Position Fees for official controls

Position paper- DRAFT

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**Introduction**

EuroCommerce maintains that, in principle, commerce operators should not have to pay for the costs of official controls. Official controls are a public function that should be performed by a public authority and paid with public funds.

If a cost recovery system is maintained than this should *at least* be based on cost sharing between public and private sector.

Regarding the method of calculation (article 79): the criteria should be common for all FBOs/Food sectors, i.e. in compliance with the legislation and actual costs according to the list (not according to the type of product, activity, …)

**Action 1: Members to agree on highlighted paragraph**

**I. Cost sharing scenario**

1/ The following costs should be paid by public funds:

* All staff training;
* All administrative overheads;
* Travel and subsistence costs for staff performing the official controls;
* All activities done in the light of coordinated assistance between member states;
* All co-financing of EU mandatory coordinated control plans (such as in the case of the horsemeat crisis).

2/ The private sector could consider paying for:

* Controls with an economic incentive such as to obtain the necessary certification, permit or registration; (including fees for border controls)
* Additional controls in the case of non-compliance or follow up investigation;
* Direct costs related to food safety controls as stated in Article 79(1)(b) and costs of lab testing.

**Action 2: Members to agree to /add acceptable costs**

**II. Flat rate vs. direct costs**

**Option 1: Flat rate system:**

**(+)** More predictable for companies

**(+)** Avoids situations where CA will focus on controls that are easy to implement and/or that bring in most funds, instead of risk-based approach.

**(+)** Allows for Bonus/Malus system (if B/M system is based on the compliance with legal food safety requirements).

**(-)**  Everybody pays also businesses that do not get a control.

**(-)** Not suitable for cost sharing approach

Calculation

* In the calculation of the fee, the capacity to contribute by a company, as well risk rating should be taken into account. *(how can this be determined – which proof/criteria?)*
* Calculation of the flat rate fee should be based on well-defined notions, unlike terms currently used such “sector”, “activity” and “category of operators” to avoid differences in interpretation at MS level.
* A flat rate system should be developed per “sector” and therefore specific budgets need to be calculated for each department dealing with different controls such as animal health, animal welfare and plant health. Each sector should contribute only to those controls done in their own fields.
* Its calculation should be based on the budget needed to do these sector specific controls. These costs can include:
	1. the salaries of the staff, including support staff, involved in the performance of official controls, their social security, pension and insurance costs;
	2. the cost of facilities and equipment, including maintenance and insurance costs;
	3. the cost of consumables, services and tools;
	4. the cost of sampling and of laboratory analysis.
* The following costs should never be included in the overall calculation:
	1. the cost of training of staff
	2. the cost of travel of the staff
	3. associated subsistence costs of staff;

**Option 2: Direct cost system**

**(+)** Only the company which is controlled has to pay.

**(+)** Calculation of fees is more transparent for the business

**(-)** Planning of control based on “income” instead of risk based income of controls

**(-)** Unclear how much revenue can be expected for the CA (sustainability?)

Fees are calculated based on the actual costs of each individual official control as stated in Article 79(1)(b).

**Option 3: Subsidiarity principle**:

Fees system to be defined by the individual Member States according to an approach considered most adapted to the local situation as long as it is risk based taking into account the own or third party controls done by the operator.

**Action 3: Members to agree on preferred option**

Members positions

Direct cost: UGAL, WKO, FCD, Danish Chamber of Commerce

Flat rate: Swedish Chamber of Commerce.

No position: HDE, CBL, APED

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**Note UGAL – clear legal terminology**

9. For example, a Member State could define a sector as broad as “retail” without taking into account the different natures and structures of the operators of the sector (integrated chains, groups of independent retailers etc.) and determine a fee that could be unfair or simply inadequate. As indicated above, an independent retailer operating a small supermarket could be subject to disproportionate costs which do not correspond to the structure/size of its business.

As a general principle, costs for official controls should be adapted to the situation of the companies being inspected. This could be done through a „graduated fees‟ system whereby fees would be proportionate to i) the capacity to contribute of the company being controlled and ii) the cost of the controls. Such a system would allow for a fair distribution of costs among food supply chain operators and a sustainable controls system. This is an improvement when compared to the system proposed in the draft Regulation, whereby the cost of a control can be based on the number of employees/turnover (for micro enterprises), or merely a flat rate.

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