

Title: Impact Assessment for the criteria for the plate count testing of raw cows' milk (certain parts of Regulation (EC) 1020/2008)

Impact Assessment (IA)

IA No: FOODSA 0086

Lead department or agency:

Food Standards Agency

Other departments or agencies:

Date: 22/05/2012

Stage: Final

Source of intervention: EU

Type of measure: Secondary legislation

Contact for enquiries:

Sylvia Ankrah

Tel: 020 7276 8353

E-mail: Sylvia.ankrah@foodstandards.gsi.gov.uk

Summary: Intervention and Options

RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as One-Out?
£7.4m	£7.4m	-£1.6m	No	

What is the problem under consideration? Why is government intervention necessary?

Food products can pose a potential risk to human health if pathogenic bacteria are present. Consumers are not able to observe this themselves, and it is difficult for food business operators to credibly inform consumers how far food safety risks have been minimised. Government intervention is necessary to address this information asymmetry. Therefore, hygiene standards are set out in EU legislation. In this case the requirement is to carry out a test to ensure that raw cows' milk meets a limit criterion on bacteria count before processing. To be efficient, such controls need to be proportionate, with all the costs of compliance fully justified by the benefits.

What are the policy objectives and the intended effects?

To ensure that testing of the plate count levels of raw cows' milk is carried out in a way proportionate to the public health risk. The intention of this measure is to ensure that food business operators manufacturing dairy products only need to carry out testing to establish the plate count levels of milk, where the milk has not been processed within the time limit set out in the HACCP procedures.

This measure is intended to reduce costs to industry whilst maintaining the same level of protection to public health. This will apply to manufacturers processing raw cows' milk and heat treated cows' milk.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1. Do nothing, which will require plate count testing to be carried out for all cows' milk intended for processing.
2. Support the amendment of Regulation (EC) 853/2004 by Regulation (EC) 1020/2008 and the provision of national measures that provide for the Regulation's execution and enforcement in English law. This would reduce costs for those parts of the dairy industry processing raw cows' milk or heat treated cows' milk, to prepare dairy products. In both cases there is no reduction in the level of public health protection. Option 2 is therefore preferred.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 10/2013

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:



Date: 2 July 2012

Summary: Analysis & Evidence

Policy Option 2

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2009	PV Base Year 2009	Time Period Years 5	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £7.4

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0	£0	£0

Description and scale of key monetised costs by 'main affected groups'

No monetised costs have been identified

Other key non-monetised costs by 'main affected groups'

No non-monetised costs have been identified

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	£0	£1.6m	£7.4m

Description and scale of key monetised benefits by 'main affected groups'

It will not be necessary for dairy processors to carry out a plate count test for milk which is processed within the time limits allowed for in the HACCP procedures.

Other key non-monetised benefits by 'main affected groups'

No non-monetised benefits have been identified

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

The cost for carrying out a plate count test is £5. Approx. 800 silos of raw cows milk and 800 silos of heat treated milk would require testing on average 250 times pa under the current legislation. Under the proposal, no raw milk will be tested, and the proportion of heat treated milk tested will decrease steadily from 100% to 0% within 5 years, as processors adapt.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: £0	No	
Benefits: £1.6		
Net: -£1.6		

Evidence Base (for summary sheets)

There is discretion for departments and regulators as to how to set out the evidence base. However, it is desirable that the following points are covered:

- **Problem under consideration**

1. Food products can pose a potential risk to human health if pathogenic bacteria are present.
2. In general, consumers cannot observe the production, manufacturing or handling processes of foodstuffs. Food safety hazards in foodstuffs tend to be microscopic or otherwise not observable, and so not readily identifiable by consumers. In most cases it is not possible for food business operators to credibly inform consumers of the degree to which risk in foodstuffs has been minimised. This information asymmetry implies a benefit from government intervention to require hygiene standards of food business operators.

- **Rationale for intervention**

3. In order to address this information asymmetry and protect human health, hygiene standards are set out in EU legislation. In this case, hygiene standards are set to ensure that raw cows' milk meets a limit criterion on bacteria plate count before processing. However, to be efficient these hygiene controls need to be proportionate to the risk with all the costs of compliance fully justified by the benefits.

- **Policy objective**

4. The intention of this measure is to ensure that food business operators manufacturing dairy products from raw cows' milk will not have to carry out testing to establish the plate count levels of milk prior to processing, *as long as* that milk is processed within the time scales specified in the HACCP procedures.
5. This measure is intended to reduce and prevent increased costs to industry, whilst maintaining the existing satisfactory level of protection to public health. This will apply to manufacturers processing raw cows' milk and heat treated cows' milk.

Background

6. Regulation (EC) 853/2004 applied in the UK from 1 January 2006 and sets out food hygiene requirements relating to products of animal origin. Annex III, Section IX, Chapter II, Part II, point 1 requires food business operators manufacturing dairy products to initiate procedures to ensure that, immediately prior to processing:
 - raw cows' milk used to prepare dairy products had a plate count at 30°C of less than 300,000 per ml; and
 - processed cows' milk used to prepare dairy products has a plate count at 30°C of less than 100,000 per ml.
7. Regulation (EC) 2076/2005 introduced a number of transitional measures for the hygiene Regulations for a period of 4 years (i.e. up until 31 December 2009). This included a derogation that the plate count criteria for raw cows' milk intended for the manufacturing of dairy products should be required only where the milk had not been processed within the pre-defined time set out in the HACCP procedures.
8. Regulation (EC) 1020/2008 has been introduced with the intention of making the transitional arrangement for raw cows' milk described above permanent. In addition, the same principle will apply to heat treated (processed) cows' milk intended for the manufacturing of dairy products (i.e. the plate count criteria should apply only where the milk had not been processed within the pre-defined time as set out in the HACCP procedures). This supports the principle (as previously provided by the derogation in 2076/2005) that it should be possible to ensure food safety within the provisions of the HACCP procedures providing the age of the milk is taken into account.

9. If the proposal had not been implemented the derogation would have lapsed, and from 1st January 2010 all businesses would have been required to carry out unnecessary testing to establish the plate count levels of raw cows' milk prior to processing, regardless of the time scales of processing. Evidence of the testing would be required for enforcement authority checks and occasional follow-up work. This would have imposed costs on both businesses and enforcement agencies. This impact assessment has, therefore, been calculated using the original provision (requiring plate count testing for raw cows' milk for processing) as its baseline, because if no change had been made the derogation would have expired and the original provision would have applied.

- **Scope**

10. The moratorium exempting micro-businesses from complying with new regulations does not apply as this is implementing European legislation which is directly applicable. One-In, One-Out does not apply either as no gold plating is being applied or removed.

- **Description of options considered (including do nothing)**

11. The Options are set out below:

- Option 1 - Do nothing, which will require plate count testing to be carried out for all cows' milk intended for processing.
- Option 2 - Amend Regulation (EC) 853/2004 as proposed in 1020/2008. This will reduce costs (and therefore has an implied benefit) for those parts of the dairy industry processing cows' milk. There is no reduction in the level of public health protection.

12. Option 2 is the preferred option.

Costs and benefits of options

13. Although Option 1 (do nothing) would have resulted in a change from the situation as the derogation lapsed, this is the situation that would apply if no action were taken. The costs and benefits are defined to be zero, and this is the baseline to which all other options are compared.

14. Option 2 will affect approximately 1,600 silos of milk in England each year. If no amendment were made, platelet counts on raw cows' milk would be required, and so the benefit of an amendment in the raw cows' milk sector is the cost saving from not starting to carry out the platelet counts. Because businesses are not currently required to conduct platelet counts on raw cows' milk, we assume no platelet counts would be conducted, and so the full saving would occur immediately. However, businesses producing heat treated (processed) cows' milk intended for the manufacturing of dairy products are currently required to conduct platelet counts. Therefore, we assume such businesses would not all immediately cease conducting platelet counts, but there would be a gradual decrease in testing with no platelet counts being conducted within five years.

15. By the fifth year we expect there would be an approximate saving to industry of £2m per year from avoiding the costs of platelet counts. The cost of a platelet count test is approximately £5. It is estimated that approximately 800 silos of raw cows' milk and 800 silos of heat treated cows' milk would need to be tested, on average, 250 times per year. The annual total for all milk is therefore £2 million (£5x1600x250). We assume the full benefit accrues to raw cows' milk producers from the first year, and for heat treated (processed) cows' milk producers there is a steady rate of progress from all milk needing to be tested at the start of the first year to no milk being tested by the fifth year. This means that 60% of the full benefit is felt in year 1, and this rises to 100% of the full benefit in year 5.

Year	0	1	2	3	4	Average
Percentage of raw milk tested	0%	0%	0%	0%	0%	
Saving for raw milk (£m) 2008 terms	1.0	1.0	1.0	1.0	1.0	1.0
Percentage of heat treated milk tested	80%	60%	40%	20%	0%	
Saving for heat treated milk (£m) 2008 terms	0.2	0.4	0.6	0.8	1.0	0.6
Total saving (£m) 2008 terms	1.2	1.4	1.6	1.8	2.0	1.6
Discounted Total Saving (£m)	1.20	1.35	1.49	1.62	1.74	
Present value	7.4					

16. There is also expected to be a small saving to enforcement agencies, as they will not need to investigate historical test results or carry out occasional follow up work. The scale of this impact is uncertain and this saving is, therefore, not monetised.

Administrative Burden Costs

17. No changes in costs to industry are expected.

Consultation

18. Informal consultation took place with Dairy UK, which represents farming and processing in the dairy industry in the UK, and there were no objections to the proposals during the negotiations leading up to the publication of Regulation (EC) 1020/2008. During the formal consultation between 31 March 2010 and 23 June 2010 comments were received from a consumer organisation which considered that the measures were a retrograde step for consumer protection and questioned the benefits. The FSA has responded to these comments in its consultation summary:

<http://www.food.gov.uk/multimedia/pdfs/consultationresponse/responseshygengregs.pdf>

Enforcement

19. There will be no change to the existing enforcement regime. Local Authorities will continue to enforce the requirements relating to approval of dairy processors under Regulation (EC) 853/2004. No additional costs will be incurred, and there are potential small savings since local authorities will not need to check that testing has been carried out or carry out occasional follow-up work.

Simplification

20. Extending the reliance on HACCP-based procedures should make it simpler for businesses to comply with the legislation.

Summary and preferred option with description of implementation plan.

Implementation and Review

21. Regulation (EC) 1020/2008 was applied ten days after its publication in the EU Official Journal (i.e. 28 October 2008). This IA will be reviewed by Agency officials in October 2013. It will also be reviewed five years after the coming into force date of the SI.
22. This measure is not controversial and effectively cements existing provisions. It is supported by industry stakeholders, and there does not appear to be any reason to assume that it will be substantively reviewed further by the Commission.

SPECIFIC IMPACT TESTS

Competition Assessment

We do not expect this proposal to directly or indirectly limit the number or range of businesses, to limit the ability of businesses to compete, or to reduce the incentives to compete vigorously. The removal of the requirement to test will apply equally to all businesses, and does not prevent each from implementing any testing regime they choose.

Small Firms Impact Test

We consider that the proposal will be of benefit to all businesses and have, therefore, not carried out a specific small firms impact test.

Sustainable development

Impacts under the three pillars of sustainable development (environmental, economic and social) have been, and continue to be, considered in the preparation of this Impact Assessment. Option 2 is relatively more sustainable because it imposes fewer costs through testing without imposing any health costs, and the level of public health protection is maintained. No significant environmental impacts were identified.

Equality Impact

No impact on equality issues has been identified.

Note: the Health and Wellbeing specific impact test is not in the list, because the whole of an FSA IA focuses on food safety in the health context.

Type of test and link to guidance (Double click on each of the headings to follow link)	Click on a box for EACH row to show if the test is relevant or not:	
	Relevant	Not relevant
Competition assessment	x	<input type="checkbox"/>
Small firms impact test	x	<input type="checkbox"/>
Sustainability: Economic impact Social impact Environmental impact	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	
Carbon impact	<input type="checkbox"/>	x
Equality impact	x	<input type="checkbox"/>
Justice impact	<input type="checkbox"/>	x
Rural proofing	<input type="checkbox"/>	x
Human rights	<input type="checkbox"/>	x
Privacy impact	<input type="checkbox"/>	x
Creation of new criminal offence	<input type="checkbox"/>	x
Impact on powers of entry	<input type="checkbox"/>	x