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**PPA Food Law and Consumer (FLC) Committee
Minutes of the meeting 24 March 2021 (14:00-17:00),
Teleconference**

Participants

Catharine Hall	KP Snacks (Chair)
Andrew Curtis	PPA (Secretariat)
Vanessa Richardson	PPA (Secretariat)
Gillian Black	Mackie's
Greg Foster	McCain
Jyoty Modha	PepsiCo
Robert Scharf	Tayto
Federica Tritschler	Lamb Weston

Guest speakers

David Lowe	FSA
Moira Redmon	Defra

Apologies

Jeff Beaver	McCain
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1) Welcome and anti-trust guidance

Members were asked to note the PPA anti-trust statement as practiced in meetings.

2) Invited Guest Speaker: David Lowe (DL) – Food Standards Agency (FSA)

DL, Head of Import and Exports Strategy Team of the FSA joined the meeting and introduced himself and his role at FSA. He started by explaining the new structures within the FSA and allocation of responsibilities for official controls, now that the UK is no longer in the EU.

DL explained there are 4 teams at the FSA responsible for imports and exports: Exports, Imports Strategy, Imports Intelligence and Imports Delivery.

- The Export team is responsible for supporting food safety audits for exporting GB products to 3rd countries.
- The Imports Strategy team is led by DL and is behind the legislative import controls from a public health perspective. They are working to make certification of High Risk Foods of Non-Animal Origin (HRFNAO) more efficient (e.g. electronic certification).
- The Imports Intelligence team is responsible for the application of import controls, incl. sampling, and data to ensure any new emerging risks are detected and controls are applied.
- The Imports Delivery team are the people on the ground, and have day-to-day contact with port health authorities, Official Veterinaries (OVs) and importers. Very busy at the moment.

DL then explained about the different Government departments and agencies working at the border and about the shared responsibilities for Products of Animal Origin (POAO) and HRFNAO, with Defra taking the lead on POAO, and the FSA on HRFNAO, but the FSA having overall responsibility for the safety of all imported food.

DL then talked about the routes of entry of Food and Feed of Non-Animal Origin (FNAO), which can enter the UK from any country (unless restrictions exist) and through any port, whereas HRFNAO can only enter through appropriately designated Border Control Points (BCPs), as set out in Regulation (EU) 2017/625.

DL then went into more detail on the import requirements for HRFNAOs, which must be pre-notified on IPAFFS (the UK Import of Products, Animals, Food and Feed System), be accompanied by relevant documentation when applicable and are subject to documentary, identity and physical checks. He also explained that data on HRFNAOs is assessed and controls are reviewed quarterly to decide if a HRFNAO needs to move from Annex I of Regulation (EU) 2019/1793 (pre-notification on IPAFFS) to Annex II (pre-notification + analysis and official certificates).

DL then talked about the recent Government announcement to change the dates from which official controls will be applied on high-risk food and feed imported from the EU:

- 1st Jan. 2021: Full controls on all non-EU origin high-risk food/feed transiting the EU or being importer directly from a 3rd country to GB must be notified on IPAFFS
- 1st Apr. 2021 – moved to 1st Oct. 2021: Only apply to EU products – so if a HRFNAO only transits through the EU (i.e. it is not subject to EU official controls) and is destined for the GB market, then it should be notified on IPAFFS, be accompanied by the appropriate certificates and be subject to official controls upon entry from 1st Jan. 2021. But if a HRFNAO or POAO from a 3rd country is placed on the EU market (i.e. it is cleared on arrival in the EU) and is subsequently exported to GB, then it is only subject to new controls from 1st Oct. 2021. HRFNAO must come through an approved BCP from 1st October 2021.
- 1st Jan. 2022: Identity and physical checks are introduced at the prescribed frequency for EU products as well as other requirements already in place. For HRFNAO these are prescribed in Regulation (EU) 2019/1793 but for POAO the government is still to make an announcement. There have been discussions of an initial 1%.

The importer is responsible for the notification on IPAFFS and TRACES (if goods are transiting through the EU).

The Chair asked what the FSA is doing about ensuring that EU Member States (MSs) are made aware of the new border control plans as an EU-based supplier, who in turn asked the Dutch authorities, were completely unaware of the changes. DL agreed it is concerning but stated that the processes are all described in the Border Operating Model (BOM). DL also mentioned that Defra has been running a series of webinars for EU-based trade bodies and governments, and that the Chief Veterinary Officer (CVO) has also written to EU MSs. DL agreed that more is needed to communicate the changes in GB to EU stakeholders and think that the extension to the official control dates will allow this communication to be improved. DL also stated that only once the two parties start to apply the same controls, there may be a recognition that the controls can be simplified on both sides.

A member also asked a question regarding issues in exporting a composite product entering the EU via Rotterdam, and that there are inconsistencies between how EUMSs interpret EU legislation. DL said that the Animal and Plant Health Agency (APHA) deals with health certification but mentioned that they are noticing a lot of issues with Rotterdam. DL advised members to report any such issues to Defra through the exports team, as this has been escalated to Defra who are organising a one on one meeting with the Dutch authorities.

3) Invited Guest Speaker: Moira Redmond (MR) – Defra

MR followed on from DL on the issues with composite products. She started by explaining how complex such controls are in terms of export documentation, especially as it is a new area of concern with the UK having left the EU, and believes that some BCPs (e.g. Rotterdam) may not have the experience to deal with high volumes of composite products entering through them. Defra is trying to resolve issues as they arise and encouraged members to report problems as, if they are not able to provide an answer, they are able to ask the European Commission (EC). They are also able to raise issues directly with BCPs and MSs authorities. MR said that her team deals with composite products only but issues on POAO or HRFNAO can also be reported to the same email address as they can be forwarded on to the relevant team within Defra.

ACTION: MR to share with Secretariat email of Border Operability Team to be forwarded on to members.

[POST MEETING NOTE: The Border Operability Team email is spsbordersexportscommissions@defra.gov.uk. It was circulated to members on 30 March as FLC 141/21 on composites].

The Secretariat asked for an update on the situation of shelf-stable composite products containing products of animal origin, in particular products containing pasteurised milk as that appeared to be the most concerning topic to our membership, in particular the interpretation of Annex XXVII of Regulation (EU) 2020/692, as different suppliers appear to have a different interpretation of the provisions. The Chair also followed up with a question on which official certificate should be used for shelf-stable composite products with pasteurised milk, as there are no health certificates available at the moment, and attestation does not seem to be an option.

MR stated that Defra had been having technical discussions with the EC (the last one on 23/03) on this topic and that they made it clear that the submission of private attestations required for composite products that do not require an export health certificate (EHC) needs to be done by an EU importer. Defra specifically asked the question on heat treatment of milk and on that the EC stated that they recognise there is a gap for certain goods and that they plan to look again into it and come back to Defra with a solution. The EC also stated they did not intend to target low risk products like chocolate. But MR stated she feels very uncomfortable with this situation and would not want to make promises that there will be a solution until the EC comes up with something concrete.

MR also said that Defra has plans to make available new composite certificates for use from 21 April due to the application of the new law, but now Defra is looking at making both certificates available, the old one as the Commission allows the use of the old certificates for products which required certification before 21 April, and the new certificates for products which now require certification as a result of the new requirements. But MR recognises that this does not resolve the issue of heat treatment of milk, and therefore Defra is still waiting for the EC's response on this. MR said Defra will be driving these discussions with the EC and will see what options are available by 21 April, but she is conscious that whatever the solution is, it needs to be recognised at the border, so they need to secure an agreement with the EC.

The Secretariat asked how confident Defra is that the EC will come up with a solution before 21 April, but MR would not want to give any guarantees.

The Chair also asked a follow up question about Article 163 of Regulation (EU) 2020/692 on the meaning of "at least equivalent" in relation to the risk-mitigating treatments outlined in column B of Annex XXVII. If pasteurised milk was used in a product which was spray dried, and then the temperature reached during the spray drying treatment was equivalent to the temperature in ultra-heat treatment (UHT) or sterilisation, would that be deemed sufficient to sign a private attestation? MR did not know the answer but said she would ask the question internally or add to the list of questions being asked to the EC.

MR stated she would keep in touch with us on any news and also asked members not to share externally about Defra's discussions with the EC.

[POST MEETING NOTE: Since the meeting, a number of resources on composites have been issued and circulated to members. The below circulars are the most recent updates:

22 April (FLC 173/21): EC Q&As on the special EU import conditions for composite products

21 April (FLC 172/21): Defra FAQs on EU Animal Health Regulation and Composite Products

20 April (FLC 169/21): Defra note on the Animal Health Regulations – update on shelf-stable composite products containing dairy

20 April (FLC 168/21): EC publications in the Official Journal – Update on composite products

19 April (FLC 166/21): EC Official Statement for the application of animal health requirements for the entry into the Union of composite products from 21 April.]

4) Review of minutes (26 November 2020) and any actions arising

Due to new joiners, the committee took the opportunity for a round of introductions.

The minutes of the PPA FLC meeting held on 26 November 2020, were then reviewed and confirmed as correct. The committee reviewed the actions arising from the meeting and noted that some were ongoing, some had been completed and others would be covered later in the meeting. To note:

- On cadmium and tropane alkaloids – ongoing monitoring, same as other contaminants. Members were invited to send any data on occurrence of these chemicals in their products.
- For cadmium – previous concerns it would affect potatoes, but a proposal has been put forward covering nuts and seeds only. Not yet published on the EU Official Journal.
- For tropane alkaloids – delays in terms of next stages, but these will be sent through to members in due course.
- Twitter – option has been taken to the board but not approved.
- Document management system – Looking at buying an ‘off-the-shelf system’ product from the developers of the PPA website. The website will also be tweaked to better reflect that PPA and SNACMA are the same organisation. Brochures on the SNACMA website had been updated (new member and to include PPA logo. Content had not been updated).

5) Nutrition and Health

a) Nutrition and health policy timings update

The Secretariat gave an update on diet and health policy timings, looking back at what happened in 2020, including the obesity strategy, and then provided an overview of the upcoming activity, noting the amount of activity planned for Q2 of 2021. This included the Government response to the consultation on marketing and promotion restrictions of HFSS products, the Government response on the advertising bans on HFSS on TV and online, the enforcement consultation on advertising restrictions, the CAP consultation on alternative proposals on TV advertising restrictions, all of which are expected in May, and the Healthy Weight : Healthy Wales (HW:HW) obesity strategy and the upcoming consultation on the food environment which is now expected in June.

With regards to HW:HW, the Secretariat noted some of the proposals in the previous consultation paper (which was never issued). This included measures on Out of Home (OOH) calorie labelling, marketing and promotional restrictions of foods which are High in Fat, Salt or Sugar (HFSS) and what HFSS would be mean in Wales, which may not be in line with the Nutrition Profiling Model (NPM) model used in England, as well as proposals to control advertising of HFSS foods in the near-school environment. It was also noted that the Scottish Government is still committed to going ahead with their obesity strategy, and it is expected that a consultation on promotional restrictions of ‘discretionary foods’ will be launched in the Autumn 2022, with legislation potentially coming into force in 2024.

b) Marketing and promotions restrictions HFSS

The Chair provided an update on the progress of proposals to restrict marketing and promotions of HFSS foods in England, noting the consultation response, which was published in December 2020, and the consultation on enforcement which closed on 22 February 2021, and which PPA responded to. A Government response to the consultation is expected mid- to late-April 2021.

Both PPA and FDF have had some feedback on the draft regulation from the Department of Health and Social Care (DHSC) but it appears that many of the key points made by the industry, such as request for delayed application or reconsideration of reformulated/smaller portioned products, were not taken into consideration. DHSC confirmed that the Regulations should be laid by July 2021, coming into force April 2022. An additional year will be allowed for on-pack promotions.

The meeting also discussed the importance of clear definitions and PPA’s specific request for clarity of the food categories in question (noted in PPA’s response). The Secretariat mentioned the PPA had been in touch with DHSC requesting additional information, which would be circulated to members once received.

ACTION: Secretariat to share with members DHSC response once received.

[POST MEETING NOTE: DHSC responded to our request and provided clarification on a number of points, including specific questions on food categories in scope as outlined in PPA's response to the enforcement consultation. It was circulated to members on 31 March as FLC 146/21. The Government response to the enforcement consultation is now expected in May.]

c) Advertising HFSS

The Chair also updated members on the work on advertising restrictions of HFSS foods, both on TV (9pm watershed) and online, outlining these are UK-wide proposals, and that a Government response on both is also expected mid- to late-April, with legislation coming into force end of 2022. It was also noted that CAP has been working on alternative proposals to regulation, which offer a more targeted approach to controlling children's exposure to advertising online with measures that target both static and dynamically served ads. The proposals seem to have been well received by officials, but it is not certain they will offer a politically viable solution. CAP is also expected to consult on their proposals in April/May 2021.

d) OOH Calorie Labelling

Of lesser relevance to the membership, the Chair also mentioned that the Government response to the consultation on the OOH calorie labelling had been published anticipating legislation mandating calorie labelling for non-prepacked food and food which is prepacked for direct sale (PPDS) would be published in April 2021 and coming into force in April 2022.

e) Front of Pack Nutrition Labelling (FOPNL)

The Chair also gave a brief recap on the work on FOPNL, and the 2020 consultation (call for evidence), seeking views on the effectiveness of the traffic light system and potential improvements. This was a UK 4 nation consultation and the first step on the review on FOPNL. In parallel, the UK government also commissioned research to understand the impact of FOPNL on healthier food choices. There was no news on this to report.

f) EU Initiatives

The secretariat provided an update on the latest discussions at EU level on measures related to nutrition and health in scope of the EU Farm to Fork (F2F) strategy as a follow up from the previous FLC meeting.

The focus of discussion was the EU Code of Conduct, which is expected to launch in June 2021 to be presented at the UN Food Summit in Q3 2021. It will establish voluntary, non-legislative targets that are tangible and measurable, targeting the 'middle part' of the food supply chain. There are four task forces, all chaired by FoodDrinkEurope, focussing on different aspects of the work:

- Food consumption patterns (for healthy and sustainable diets)
- Improving the impact of food processing, retail and food services' own operations on sustainability
- Improving the sustainability of the food value chain – in relation to primary producers and other actors
- Monitoring and evaluation

Noted that there are two components of the Code of Conduct; one setting 'aspirational objectives' for all businesses, and a second one setting out more specific targets for businesses which want to commit to supposedly higher targets. It was unclear how the work on the Code of Conduct (voluntary) will interact with other future EU proposals on reformulation, setting of nutrient profiles and FOPNL.

Other milestones expected are:

- Reformulation initiatives (incl. setting of max. levels of certain nutrients): Q4 2021
 - Expected to be the focus for 2021 – likely to be driven by outcome of EFSA opinion on Dietary Sugars, expected in the summer.
- Nutrient profiles for nutrition and health claims: Q4 2022
- Proposal for harmonised FOPNL: Q4 2022.

The Secretariat also briefly mentioned the EU Beating Cancer Plan which proposes actions in the area of nutrition and health as a means of preventing and reducing obesity rates in the EU. More importantly to the Committee, it includes actions on marketing and advertising of 'unhealthy' food and drink, food reformulation and labelling. Although not an area of focus, the secretariat wanted to highlight the crossover between all ongoing initiatives.

Finally, the Secretariat presented a slide with an overview of some of the key ongoing initiatives/proposals in the UK and at EU level and proposed to review it regularly to keep track of progress. It was also suggested by the Chair and secretariat that this document is used to keep track of developments in other key areas, e.g. sustainability and labelling, which can be done with the help of stakeholders at ESA and EUPPA.

ACTION: Secretariat to update overview table accordingly to include other relevant UK/EU work on sustainability and labelling.

g) Other

PHE

The Secretariat also provided a brief update on the future of PHE from discussions with the FDF.

[POST MEETING NOTE: Since the meeting the DHSC issued a policy paper announcing the creation of the new Office for Health Promotion (OHP) which will absorb PHE's health improvement functions, including the Diet, Obesity and Physical Activity team. It is understood that the OHP will continue with PHE's work on reformulation. The OHP will come into operation from 1 October 2021.]

Enforcement of Nutrition and Health Claims:

The Secretariat talked about proposals to change the enforcement of nutrition and health claims (NHCs) through the use of improvement notices. The proposals were put forward by members of the Business Expert Group (BExG) in conjunction with Trading Standards, and welcomed by DHSC. The intention is to submit them to Government in the autumn.

[POST MEETING NOTE: The final paper will be presented to the BExG meeting at the end of April, with a view to adoption.]

New UK resources of nutrition and health claims:

The Secretariat shared with members links to the new UK resources on NHCs, including the new NHC register, list of on hold claims and other important resources (see accompanying slides). Also, the Secretariat informed members that DHSC is in the process of updating the Technical Guidance on NHCs. The guidance was last updated in 2011. It is expected that DHSC will remove the Q&A section due to incompatibility with government format.

UKNHCC

The Secretariat informed the Committee about the new UK Nutrition and Health Claims Committee (UKNHCC), and that they will be taking on the role of EFSA in assessing new nutrition and health claims for use in GB. Claims for use in NI will continue to be approved via EFSA.

Nutrition-related labelling, composition and standards (NLCS) Common Frameworks:

The Secretariat gave a brief summary on the NLCS, which will set out the new regulatory common approach on the matters related to nutrition and health claims, fortification, mandatory nutrition labelling, food supplements and baby foods. A draft copy of the framework was issued in October 2020 but the work on it has not yet been finalised.

6) Labelling updates

a) National Food Strategy (NFS)

The Chair gave an update on Part 2 of the NFS which is now expected in July, noting its crossover on labelling, nutrition and sustainability. Following this, the Food and Drink Sector Council (FDSC) will issue a report with recommendations in September 2021 and Defra is expected to issue its white paper in January 2022. It is expected that Part 2 of the NFS will focus on environment and sustainability, health and nutrition, animal welfare, food waste and promotion of national food, which, according to Defra, will lead to an overall reform of the food system in the UK.

There have been further discussions on other potential outcomes of the report, such as the possibility of food taxation measures to combat obesity extending from the Soft Drinks Industry Levy (SDIL), further controls on sustainability/greenwashing claims, promotion of plant-based diets, public food procurement and ultra processed foods, and therefore PPA will continue to follow developments on the NFS and keep members informed.

b) Post-exit Food Labelling review

Following on from the update on the NFS, the Chair updated members on the latest discussions on the UK food labelling review, which is expected to follow on from Part 2 of the NFS. The Chair attended FDF's Food Labelling Committee call in February and provided an update based on the discussions.

Tom Stafford, from the Food Labelling team at Defra, attended the FDF call and updated FDF members, confirming that would be the case. Tom wanted to manage expectations that the food labelling review is not going to be one-step procedure, but more likely will happen gradually based on the recommendations of the NFS on what is fit for the future in the UK. Tom stated that, at present, there are no set areas the Government wants to focus on, except perhaps animal welfare labelling, for which a consultation is expected imminently (originally expected February 2021).

The secretariat mentioned it is possible that the food labelling review will not happen until early 2022, once Defra has published its white paper on the NFS.

[POST MEETING NOTE: During a Parliamentary debate on 25 March, the Defra Minister Victoria Prentis confirmed that the consultation on animal welfare is likely to be launched by June 2021, and will focus on promoting animal welfare including method of slaughter labelling. The Minister also confirmed that the Government response to the NFS should be ready towards the end of 2021 - early 2022.]

c) Food Compositional Standards and Labelling (FCSL) Common Framework

The secretariat updated members on the FCSL, following the publication of the provisional framework on 23 March 2021.

The Common Frameworks (there are 4 of them) will constitute the future regulatory frameworks for their respective areas in the UK, now that the UK has left the EU, with the aim of creating joint approaches to developing and implementing policy in areas that have previously been governed by EU law. None of them have yet been finalised, but work is ongoing collaboratively between the UK, Scottish and Welsh Governments, as well as the N. Ireland Executive.

The FCSL will encompass all food labelling covered under the Regulation on Food Information to Consumers (FIC) but also the Regulations adopting the EU Breakfast Directives on food composition.

The provisional framework will be subject to parliamentary scrutiny in the coming months, and we also expect a consultation or stakeholder engagement in the coming months.

d) Allergen Labelling

The secretariat informed members about FSA's Food Hypersensitivity Symposium, which was held as an online event this year. This is the second year of the event. The Symposium is an opportunity for the FSA to

showcase their work, communicate on new priorities and engage with stakeholders from the industry, enforcement and academia.

This year's Symposium focussed on the 2019-25 Food Hypersensitivity (FHS) programme which has as its ambition to "make the UK the best place in the world to be a food hypersensitive consumer".

The secretariat then talked about the 4 key FSA activities for the 2019-25 programme:

- Implementation of the 'Natasha Law': will mandate full ingredient labelling of PPDS food. Comes into force October 2021.
- Food Allergy Safety Scheme: Expected to be similar to the food hygiene rating scheme but to reflect businesses' controls on allergen handling/management. Trading Standards expressed some concerns on enforcement of such a scheme during BExG discussions. This is at an early stage of development and therefore the scope is still unclear.
- Food Allergic Reaction Reporting Mechanism Scheme (FARRM): Tool/system to allow consumers to report allergic reactions directly to the FSA and allow the FSA to track trends and inform future policy decisions.
- Precautionary Allergen Labelling (PAL): Key topic of discussion during the symposium. FSA identified PAL can pose a risk to consumers with hypersensitivity and also that PAL usage has increased by 26% between 2012-2020. The FSA is now commissioning 2 further studies on 1) how and why businesses use PAL and 2) on consumer perceptions on PAL. We are expecting a stakeholder consultation in the new financial year which will gather feedback from the industry on future policy interventions.

e) Codex work on Allergen Labelling

The secretariat explained that the FSA also takes on the lead on Codex work on allergens for the UK, and gave a brief summary of recent activity, to note:

- The work of the Allergen Labelling Electronic Working Group (eWG), which recently consulted on proposed changes to the General Standard for Labelling of Prepacked Foods (GSLPF), including addition of allergen labelling of non-prepacked foods, inclusion of new definitions of hypersensitivity and removal of some labelling exemptions. The European Snacks Association (ESA) and FoodDrinkEurope have both responded to the consultation indicating support on the hypersensitivity definitions and labelling exemptions, but no support on the inclusion of non-prepacked foods to the scope of the GSLPF.
- The report of the eWG on PAL, which is due to be presented at the 46th session of the Codex Committee on Food Labelling (CCFL), and will be circulated to members once available.
- The work of the Codex Committee on Food Hygiene (CCFH) and the Code of Practice on Allergen Management for Food Business Operators, which has been adopted by the Codex Alimentarius Commission
- The CCFH request to FAO/WHO to provide scientific advice on threshold levels for prioritised allergens to feed into the Code of Practice on Allergen Management.

PPA will continue to monitor this work.

f) Other Labelling – FDF Food Law and Labelling (FLL) Committee

The Chair provided an update on other matters discussed during the FLL call in February, to note:

- Defra and DHSC have been removing all specific pre-Brexit guidance from gov.uk and adding any relevant content to the content-specific (i.e. business as usual) guidance, which has not been welcomed by FDF members as it is harder to search/find content. Tom Stafford stated that Defra is still looking at the structure of the guidance on gov.uk to try and improve the format.
- EU Food Labelling Information System (FLIS) was launched in December. It is a fully searchable database of EU legislation and guidance, available in 23 EU languages. It does not yet contain MS national legislation but the understanding is that it will in future, although there are no timescales for that.

- EU Inception Impact Assessment (IIA) on Food Labelling: Published in December along with two roadmap consultations on food labelling and nutrient profiles. These consultations are now closed. The IIA itself focussed primarily on FOPNL, extending the rules on country of origin labelling, but it also covered date marking and nutrient profiles in the context of NHCs. FoodDrinkEurope has responded to the consultation (and so has ESA) highlighting areas of the FIC Regulation which have not yet been taken forward, e.g. vegetarian and vegan labelling, PAL and reference intakes for food for specific populational groups. The intention is for legislative proposals to be ready for Q4 of 2022, with an expectation of legislation applying from 2023-2024. Also, the Food Safety Authority of Ireland (FSAI) launched a consultation on the same points as the IIA, which the FDF responded to.
- Eco/environmental labelling: Chris Conder, from the Defra Food Information Team, also joined the FLL call to discuss environmental food policy. Chris has only recently taken on the area of eco-labelling within Defra. He was asked about the private members' Bill introduced by Chris Grayling MP in November last year and stated it is not a priority for Government, although environmental labelling is also being considered as part of the wider labelling work. The secretariat also pointed out that private member bills do not get much time within Parliament for discussion, so unlikely to be given priority over other more pressing issues such as post EU-exit issues and Covid. However, it may pave the way for future legislation in this area. The Chair then mentioned that Chris Conder also talked about BEIS's Industry Decarbonisation Strategy and voluntary low carbon benchmark, and that it does not necessarily rule out that it could include food, but that it would be one of the last sectors to be affected, possibly around 2030. He also mentioned that the UK may consider signing up to a trade agreement with New Zealand which includes sustainability and eco-labelling and, although this would be a small agreement, it could potentially lead to broader international discussions. Defra would not be pursuing drastic measures at the moment, especially given the level of ambiguity and questions around measurement of sustainability parameters, but they indicated that they would be keen to see an increase in voluntary labelling and would be willing to work with the industry to see if such programmes are successful.
- BSI PAS 100% Plant-based foods: The PAS is the result of a compromise between members of the steering committee as it is not what the PAS set out to deliver (to define 'plant-based' in the context of food labelling), so the usefulness of the PAS is arguable. See slides for more details. There were also discussions about reviewing the document within a two-year period to agree if it is still fit for purpose or it should be withdrawn. In addition, it is not publicly available so may not have the expected impact.
- Standard ISO 23662:2021 –foods and food ingredients suitable for vegetarians or vegans: Document now published. It was also discussed that there have been no further developments at EU level with regards to definitions of 'vegetarian' or 'vegan'.

7) Consultations

The Secretariat provided a brief update on consultation responses issued since the last FLC, which include the England-only consultations on enforcement provisions of marketing restrictions of HFSS foods, which was discussed earlier in the meeting, the consultation on Gene Editing (GE) technologies and the consultation on the removal of recognition clauses in certain compositional standards.

On the GE consultation, PPA supported that GE does not mean the same as genetic modification (GM) but requested further research on consumer acceptance of products of GE technologies. It was also noted that the EU is currently discussing a potential review of GMO legislation and looking specifically at GE.

On the consultation on changes to recognition clauses, PPA only responded with regards to flour pursuant to the Bread and Flour Regulations 1998, and the removal of the clause which could lead to businesses in England losing access to unfortified flour on the domestic market. PPA therefore requested an extension of the mutual recognition clauses to all World Trade Organization (WTO) member countries and also that the BFR is revised as a whole at the same time, including fortification requirements, folic acid, and exemptions when flour is used as an ingredient in small quantities. It was noted that it is unlikely that Defra will carry out the full review at the same time.

The Secretariat also took the opportunity to discuss briefly the note issued by the FSAI on UK/GB fortified flour (FLC 092/21) which states that flour fortified in accordance with national UK legislation, no longer complies with EU food fortification from 1 Jan. 2021. Furthermore, the note states that products made with fortified flour must also be fortified in accordance with Regulation (EC) 1925/2006, which is not in line with Defra's previous views on the issue. PPA has raised this with Defra.

[POST MEETING NOTE: Since the meeting, Defra and DHSC issued a note in response to the FSAI note on the UK's position on the matter, which was raised by the F4 group. On the note, Defra/DHSC confirm that when fortified ingredients (e.g. flour) are used in the manufacture of a product, the finished product does not need to comply with fortification requirements. This was circulated to members as FLC 143/21. PPA will continue to follow discussions on this.]

The Secretariat also updated members about a more recent consultation on the Environmental Bill, which aims to ensure that Ministers consider a set of internationally recognised environmental principles when making policy, and it sets out the five principles that should be followed. Potential concerns identified are in relation to pesticides and fertilisers and how to consider the benefits of their use versus the principles. PPA will put together a response and circulate it to members.

ACTION: Secretariat to share with members draft response for comments.

8) Food safety

a) Acrylamide

The Secretariat gave an overview of the recent developments on acrylamide in foodstuffs.

The current Regulation (EU) 2017/2158 sets Benchmark Levels for a number of products, including French fries, potato crisps, potato-based crackers and potato-based products, alongside coffee, infant foods, etc. The two key values are 500ppb for French fries and 750ppb for potato crisps, which are supposedly set at 85th percentile on the data held by the European Food Safety Agency (EFSA). The legislation requires businesses to implement a series of mitigation steps for their products and if any product is found to exceed the benchmark levels, they must take immediate remedial action.

During summer periods acrylamide levels are typically much lower as potatoes are harvested direct from the field and processed, however, the sugar content of potatoes typically increases with storage, leading to higher acrylamide forming potential during winter and late storage periods and therefore businesses need to apply controls in store. The Benchmark Level approach is appropriate for potatoes as storage is required to ensure year-round supply and detection of higher acrylamide levels in finished products would not necessarily lead to a recall or withdrawal if the manufacturer can demonstrate that it is applying relevant mitigation tools.

Most manufacturers are able to produce products with acrylamide levels which are significantly lower than the Benchmark Levels during the summer months, but the current Regulation has a clause stating it must be reviewed by April 2021. It has been proposed to revise Benchmark Levels for potato crisps down from 750ppb to 600ppb and also to reduce them for other product categories. No changes to Benchmark Levels have been proposed for French fries.

EFSA holds data from MSs and from the industry and ESA has regularly submitted data for potato crisps on a 3 to 4 year basis, but there is a significant difference between data reported by MSs and data reported by the industry. Proposals are particularly concerning, given that the impact of climate change on levels (and considering that the Regulation has only been in force for 3 years), but as a compromise ESA has recommended that Benchmark Levels are set at 700ppb. ESA will be lobbying at European Parliament (EP) level and at MS level. However, maximum levels (MLs) are now being discussed with a 900ppb level for potato crisps and 750ppb for French fries. 750ppb is a higher value than expected, so the biggest concern is for potato crisps, although there may be outliers for both product datasets.

The Secretariat stated this is a very political issue, with last year's proposal on MLs for infant foods being rejected by the EP, despite the very low levels proposed. Therefore, the EC wants to make sure they appease the EP by proposing tighter Benchmark Levels and some proposals for MLs, which are likely to be issued towards the end of 2021.

The EC had called a whole day stakeholder forum on 2 March 2021 and several trade associations for different sectors impacted by the proposals gave their presentations, including ESA and the European Potato Processors' Association (EUPPA). It was thought that the presentations were impactful however, the Secretariat believes the EC is set on progressing with proposals, which will force trade associations to act politically, instead of relying solely on science.

Part of ESA's presentation was based upon the third peer review paper which was published on 18 March, and includes approximately 100,000 data points. Although it missed the EC stakeholder forum by a couple of weeks, data from the paper was used as part of the discussions. ESA/PPA is trying to establish the source of the data used by the EC to derive the proposed benchmark levels and MLs, and has requested the full EFSA dataset to check for errors and enable future lobbying, as some products appeared to be incorrectly categorised (e.g. dried fruit and wheat-based snacks with potato snacks).

ACTION: Secretariat to share with members comparative analysis on industry x EFSA data.

The Secretariat then presented some slides with data being collected by EUPPA and ESA, which shows positive figures despite some outliers, and finished with a slide on timelines, noting 2021 is likely to be the year where MLs are laid down for products under our remit.

The Chair asked a question as to the FSA's position on acrylamide, and the Secretariat informed that they presented as part of the FDF's Residues and Contaminants Committee earlier in March. The FSA is still carrying out monitoring and were going to focus on products which were not picked up before, such as vegetable crisps and brands which were not monitored previously. They are not doing anything in terms of sampling and testing French fries, but will focus on products they consider problematic such as potato crisps. As the UK has adopted EU legislation, they are also required to review levels (theoretically by April) but if the EC does not complete this work by April, it is highly unlikely the FSA will as it is not a priority. The FSA view is that they are in favour of the current approach as they see the practical issues for the sector. The Secretariat noted that it is unfortunate that the UK is no longer contributing to the EU debate on acrylamide as they were influential in discussions. Now Belgium has replaced the UK as the influencer but they are supporters of MLs and tighter benchmark levels. The secretariat does not believe there will be any changes in terms of monitoring in the UK.

b) 3-MCPD

The secretariat informed members that the afternoon session of the stakeholder forum focussed on 3-MCPD esters. There were fewer presentations on 3-MCPD.

The formation of 3-MCPD and glycidyl esters are related primarily to the oil content in the product and therefore current legislation establishes MLs for oils. Palm kernel oil has different MLs from most of the rest of the oils to reflect the source (oils from other parts of the plant could have a higher levels). FEDIOL, which represents vegetable oil manufacturers in the EU, agreed with the EC to tighten controls within a timeframe, but the EC has now decided to set levels for finished products.

The Secretariat mentioned previous work done with LCI (the German Institute of Food Chemistry), when some SNACMA members provided LCI with oil samples for analysis, both pre- and post- use to establish whether 3-MCPD or glycidyl esters were formed in the manufacturing process of the products tested. During this exercise no formation was observed, leading to the publication of a peer-reviewed paper. However, it cannot be totally ruled out that 3-MCPD or glycidyl esters are not formed in the manufacture of other products. Similar work was also done with the chocolate, confectionery and bakery sectors, and with regards to the latter, no formation was detected.

LCI presented the peer-reviewed paper on ESA's and CAOBISCO's (the European Association of Chocolate, Biscuits and Confectionery) behalf, arguing that there was no need for separate MLs for products such as potato crisps as:

- fat/oil content is easy to discover (e.g., information provided on the food packaging).
- the analytical procedure is based on fat/oil content.
- in case mixtures of fats/oils are used: legal basis already given in footnote ***** in the annex of Reg. (EC) 1322/2020.

However, the EC argued that one MS had carried out testing and detected some very high levels within the range. Although it can be argued that this was before the legislation came into force, it is possible that the EC will look at establishing MLs for some products. The Secretariat hopes that crisps will be exempted. French fries have not yet been discussed, although it is possible that if potato crisps are in scope, French fries could also be included.

ESA had also requested EFSA data on 3-MCPD esters to ensure there are no errors, such as the ones detected in the acrylamide data.

A member asked if potato dough-based crisps would also be included, but the Secretariat's views was that the EC's proposals will only apply to sliced potato crisps initially. However, the language used is vague and that other products could also come into scope in the future.

c) 1,4-DMN

The Secretariat gave an update on the application for approval of 1,4 DMN. Following discussions at the last FLC meeting, and a lengthy application for emergency authorisation (EA), it was finally issued on 8 December 2020, which proved too late, as many farmers had made use of Maleic Hydrazide (MH) in field and were unable to use 1,4-DMN under the terms of the EA. Also, strict controls/disposal rules apply in terms of waste disposal to animals (which were expected) but also disposal of water used for cleaning potatoes, resulted in a very narrow uptake by members.

It was still unknown how successful the application of MH has been this season but more should be known within the next couple of months. The industry is still considering whether to submit an application for 1,4-DMN for the 2021-22 season due to timings and restrictions imposed by the EA. Furthermore, the approval holders, DormFresh, have stated another application may not be financially viable and they would not support an application in its current format

It was noted that the original full application was made on 2 March 2020 and a statutory 52-week turnaround was expected, however, the Chemicals Regulation Division (CRD) of the Health and Safety Executive (HSE), who are responsible for pesticides applications in GB, had extended its own deadline, most recently extending it until 6 October 2021. This delay will make it too late for its use for the 2021-22 season, forcing another application for EA.

Noted that questions had been asked at the UK Parliament by Dave Doogan MP but the responses have not been encouraging. PPA is in contact with Julian Sturdy MP and will contact other MPs as well to request their support.

More detail on timings were provided within the slides.

d) CIPC

The Secretariat updated members on developments on CIPC, which is no longer authorised for use in the EU, since 8 October 2020. There is an outstanding concern of residues of CIPC within stores and a lot of work has been put into establishing a temporary Maximum Residue Level (tMRL) which has been set at 0.4 mg/kg and will be reviewed annually by the EU. As the legislation was not published until the UK had left the EU, it does not apply in the UK, and therefore the MRL of 10 mg/kg still applies. This is not only problematic from a trade perspective, but also unnecessary. PPA would like the UK to adopt the EU tMRL of

0.4 mg/kg, but the CRD wants to analyse all the available data before making a decision, despite their apparent current lack of resources. The only data available is EFSA's, which the CRD is already aware of.

Finally, EUPPA is working with Arvalis, a France-based agricultural consultancy firm, and is currently collecting data to be presented to the EC to determine whether to continue to have the tMRL in the future. The format is important as we need to produce something similar in the UK. The Secretariat issued a circular to PPTC on 24 March (PPTC 078/21), asking members for comments.

e) Other activities of interest

This point was not covered during the meeting, but information on Metribuzin (herbicide) and extensions to the approval periods of a number of substances (pursuant to Regulations (EU) 2020/2007 and 2020/1740) is given within the slides.

9) Risk matrix

The group considered a number of relevant EU/UK topics and revised the Risk Matrix, which is being circulated to members. Changes include:

- Removal of 'Agriculture Bill' as a priority as it has now been passed. Any risks arising from the new Agricultural Act will be addressed accordingly.
- Removal of 'Primary Ingredient origin labelling' as no issues have arisen as a result of Regulation (EU) 2018/775.
- Addition of 'Eco-labelling' as a future issue of moderate impact (as discussions are yet at an early stage)
- Removal of 'SACN saturated fat review/related future reformulation programme' as there are no current discussions or signs of potential future concerns.
- Removal of 'trans fats' as there are no current discussions at UK level or signs of potential future concerns.

10) Next meeting dates

The next FLC meetings will take place on:

- 23 June 2021
- 1 December 2021

Due to the current pandemic, it is likely that the June meeting will go ahead as a teleconference. We will update members on the format of the December meeting closer to the time.