

Re: "Impact Assessment on Possible establishment of fees for the European Food Safety Authority. Revision of Regulation 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety"

Brussels, 16 May 2012

Dear Madam, dear Sir,

Please find below our comments regarding the above mentioned impact assessment in the context of the revision of the EFSA Founding Regulation (178/2002).

As we and many others including the European Parliament have frequently communicated to EFSA and the European Commission, the large number of conflicts of interest among EFSA experts and Board members, and the Authority's disproportionate reliance on industry studies, give rise to great concern.

In our view, the founding regulation is the place where many of these flaws should be addressed. The revision of the founding regulation therefore is of great importance. We are therefore concerned to see that the revision seems to only deal so far with the possible introduction of fees for EFSA to be paid by applicants. Our concerns are:

- 1. Most fundamental problems in the functioning of EFSA that could be addressed by changes in the founding regulation are not addressed in this proposal by the Commission.**
- 2. Some of the options in the proposal for fees, namely suggesting to let industry pay for additional services to be provided by EFSA, but without increasing its overall budget for independent expertise, are highly worrying.**
- 3. It is unclear what the status is of the feedback that is being requested to the proposal. The issue is important enough to warrant an official public consultation, not only an open process at the level of the Advisory Group on the Food Chain and Animal and Plant Health.**

Ad 1.

In our reports we have presented a set of recommendations both for EFSA and the EU institutions that we deem necessary in order to achieve real independent advice on food safety issues. The founding regulation could help initiate many changes that are badly needed, at both levels. Specifically:

The European Commission, member states, and the European Parliament should:

- Revise EU laws to mandate that risk assessments be based on studies done by independent laboratories paid for through a publicly managed fund. Industry should bear the costs.
- Invite independent scientists to peer review EFSA's guidance documents and opinions.
- Implement a system of charging industry a fee for EFSA assessments – while ensuring that a strict barrier is maintained between industry and EFSA. This will ensure that EFSA has the capacity to protect food and environmental safety.
- Grant EFSA the budget to pay its experts for their assessment work

- Change EFSA's founding regulation to exclude people with conflicts of interest from panels and management. The recent move of MB chair Banati back to ILSI is further proof that having industry-linked people on the management board has a detrimental impact on EFSA's independence and credibility.

EFSA should:

- Base risk assessments on all available evidence, including all competent independent peer-reviewed studies
- Review its independence policy to exclude people with conflicts of interest from its management board, scientific panels, and scientific committee, and effectively close the revolving doors
- Proactively seek out independent experts and push the EU institutions to grant the agency the means to pay them for their work
- End collaboration with industry and industry-affiliated bodies such as the International Life Sciences Institute (ILSI)
- Ensure full transparency of its risk assessments and appointments of staff and experts.

Ad 2.

While in principal we support the idea to let industry carry the burden of the costs for the risk assessments, this should contribute to the increased capacity by EFSA to get independent advice, and independent validations of the industry studies submitted. Ideally, independent laboratories would be paid, via a public fund but with money from industry, to perform risk assessment studies, instead of industry doing them. It is crucial that industry money is channeled to a publicly managed fund, that in turn finances EFSA's work : in no way the industry's money should enable it to have any sort of influence over the risk assessment process.

This means that from the options presented by the Commission, we oppose scenarios 1 and 4. Scenarios 2 and 3 are more promising, however, it is important to note that we find it unacceptable to introduce fees from the private sector without increasing EFSA's overall budget. EFSA panel experts should be paid: this would allow them to perform their work in normal conditions, and would certainly enlarge the number of independent (non-industry employed or funded) scientists interested in applying to an EFSA panel position.

We hope these points will be considered, and we kindly ask you to keep us informed about next steps.

Your sincerely,

Nina Holland, Corporate Europe Observatory (CEO)
Claire Robinson, Earth Open Source (EOS)

Contact: Corporate Europe Observatory (CEO)
Rue d'Edimbourg 26,
1050 Brussels, Belgium
<http://www.corporateeurope.org/>
Tel: +32 2 8930930
Mobile: +31 (0) 6 302 85 042