

Fighting food fraud

SUMMARY

The horsemeat scandal, which hit the EU at the beginning of 2013, put the European food sector under the spotlight.

Tests carried out in the wake of the crisis revealed that public health was not at risk and that this was a case of food fraud rather than food safety. However, the episode dented consumer confidence and raised questions about the effectiveness of controls along the food supply chain.

Concern about the rising number of incidents of food fraud has led to calls for stronger action in this area, not least because the food chain in Europe is worth some €750 billion a year. The agri-food industry is the EU's second biggest industrial sector, employing 48 million workers in 17 million companies.

The European Commission set about restoring consumer and market confidence through a number of measures, including proposals to strengthen controls along the food chain and toughen penalties for fraudsters. While stakeholders welcome measures to improve the system of controls, the question of who pays for them has already sparked a lively debate.



Olive oil – among products most prone to food fraud.

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Glossary

Food fraud: There is currently no EU definition of the term, but it is generally accepted that food fraud is an intentional action carried out for financial gain. Different types of food fraud include adulteration, counterfeiting, substitution and deliberate mislabelling of goods.

Agri-food industry: The sector is made up of companies engaged in agriculture and the processing of food and drink. A broad definition would also include retail and wholesale activities.

The extent of fraud

A centuries-old practice

When it comes to food and drink, dishonest practices have been going on for centuries – from the sweetening of wine with lead in ancient Rome to the colouring of preserved fruit and vegetables with copper salts in 19th century London. Modern day food fraud cases across the EU include the sale of road salt as food salt, farmed fish as freshly caught, battery-caged eggs as organic, and the much-publicised scandal of the substitution of horsemeat for beef.

Food fraud rising

Statistics appear to back up concerns that food fraud is on the rise. A [report](#) by the UK National Audit Office revealed that local authorities registered almost 1 400 new reports of food fraud in 2012, up two-thirds on 2009 figures. The US Pharmacopeial Convention (USP), which has set up a global database of independently documented examples of food fraud, added almost 800 [new records](#), based on information published in scholarly journals and the media in 2011 and 2012. Milk, vegetable oils and spices have consistently appeared in the list of ingredients most prone to fraud, with dilution being the main form of adulteration. Seafood, clouding agents (used in fruit juices, jams and other products) and lemon juice have been added to the list of vulnerable foods. The creator of the database, Jeffrey Moore, said he and his colleagues suspect that “what we know about the topic is just the tip of the iceberg”. In 2012, [Operation Opson II](#), a joint Interpol-Europol initiative, led to the global seizure of more than 135 tonnes of potentially harmful products including coffee, soup cubes, olive oil and caviar. The operation, which was launched in 2011 to target organised crime networks behind the illegal trade in fake and substandard goods, involved 29 countries including Colombia, Nigeria, Thailand and the US.

Plans to ban refillable jugs of olive oil from restaurants in the EU were withdrawn in May 2013 following a [public outcry](#). The Commission said the proposal for pre-packaged bottles with tamper-proof lids was meant to ensure customers were not tricked or misled. Olive oil is a [common target](#) for fraud.

Impact of fraud

Food fraud affects consumers, businesses, and ultimately the economy. If customers buy horsemeat, for example, when they intended to buy beef, they are paying a high price for a cheaper substitute.

The adulteration of food also poses potential health risks. In 2008, almost 300 000 children in China [fell ill](#) and at least six died after milk powder was contaminated with melamine. The poisonous industrial chemical, which was used to boost protein levels,

led to kidney failure in thousands of young children. The scandal [still affects](#) the market more than five years later.

Although the EU is considered to have some of the toughest food safety regulations in the world, and the horsemeat scandal was a matter of food fraud rather than food safety, [consumer confidence](#) was shaken. There was particular alarm in the UK and Ireland where horsemeat is not commonly eaten. The food industry and politicians are keen to see consumer confidence rebuilt, particularly since agri-food is Europe's second biggest industrial sector, providing work for 48 million people, and the food chain is worth some [€750 billion](#) a year.

EU law relating to food fraud

Although the general requirements of [EU food law](#) include the aim to “prevent fraudulent or deceptive practices; the adulteration of food; and any other practices which may mislead the consumer”, the focus has primarily been on food safety. Food businesses have a duty to ensure that the food they sell is safe, and are subject to hygiene, labelling and traceability requirements. The responsibility for enforcing food law lies with Member States (MS) who carry out [official controls](#) in the supply chain.

Current [EU legislation](#) on the labelling, presentation and advertising of food states that consumers must not be misled. It also requires that, in general, all ingredients are listed in descending order of weight. From 13 December 2014, [new rules](#) will replace this legislation and, among other provisions, will extend country of origin labelling (COOL) to meat from pigs, poultry, sheep and goats. COOL is already mandatory for beef and some other products, including olive oil and honey.

The horsemeat scandal

Background

Horsemeat was first detected in early 2013, by Irish food-safety inspectors, in frozen beef-burgers and was subsequently found in beef-labelled ready meals in the UK. Some products were found to contain up to 100% horsemeat. After tests were carried out on processed meat products across Europe, it was discovered that many EU countries were [affected](#). The [scandal](#) led to a range of processed foods being withdrawn from sale. The suspicion was that horsemeat, which is cheaper than beef, had been used in a fraudulent labelling scam motivated by financial gain.

The discovery of undeclared horsemeat led to concerns that phenylbutazone, commonly referred to as “bute” – a veterinary drug used as a painkiller – may have found its way into the food chain. Horses treated with the drug are not allowed to enter the food chain, as bute represents a potential risk to human health. Tests for horse DNA and bute, carried out by Member States (see box), revealed that less than 5% of products tested were affected and that around 0.5% of horse carcasses tested were found to be contaminated with bute.

EU-wide testing: the results

A total of 7 259 [tests](#) were carried out in 27 Member States. Of the 4 144 tests for the presence of horsemeat, 193 showed positive traces (4.66%). Of 3 115 tests for traces of bute, 16 samples proved positive (0.51%). Food producers, processors and distributors carried out a further 7 951 tests for horsemeat DNA, revealing 110 positive samples (1.38%). The results led the European Commission to conclude that public health was not at risk.

Lessons learned

The incident highlighted the complexity of the meat supply chain and the need to adapt official control procedures. It revealed extensive outsourcing and the involvement of intermediaries in a number of EU countries. On the positive side, the Commission points out that it was thanks to food safety inspectors that the fraud was discovered, and EU rules on traceability were able to track the distribution chain of the fraudulent products. The EU's Rapid Alert System for Food and Feed ([RASFF](#)) was used to notify Member States quickly, enabling them to withdraw fraudulent products from sale.

According to the UK National Audit Office, the horsemeat scandal raised concerns about the gap between the checks the public expect regarding the authenticity of their food, and the effectiveness of these controls in practice. It also revealed that in 2012, one in six products failed a test for the presence of an undeclared meat species (although this did not include horse). The European Consumer Organisation (BEUC) has argued that as well as conforming to food safety standards, there is a need to ensure that food is of the quality consumers expect.

EU action

In March 2013, the Commission launched a five-point [plan](#) to restore consumer confidence in the wake of the horsemeat affair. It recommended and co-financed a coordinated EU-wide testing programme to assess the scale of the issue and allay consumer concerns over potential health issues.

The action plan set out to prioritise the fight against food fraud and strengthen coordination amongst MS, and with other organisations such as Europol on food fraud matters. Actions proposed included the creation of a dedicated IT tool, similar to the RASFF system, and a food-fraud team.

Tighter controls on horse passports were also proposed after weaknesses in the system were highlighted by the fraud. One of the main aims of the horse passport system is to ensure that only drug-free animals enter the food chain. Each passport contains identity details and lists veterinary medicines (e.g. phenylbutazone) administered. The Commission plans to amend [current rules](#) to include a requirement for MS to record horse passports in a central national database. It also aims to reduce the number of bodies issuing passports.

Stronger controls along the food chain

In May 2013, the Commission put forward measures to strengthen the agri-food chain. The proposal for a [regulation](#) on official controls and other official activities, part of a package of measures aimed at modernising legislation on animal health, plant health and plant reproductive materials, contains specific provisions relating to food fraud.

The new rules would include regular unannounced checks along the food supply chain aimed specifically at identifying fraudulent activity, and mandatory testing programmes as part of an EU-wide coordinated control plan. While all MS cooperated in the testing of products in the case of the horsemeat fraud, existing legislation did not oblige them to do so. There would also be provision for establishing sector-specific controls as and when new risks emerge.

The proposal also includes tougher penalties for food fraudsters, to ensure that crime does not pay. Because MS have competence in this area, sanctions vary from country to

country. However, the Commission is seeking “effective, proportionate and dissuasive” sanctions with financial penalties that at least offset the economic gain expected from the fraudulent action.

The scope of the proposed regulation covers controls for plant health, plant reproductive material, plant protection products and animal by-products, as well as feed/food and animal health and welfare controls. A common set of rules will apply to all controls carried out on animals and plants entering the EU.

Controls will be risk-based and more transparent, with obligations to make information about the organisation and performance of organised controls available.

The draft legislation also includes changes to sampling and analysis requirements. Administrative assistance and cooperation between MS will be strengthened to combat cross-border non-compliance.

Fees

To ensure controls are adequately resourced, mandatory fees, which are currently applied only to certain areas of the agri-food chain, would be extended to other sectors and to nearly all official controls. Micro-enterprises (businesses with fewer than 10 employees and an annual turnover of not more than €2 million) would be exempt from paying the fees. The decision reflects the Commission’s [policy](#) of reducing regulatory burdens on small businesses.

Food fraud: contributory factors

The motivation for most fraud is financial gain. In this respect the food industry is as much a target as other sectors. However, factors cited as contributing to recent occurrences of food fraud include:

- The financial crisis;
- Rising food prices;
- Demand for cheap food;
- Complex food supply chain;
- Pressure on control services;
- Low risk of detection;
- Lack of focus on detecting fraud; and
- Lack of a strong deterrent (penalties).

Areas of controversy

Origin labelling

Although not concerned with the regulation on official controls, the issue of labelling rose up the agenda following the horsemeat scandal and was subsequently incorporated into the Commission’s five-point action plan. The Commission had already committed to publish a report on the possibility of including mandatory country-of-origin labelling for meat in processed foods (e.g. lasagne) in line with requirements for the [new regulation](#) on food information to consumers. However, the Commission has stressed that labelling should not be considered a tool to fight food fraud and would not have prevented the horsemeat deception. Consumer organisations and politicians believe that even so, it would aid transparency in the supply chain. On top of this, BEUC says that its [research](#) shows that consumers want to know where their food comes from. On 17 December 2013, the Commission relaunched the debate with its [report](#), which sets out three options and their potential impacts, including cost implications for consumers. These will now be discussed by ministers and MEPs.

Funding of official controls

The issue of funding for official controls is both critical and controversial. Information from audits by MS and the Food and Veterinary Office [reveals](#) that EU inspectors blame a lack or shortage of resources for identified deficiencies in control activities or insufficient levels of control in recent years. The Commission says the extension of fees

to other sectors of the agri-food chain will ensure the sustainability of the control system. Health Commissioner Tonio Borg [told](#) a public hearing in October 2013 that businesses and consumers “cannot afford cuts in the capability of MS to undertake effective controls which would expose us to the risk of serious food safety incidents” and that there were already signs that the financial crisis was having an impact on controls in MS.

According to a Commission [report](#), stakeholders do not generally favour MS collecting fees for official controls, and consider these a public service that should be paid for by the public purse. Others believe the costs should, at least partly, be publicly funded.

Until now, mandatory fees to recover control costs have been charged in sectors where official controls are more intense (e.g. meat, fish and dairy production). However, the current system does not enable MS to recover all their costs – on average they recover between 20% and 80% of costs relating to controls subject to mandatory fees. This means they miss out on an estimated €900 million to €3.4 billion per year across the MS for official control activities.

The question of extending the current mandatory charges to most sectors has its supporters and detractors. The current system is seen as [unfair](#) by those that feel they bear the cost of controls that benefit the entire food chain. The Commission proposal aims to [address this](#), with “all operators who benefit directly from efficiently performed official controls helping them to deliver safe food and feed on the market” now called to contribute to their cost.

The Danish Agriculture & Food Council, which represents Denmark’s farming and food industry, [supports](#) a system covering the whole food chain (which has already been developed in [Belgium](#)), while Independent Retail Europe (formerly UGAL), believes extending mandatory fees is unjustified, and producers should not be charged if their operations do not involve major veterinary risks. It [says](#) that, if private operators must pay, they should only foot the bill for costs for which they are directly responsible.

While there is some support for excluding the smallest businesses from the burden of mandatory fees, there is also concern that a universal exemption could affect competitiveness and cost recovery in those MS with a large number of micro-enterprises and that a risk-based approach would be better than a size-based approach. In most MS, micro-enterprises represent more than half of all businesses and in some, the proportion is much higher.

European Parliament

Food fraud report

Concerned by the impact of recent food fraud on consumer confidence in the food chain, the European Parliament’s Committee on the Environment, Public Health and Food Safety (ENVI) adopted an own initiative [report](#) “on the food crisis, fraud in the food chain and the control thereof” (rapporteur: Esther de Lange, EPP, Netherlands).

Adopted in plenary on 14 January 2014, the resolution calls on the Commission to make the prevention and combating of food fraud an integral part of EU policy. It considers the adoption of an EU-wide definition of food fraud essential to developing a harmonised approach to tackling the issue. The report also highlights the need for the systematic collection of data on food fraud cases in the EU.

MEPs propose a greater role for the Food and Veterinary Office in detecting food fraud and believe a change in attitude within competent authorities, “from an administrative and veterinary approach towards a policing approach”, is needed (based on the work of designated “food-fraud squads” in Italy and Denmark). They acknowledge the importance of whistle-blowers, and call for the right conditions to be created to enable fraudulent practices to be revealed safely and anonymously.

Members call on the Commission to review rules on intermediary labelling as well as for improved monitoring of business-to-business and business-to-consumer labelling of frozen foods and clarification on the role of traders and the law relating to business-to-business sales. They also believe that mandatory country-of-origin labelling, including for meat in processed food, would improve traceability and help to ensure “increased diligence when food business operators choose their suppliers and products”.

Although they welcomed the Commission's proposal for tougher penalties for fraudsters, MEPs believe it does not go far enough and that fines should be at least double the amount sought through the fraud, with even higher sanctions where public health is deliberately put at risk or vulnerable consumers are targeted. They propose withdrawing the registration of operators in the case of repeated offences.

“A European citizen is 260 times more likely to die as a result of the flu than due to unsafe food, yet one third of consumers do not trust the information provided by food labels.”
ENVI Committee report

Public hearing on official controls

A public [hearing](#) on official controls along the agri-food chain held on 14 October 2013, was attended by stakeholders including [CLITRAVI](#) (meat producers) [Copa-Cogeca](#) (farmers) [BEUC](#) (consumers) and the [European Seed Association](#) (national seed associations and individual seed companies).

There was general support for stronger, risk-based controls, and tougher financial penalties for those involved in food fraud. However, there were significant concerns over the issue of fees, including the proposed exclusion of micro-enterprises from mandatory charges. The proposed regulation on official controls and other official activities is [under consideration](#) by the EP, with ENVI as the lead committee (rapporteur: Mario Pirillo, S&D, Italy).

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