



The Consumer Voice in Europe

Open EFSA

BEUC response to the public consultation

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Summary

Transparency and openness are essential elements to ensure consumer trust in regulatory authorities.

BEUC supports EFSA's ambition to increase inclusivity and participation, but it is also important to stress the fact that risk assessment is an essentially scientific and objective activity and it should remain as such.

To safeguard its independence and to remain credible to consumers, EFSA needs to keep its distance from the food industry whose products it assesses.

The gap in financial resources, staff and expertise between food companies and civil society organisations is, and will remain, significant. This should be carefully considered and addressed when designing the new framework of interaction with stakeholders.

While we understand that scientific opinions are not always clear-cut and easy to communicate, we believe more efforts should be made to make the opinions more straightforward and understandable for a lay-person.

EFSA should be able to take a broad look at the issues that could impact on public health and consumers, rather than just responding narrowly to a mandate.

Making the knowledge base on which EFSA informs its decision publicly available is a fundamental step towards improving transparency and gaining legitimacy.

1. Openness, transparency, independence and participation: opportunities and challenges

BEUC, The European Consumer Organisation, welcomes the Discussion Paper "Transformation to an "Open EFSA"¹ and the Agency's renewed commitment towards societal engagement.

Transparency and openness are essential elements to ensure consumer trust in regulatory authorities and close the divide between the EU and its citizens.

The societal and normative expectations identified by EFSA in the paper reflect the growing demands of civil society to have a voice in the risk handling process and for reliable, transparent information generally.

We fully support EFSA's ambition to increase inclusivity and participation, but it is also important to stress the fact that risk assessment is an essentially scientific and objective activity, therefore should remain as such. In defining the framework of interaction with stakeholders, safeguarding the independence of risk assessment should always remain the priority.

Stakeholders' involvement and participation enhance the senses of ownership, legitimacy and consensus. "Input legitimacy"² is important, but for an independent scientific body like EFSA, "output legitimacy" should also be preserved. If the risk assessment process is too participative it is no longer independent and most of all EFSA would lose control and accountability of the final outcome.

To safeguard its independence and to remain credible to consumers, EFSA needs to keep its distance from the food industry whose products it assesses.

BEUC supports further broadening of the panel's work, but this should be done in a way that precludes greater influence from industry.

We also believe that face-to-face meetings between EFSA and each individual applicant should be prohibited as they have the potential to increase pressure on scientific experts and be excessively burdensome for EFSA staff. We argue that it is very difficult to gather knowledge from stakeholders in practice without being influenced by their evaluations. EFSA should focus instead on improving the Application Desk services to make sure food manufacturers and research bodies are informed about the kind of scientific evidence EFSA requires to perform proper scientific assessments.

Technical meetings organised to improve regular interaction between EFSA and its stakeholders in certain areas, such as health claims, should not be misused by food manufacturers to challenge EFSA opinion on specific products. Such meetings should exclusively remain an opportunity for EFSA to explain what they expect from applicants and discuss general guidelines.

¹ <http://www.efsa.europa.eu/en/corporate/doc/openefsadiscussionpaper14.pdf>

² Schmidt V. (2013), *Democracy and Legitimacy in the European Union*, *Political Studies*, Volume 61, Issue 1, pages 2–22.

Great care is needed also over pre-submission meetings: these should not occur with individual companies (Section 1 of the options table, page 14).

The European Commission White Paper on Food Safety³ has identified scientific advice as being produced to the highest standards of independence, excellence and transparency as a basic requirement for consumers' confidence in EU food safety policy. Moreover the General Food Law regulation 178/2002 highlights: "*in order for there to be confidence in the scientific basis for food law, risk assessment should be undertaken in an independent, objective and transparent manner, on the basis of the available scientific information and data*"⁴.

To maintain consumer confidence in EFSA's scientific integrity as well as the public's perception of its independence, this should be safeguarded.

We also point out that greater stakeholder involvement and participation bears the risk of giving disproportionate influence to the most affluent interested parties at the expense of other lesser resourced groups, introducing an inherent bias in favour of the industry at the expense of civil society organisations.

The gap in financial resources, staff and expertise between food companies and civil society organisations is, and will remain, significant. This should be carefully considered and addressed when designing the new framework of interaction with stakeholders.

EFSA needs to ensure sufficient checks are in place so that a balance of stakeholder interests is safeguarded and should explore the possibility of "positive discrimination" in favour of consumer/public interest representation when needed.

For instance, it can be very challenging for a consumer organisation to keep track of all the public consultations launched by the Agency and provide meaningful input, whilst the food industry can count on more staff and expertise to act within the consultation process.

In addition, it can be discouraging for civil society organisations to travel to EFSA if they are allowed to participate in only a small part of a meeting as some agenda items are not open to all participants. To increase participation, we encourage EFSA to use web streaming for these meetings more regularly or host them in venues more readily accessible to wider range of stakeholders.

EFSA should also be more transparent on the criteria used to determine whether an issue on the agenda is not open to the public and provide justifications.

European consumers rely on EFSA scientific opinions for the safety of the food they put on their plates. They need to be reassured that the evaluation is based exclusively on the best interests of their health and not influenced by any other consideration. In this context, BEUC welcomes EFSA's commitment to continuous review and improvement of its handling of conflicts of interests.

³ 'White paper on food safety', European Commission COM (719) final, 2000.

⁴ Regulation (EC) No 178/2002.

2. Open access

A first step towards increased transparency of the scientific decision making process would be to ensure the minutes of the working groups are always available.

In some circumstances, we were unable to access minutes of the EFSA meetings and on some occasions, when they were available, the reporting was not self-explanatory and understandable by someone who had not participated in the meeting or else they consisted of only one sentence. This generates the perception of a lack of transparency and an unwillingness to communicate to the public what was discussed during the meeting.

The consultation document indicates that information on the selection criteria of the working group experts is available in the final output. In order to ensure greater transparency about how members of the working groups are appointed and how decisions are made on the balance of included expertise, we suggest that information is made available at the outset - as it is too late for stakeholders to point to missing expertise if only provided once the working group has concluded.

We also encourage EFSA to better reflect its opinion in the summary. From our experience it emerged that some summaries were not fully consistent with the full opinion and this might lead to misinterpretation of EFSA scientific advice. While we understand that scientific opinions are not always clear-cut and easy to communicate, we believe more efforts should be made to make the opinions more straightforward and understandable for a lay-person.

It would also be helpful to state at the beginning of each opinion the question of the Commission it intends to address in order to clarify the scope of the opinion and the specific tasks EFSA was assigned.

3. Open questions

In the Options Table (page 14) the consultation document indicates that EFSA mandates should capture societal needs. To achieve this, EFSA should be allowed to take a broad look at the issues which could impact on public health and consumers, rather than just narrowly responding to a mandate.

EFSA must make greater use of its self-tasked role of supplementing the questions if needed. It should do this on nutrition/public health issues as well as food safety issues when relevant. The Agency should be allowed to modify the questions from the European Commission and to extend their scope if it considers it relevant from a scientific point of view. More generally, the Agency should be given the possibility to work on a subject on its own initiative. At present, the work assigned to EFSA by the Commission is defined by the political and regulatory agenda, not public health priorities.

EFSA should be able to determine its priorities and agenda for itself, and not fully determined by the European Commission. In order for EFSA to get closer to EU consumers and be perceived as an organisation responding to consumers' needs, we suggest that civil society organisations have the possibility of submitting questions to the Agency.

Representatives of Commission departments are entitled to be present in the meetings of the Scientific Committee, the Scientific Panels and their working groups. According to Article 28 of Regulation 178/2002, if they are invited to do so, *"they may assist for the purposes of clarification or information, but shall not seek to influence discussions"*. The Chair of the Committee should ensure that this principle is fully respected, that the Commission participates purely in an observer capacity and that it does not attempt to influence the discussions.

4. Open data

In order to formulate its scientific opinions EFSA collects a large amount of data, scientific studies and other publications. Making the knowledge base on which EFSA informs its decision publicly available is a fundamental step towards improving transparency and gaining legitimacy.

More open and systematic data sharing can significantly increase consumers' trust in EFSA work. To enhance scientific scrutiny, EFSA assessments should be fully reproducible by other scientists.

In relation to section 4 of the options table, it is also important to stress that EFSA is looking at the totality of the evidence, to the extent possible - and not just for generic opinions, but also for applications. EFSA was set up to ensure food safety and protect public health and these principles should be reflected in its data gathering. Open and targeted calls for data/information (Policy option 3 in section 4 of the table, page 14) are therefore important, as well as EFSA ensuring that it supports the panels/Scientific Committee by way of robust searches etc.

The onus should be on publication of data, rather than too cautious or narrow an interpretation of what is commercially confidential.

In determining the types of data which can be disseminated – e.g. data contained in application dossiers – public health interests should prevail over commercial considerations. In addition to the source of the scientific studies and reports EFSA uses to formulate its opinions, it would be important to disclose who funded the research. The lack of public funding for research, including in the food area, generates a risk of having to rely only on industry funded research and the evidence⁵ shows that research results might be inappropriately influenced by bias.

END

⁵ Lesser, L.I., C.B. Ebbeling, M. Goozner, D. Wypij, and D.S. Ludwig. 2007. 'Relationship between funding source and conclusion among nutrition-related scientific articles'. Public Library of Science Medicine 4:41-46.