

FSA SIMPLIFICATION PLAN: APPROVAL FOR PUBLICATION

Executive Summary

1. The FSA sees as the ideal a balanced and effective market where:
 - consumers are empowered and have the information they need to make choices and those who are unable to make choices for themselves are protected;
 - industry takes seriously its responsibility for protecting public health; is able to innovate and invest; and
 - the regulator only intervenes where necessary to protect the consumer.
2. Some regulation is both necessary and desired by business, but the FSA believes that if this regulation can be made simpler, levels of compliance will increase and consumer protection would improve.
3. The overall objective of simplification is not to change the policy objectives of regulations, but to focus on their administrative and policy costs.
4. The Board had sight of and agreed to the publication of the FSA's draft Simplification Plan in January this year. Since then FSA has updated the Plan with further simplification initiatives and sought comments from the Government and the Better Regulation Commission (BRC). This paper provides details of comments received on the Plan and seeks the Board's views.
5. The paper also provides a revised version of FSA's Simplification Plan that incorporates the comments received, explains where comments have not been incorporated and seeks the Board's approval for publication. It is planned to publish the final Plan in October.
6. The Board is asked to:
 - **discuss** the comments received on the FSA Simplification Plan and in particular the reasons for not incorporating any comments the Board is minded not to accept.
 - **discuss** the Plan, revised in the light of comments received;
 - **agree** that, subject to revision in the light of the Board's discussions, the Chair should clear the finalised Plan for publication in October.

REGULATION, INTERNATIONAL AND OPENNESS DIVISION

Contacts:	Steve Wearne	Tel: 020 7276 8338 Email: steve.wearne@foodstandards.gsi.gov.uk
	Philip Clarke	Tel: 020 7276 8337 Email: philip.clarke@foodstandards.gsi.gov.uk
	Andy Spencer	Tel: 020 7276 8394 Email: andrew.spencer@foodstandards.gsi.gov.uk

FSA SIMPLIFICATION PLAN: APPROVAL FOR PUBLICATION**Issue**

1. Following the Government's acceptance in 2005 of the Better Regulation Task Force's report *Less is More* the FSA, in line with other Government departments, has developed a rolling programme of regulatory simplification to reduce primarily administrative but also policy costs of FSA regulations for its stakeholders. It is important that the Plan is put in the context of the FSA's responsibilities in developing the safeguards and protections that regulation can deliver.
2. The proposed simplification measures will be reviewed annually and further initiatives included as appropriate. The Plan also provides the FSA with an opportunity to highlight its wider work on the better regulation agenda.
3. The Board approved the draft Plan for publication and public consultation in January 2006. Further simplification initiatives were identified and the draft Plan was updated. In June the Board endorsed an updated version of the Plan and agreed that it should be sent to the Government and Better Regulation Commission to seek their comments.
4. The updated Plan was sent to the Prime Minister and Rick Haythornthwaite, Chairman of the Better Regulation Commission, on 26 July. Responses were received from Hilary Armstrong, on behalf of the Government, and Julie Kenny, Chair of the Small Business Council. Rick Haythornthwaite did not provide written comments but did discuss the Plan with the Chair and Chief Executive at a meeting on 14 August.
5. Copies of Hilary Armstrong and Julie Kenny's letters, which relate to the updated Plan they were sent, are attached. The version of the Plan attached incorporates the majority of comments received.

Strategic Aims

6. The main objective of the FSA is to maintain and improve consumer protection. Simplification of FSA legislation will facilitate improved compliance with and enforcement of food law and therefore improve consumer protection.

Government Comments on FSA Simplification Plan

7. On behalf of the Government, Hilary Armstrong welcomed the FSA's Simplification Plan and recognised the progress the Agency has made in this area since it published its draft Plan in January this year. The Minister noted that

the Plan contains a number of initiatives that will deliver significant benefits for the FSA's business stakeholders.

8. The Minister did remark that the draft she and her Government colleagues saw would benefit from an executive summary because without one it is difficult to capture the breadth of the simplification initiatives with which the FSA is involved. She said that the Government would like to see more in the Plan about what the FSA is doing to tackle the administrative cost of our most burdensome regulations, as identified under the administrative burdens measurement exercise¹. She asked that the Plan focus in particular on Regulation 178/2002 (traceability requirements) and the impact of the new EU food hygiene legislation (which was not in place in May 2005 – the cut-off point for the measurement exercise).
9. The Minister went on to ask that the Plan give more detail of how the FSA is dealing with the Hampton agenda of improving inspection and enforcement.
10. The presentation of the Plan has altered radically; it now includes an executive summary; and tables to present more clearly some of the key information. The Plan explains the broad range of work the FSA is involved in to simplify the regulatory burden on businesses, in particular the major work to reduce administrative burdens and our engagement with and implementation of the Hampton agenda. The Plan now has a section dealing with Regulation 178/2002 (traceability requirements), although this will need to be updated before final publication of the Plan.
11. Hilary Armstrong asked that this Plan should also tell more of a story of how the FSA might, in year one, achieve 60 per cent of an administrative burden reduction target of 25 per cent. On the figures presented in paper FSA 06/09/07 this would mean the Plan setting out how to achieve £7.1 million of administrative burden savings this year. The overall target however is to be achieved by 2010. The version of the Plan before the Board has not been amended at this stage to reflect this request because we believe it is too early to present a detailed Plan. The Plan could however be amended, if the Board wished, to tell readers the process the FSA will be going through to achieve its target.
12. Finally the Minister observed that two of the simplification initiatives² in the Plan would provide benefits for the public sector rather than business. This observation is accurate, but narrows the focus of simplification purely on the needs of business. The Executive suggests that initiatives focussing on the public sector are legitimately within the scope of simplification, and that reduction of burdens on the enforcement community in particular is important to enhance the capacity for more innovative means of improving business compliance.

¹ The administrative burden measurement exercise is dealt with in Board paper FSA 06/09/07

² Development of a UK Food Surveillance System and Simplifying how Local Authorities submit food law enforcement data

13. The Plan has therefore been amended to make this connection clear.

Does the Board feel that the Executive has appropriately reflected the Government's comments in the Simplification Plan?

Small Business Council comments on the FSA Simplification Plan

14. Whilst the Chair did not write direct to the Chair of the Small Business Council, Julie Kenny, the Government shared the Plan with her. It is helpful to receive her comments. Most food businesses are small or medium sized and the FSA needs to be aware of the costs its regulations impose on them.

15. Like the Government, the Small Business Council welcomes the attention the FSA has paid to simplification. It however believes that we could be more radical in how we might reduce the burden of food regulations. The Council welcomes the work we are doing on food labelling as part of the European Commission's review, but would like to see the FSA do more.

16. As Board paper 06/09/07 sets out, over 97 per cent of the FSA's total administrative costs are attributed to information obligations that result from EU legislation. In about half of these cases the UK does not have any discretion to modify the nature and extent of the burdens these information obligations impose. We must therefore wait until the European Commission brings forward its proposals in 2007, as requested by the European Council, to reduce the burden of EU legislation by 25 per cent. This will show where the FSA should devote its resources.

17. For EU legislation over which we do have some discretion the Agency is working with policy colleagues to develop action plans to tackle this legislation. When ready, these action plans will be published as and when they are ready.

18. The Small Business Council naturally welcomes the Safer Food Better Business initiative as it is very much targeted at small and medium sized businesses. The Council would like to see the FSA develop other innovative initiatives. The Council, at the time of writing, may not have been aware of the approach the FSA is proposing to reduce the burden of inspection on primary producers through linking frequency of inspection to Farm Assurance Schemes. It may also not be aware of the work the FSA is doing to develop SFBB-type guidance for ethnic cuisine caterers or those catering for vulnerable people living in small care homes (see Annex B (a) of the Plan).

19. The Small Business Council, like the Government, raises concerns about those initiatives that will benefit the public sector but not apparently businesses. As stated in paragraph 11 above the Plan has been amended to explain the legitimacy of these initiatives.

Does the Board feel that the Executive has appropriately reflected the Small Business Council's comments in the Simplification Plan?

Better Regulation Commission Comments on the Plan

20. The Chairman of the Better Regulation Commission, Rick Haythornthwaite, did not respond in writing to the Chair's letter to him. He did however comment on the Plan in a meeting with the Chair and Chief Executive in August. Rick Haythornthwaite's comments did not differ greatly from those made by the Government or the Small Business Council. He believed the Plan would benefit from an Executive Summary and less jargon; that it should be clearer about the financial benefits to business being either one-off or recurring savings; that it should include more about changes to administrative burdens since May 2005, more on risk-based enforcement, and more on tackling EU legislation.
21. The Plan has been amended to reflect these comments.
22. Rick Haythornthwaite did say that he did not get a feel from the Plan of how the FSA had engaged with "real" businesses to identify their regulatory irritants. The FSA has much of this information from the administrative burden measurement exercise. Those businesses interviewed as part of that exercise were asked explicitly about their key irritants. The FSA also deals extensively with trade associations who represent business interest. Action the FSA is taking to address businesses' concerns raised with us is set out in Annex E of the Plan. The FSA also consulted on and sought, and will continue to seek new simplification initiatives. The response has been slow but all suggestions are pursued. We do however propose to examine the feasibility of a study into the burden of regulation on a particular sector. This will involve talking to businesses in that sector to uncover those food regulations which cause them the most problems and which are most resource intensive, and working with them to drive out the irritants and drive down the costs.

Does the Board feel that the Executive has appropriately reflected the Better Regulation Commission's comments in the Simplification Plan?

Publication

23. The above discussion considers the comments received from others across Government. It is for the Board to decide on the content and publication of the FSA's Simplification Plan.
24. The Plan will be amended in the light of the Board's comments and, if the Board agrees, the final version will be put to the Chair for approval for publication.

25. The Executive proposes that the Plan should be published in October. In advance of publication the Chair will respond to the Government, the Small Business Council and Better Regulation Commission's comments and enclose a courtesy pre-publication copy of the Plan.

Does the Board agree that, subject to its views being incorporated in the Plan, it should be published in October subject to the Chair's approval?

Board Action Required

26. The Board is asked to:

- **discuss** the comments received on the FSA Simplification Plan and in particular the reasons for not incorporating any comments the Board is minded not to accept.
- **discuss** the Plan, revised in the light of comments received;
- **agree** that, subject to revision in the light of the Board's discussions, the Chair should clear the finalised Plan for publication in October.

Annex A

Rt Hon Hilary Armstrong MP's letter of 7 September 2006 to Dame Deirdre Hutton

Annex B

Julie Kenny, Chair of Small Business Council, letter of 5 September 2006 to Dame Deirdre Hutton

Annex C

FSA Simplification Plan – amended to reflect comments received to date.