set for any kind of target species, additives belonging to the categories “zootechnical additives” and “coccidiostats and histomonostats”, and additives belonging to the functional group of “urea and its derivatives” of the category “nutritional additives”. If an additive falls into any one of those groups, then the additive’s specific name, added amount, identification number and the functional group to which it belongs must be declared on the label.

Annex VI requires that if amino acids, vitamins or trace elements are declared as analytical constituents, then the total amounts (i.e., added amounts plus any naturally occurring amounts) must be declared.

28. *Should coccidiostats be declared twice on labels, once according to Annex VI of Regulation 767/2009 and then again according to the requirements of veterinary medicines legislation?*

The name, added amount, and other required declarations for coccidiostats and histomonostats should only appear once, as required by Regulation 767/2009. It is expected that the national veterinary legislation for which VMD is responsible will be amended in due course to bring it into line with the requirements of the Regulation.

29. *How should the additive content of dietetic feeds be labelled -- the added amount only, the total amount, or both?*

Chapter I of Annexes VI and VII of Regulation 767/2009 requires that only the added amounts of additives subject to maximum inclusion rates, plus urea and its derivatives, should be declared. (There is a derogation from this for non-food-producing animals, where for additives in the functional groups “preservatives”, “antioxidants” and “colourants” only the names of the functional groups need be declared.) Chapter II of Annexes VI and VII permits the total amounts of amino acids, vitamins and trace elements to be declared.

These requirements apply to the labelling of all compound feeds and feed materials for food-producing and non-food-producing animals, including dietetic feeds.

30. *How should flavours be labelled when a flavour may be composed of more than one additive?*

Paragraph 1 of Chapter I of Annexes VI and VII requires additives to be declared individually. In cases where a flavour may consist of more than one additive, it should be possible to indicate their contribution to the flavour in the additional, voluntary labelling information permitted under Article 22.

31. *How should the tolerances in Annex IV be applied to additives included at their authorised maxima?*

Annex IV paragraph 2 suggests that the permitted technical and analytical deviations do not apply above the authorised maxima for feed additives.

32. *What about tolerances for nutrients such as omega 3 oils for which a specific claim may be made on the labelling?*

Only the tolerances laid down in Annex IV have legal standing. An operator making a claim for the presence of a specific nutrient such as omega 3 oils, whether under Article 13 concerning the substantiation of claims or Article 22 covering additional, voluntary information, would therefore have to be prepared to demonstrate to an enforcement authority, if challenged, that the actual level of the nutrient in question matches or is close to that stated on the label.

33. *Does “protein value” in Annex IV mean biological value or protein content?*

In our view, biological value would be consistent with references to “crude protein” in other feed legislation (such as Regulation 152/2009 on the sampling and analysis of feed).

34. *Should analysts comment on deviations from the values declared on labels where the deviation may be to the prejudice of the purchaser?*

It would be up to the person undertaking the analysis to judge the significance of a deviation between the actual value and the declared value, its effect on the characteristics of the feed, and -- depending on their knowledge of animal nutrition -- whether or not the deviation would be significantly detrimental to animal health or welfare. However, a judgement on whether the deviation is to the prejudice of the purchaser would be one for an enforcement authority to make.

35. *Why was there a transitional period for the use of stocks of pet food labelled in accordance with previous legislation? Why was there no similar transitional period for livestock feed manufacturers?*

The derogation to allow pet food labelled in accordance with previous legislation to remain on the market after 1 September 2011 until stocks had been exhausted -- set out in EU Regulation 454/2010 of 26 May 2010 -- was requested by the European pet food industry on the grounds that manufacturers typically hold large stocks of pre-printed labels which would otherwise have had to be disposed of, with economic and environmental implications. However, there was no similar request from the livestock feed industry.