



House of Commons

Environment, Food and Rural Affairs
Committee

Desinewed Meat

Written Evidence

Only those submissions, written specifically for the Committee and accepted by the Committee as evidence for the inquiry *Desinewed Meat* are included.

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Written evidence submitted by NFU

1. The NFU has 55,000 farmer and grower members in England and Wales. In addition we have 41,000 countryside members with an interest in farming and the countryside.

Introduction

2. The NFU welcomes the opportunity to submit written evidence to the Efra select committee's inquiry on the European Commission's requirement that the UK impose a moratorium on the production of desinewed meat (DSM) from cattle, sheep and goats, and that DSM from poultry and pigs be reclassified as mechanically separated meat (MSM).
3. Although most NFU members are not directly involved in the processing or marketing of this meat, the decisions made by the Commission in this area have and will continue to result in the loss of value from the chain and therefore are a matter of concern for our members.

The decision of the European Commission

4. From our understanding, the decision of the European Commission will reclassify DSM as MSM. This will prevent DSM from cattle and sheep entering the food chain due to the fact that MSM is not allowed to be harvested from ruminant bones.
5. It will also devalue DSM from non-ruminants as its future classification as MSM will prevent it counting towards the meat content of processed food.
6. Both of these measures have the potential to impact on the value in the chain or the price to consumers as this meat content in processed dishes will now need to be replaced with other meat which may have been sold previously for a higher price.
7. The NFU has always supported a science-led approach to regulation and are reassured that the Food Standards Agency (FSA) has made it clear that:
 - a. there is no evidence of any risk to human health from DSM;
 - b. that such meat derived in this manner can be classified as meat and;
 - c. that it should not come under the current definition of MSM.

We also note that the European Commission does not consider DSM a public health concern.

8. These statements demonstrate that the decision from the Commission to ban the sale of DSM from the UK appears to lack both a science led and common sense approach.

The impact on food supply

9. The re-categorisation of desinewed meat as MSM will result in decreased utilisation of the saleable product from carcasses, and devaluation of product and, importantly, a loss of a valuable source of protein at a time when the industry needs to reduce waste and optimise inputs throughout the food chain.
10. WRAP estimate that every tonne of food waste thrown away needlessly in the UK is responsible for 4.5 tonnes of CO2 emissions. Even putting aside economic arguments, the environmental arguments for fully utilising all available food are stark.

11. The rationale for the Commission decision is especially difficult to understand when it is apparent that other member states produce similar products, when supplies of cattle and sheep across Europe are tight and when the consumer is feeling the pressure in tough economic times.
12. EU production forecasts show a decline in cattle production of 4% in the UK and 2% in the EU-15. Figures recently released by the AHDB show that year to date UK prime cattle production is down 8.8% on last year, with a projection of a 2.5% decline in available supplies.
13. This tight supply with strong global demand has already put upward pressure on red meat prices and a move which further reduces supply can only increase this driver.

Future actions

14. We understand the reasons why the FSA felt unable not to comply with the demands of the Commission and the threat to the export status of the UK would have had great potential to damage the industry if action was not taken.
15. However, we now expect the UK Government to actively defend the UK's legal interpretation and established practice, especially as many other member states appear to be engaged in production of this meat.
16. No food safety issues are at stake. The Commission's interpretation of what constitutes MSM must be contested and we would call upon the FSA and DEFRA to be gathering evidence of the activities of other member states and be fully engaged in the discussions which are taking place in the EU.
17. Finally, this case, along with other current FSA activities in the area of charging food businesses for public sector meat inspection, raises questions about the FSA remit and whether it should do more to champion the British food industry, especially when no food safety threat is present.

May 2012

Written evidence submitted by the Food and Drink Federation

1. Summary

1.1 FDF represents food manufacturers who produce or use a range of meat preparations and meat products as well as ingredients such as meat powders and flavourings for use in further processed products.

1.2 Our contacts with members on this issue have highlighted the variety of products which will be affected by the new UK interpretation of EU requirements on the production and use of desinewed meat (DSM) from bones and carcasses and the seriousness of the impact which these changes will have on the industry and its customers. These include:

- the commercial and economic impact on businesses and consumers of having to change raw material sourcing;
- the increased food waste which is expected to have a knock-on impact on the cost of meat raw materials;
- the costs and wastage associated with writing off and changing packaging; and
- the competitive disadvantage which the imposition of these measures on one Member State will have on companies in the UK, given that several other EU Member States with large meat-based industries are known to apply the existing UK interpretation.

1.3 The impact of these changes will be further increased by the completely impractical, unnecessarily short, timelines which have currently been set for introducing these changes, which we believe are disproportionate to the issue in question given that the Food Standards Agency (FSA) is clear that there is no evidence of any risk to human health from eating meat produced from the low-pressure DSM technique.

2. The Food and Drink Federation

2.1 The Food and Drink Federation (FDF) is the trade association for the UK's food and drink industry – the single largest manufacturing sector in the UK. The industry has a turnover of £76.2bn, with a gross value added of £20.9bn, accounting for 16% of the UK's total manufacturing sector. Our sector directly employs up to 400,000 people, and it is an invaluable partner to British agriculture, buying two thirds of what farmers produce. We export nearly £11bn of food and non-alcoholic drinks products a year, 77% of which go to the EU. Our sector invests over £1bn in to R&D each year enabling over 8,500 new products in 2011. FDF represents manufacturers of all sizes although 68% of our membership falls into the small to medium sized company bracket.

2.2 In December 2011, the food and drink industry and Government launched a shared vision for 20% growth in food and drink manufacturing by 2020. This ambitious vision builds on work already underway to unlock the potential of the industry in key areas such as exports.

3. Background

3.1 DSM is meat removed from flesh bearing bones using machines operating at low pressure. The product is similar to minced meat and it retains its muscle fibre structure. DSM has previously counted towards the declared meat content of a range products.

3.2 The use of DSM meat in products is regarded as safe by regulators, prevents the wastage of meat protein and keeps down prices for consumers.

3.3 Mechanically Separated Meat (MSM) is removed from bones using high pressure machines, and is a product with a paste-like consistency. It is not classed as meat, cannot be counted towards a product's meat content, and it must be labelled as MSM on final consumer food products.

4. Events leading to the moratorium

4.1 Following an EU Food and Veterinary Office inspection mission to the UK in March 2012 the European Commission has demanded at very short notice that from 28 April the production of DSM (as now defined) from ruminant bones should cease and that from 26 May DSM from non-ruminant bones must be classed as MSM. This means DSM meat will no longer count towards the meat content of products and will have to be labelled as MSM on finished products.

4.2 The current timetables are disproportionate and unrealistic, given that the FSA is clear that there is no evidence of any risk to human health from DSM meat production and consumption.

4.3 Some important points of clarification, which would alleviate the impact of the forthcoming changes on businesses and consumers, have only recently been received or are still being sought by the FSA from the Commission in respect of the interpretation of the EU requirements. These include the differentiation between MSM production and mechanical deboning and the current uncertainties should be dispelled as soon as possible to allow companies to plan accordingly.

5. Implications for the industry

5.1 As discussions on the scope of the recent change in interpretation are still in progress, it is very difficult to provide a final figure for the impact of the moratorium on UK businesses.

5.2 Where changes are required, businesses will have to consider reformulating and/or relabelling products. Members are clear that, whichever option they choose, the timescales to achieve compliance with the new requirements are very similar and cannot be achieved within the currently envisaged deadline.

5.3 In some cases, companies have indicated that this could lead to absence of products on the shelf because insufficient stocks of finished product are available to ensure continuity of supply.

5.4 Over and above the minimum time required to implement the changes, additional time would be required to avoid the significant costs and wastage associated with packaging write-offs.

5.5 The minimum timelines required for both options are explained in more detail below.

6. Reformulation

6.1 Businesses may choose to reformulate their affected products if they do not believe that consumers, or retailers, will accept products labelled as containing "mechanically separated meat". In addition, the fact that MSM does not count towards the meat content of a product will be an important part of the decision-making process, both in terms of meeting UK compositional standards for certain products and because consumers may react unfavourably towards products which seem to contain less meat than previously.

6.2 To redevelop a product requires reformulation, trial work, sensory checks, storage tests, nutrition checks and checks of cooking instructions on all product formulations affected. Companies would need to take all of these elements into account in devising a resource plan, even if the quantity of desinewed meat to be replaced might, for some products, be low in percentage terms. We have been informed that reformulation efforts could take up the resources of an entire development team over a period of up to three months and that any significant issues encountered would extend this timescale.

7. Relabelling

7.1 To comply with the new requirements, a full revision of the label might be necessary, including changes to, for example, the legal name / secondary descriptor as well as to the ingredients panel and nutrition information. Re-labelling a product can be expected to include a formal update, check and approval process for each stock-keeping unit (SKU), including the appropriate packaging specification changes, artwork re-origination, validation and printing.

7.2 FDF members have indicated that the minimum time required to complete an artwork change ranges from 13 to 16 weeks.

7.3 These timings assume a standard 6 week printing lead time and take no account of the increased demand that the new requirements will cause. They also assume that residual packaging stocks would be written-off as soon as the new packaging was available, which would create additional costs and wastage which might otherwise be avoided.

8. Write-offs and Wastage

8.1 FDF members have confirmed that they generally hold several months' worth of packaging stock (up to 3 million packs' worth in one case). To write off this packaging would amount to variable losses (from £65,000 to £1 million) depending on the company.

8.2 Members have indicated that, to introduce labelling changes and manage the use of existing packaging stocks without significant write-offs would require a minimum of 6 months.

8.3 An alternative option to alleviate the immediate cost and impact of these changes might be to allow packaging stock printed before a specified date to be used and sold through.

9. Recommendations

9.1 The required changes in respect of the labelling of DSM will have a significant commercial and economic impact on affected businesses.

9.2 We understand that the Commission's interpretation is being questioned by a number of member states and the Commission is seeking scientific advice from the European Food Safety Authority (EFSA). The FDF believes that these discussions should be completed before companies are required to change products or packaging.

9.3 As minimum measure, extending the transitional arrangements is not only necessary from a practical point of view, but would facilitate a less costly and wasteful transition to the new requirements. Such an extension would seem to be proportionate given that the FSA is clear that there is no evidence of any risk to human health from eating meat produced from the low-pressure DSM technique.

May 2012

Written evidence submitted by The British poultry Council

1. Organisation

The British Poultry Council (BPC) is the trade association for the poultry meat industry and represents over 90% by volume of production of poultry meat in the UK, and is a recognised and consistent stakeholder in partnership with the UK Government.

2. Summary of the submission

The BPC would like to highlight the following:

- a. Desinewed meat (DSM) is structurally different from Mechanically Separated Meat (MSM)
- b. DSM has a significantly different value than MSM
- c. The technology of food production has moved beyond the boundaries of the legislation (EC no. 853/2004)
- d. British consumers and retailers do not welcome the use of MSM in food products
- e. DSM should be recognised and classified as something other than MSM

3. Submission

4. For the purposes of this submission DSM (although this description has no legal definition) is produced using low pressure machinery, whereas MSM is produced using high pressure machinery.
5. The legislative definition of MSM has three criteria: the raw material is flesh bearing bones after boning, the recovery is done mechanically, and there is loss or modification to the internal muscle fibre structure. The BPC believes that the third of these criteria can be questioned in relation to DSM.
6. The British poultry industry produces a significant amount of DSM, regularly between 750 and 1000 tonnes every week. This currently has a value of around £25 million per annum.
7. The Commission decision to enforce their interpretation that DSM should be treated as MSM would cost the industry around £75 million to re-formulate products, source new supplies, re-labelling and re-packaging, and disposal of unwanted materials.
8. A legal requirement for MSM is that it be labelled as such. UK retailers and consumers do not wish to see the use of MSM, thereby removing the use of DSM and requiring alternative sources to be found. There is no readily available other use for DSM that would have equal value for producers. It is estimated that if DSM were used in pet food manufacture it would hold less than one fifth of its current value.
9. The techniques and practices used in the UK are commonplace across the EU, and any lack of similar enforcement across other Member States would disadvantage UK producers. Wrongly labelled imports are a strong likelihood, simply through different understanding and interpretation of authorities in other Member States.
10. The Commission has softened its position following lobbying by the industry and the Food Standards Agency (FSA). Instances where the input raw material has a majority of meat – such as surrounding the wishbone in chickens – will be considered part of the deboning process and

therefore not MSM. This position is yet to be finally confirmed in writing by the FSA and/or Commission.

11. Wishbone meat and a similar example of turkey necks account for over half of the above mentioned DSM production. The remainder is generally from whole deboned carcasses being put through a low pressure system.
12. The BPC believes that this remaining DSM should also not be classified as MSM, and to do so would be misleading to consumers and put the UK at a disadvantage in the European marketplace.
13. The BPC would like to see the European Food Safety Authority (EFSA) asked for an opinion on:
 - a. The difference in muscle fibre structure between DSM and MSM
 - b. The typical extent of loss or modification of muscle fibre structure in DSM
 - c. The difference in food safety risk between DSM and MSM
 - d. A new definition for inclusion in the legislation
14. Two internationally recognised research bodies – Leatherhead Food International in the UK and the Max Rubner Institute in Germany – will shortly be collaborating on a comprehensive testing regime for DSM. This builds on the previously successful testing work that each have done separately.
15. The poultry industry is technologically advanced and uses a high level of automation that has superseded the letter and intent of the legislation in this instance. The appearance of DSM is visually similar to minced meat (as defined in the legislation).
16. In conclusion the BPC believes that DSM is a beneficial raw material that could potentially be wasted if it were to be classified as MSM. In a time where healthy and affordable food is demanded, and there is already a shortage of protein sources, it seems misguided to restrict the use of DSM. We would like to see a science based examination of the subject with an outcome that applies equally across all EU Member States.
17. The BPC would be happy to expand on any of the points made in this submission.

May 2012

Written evidence submitted by The British Meat Processors Association (BMPA)

1. Executive Summary

- 1.1. It is long-established practice in the UK, approved by the UK authorities, to distinguish between the production and use of 'desinewed meat' (DSM) and 'mechanically separated meat' (MSM). They are quite different products; DSM is considered to be meat, and is used in a wide range of final consumer food products. The requirements that the European Commission has demanded of the UK, and acceded to by ministerial decision, are disproportionate and the timetable is unreasonable. No food safety concerns have been raised. There will be a range of adverse impacts on the UK meat industry, the meat market and consumers. It is difficult to reliably establish the aggregate financial costs of these impacts, but we tentatively estimate that the total could be in the order of £200 million. Certain individual businesses will be particularly hard hit. What we term DSM is produced and used in and is traded between EU member states. It is imported into the UK and used as DSM, but it is less clear how this material is being described within other EU member states. The interpretation of MSM is under formal discussion at EU level. The Commission's views are challenged by a number of member states, including the UK. The Commission intends to seek scientific advice from the European Food Safety Authority. We believe that these EU discussions should be completed before the UK is forced to change its practices. Our objective is to restore the production and use of DSM from all species. In the short term, at the very least, the deadline for the imposition of the moratorium on non-ruminant material should be extended to enable the industry to adjust to the new conditions.

2. Introduction

- 2.1. The British Meat Processors Association (BMPA) is the leading trade association in the British meat industry, representing abattoirs slaughtering cattle, sheep and pigs, meat processors and meat manufacturers across the UK. Our membership ranges from small, regional and local family businesses to large international multi-site businesses, from specialist businesses to companies covering a wide range of activities and products. Our members supply branded and retailer own-label meat and meat products across a range of different meat species and foods. This diversity serves to enrich our organisation and allows us to be truly representative of our industry.
- 2.2. We welcome the Committee's decision to carry out this inquiry in view of our very great concerns about the important adverse impact of the moratorium on the UK meat market.

3. Background

- 3.1. The UK authorities and industry differentiate between 'desinewed meat' (DSM - sometimes known as 'ground', 'baader', or '3mm' meat in other countries), and 'mechanically separated meat' (MSM).
- 3.2. DSM is meat removed from fleshy bones using machines operating under low pressure. In the past, this would have been undertaken by hand, but rising labour costs and the search for efficiency has led to the deskilling of meat recovery through mechanisation. The structure of the material is firm and similar to minced meat. The UK authorities regard DSM as meat on the basis of its

muscle fibre structure. Microscopic histological analysis developed in the UK supports this view. DSM counts towards the declared meat content of a range of UK food products (eg sausages, burgers, pies) that are subject to national rules regarding their minimum meat content. In general, DSM is used in value food product lines, and the ability to include DSM in the meat content of these products helps to keep down their price to consumers. As an additional raw material, it also helps to return value to boning plants by contributing to carcass balance and thereby reduce the cost of other meat cuts. As there are no food safety risks associated with the production and use of DSM derived from ruminant bones, the UK authorities allow DSM to be derived from the bones of all species, and it does not need to be declared on final products.

- 3.3. The UK authorities and industry regard MSM as a quite different product. It is derived from pork and poultry bones by machine under high pressure, and results in a product with a paste-like consistency. It is not regarded as meat, does not count towards meat content, and must be declared as MSM on final consumer food products.
- 3.4. In an exercise we carried out last year, we estimated domestic production of DSM from all species to be around 600 tonnes per week, with imports of around 300 tonnes per week, a total of around 960 tonnes per week. This is equivalent to around 2,100 tonnes of bones per week, or just under 133,000 animals slaughtered each week.

4. The Changes in the UK

- 4.1. Following an EU Food and Veterinary Office inspection mission to the UK on MSM in March, the European Commission is requiring the UK to change long-established practices in the production and use of DSM, including a moratorium on the production of DSM from ruminant bones, and the redesignation of DSM from non-ruminant bones as MSM.
- 4.2. The Government has agreed to accede to the Commission's demands and is implementing a two-stage 'moratorium' at very short notice. From 28 April, the use of ruminant bones in the production of 'DSM' ceased. From 26 May, DSM produced from non-ruminant bones is to be regarded as MSM, and subject to the regulatory requirements relating to MSM. Final products that incorporate DSM when the moratorium takes effect may be sold through the supply chain after these dates. Costs will also be incurred through the disposal of unused stocks of DSM as Category 3 animal by-products when the moratorium takes effect.
- 4.3. We are seeking clarification from our Food Standards Agency and the Commission on a number of detailed technical points. For example, the Commission has confirmed that it distinguishes between MSM and mechanical deboning, so that where the bone is removed from a substantial amount of meat (eg meat from poultry wish bones), rather than residual meat being removed from bone, this would be considered to be deboning not MSM production. This raises questions about the status of other whole cuts and bones with a comparatively high meat-to-bone ratio where deboning is the preferred option.

5. The Impact in the UK

- 5.1. The range of impacts of the new requirements include the following elements:
- Substantial loss of value of ruminant bones and material from ruminant bones
 - Loss of value of material from non-ruminant bones and from non-ruminant bones
 - Disposal costs of ruminant bones and material from ruminant bones as animal by-products, and, possibly, non-ruminant bones
 - Reformulation of final consumer products with more expensive alternative whole muscle meat
 - The costs of unusable stocks of packaging materials, and costs of new packaging materials
 - Rises in the prices of final consumer products (if costs are passed up the supply chain)
 - Wastage of 'meat'
 - Job losses in businesses producing and using DSM/MSM.
- 5.2. It is very difficult to give a reliable figure for the overall aggregate financial impact of the moratorium as the values of raw material and disposal costs fluctuate, and the market has yet to adjust to and determine new volume requirements, values and costs of existing and alternative raw materials. We have tentatively estimated the overall impact at around £200 million.
- 5.3. Hitherto, UK retailers have been content to source and sell final products containing DSM. Looking ahead, however, many retailers are unlikely to wish to source and label final food products as containing MSM, particularly for their own-label products. This will mean that the value of what has hitherto been known as DSM derived from ruminant bones will be eliminated, and DSM derived from non-ruminant bones will be substantially reduced since, as MSM, it will no longer count towards meat content in the most popular lower cost sausages and burgers. The supply of MSM will automatically increase, while overall demand for and the value of MSM are likely to be significantly reduced.
- 5.4. Until the changes in the marketplace come into effect, it is very difficult to forecast how the market will adjust and what the changes in values might be. Before the moratorium, the value of bones used in the production of DSM has ranged from around £100 to £300 per tonne depending on the species. Following the changes, beef and lamb bones may be largely worthless, the value of pork bones will be substantially reduced and the value of poultry bones could be halved. We tentatively estimate the total value of DSM before the moratorium at around £55 million. As a result of the changes, this could fall by at least 40% to around £30 million, a loss of around £25 million. One of our pork processing members has estimated the loss of value of DSM derived from pork bones as a result of having to designate the product as MSM at just under 50%, leading to a very substantial loss of profit.
- 5.5. To the extent that retailers remain unwilling to source final food products containing MSM, and against a background of already tight livestock supplies, strong exports and, therefore, high prices, substantial additional costs will be incurred in sourcing alternative meat to use in final food products (in the research we carried out last year, we estimated this replacement cost at around £60 million, but with rising raw material costs, this could well be higher under current market conditions). Again, until the moratorium comes into effect and

the market adjusts, it is difficult to state the financial impact of these changes in market parameters.

- 5.6. In principle, these factors suggest that either the retail prices of final consumer products will rise (with particularly adverse effects on less well-off households), or, if costs cannot be passed up the supply chain (given the intense competition amongst retailers and their efforts to contain food price increases during the current economic recession), they would have to be absorbed by meat processors and manufacturers who already face strongly squeezed margins and/or shared with livestock farmers.
- 5.7. Additional losses to industry will include the fall in the value of bones themselves, the costs of disposal of any unwanted bones and DSM/MSM, the costs of any unwanted stocks of packaging material and the costs of new packaging material, and redevelopment costs. We do not have a reliable figure for these costs, but they will almost certainly run into millions of pounds.
- 5.8. At a time of a shortage of protein in the UK, across the EU and globally, and when consumers are being urged to reduce food wastage, we regard the Commission's demands as creating a shameful waste of a valuable food product, and counter to the principle of sustainable food production.
- 5.9. For the businesses affected by the changes, there will be profit losses and, in turn, job losses. One of our member companies that is most directly affected has put 30 of its 85 staff under notice of redundancy. In a matter of weeks, its business is being shattered.

6. The EU Dimension

- 6.1. In accordance with the requirements of Article 9 of Regulation (EC) 999/2001, in December 2010 the European Commission presented a communication to the European Parliament and the Council on the use of MSM. In view of differing interpretations amongst EU member states, the Commission has been seeking to develop guidance in order to ensure consistent implementation of the EU legislation in this area.
- 6.2. In developing this guidance, the Commission is making, in our view, a particularly rigid definition of what constitutes MSM. It considers all material that is mechanically derived from bones – whether under low-pressure or high-pressure – to be MSM. A number of member states, including the UK contend that non-ruminant material derived by mechanical means under low pressure is not MSM as this low pressure process does not result in “the loss or modification of the muscle fibre structure”, which is one of the three conditions in the legislation for designating material as MSM. At the time of writing, since there is no clear consensus, the Commission has withdrawn its current draft guidance and has indicated that it intends to seek the advice of the European Food Safety Authority (EFSA) on certain scientific aspects of the issue. In our view, there should be a clearer scientific basis underlying the definition of MSM, notably in respect of the muscle fibre structure criterion.
- 6.3. While we do not have a full picture of practices in all EU member states, we have evidence that what we would term non-ruminant DSM is being produced and used in and traded between EU member states as “ground”, “baader” or “3mm” product, though it is less clear how it is being described and labelled

within other member states. Hitherto, it has been imported into the UK and used as DSM. It is essential that member states are operating on an equal basis across the EU. The FVO will be undertaking inspection visits on MSM to a number of other member states during this year, and we await their findings with interest.

- 6.4. In our view, the discussions on this issue at EU level should be fully completed, including the delivery of any scientific advice from EFSA as well as the completion of the planned FVO inspection missions, before the UK is forced to change long-established practice at very short notice and with such serious adverse impacts. At the very least, in respect of non-ruminant material, the European Commission should allow more time for the UK to adjust to the new requirements.

7. Final Comments

- 7.1. The impact of the European Commission's demands on the UK is serious. Since no food safety concerns have been raised, the Commission's actions and threats are disproportionate and the timetable is unreasonable. We contest the Commission's interpretation of what constitutes MSM. Our objective is to restore the production and use of DSM from all species. In the short term, at the very least, the deadline for the imposition of the moratorium on non-ruminant material should be extended to enable the industry to adjust to the new conditions. The interpretation of MSM is under discussion at EU level; these discussions should be allowed to be completed in order to ensure an informed and sensible outcome.

May 2012

Written evidence submitted by Newby Foods Ltd

1. **Executive Summary:**

- 1.1. Newby Foods have been harvesting around 10,000 tonnes of lean meat a year from selected meaty pork, beef and lamb bones and chicken carcasses which has been used by the food industry to make meat products such as sausages, burgers and meatballs.
- 1.2. Until the 26th of April the FSA's position has been to allow this meat to be declared as meat and count towards the product's meat content. The UK is unique in the EU in having statutory minimum meat contents for most meat products.
- 1.3. However, on 4th April the FSA accepted a Commission diktat and then imposed a moratorium that completely stopped our Company from producing beef & lamb products and will grossly devalue those from pork & chicken.
- 1.4. We have already been forced to make 30 workers redundant and fear that unless the FSA alters its stance the remaining 55 jobs will also disappear.

2. **Background:**

- 2.1. There have been significant changes in the meat industry over the last 30 years. The strength of the supermarkets has seen the demise of the high street butcher and the bulk of meat preparation being centralised into factory production units.
- 2.2. The escalating cost of labour compared with the relatively stable cost of meat led to a deskilling of butchery operations where yield was sacrificed for throughput which resulted in a substantial amount of meat being left on the bones after primary boning. This meat was originally harvested by hand and because the resultant trim may have contained unacceptable gristle, such as sinew and bone chips they would normally be removed by passing the meat through a meat separator, such as a Baader or Sepamatic. However labour costs soon rendered this hand harvesting as uneconomic and machines were invented to do this job.
- 2.3. There were two types of machine, piston and rotary, both exerted high pressure which crushed the bones thus releasing the marrow mixing it with the meat which became liquefied as it was forced through 1 mm apertures. This product is known as mechanically recovered meat (MRM) or mechanically separated meat (MSM).
- 2.4. When incorporated in meat products it must be declared in the list of ingredients and does not count towards the meat content, this was mainly due to the fact that the product did not resemble meat. Poultry MSM is largely used in hot dogs whereas there is little use for pork MSM as it is very dark in colour and has a strong metallic taste due to the inclusion of marrow and the meat has lost its functionality.
- 2.5. Currently TSE regulations prohibit the production of MSM from ruminant bones.
- 2.6. From the early 1990s the senior management of Newby Foods Ltd have pioneered the development of machinery that removed a trim from meaty bones which is similar in size and appearance to that obtained by hand. The yield is much less than MSM as not all the meat is removed and the bones are not crushed and they retain their marrow.
- 2.7. It is more valuable because it has a good flavour and mouth-feel; it is lean and highly functional. Until last month the FSA have classed the trim produced in this way as meat

and the product obtained after passing through a meat separator as a meat preparation.

2.8. Our process is described in the following extract taken from the FSA Guidance Notes (September 2003):

'Products obtained by mechanical deboning, which remove definitive pieces of meat from meaty bones or carcass, which may or may not have had the primal muscles previously removed, such that the muscle fibre structure is substantially intact are not considered MRM or MSM. This meat may then be desinewed and have the appearance of finely minced meat. These products may still be considered meat, and may be counted towards the QUID declaration'.

3. **The Company:**

3.1. Newby foods Ltd was formed in June 2003 and acquired a 60,000 sq ft factory in Newby Wiske, Northallerton, North Yorkshire. Due to the factory being dormant for a period of time prior to the acquisition, further considerable investment in the fabric, refrigeration and equipment was undertaken, we then applied for and gained our Cutting Plant and Meat Preparation Licence for the purpose of producing desinewed meat.

3.2. We started with the production of Desinewed Pork Trim in August 2003 which was followed shortly afterwards with our Desinewed Chicken Trim. With the relaxation of some of the BSE regulations and after full consultation with all the relevant authorities we made considerable investment in plant and machinery in order to produce Desinewed Lamb Trim commencing in November 2006 and Desinewed Beef Trim in May 2008.

3.3. We have invested millions of pounds in the fabric of the factory as the business has grown, further investment in equipment, personnel, refrigeration, cold stores, expansion of the factory to 70,000 sq ft, and at every stage we have consulted with, sought and gained the approval of The FSA, MHS, Trading Standards, Major Retailers and Food Manufacturers alike.

3.4. Up until the moratorium announcement Desinewed meat accounted for 90% of our turnover in terms of volume and profitability.

4. **Visits:**

4.1. In addition to our routine 5 monthly OV audits by our regulating authorities we have had some notable factory visits: In March 2009 a delegation from the FSA's head office including Rosalind Glover, Deputy Policy Lead on food hygiene standards; Sophie Rollinson, Manager of the food authenticity research programme and Chris Walding, Policy Advisor in the TSE Policy team. We were reassured of the continuing status of our products.

4.2. In November 2009 we were visited by Kathy Groves of Leatherhead Food RA who was being sponsored by the FSA to develop a histological procedure to distinguish meat from MSM. When she was shown the trim being produced by the first stage of our process, she said "You don't need a microscope to see that's meat!"

- 4.3. As a result of all of these visits and through consultation with Newby Foods Rosalind Glover published the FSA Information Note on the Production of Desinewed Meat in September 2010.
- 4.4. Two FSA Head Office Managers visited us again in March 2011 when they were accompanied by two officers from the British Meat Processors Association (BMPA) and Sue Davies MBE, Chief Policy Advisor of Which?. Sue Davies later gave a presentation to the BMPA Conference when she said that focus groups had considered desinewed meat to be completely different to MSM and felt it should contribute towards the meat content of products in which it is used as an ingredient.
- 4.5. We have had many other visits and all have been impressed with what they saw. In fact one major retailer described our process and product as being 'an intelligent use of a valuable raw material at a time when the world is short of meat protein'.
- 4.6. We have had unannounced trading standards visits whereby independent samples were taken by TS officers and tested, on each occasion these have been analysed and have come back as meat.

5. **The FVO Audit:**

- 5.1. In February this year we were contacted by FSA via the BMPA, to inform us that the FVO were planning to visit a number of meat plants in a number of member states. We were told

'that it was in all our interests for The Commission to gain a better understanding of automated processes in the harvesting of residual meat and differing interpretations across member states to allow the auditors to come to your site'.

- 5.2. Initially we were keen to receive a visit as we saw it as an opportunity to showcase what we do, however, our suspicions as to the motive for the visit were aroused when we received a 'pre-audit' questionnaire from FSA entitled 'Information gathering Mechanically Separated Meat (MSM) FVO mission UK from 06 – 14 March 2012'.
- 5.3. Firstly, the form made no reference to the fact that we produce desinewed meat and only asked questions about the production of MSM. We were also asked to provide sensitive information about our customer and supply base together with volumes.
- 5.4. Secondly, this was the first time that the word 'audit' was introduced in to the scope. This caused a great deal of internal debate and discussions with BMPA, Our FSA Business Manager and Eville and Jones Ltd, Official Veterinarian for our area, contracted by FSA.
- 5.5. We decided in the first instance, to change the form by taking out any reference to MSM and provide answers as desinewed meat questions. We didn't divulge our customer or supply base as we felt that was confidential. After much pressure was exerted on us we reluctantly provided the information but only after receiving assurances with regards to confidentiality. This confidentiality was totally undermined when the FVO auditors talked openly to us about the previous sites they had visited during our 'visit'.

- 5.6. We also asked as to why the term 'visit' had been replaced with 'audit' and our FSA Business Manager informed us that the FVO were actually auditing FSA, not us. The 'visit' took place on Monday 12th March 2012 and we gave the 3 FVO officials the same presentation that has impressed all of our previous visitors.
- 5.7. Unfortunately the FVO displayed a complete lack of interest in what we do. They didn't look at or touch the meat we produce, or take samples for testing. We had meat in a tray, in our boardroom, for the duration of the visit, to demonstrate that after some 6 hours at ambient temperature it hadn't discoloured, to which they were not interested. MSM would have turned black. They would not recognise Trading Standards or the results of analysis of our meat that Trading Standards had tested at a Public Laboratory, trained in the Leatherhead methodology, following unannounced visits.
- 5.8. Our overall impression of the visit was that it was predetermined. Therefore on the 3rd April 2012 we lodged a formal complaint to FSA York about the 'visit'.

6. **Effect of the Moratorium:**

- 6.1. The FSA's announcement has effectively destroyed our business in two parts. First of all we had to stop producing beef and lamb DM (reluctantly) and give 1 month's notice of redundancy to 30 of our employees. The remaining 55 are also under notice as after the 25th May, our pork and chicken products will have to be labelled as MSM which has little commercial value as it can't count towards the meat content. This could potentially lead to the demise of our business.
- 6.2. Clearly the FSA agree as they have rather insensitively just written a letter to us reminding us of our obligations 'to keep the FSA informed of closures to approved establishments'.

7. **In Conclusion:**

- 7.1. Our process harvests meat trim and is not capable of producing anything like what is commonly known as MSM. When samples are sent for analysis, the results come back as being meat. We do not envisage a situation whereby on the 25th May test results confirm that our product is meat and on the 26th May, the same test, confirms MSM!
- 7.2. The BMPA's press release stated: "This is a criminal waste of a valuable product at a time of a shortage of proteins, and when we are being urged to reduce food wastage. Common sense has gone out of the window'.
- 7.3. The Meat and Livestock Commercial Services wrote a letter to the Meat Trades Journal which featured in the April 27th Edition under the heading 'European decision on DSM is totally unjustified'. Its author further stated 'Having spent the last six years helping the UK meat industry improve the returns on their fifth quarter, this is a step backwards.'
- 7.4. Both are correct, the meat industry should be like any other industry, innovative, striving for maximum efficiencies and minimising waste. Desinewed meat is a highly functional cost effective meat ingredient and does not deserve to be in the same category as such an inferior product as MSM.
- 7.5. We would question the legal process that has led to the announcement and the grossly disproportionate action being adopted by the FSA particularly as it has been stated that are no public health or safety issues by both the FSA and the EU Commission. There

has been no consultation period or consideration for the 'working group' looking at different interpretations of MSM across member states at a time where some other member states were supporting the UK's interpretation.

- 7.6. At the time of writing we believe the FSA has still not received the FVO report. Given the drastic action taken, timetable imposed and treatment of British companies we consider that wholly unjust. We have also learned that the FVO is not scheduled to carry out similar audits in other member states until the earliest September this year and their reports are not expected until 2013!
- 7.7. We welcome the Select Committee's decision for a hearing to take place on 15th May and hope that MP's will right this wrong.

May 2012

Written evidence submitted by The Agriculture and Horticulture Development Board (AHDB)

The Agriculture and Horticulture Development Board (AHDB) is a Non-Departmental Public Body, known as a 'Levy Board', funded by the agriculture and horticulture industries through statutory levies. It was established under the Agriculture and Horticulture Development Board Order 2008 and became operational on 1 April 2008. AHDB is an independent, evidence-based organisation with the duty to improve the efficiency and competitiveness of various agriculture and horticulture sectors in parts of the UK representing about 75% of total UK agricultural output. AHDB serves the six sectors of: Pig meat in England; Beef and lamb in England; Commercial horticulture in Great Britain; Milk in Great Britain; Potatoes in Great Britain; and Cereals and oilseeds in the UK.

I am writing on behalf of AHDB and the comments contained here represent the views of the EBLEX and BPEX divisions which serve beef, sheep and pig farmers and slaughterers in England.

Following our original comments to FSA TSE Policy Team concerning the moratorium on the use of DSM dated 23rd April 2012 we write further with regard to the EFRA Committee meeting scheduled to take place on 15th May 2012 to express our concerns.

Our understanding remains that the meat removed from bones using the low pressure process employed in the UK retains its muscle fibre structure. This is supported on microscopic analysis of the tissue and the resultant product is akin to mince. This view was previously supported by the UK FSA and it was considered a Meat Preparation that did not require product label declaration and was not considered a food safety risk.

Following the Commission visit in March 2012, the product was deemed to be a Mechanically Separated Meat (MSM) and as such permissible only from non-ruminant bones and requiring product labelling declarations. This has resulted in a rapid introduction of new guidelines following reclassification, a cessation of production and the need to dispose of stock of previously prepared product, all of which have significant impact to the sector.

From a UK perspective, this raises a number of immediate concerns:

- The potential impact on cost on meat products, particularly those in the value ranges
- Loss of potential value of ruminant bones
- Increased disposal costs of ruminant bones
- Loss of a valuable source of protein for product manufacture and the need to reformulate existing product recipes
- Disposal cost associated with existing stock
- Direct impact on those business engaged in this process with consequential job losses

We feel that the recent decision is in direct contrast to the previous FSA position and, as no food safety concerns have been raised, this appears unnecessarily harsh and with a timetable that does not allow the industry to discuss or adapt.

We welcome the opportunity to review any further evidence from the Commission to support this reclassification but until such a time, we remain extremely concerned that the imposing of this decision will have a detrimental effect on the supply chain and consumers.

May 2012

Written evidence submitted by the Food Standards Agency (FSA)

INTRODUCTION

1. The Environment, Food and Rural Affairs Committee asked the Food Standards Agency (FSA) to submit a written memorandum setting out the background to the moratorium on desinewed meat (DSM) and indicating the action the FSA has taken, and is taking, to minimise the impact of the moratorium on UK industry. A chronology is attached at the Annex to this memorandum.
2. The FSA is a non-Ministerial Government Department established under the Food Standards Act 1999. It works at 'arm's length' from government, but is accountable to the Westminster Parliament, the Scottish Parliament and the Wales and Northern Ireland Assemblies through the relevant Health Ministers. The FSA is led by a Board whose members have been appointed to act in the public interest and not to represent particular sectors. It bases its decisions and advice on the best evidence available, including commissioning research and obtaining advice from independent advisory committees.
3. This memorandum provides an overview of:
 - the production process by which desinewed meat is obtained, the reasons why the FSA is satisfied that this is a different product from 'mechanically separated meat' as defined by European Union legislation and the position with regard to the safety of desinewed meat (paragraphs 4 to 30);
 - the dialogue between the European Commission and Member States since 2010 over the difficulties in interpretation of the definition of 'mechanically separated meat' (paragraphs 31 to 35, 42 to 47 and 55);
 - the Commission's Food and Veterinary Office audit mission to the UK on mechanically separated meat, subsequent developments, including the announcement of the moratorium (paragraphs 36 to 47); and
 - the impact of the moratorium on the UK meat industry and UK consumers and action to minimise this impact (paragraphs 48 to 63).

EXECUTIVE SUMMARY

4. The term 'desinewed meat' (DSM) is the term used in the UK to describe the product obtained by passing fresh meat trim or meaty bones through a low pressure machine to separate the meat from the bones and subsequently to remove the sinews and tendons from this meat. DSM has an appearance and texture similar to that of minced meat, and is commonly used as an ingredient in sausages, sausage rolls, frozen burgers, meatballs, grillsteaks and meat pies and in reformed and chopped and shaped meat products including breaded chicken, chicken kiev, chicken nuggets, garlic sausage and frankfurters.
5. DSM has always been regarded in the UK as a very different product to that which is associated with the term 'mechanically separated meat' (MSM) which is obtained using high pressure, has a characteristic paste-like texture which arises from the significant loss or modification of muscle fibre, and has been described as 'puree-like'.

6. DSM has been produced by low pressure mechanical separation in the UK since the mid 1990s. Increased demand from retailers for cuts of meat of uniform size and weight to be sold pre-packed to consumers led to significantly greater quantities of meat being left on the bone. Machinery was developed to enable the residual meat to be removed economically under low pressure without the bones being damaged and diminishing the quality of the product obtained. Prior to this, residual meat on bone was removed as meat trim by hand held knives, involving significant labour costs.
7. New EU food hygiene regulations came into force on 1 January 2006. These provided a definition of MSM with three parts all of which need to be satisfied for product to be regarded as MSM, as follows:
 - (i) MSM is obtained by removing meat from flesh-bearing bones after boning, or from poultry carcasses;
 - (ii) MSM is obtained with the aid of mechanical means; and
 - (iii) The mechanical means referred to in point (ii) must result in the loss or modification of the muscle fibre structure of the meat.
8. EU food labelling legislation does not allow MSM to count towards the meat content of a product and products containing it must be labelled for the final consumer as including mechanically separated meat plus the name of the species, e.g. mechanically separated pork.
9. The FSA represented the UK in negotiations with the Commission and other Member States during the development of the EU Food Hygiene Regulations between 2000 and 2004 and played a full role in this process. The FSA's view, from these discussions, was that DSM would not fall within the MSM definition and would therefore continue to be regarded as meat.
10. The FSA has been open and transparent with the Commission about its interpretation and about the production and use of DSM in the UK. In February 2011, the British Meat Processors Association (BMPA) sent the Commission a detailed briefing note which was explicit about the extent of production of DSM from both ruminant (cattle, sheep and goats) bones and non-ruminant (poultry and pork) bones in the UK.
11. Following a formal communication from the Commission to the European Parliament and Council on MSM issued in December 2010, discussions between the Commission and Member States to clarify the definition of MSM began in the Commission's Food Hygiene Working Group in April 2011. These discussions highlighted that there were inconsistent views between Member States and with the Commission on the interpretation of the definition of MSM.
12. EU Transmissible Spongiform Encephalopathy legislation (TSE) legislation prohibits the use of bones and bone-in cuts from ruminant animals for the production of MSM. The UK interpretation of the EU Hygiene Regulations meant that production of DSM from ruminant bones was possible from January 2006. Production of DSM from lamb bones began at a fairly low level following the introduction of the EU Hygiene Regulations. Production of DSM from beef bones began in April 2008 after the revocation of the national Beef Bones Regulations 1997 which had prohibited the use of UK-sourced beef bones in food manufacturing since December 1997.

13. The Food and Veterinary Office (FVO) of the Commission carried out a mission to the UK in March 2012 to evaluate the official control systems in place governing the production and placing on the market of MSM. On 28 March the Commission wrote to the FSA requiring within five days to be notified of action taken and/or planned to stop the production of DSM from ruminant bones and for DSM produced from non ruminant bones to be treated and labelled as MSM.
14. The Commission's letter indicated that, unless the UK took appropriate action, they would consider taking punitive measures against the UK. In subsequent discussions between senior UK and Commission officials it became clear that it was the ruminant DSM that was causing the Commission the most concern and fuelling their demand for rapid action.
15. Whilst cross-Government agreement to the UK response to the Commission's letter of 28 March was being sought, the FSA and Foreign and Commonwealth Office explained to the Commission the impact of the measures they were seeking and were successful in securing Commission agreement to a staged introduction of the moratorium in the UK rather than an immediate change.
16. On 4 April 2012 the FSA announced the moratorium would come into effect in two stages:
 - **Stage 1**, relating to DSM produced from ruminant bones, which commenced at 00:01hrs on Saturday 28 April 2012.
 - **Stage 2**, relating to DSM produced from poultry or pork bones, which commences at 00:01hrs on Saturday 26 May 2012.
17. This action was taken to bring the UK into line with the Commission's interpretation of EU law, to help ensure a consistent application of EU law across the EU, and to ensure that the Commission would not take punitive action against the UK which would have had far reaching consequences for the UK meat industry and risk damaging consumer confidence, both home and abroad, in UK meat.
18. The measures taken by the FSA were not taken for reasons of public health protection. The FSA is clear that there is no increased risk to public health from eating meat produced from the low-pressure DSM production process.

BACKGROUND INFORMATION

FSA Interpretation of the Definition of MSM

19. The FSA's interpretation of EU law is that meat separated from bones mechanically under low pressure, where the muscle fibre structure of the meat is not lost or modified significantly, does not fall within the scope of the definition of MSM in Regulation (EC) No. 853/2004. The FSA instead considers such product to be DSM which falls within the definition of a 'meat preparation' and can be counted towards the meat content of a final product.
20. In order to support the practical application of this interpretation, the FSA funded scientific research (explained from paragraph 26 below) so that there could be a scientific assessment of the modification of meat muscle fibre which could be applied on a business-by-business basis before authority was given to produce DSM. The FSA considers this to be a risk-based and proportionate interpretation of EU law that raises

no public health concerns. The FSA issued an information note to UK enforcement authorities in September 2010 on the production of meat preparations obtained by desinewing meat.

21. The FSA has been open and transparent with the Commission about its interpretation and about the production and use of DSM in the UK. In February 2011, the British Meat Processors Association (BMPA) sent the Commission a detailed briefing note which was explicit about the extent of production of DSM from both ruminant and non-ruminant bones in the UK and invited the Commission to see this at first hand. The Commission did not take up this invitation.

Food Safety

22. The FSA is clear that there is no evidence of any increased risk to human health from eating meat produced from the low-pressure DSM production process.
23. Although the EU TSE legislation prohibits the use of ruminant bones (i.e. bones from cattle, sheep and goats) and bone-in cuts in the production of MSM, the FSA does not consider that DSM produced from ruminant bones poses a TSE risk because the same bones can be trimmed with mechanical tools and the meat and/or bones are sold as fit for human consumption.
24. The main TSE-related food safety measures are the controls on specified risk material (SRM). SRM is the parts of cattle, sheep and goats most likely to contain infectivity if the animal has BSE. SRM is removed under veterinary control in slaughterhouses and cutting plants, and is stained and disposed of safely as animal by products. As such, material from ruminant animals that was used for manufacture of DSM excluded any SRM, had been passed fit for human consumption and could be used in the production of food, other than in the production of MSM.
25. The Chief Medical Officer has asked the Advisory Committee on Dangerous Pathogens (ADCP) TSE Risk Assessment Sub Group to assess the level of TSE risk associated with DSM and MSM. The FSA has been asked to provide papers on the risks associated with the consumption of desinewed meat. It is likely that the Sub Group will meet to discuss these issues on 25 May.

Scientific Research

26. The FSA funded the development, by Leatherhead Food International, of a method to differentiate between hand deboned meat, minced meat, desinewed meat and MSM from chicken, pork and turkey between 2005 to 2007 and work to extend the methodology to beef and lamb between 2009 and 2010.
27. Leatherhead Food International developed a simple microscopy method that allows an assessment to be made of the extent to which the muscle fibre structure of fresh meat had been modified or lost during processing and consideration of other structural aspects such as dispersed protein and connective tissue. The method involves sectioning and staining a sample, followed by examination of the structural parameters by comparing them with reference samples of MSM, DSM, hand-deboned meat and minced meat. The presence or absence of key structural features and the extent of any muscle fibre disruption enables a judgement to be made, based on scientific analysis, as to whether a product may fall within the scope of the definition of MSM.

28. This research showed that the process of producing DSM in all five species retained the structural characteristics (muscle fibre structure) of the meat from which it had been produced and that the final DSM product was more structurally similar to minced meat than the product obtained using high pressure, which has a characteristic paste-like texture which arises from the significant loss or modification of muscle fibre that is associated with the term MSM. The research enabled Standard Operating Procedures (SOPs) to be developed which were preliminarily trialled by selected laboratories, externally peer-reviewed by the national independent expert Food Authenticity Methodology Working Group and made publicly available.
29. The FSA informed the Commission of this research and provided them with copies of reports in July and September 2011. The Commission has not provided any formal comment on this research.

Consumer Attitude to DSM

30. In 2011 the consumer group 'Which?' conducted research into consumer attitudes to meat products, including DSM. This research found that consumers viewed DSM as being distinct from MSM and thought that it should count towards the meat content of the final product, whilst being identified separately as an ingredient on the label.

2010 Commission Communication on MSM

31. In December 2010, the European Commission published a 'Communication to the European Parliament and Council on the future necessity and use of mechanically separated meat in the European Union, including the information policy towards consumers'. The Communication, produced with the co-operation of Member States, identified difficulties in interpreting the definition of MSM in respect of which the Commission undertook to provide clarification.

Parliamentary Scrutiny

32. The Commission's 2010 Communication was deposited for Parliamentary Scrutiny, accompanied by an Explanatory Memorandum setting out the UK's policy, signed by the Parliamentary Under-Secretary of State for Public Health. After considering the documents both the Commons and Lords European Scrutiny Committees raised further questions around the UK's interpretation and the Minister responded to both Committees in July 2011 with further clarification. The Committees considered the documents alongside the Minister's letter in September and October respectively and both cleared the documents from scrutiny. In clearing the documents, the Commons Committee asked for an update when the Commission's interpretation had been clarified.

Working Group Discussions Between the Commission and Member States

33. Discussions between the Commission and Member States on developing a common understanding of the definition of MSM commenced in the EU food hygiene working group in April 2011. During these discussions the FSA presented the UK's position clearly and consistently. It became apparent from the discussions that significant differences in interpretation between Member States and the Commission remained and that several Member States were not unsympathetic with the UK's interpretation. The FSA informed the Commission of its scientific research into the modification of meat muscle fibre and provided them with copies of reports in July and September 2011.

34. The Commission presented draft guidance for discussion at a meeting of the working group on 27 January which suggested that all residual fresh meat separated from bones by mechanical means should be considered to be MSM. On 1 March, the FSA sent a paper to the Commission, copied to other Member States, setting out the UK's position and suggesting amendments to the draft Commission guidance. The UK was one of just two Member States to do so at that time.
35. At a meeting of the working group on 9 March, the Commission sought the views of each Member State and undertook to reflect on this feedback, revise the guidance and present it for further discussion at the next meeting of the working group. This meeting had been scheduled for 12 April but was, in the event, cancelled by the Commission, which instead escalated discussions to a meeting of the Standing Committee on the Food Chain and Animal Health (SCOFCAH) on 18 April (see paragraphs 45 - 47).

Commission Food and Veterinary Office Audit Mission on MSM

36. The Commission's Food and Veterinary Office (FVO) conducts regular visits to all Member States to audit compliance with EU legislation. An audit mission to the UK concerning official controls on the production of MSM took place between 6 and 14 March. This was the first of a number of audit missions to Member States planned for 2012, the others being to France, Germany, Italy and the Netherlands which have not yet taken place. The final report of the audit mission to the UK had not been received from the FVO at the date of this memorandum, but is expected shortly.
37. Breaches of food hygiene, labelling and microbiological testing requirements were identified at the plants visited by the FVO and communicated to FSA officials. These were addressed at the time or soon afterwards by the relevant enforcement authorities. However, of greater concern was that the FVO disagreed with the UK's interpretation of the definition of MSM and, in particular, had identified the use of ruminant bones for DSM production which is not permitted in the manufacture of MSM under EU Transmissible Spongiform Encephalopathy (TSE) legislation.

Commission's Response to FVO Findings

38. The Commission wrote to the UK on 28 March demanding immediate action in the UK to stop the use of ruminant bones in the production of DSM and the reclassification of DSM produced from the bones of non-ruminant species as MSM. The Commission requested details of the action the UK had taken and/or planned to take within 5 working days and indicated that failure to take action might lead it to propose punitive legislative measures against the UK prohibiting the placing of UK minced meat, meat products and meat preparations on the EU market.

FSA Action After Receipt of the Commission's Letter

39. On 30 March the FSA Chief Executive met with the Commission's Deputy Director for Health and Consumer Protection, Bernard Van Goethem, and other senior Commission officials in Brussels. The FSA Chief Executive impressed upon the Commission that legislative measures against the UK would be wholly disproportionate as there was no increased risk to public health. However, the Commission took a strong, unequivocal line which reinforced that set out in their letter of 28 March and were resolute in their belief that immediate action was necessary. The strength of their request appears to have been driven by the use of ruminant bones in DSM production. It is understood that Commission measures against the UK could have been presented by the Commission at

the Standing Committee on the Food Chain and Animal Health (SCOFCAH) meeting held on 18 April, or sooner had the Commission invoked the fast track procedure.

40. Whilst the Commission recognised that agreement from UK Ministers for any action would be necessary, it was clear that they expected action to have been taken by the time the UK responded to their letter, the deadline for which was 4 April. It also became clear to the FSA that the UK was faced with a stark choice between taking action to rectify the situation as the Commission had formally requested or facing legislative measures that would generate significantly greater financial impact on the UK meat industry and consumers than measures to deal with the Commission's letters, and significant adverse publicity and reputational damage for the UK meat industry with lasting impact on the UK domestic and export markets and on consumer confidence.
41. In the light of these developments, the FSA Chief Executive recommended that the Parliamentary Under-Secretary of State for Public Health seek agreement from the Home Affairs and European Affairs Cabinet Committees and Ministers in the devolved countries to a change in policy to comply with the Commission's request. In recognising the progress that the UK had made in advance of a formal reply to the Commission's letter, the FSA and Foreign and Commonwealth Office were successful in securing Commission agreement to a small delay in the introduction of the moratorium in the UK as set out below.

The UK Moratorium

42. On 4 April the FSA announced the moratorium would come into effect in two stages:
 - **Stage 1**, relating to DSM produced from ruminant bones, which commenced at 00:01hrs on Saturday 28 April 2012.
 - **Stage 2**, relating to DSM produced from poultry or pork bones, which commences at 00:01hrs on Saturday 26 May 2012.
43. The FSA published guidance on the moratorium relating to DSM produced from ruminant bones on 27 April and is developing guidance on the moratorium on DSM produced from non-ruminant bones.
44. At the date of this memorandum, the FSA is awaiting a response to a letter sent to the Commission on 1 May seeking a further delay to the start of Stage 2 of the moratorium, and is actively seeking to arrange a meeting between the FSA Chief Executive and the Commission's Director-General for Health and Consumers, Paola Testori Coggi.

Discussion in the Standing Committee on the Food Chain and Animal Health

45. After issuing its letter to the UK, the Commission cancelled the meeting of the food hygiene working group scheduled for 12 April and escalated discussions on its draft MSM guidance from working group to a meeting of SCOFCAH on 18 April. At this meeting, the UK and several other Member States expressed similar, strong concerns about the Commission's interpretation of the law set out in the draft guidance.
46. The Commission acknowledged the differences in interpretation between Member States and decided to halt discussions on the guidance in order to consult the European Food Safety Authority (EFSA), seeking risk assessment and elaboration of robust scientific methods for differentiating MSM obtained using high and low pressure processes. Whilst this represented a degree of progress, with emphasis being placed

once more on the protection of public health and a risk-based scientific approach, it is likely that EFSA will need a period of at least 6 months to carry out its work.

47. The Commission indicated that in the meantime it would write to Member States' Chief Veterinary Officers (CVO) to clarify its position and ensure that the FVO audit missions on MSM that take place in the remainder of 2012 continue to clarify any misinterpretations identified to ensure a harmonised approach across the EU. The Commission's letter to CVOs was issued on 24 April.

Impact of Moratorium on UK Industry and Consumers

48. Impacts from the moratorium will be felt by both UK industry and consumers. Estimates from UK industry suggest that the value of ruminant and non-ruminant DSM produced in the UK before the moratorium began was approximately £40 million per annum. The FSA is currently gathering specific information from industry, but based on current information supplied by industry the FSA estimates a total cost to UK industry of approximately £70 million per annum, equivalent to around £600 million over 10 years at current prices. This impact arises mainly from the higher cost of replacing DSM with alternative meat cuts.
49. The sections below outline firstly the impacts arising from the moratorium on DSM production from ruminant bone and secondly the impacts which are predicted to arise from the moratorium requiring non-ruminant DSM to be produced and labelled as MSM from 26 May.

Impacts from Moratorium on Ruminant DSM

50. The moratorium on production of DSM from ruminant bone will result in both transitional and lasting impacts. One-off cost will be incurred for the disposal of raw unused DSM as an animal by-product. Although this cost may be offset to some extent by payment received for disposal under Category 3 for pet food, UK Industry estimates suggest a total one-off cost to industry of up to £2.5m. We are also aware that one company has so far been forced to make 40 workers redundant.
51. The lasting impact will be the loss of edible meat from the food supply chain. This will need to be replaced by more expensive alternative cuts, which will push up demand and price for these cuts and be more costly for processors and consumers. In addition, the product that was previously able to enter the food chain will require disposal as animal by-product, giving rise to concerns over sustainability and waste.

Impacts from Moratorium on Non-Ruminant DSM

52. Impacts will arise in the key areas described below. Impacts are both transitional and lasting, and are exacerbated both by the short timescale for implementation and because large retailers are not inclined to sell products containing MSM. One large poultry processor estimates an overall cost of £15 - £20 million to adjust to the change, plus the potential for lasting damage to prices.

Retailer acceptance of MSM

53. Although non-ruminant DSM may continue to be used as before, EU law does not permit MSM to count towards the meat content declaration on product labelling and requires that products containing MSM must be labelled as such for the final consumer. Industry has told us that for these reasons large retailers are not inclined to sell products

containing MSM. The meat processing industry is currently talking to retailers to promote MSM product obtained by low pressure mechanical separation in an attempt to minimise this impact and maintain the availability of reasonably priced products for the consumer.

Raw material write-off or reduced value

54. The short timeframe for implementation will lead to the write-off of some raw material that has not yet been incorporated into product. DSM reclassified as MSM will have a reduced value. For example, one pork processing company has estimated that DSM reclassified as MSM will fall in value by 49% (from £1.58 per kg to £0.80 per kg). Such decrease in product value will threaten the viability of this and other businesses.

Re-labelling and wastage

55. If retailer acceptance of MSM is achieved, companies will have an extensive job to re-label products. The redesign and production of new labels can take up to four months and therefore cannot be achieved within the current time frame. This could lead to an absence of products and a break in continuity of supply. The short timescale for implementation will also necessitate the disposal of unused stocks of packaging. Larger manufacturers generally hold several months' worth of packaging in stock. For example, one large company has in the region of three million packs in stock at any one time. The costs to this company from writing off and disposing of remaining stock to the current timescale will be as much as £1million.

Product reformulation and re-labelling

56. Where acceptance of MSM in product is not achieved it will be necessary for products currently on the market to be reformulated to remain commercially viable. UK industry estimates suggest a total one-off cost to industry of at least £6m. In addition, in the UK certain meat products are required to have a minimum meat content. In order to retain the required level of meat content, the DSM previously used will have to be replaced by an alternative source of meat which may be more costly, be of a different consistency and require product reformulation. Product reformulation and associated re-labelling cannot be achieved within the current timeframe, which will also lead to an interruption in the supply of products for consumers. Substitution of DSM with more expensive product, which can count towards meat content, will also impact consumers through increased prices.
57. The potential financial impact of reformulation is significant. For example one of the UK's leading manufacturers of sausage rolls estimates the cost of replacing the pork DSM currently used in its products with pork shoulder meat or pork trim, in order to maintain the meat content of their product, will be around £500k per year at current prices. In addition, they estimate that the moratorium on use of DSM from pork bones will significantly increase the demand for replacement pork meat leading to major supply issues and adding an extra £300k a year to their raw material costs. In addition, it is estimated that the cost of writing off existing packaging and preparing replacement packaging could amount to around £100k.

Implications for intra-community trade

58. The FSA is aware that food manufacturers in the UK currently import large quantities of poultry and pork ingredients that are labelled 'desinewed meat' or similar. We have asked industry to provide information about trade in DSM with other Member States

and, as an example, one major UK producer of coated DSM chicken products (with 18% of the UK market) buys in 70% (150 – 180 tonnes per week) of the DSM it uses, from three other Member States. This product is described as 3mm Baader Meat by the producers, not MSM. This company has already started to discuss the implications of the moratorium with its trading partners in other Member States but it is expected that such discussions will be complicated.

Minimising Impact on UK Industry

FSA Action

59. Officials from the FSA have worked collaboratively with representatives of trade bodies from across the UK food industry and other Government Departments to assess, and minimise, the impact of the moratorium.
60. The information gathered through these discussions highlighted the significance of the short timeframes given by the Commission and suggested that a delay in implementing the moratorium on non-ruminant DSM would provide businesses with the opportunity to diversify and revise their business model to protect their future viability, reduce the risk of staff redundancies and maintain affordability and choice for consumers. Deferral of the implementation of the moratorium would also minimise disruption to intra-community trade
61. On 24 April FSA officials met with Commission officials in Brussels. The meeting achieved Commission agreement that products produced from DSM from ruminant bones prior to 28 April could be sold through rather than be treated and disposed of as animal by-products. It also paved the way for the FSA to make an approach to the Commission to request a delay to the introduction of the moratorium on DSM from non-ruminant bones and poultry carcasses. The FSA wrote to the Commission on 1 May seeking a delay to the start of this moratorium to 1 January 2013, since a period of adjustment could reduce the transitional impacts on industry and consumers outlined above. A response from the Commission is awaited.
62. The FSA has developed guidance for the industry and enforcement bodies on the implementation of the moratorium on ruminant DSM, which was published on 27 April, and has also developed draft guidance for the moratorium on non-ruminant DSM which will be updated as necessary following further contact with the Commission and discussion with the industry regarding specific technical interpretations.
63. The FSA continues to gather information on industry and consumer impacts, and we have asked industry to assist with the provision of information about the production of DSM in other Member States. A detailed questionnaire has been developed with the industry. This will inform future discussions with the Commission, to help ensure that a consistent approach is taken across all Member States to the interpretation of EU law and to review that interpretation with the Commission to help ensure that EU policy takes account of modern food processing technology and is reflected in EU legislation

UK Industry Action

64. The UK industry has also been in separate communication with the Commission, both before and after the FVO Mission and the subsequent announcement of a moratorium. They invited senior Commission officials to visit production sites in the UK and followed this up with several informal discussions. The Commission did not take up this offer.

65. On 23 April a delegation of industry representatives met with senior Commission officials in Brussels to outline the impact of the Commission's position on food processors and consumers in the UK and more widely across Europe. At that meeting the industry drew attention to the widespread use of the low pressure technique across the EU and provided the Commission with links to internet sites advertising products produced in this way in other Member States which were not identified as MSM. The industry continues to assemble evidence of activity in other Members States and this will be used as appropriate in our ongoing dialogue with the Commission to ensure that there is a level playing field across Europe.

Annex A

Chronology

Date	Event
July 2000	European Commission publishes package of five measures to update and consolidate 17 European Food Hygiene Directives. Discussions in Working Group begin.
October 2002	UK negotiating position on MSM communicated to the Danish Presidency
29 April 2004	EU Food Hygiene Regulations published.
11 October 2004	Consultation exercise launched.
1 January 2006	EU Food Hygiene Regulations become applicable in Member States.
1 January 2006	Food Hygiene (England) Regulations 2005 (implementing EU Food Hygiene Regulations) come into force, revoking previous national Food Hygiene Regulations.
6 January 2006	Food Hygiene (England) Regulations 2006 (replacing 2005 Regulations and implementing EU Food Hygiene Regulations) come into force.
March 2006	Non-Statutory Practice Guidance published alongside Statutory Food Law Code of Practice. Believed to be first time policy on DSM communicated.
26 April 2008	Beef Bones Regulations 1997 (National Regulations Prohibiting use of Beef Bones in Food Manufacture) revoked - from this point beef bones could be used as or in food (other than MSM).
June 2008	FSA responds to a Commission Questionnaire issued earlier in 2008 providing information on use and production method of MSM.
10 September 2010	Desinewed Meat Information Note sent to enforcers.
2 December 2010	Commission Communication to the European Parliament and Council on the future necessity and use of mechanically separated meat in the European Union, including the information policy towards consumers published.
February 2011	Parliamentary Scrutiny: Questions received from Parliamentary Scrutiny Committees on Commission Communication.
March 2011	BMPA writes to European Commission explaining DSM production process in UK, including reference to the production of DSM from ruminant bone, and inviting Commission to visit production sites in UK
February to June 2011	Discussion at Agency's Current and Future Meat Controls stakeholder group in February. Subsequent visit by Which? to DSM processing plant. Which? also ran consumer focus groups on the topic and the findings were shared with CFMC in June. Which? raises no consumer concerns about the process but suggests

	labelling changes to improve consumer information.
April 2011	Discussions begin in Food Hygiene Working Group on proposals for amendments to EU Hygiene Regulations, including possible amendments to definitions including that of MSM. No reference made in Working Group meetings by any parties about use of ruminant bones in DSM production. UK line remained that definition should allow for production of DSM where process does not change muscle fibre of meat.
October 2011	Parliamentary Scrutiny: Documents clear scrutiny in House of Commons and House of Lords.
14 October 2011	FSA responds to Commission Information Gathering Exercise for an EU Impact Assessment on proposals for amendments to EU Hygiene Regulations, issued in Summer 2011, setting out UK interpretation of MSM / DSM supporting clarification of MSM definition in guidance rather than via legislative amendment. BMPA briefing paper included in response.
January 2012	Discussions begin in Food Hygiene Working Group on draft Commission Guidance to clarify MSM definition.
6 – 14 March 2012	FVO Audit Mission to UK.
28 March 2012	Letter from European Commission requiring within five days the cessation of use of ruminant bones in DSM production, and DSM produced from non-ruminant bones to be treated and labelled as MSM.
30 March 2012	FSA Chief Executive and Director of Food Safety meet senior Commission officials to discuss Commission requirements. Clear that Commission would apply safeguard measures with greater implications for UK meat industry should UK fail to meet Commission requirements.
2 – 4 April 2012	Discussions to agree UK Government response. European Affairs Committee / Home Affairs Committee write-round.
4 April 2012	Discussions between FSA/FCO and Commission secure Commission agreement to deferred implementation dates for moratorium to end April for DSM from ruminant bones and end May for DSM from non-ruminant bones.
4 April 2012	UK Government agreement secured to implementing Commission requirements. FSA Chief Executive announces moratorium. Response sent to Commission by UKRep. Public Health Minister writes to HoC and HoL European Scrutiny Committee Chairs. FSA Chief Executive writes to MPs with food businesses in their constituencies most likely to be significantly affected by the moratorium.
18 April 2012	EU SCOFCAH meeting: Commission suspends discussions on MSM guidance and indicates that it will be asking EFSA to look at the food safety aspects of MSM.
18 April 2012	HoC European Scrutiny Committee considers Public Health Minister's letter of 4 April and raises a number of questions for a Ministerial response.
23 April 2012	UK industry representatives meet with Commission officials in Brussels.
24 April 2012	FSA and UKRep officials meet with Commission officials in Brussels. FSA officials provided an update on the UK position and asked for further time to achieve full compliance on non-ruminant DSM. Commission officials confirmed they would be open to receive a letter from the UK on this and also clarified a number of points

	raised by the FSA.
25 April 2012	Public Health Minister writes to Chair of HoC European Scrutiny Committee, copied to Chair of equivalent HoL Committee, responding to questions the Committee had raised at their meeting on 18 April.
25 April 2012	HoC European Scrutiny Committee considers Public Health Minister's letter of 25 April.
26 April 2012	FSA re-sends information on Leatherhead research to Commission.
27 April 2012	Guidance on ruminant DSM moratorium published on FSA website. FSA sends letter attaching guidance to industry contacts. FSA sends letter attaching guidance to Enforcement Authorities.
28 April 2012	Ruminant DSM moratorium commences at 00:01.
1 May 2012	Letter sent from FSA to Commission requesting an extension to the time by which full compliance must be achieved on non-ruminant DSM and summarising the points clarified by the Commission at the meeting on 24 April.

May 2012

Supplementary written evidence submitted by The Food Standards Agency

INTRODUCTION

1. The Environment, Food and Rural Affairs Committee asked the Food Standards Agency (FSA) to see
 - Correspondence between the FSA and the devolved administrations (see Q39 and Q87 of the transcript)
 - Correspondence between the Commission and the FSA since the visits in March 2012 (see Q67-68)

CORRESPONDENCE BETWEEN THE FSA AND THE DEVOLVED ADMINISTRATIONS

2. The FSA has kept Ministers, including those in the devolved administrations, informed of the UK's position on Desinewed meat via regular submissions. Formal correspondence to Devolved Ministers explaining and seeking agreement to the proposed moratorium was sent from the FSA via the Parliamentary Under Secretary of State for Public Health.
3. The FSA also met with colleagues in the Republic of Ireland on 3 May and DSM was discussed.

CORRESPONDENCE BETWEEN THE COMMISSION AND THE FSA SINCE THE VISITS IN MARCH 2012

4. We have taken this request to refer to exchanges between the Commission and the FSA, rather than communication between the Commission and UK Government. The letter of 28 March from the Commission and the UK Government's response to that letter were received and sent by FCO/UKREP and have not be included.
5. Direct correspondence between the FSA and the Commission has in the main be via meetings and telephone calls. These are summarised in the original memorandum sent to the committee on 9 May, please see paragraphs 39, 45 and 61.
6. Paragraph 61 of the memorandum refers to a letter sent by the FSA to the Commission on 1 May. A copy of that letter is attached, with commercially sensitive information removed to allow for publication. The FSA is awaiting a response to this letter.

May 2012

Written evidence submitted by Anne Milton MP, Parliamentary Under Secretary of State for Public Health

Desinewed Meat

Thank you for your letter of 16th May with specific questions about this issue on which the Food Standards Agency (FSA) has led for Government. I am grateful for help and advice from the FSA in preparing this response.

Firstly you asked for an assurance that I would work with colleagues across Government to defend the interests of British producers affected by the moratorium. The FSA's main objective, and my own as the Minister accountable to Parliament for the FSA, is the protection of public health. The FSA is required by statute to "*protect the public health from risks which arise in connection with the consumption of food ... and otherwise to protect the interests of consumers in relation of food*". It is not the role of the FSA to act as a defender of food businesses, though action will be taken to ensure collaboration across Government when this does not conflict with the primary public health objective.

As an example of this cross Government cooperation the FSA and the Foreign and Commonwealth Office (FCO) have played the lead role on behalf of the UK Government in explaining to the Commission the full impact of the requirement that desinewed meat (DSM) can no longer be produced from ruminant bones and that DSM made from poultry or pork bones should be labelled as mechanically separated meat (MSM). This successful negotiation has resulted in the Commission's agreement to a staged introduction of the moratorium in the UK rather than insisting on their original requirement for immediate change.

Secondly, you have asked me to raise the DSM issue at the Council of the European Union. Since the Commission notified the UK of its position, we have worked to try and minimise the impact on the UK meat industry, particularly with regard to the practicalities of ongoing production and the wider reputation of the industry. With regard to whether this issue has been raised at the Council of the European Union, after considering advice from officials, including the FCO, it was decided that the government should instead pursue the issue of the moratorium with the Commission on a bilateral basis at senior levels. It is considered that a public discussion in Council on the interpretation of an EU Regulation was unlikely to further the UK case and could jeopardise other ongoing discussions with the Commission on issues of great importance to the UK. It is doubtful that, on this issue, we would have received public support from other Member States and there was a risk that the Commission could respond with further, stronger action or make negative statements about UK products and practices which would significantly damage the whole market.

Finally you asked if the Government is considering legal action against the Commission with an indication of the factors that will be taken into account in determining whether legal action should be taken. The option of challenging, in the European Court, the Commission's action was considered at the outset on receipt of the Commission's letter of 28 March. Relevant factors included the strength of the respective UK and Commission interpretations of the EU legislation, the prospect of the European Court achieving any outcome of benefit to consumers and the UK industry and the potential damage to those interests from the protracted uncertainty and speculation whilst any proceedings were pursued. A court challenge would not have removed the possibility of immediate safeguard measures, with their concomitant effect on the whole UK industry, being taken against the UK. It was decided in the circumstances that a challenge at that time would not serve a useful purpose. However, the relevant factors are continuing to be reviewed in light of the ongoing discussions with the Commission and assessment of the impact of their action on the UK.

I also attach as an annex to this letter some additional related background information that I hope the Select Committee will find useful.

I look forward to meeting the Committee on 20 June.

Annex

RELATIONSHIP BETWEEN THE DEPARTMENT OF HEALTH AND THE FOOD STANDARDS AGENCY (FSA)

Background to the establishment of the FSA

1. The FSA was established as an independent non-Ministerial Government Department in 2000 through the Food Standards Act 1999. The Agency was established against a background of a number of high profile food related illnesses, including the identification in 1995 of an association between a transmissible spongiform encephalopathy (TSE) in cattle (BSE) with a new human prion disease (variant Creutzfeldt-Jakob disease (vCJD)).

Remit and strategy of the FSA

2. The main objective of the FSA as established by the Food Standards Act 1999 is to *“protect the public health from risks which arise in connection with the consumption of food ... and otherwise to protect the interests of consumers in relation of food”*.
3. The FSA does not have a role in the promotion or support of food businesses. Defra is responsible within government for supporting and developing British farming, and encouraging sustainable food production. Defra’s priority areas of work include: *“Improving the productivity and competitiveness of food and farming businesses, with better environmental performance”*.
4. The FSA is responsible for food safety and food hygiene across the UK, in order to protect the public’s health and consumer interests in relation to food. The FSA provides advice and information to the public and Government on food safety from farm to fork, and protects consumers through effective food enforcement and monitoring.
5. The FSA has produced a Strategy to 2015 that sets out its aims and desired outcomes. The six outcomes the FSA aims to deliver through its work to 2015 are:
 - foods produced or sold in the UK are safe to eat;
 - imported food is safe to eat;
 - food producers and caterers give priority to consumer interests in relation to food;
 - consumers have the information and understanding they need to make informed choices about where and what they eat;
 - regulation is effective, risk-based and proportionate, is clear about the responsibilities of food business operators, and protects consumers and their interests from fraud and other risks;
 - enforcement is effective, consistent, risk-based and proportionate and is focused on improving public health.

6. The FSA's remit is UK-wide (except for nutrition policy – see below) and the FSA is accountable to the devolved administrations through their respective health ministers.

Transfer of nutrition policy

7. The responsibility for nutrition policy, including nutrition labelling, passed from the FSA to the Department of Health in England on 20 July 2011, and to the Assembly Government in Wales on 1 October 2010. This enables public health improvement functions through improved dietary health to be fully incorporated within the proposed new public health framework. However, the FSA is still responsible for nutrition policy in Northern Ireland and Scotland, so close working is needed to minimise the potential for policy divergence.

Relationship between the FSA and DH

8. The FSA is an independent non-Ministerial government department. It works at arms length from Government and is accountable to Parliament through the Secretary of State for Health. He has delegated his power for day to day matters to PS(PH). The FSA has its own governance arrangements and the Department of Health does not therefore have any clear governance role other than through its role in appointments to the FSA's governing Board (see below). PS(PH) does not make decisions on FSA policy.
9. The FSA informs PS(PH) of its policy decisions through submissions and regular meetings. These include meetings between PS(PH) and the Chair of the FSA, Lord Rooker, and bilateral meetings between the Chief Executive of the FSA, Tim Smith, and the Department's Director General – Public Health, Dr Felicity Harvey. As with any other Whitehall Departments, there is liaison between officials in both departments on areas of shared concern, though Department of Health officials have no role in routinely advising PS(PH) on the FSA's business or policy.

Appointments

10. The Board of the FSA comprises a Chair, Deputy Chair and eight to twelve ordinary members. The Chair and Deputy Chair are appointed by the Secretary of State for Health, the National Assembly for Wales, the Scottish Ministers and the Department of Health and Social Services for Northern Ireland ('the appropriate authorities') acting jointly. Of the remaining members, one is appointed by the Welsh Health Minister, one by the Northern Ireland Health Minister, two by the Scottish Health Minister and the remainder by the Secretary of State for Health. Appointments are made following consultation between the other appropriate authorities.
11. The FSA Board delegates day to day management to officials through its Chief Executive. The first appointment of the Chief Executive was made by the appropriate authorities acting jointly: subsequent appointments are made by the FSA itself, subject to the approval of each of the appropriate authorities.
12. The appropriate authorities acting jointly have the power to remove Board members in specified circumstances, eg bankruptcy, unfitness for duty.

Serious failure directions

13. In the event that there is a serious failure by the FSA, the appropriate authorities have the power to issue serious failure directions to it, following consultation with each other and with the FSA. The purpose of such directions would be to remedy the failure.

14. A separate power allows the Secretary of State to issue directions to the FSA in order to implement EU obligations or any international agreement to which the UK is a party. The other appropriate authorities may do the same, where they are responsible for implementation within their areas.

Scientific and technical advice

15. The Department of Health and the FSA liaise and cooperate on the running of advisory committees in which both have an interest, to ensure access to the best available scientific advice on subjects within their remit.
16. Independent expert scientific advice on transmissible spongiform encephalopathies (TSEs) is provided to Government by the Advisory Committee on Dangerous Pathogens (ACDP). ACDP's TSE Risk Assessment Sub-Group was asked, on 25 May 2012, to give their views on the risks to UK consumers from their consumption of products manufactured from DSM produced from ruminant bones.

The ACDP Sub-Group concluded that:

- the TSE risk from DSM, as produced in the UK from 2006 until April 2012, is likely to have been similar to that which would have been presented by MSM produced from ruminant bone had such MSM production been allowed. The risk is low and similar to the risk from the raw material used in the process;
- any potential TSE risk would come from the material going into the product, rather than the DSM production process itself adding risk. It is thus important to know that the bones used in the production process are safe and that specified risk material (SRM) is excluded, and this applied to both DSM and MSM production;
- the assurance of inspection, SRM controls and quality control processes was important; and
- the historical TSE risk from DSM derived from ruminant bones was small overall and not increased as a result of DSM production from bovine bones after 2008 when the BSE epidemic was in significant decline.

Please note that the above is provisional, subject to approval of the minutes of the meeting by the Chair, and should not be discussed more widely until confirmed.

HPA and Public Health England

17. With the establishment of Public Health England, the current functions of the Health Protection Agency (HPA) will be integrated into DH. The HPA's analysis and publication of data related to food borne pathogens, and their monitoring and surveillance functions, are essential to support the FSA's statutory responsibility for leading health protection activities relating to food safety.

Concordat

18. Guiding principles to steer effective working relations between the Department of Health and the FSA are set down in a Concordat signed in 2007. The Concordat can be updated as necessary to reflect new responsibilities and ways of working, including with the future Public Health England.

June 2012

Further written evidence submitted by Anne Milton MP, Parliamentary Under Secretary of State for Public Health

I thought it would be helpful to provide you with an update on developments in relation to the moratorium on desinewed meat (DSM) in advance of my appearance before your Committee on 20 June.

I would begin by confirming that the moratorium is now fully in place. The Food Standards Agency (FSA) brought the first stage, concerning the production of DSM from ruminant bones, into effect on 28 April from which point production ceased. The FSA brought the second stage, concerning the production of DSM from non-ruminant bones, into effect on 26 May. The FSA has published guidance on the moratorium for both industry and enforcement bodies, following consultation with these parties.

On 24 April, just before the start of the ruminant DSM moratorium, FSA and UK Permanent Representation officials met Commission officials in Brussels. At the meeting, FSA officials clarified a number of technical issues enabling certain non-ruminant DSM products to be excluded from the scope of the moratorium which has helped reduce the impact on industry. They also secured Commission agreement that products produced from ruminant DSM before the ruminant moratorium began could be sold through rather than be treated and disposed of as animal by-products which also reduced the impact on industry. FSA officials also highlighted the significant impact there would still be from implementing the non-ruminant moratorium on 26 May and paved the way for the FSA to approach the Commission requesting a delay to the introduction of this moratorium.

Accordingly, the FSA wrote to the Commission on 1 May seeking a delay to the start of the non-ruminant moratorium to 1 January 2013 to help reduce the transitional impact on industry and consumers. The Commission responded on 24 May indicating that whilst it could not agree to such a delay, the UK should ensure compliance "as soon as possible". The FSA has therefore put into place an approach to enforcement that is proportionate, educative and supportive to help industry achieve compliance.

Also on 24 April, the Commission wrote to Member States' Chief Veterinary Officers (CVOs) to remind them of the legislation relating to Mechanically Separated Meat (MSM). The letter also requested research data and scientific literature to feed into the mandate the Commission will be issuing to the European Food Safety Authority (EFSA) asking it to assess the microbiological food safety risks presented by DSM and MSM to establish if there is any difference and to assess ways of distinguishing between DSM and MSM.

The FSA responded to the CVO letter on 22 May stating that they had identified products from other Member States that appeared to be MSM but were not labelled as such, attaching evidence in the form of commercial documentation. The FSA had already provided the Commission with the UK Leatherhead Food research which provides a methodology for distinguishing between DSM and MSM to feed into the EFSA work. The FSA is now working with industry to establish whether there is any further scientific information or data that could be submitted.

Following his appearance before your Committee alongside the FSA Chairman on 15 May, the FSA Chief Executive met with the European Commission Director-General for Health and Consumers, Paola Testori Coggi, in Brussels on 24 May to discuss the UK moratorium. The meeting was positive. The Director-General was pleased to note the progress the UK had made over very a short period of time, recognised that the moratorium had generated considerable political interest in the UK and said that the Commission will work with the UK to support its work in relation to the moratorium.

At the meeting the FSA Chief Executive stressed to the Director-General the importance of a level playing field across the EU with regard to DSM to ensure that UK industry is not placed at a disadvantage to its EU counterparts. The Director-General said that the Commission fully supports this, asked that the FSA continue to provide evidence of non-compliance in other Member States, and gave assurance that the Commission will take immediate and appropriate action to deal with such non-compliance.

I will continue to keep you up to up to date on developments and look forward to giving oral evidence to your committee on 20 June. I am also writing along similar lines to the Chairs of the European Scrutiny Committees in both Houses.

June 2012