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**FEDIOL Position**  
**on the Commission proposal for a Regulation on official controls**

FEDIOL welcomes the proposal for a Regulation on official controls<sup>1</sup>, which revises Regulation 882/2004. This will contribute overall to harmonise official controls across Member States and increase transparency by establishing a uniform frame.

*Risk based-approach in official controls*

FEDIOL fully supports the principle of **risk-based approach** as per article 8. Such an approach is and should remain the cornerstone of any official control. In that context, FEDIOL welcomes the recognition and consideration of own operator/industry and third party controls when performing official controls.

*Recognition of industry quality and safety systems*

Over the last years, the vegetable oil and fat industry has proactively invested in **dedicated industry quality and safety systems**. Monitoring all along the process, taking regular checks and samples, own state-of-the-art controls and careful checks *via* third party accreditation are performed all year long to ensure the highest product quality and safety. Under the FEDIOL umbrella, several guidance and codes of practices have been developed which contribute to a general uptake of common practices and knowledge sharing across membership. Certification by third parties following independent controls on the basis of validated recognised methods should also not be forgotten. All these steps contribute to food and feed safety and should be considered when undertaking official controls.

*Cooperation and synergies between public authorities and industry*

Food safety is a commitment of both public authorities and industry. Public authorities' role is not only to control but also to provide **support** to industry and develop **public-private cooperation and synergies**. For example, industry should be allowed to contact authorities to seek advice and/or clarify if it meets the criteria set. This will contribute to trusted relationships for the benefit of consumers.

*Applying rules to EU and non-EU goods in the same way*

Official controls should be performed in the same way for **EU and non-EU goods** when fulfilling the same legal requirements. FEDIOL therefore welcomes that official

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<sup>1</sup> Proposal for a Regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, [...] /2013, and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official controls Regulation), COM(2013)265.

controls are to be performed with the same care and under the same methods and checks irrespective of the origin of the goods as per article 8. This is crucial to avoid market distortion.

*Implementing clear rules and criteria*

**Clear criteria and rules** should be set for the overall implementation of the official controls. As this will be set in a subsequent step through level 2 measures (implementing or delegated acts), due care should be taken to have precise and detailed rules to be implemented in the same way across Member States. This is crucial to avoid distortion of competition across Member States and outside the EU. Furthermore, consultation of industry should be clearly foreseen when preparing those level 2 measures.

*Balancing transparency and privacy*

**Transparency** in control methods and documented procedures is the way forward towards a win-win situation for authorities and operators. Publication of multi-annual national control plans (MANCP) will also further enable this, as long as based on clear criteria and regular industry consultation. Industry should be recognised as a key consulted partner in developing these.

Building on efficient IT tools such as RASFF, the new system would benefit in establishing enhanced cooperation and exchange of information between operators and authorities. In that context, providing access to **industry computerised information management system** as per article 14 should be done with appropriate care and taking into account sensitive information which can be stored in such system. We believe that access to these industry systems should be allowed only in circumstances where a food safety risk is evidence-based. A general access to industry IT systems without detailed criteria would infringe EU and national rules on privacy and data protection.

*Promotion of achieved progress and no name-and-shame approach*

**Only evidence-based results** should be published. This is crucial to regain consumer trust. Failure to do this will only bring irremediable damages for both industry and authorities, which will ultimately affect consumers, trade and other commercial aspects. Introducing a rating system should only take place based on clear, transparent and uniform criteria implemented in the same way across Member States and applicable to all actors along the food and feed chain. It should not serve as a competitive advantage by companies. A **name-and-shame approach** through systematic publication of results would not necessarily guarantee desired benefits. The appropriate legal mechanisms already exist under EU and national laws for prosecution and punishment of non-compliance with food and feed law. Instead, promotion of the entire chain showing achieved progress should be favoured.

*Clear rules on methods applied and second opinion and sample*

Furthermore, **methods** used for sampling, analyses and tests need to be understood and applied in the same way at national level. The principles highlighted in article 33 are therefore a good step forward, as long as their implementation is interpreted uniformly. The same applies to official laboratories. Indeed, different interpretation of the same method between 2 Member States or between 2 laboratories in the same country can lead *de facto* to different results. Clear rules of which steps to follow in such case should be defined through level 2 measures.

The right for a **second opinion and second sample** in article 34 is a precondition for the good functioning of the official control systems. Uniform application of such

principle across Member States should be ensured through level 2 measures. Otherwise, different criteria and procedures will be applied at national level, distorting competition inside and outside the EU.

*Combining public and private funds*

Regarding **mandatory fees** introduced in chapter VI, FEDIOL is in principle against that the costs are borne solely by the private sector. Food safety is a public issue and falls as such under the responsibility of the authorities. Whilst FEDIOL fully agrees that adequate financial resources should be available to perform official controls in the same way across Member States, **other solutions than relying only on the private sector should be sought.**

FEDIOL does not believe that performance and efficiency will be improved by introduction of mandatory fees. On the contrary, it would have the opposite effect. The independency of authorities could be also seriously questioned as it may give rise to abuses and encourage overzealous controls. Such proposed system would be complex to implement and would generate heavy administrative and financial burden for both authorities and industry. As a way forward, the creation of a fund to which the food and feed supply chain industry at large would equally contribute could be envisaged.

Should fees apply, they should be fixed on a **flat-rate based on turnover** and applied **without exception to all operators across the industry**, irrespective of the number of inspections, record of good compliance or size of the company. The fees should only cover **actual costs** of the official control, and not those incurred by for example training staff, or equipments costs as currently envisaged in article 78.

However, we also welcome that reduced fees could be applied to those complying with the controls and having shown progresses, as per article 80, as long as these are based on clear, transparent and uniform criteria. It should not serve as a competitive advantage to companies.

Furthermore, we do not believe that excluding SMEs from the current proposal to levy fees is appropriate. On the contrary, should such system be implemented, it should cover **all actors of the food and feed chain at large irrespective of their size.**

Should such a system apply, we believe that it is crucial to have an estimation of costs, in this stage of the legislative process. We recognise that the impact assessment accompanying the proposal gives more insight on the potential consequences. However, it does not quantify what such fees would entail in practice, given the variation of rules currently applied at national level.