

UEAPME¹ answers to the survey in the framework of the evaluation of the Regulation (EC) No 178/2002 of 28 January 2002 on the General Food Law (GFL)

Brussels, April 2015

UEAPME (The European Association of Craft Small and Medium Sized Enterprises) is the employer's organisation representing the interests of European crafts, trades and SMEs at EU level. UEAPME is a recognised European Social Partner and umbrella organisation of 12 million enterprises with nearly 55 million employees.

The food sector is organised in national cross-sectorial SME federations, European branch federations and other associate members. The typical SME in food has an average of 5-6 employees. The SMEs in the food sector have B2B and B2C relations.

The application of the GFL by the MS and CA should bear in mind these food business operators through the think small first principle and the set-up of a clear and comprehensible legal framework in which they can operate in Europe.

Abbreviations used in the document

CA = Control authority
 B2B= Business to business
 B2C= Business to consumer
 GFL = General Food Law Reg. 178/2002
 MS = Member States

UEAPME has responded to the online questionnaire separately and these are the findings of the joint evaluation with all the members of the UEAPME Food Forum.

Specific remarks

The application of the GFL did not create particular difficulties to SMEs thanks to the flexible approach adopted in the implementation of the obligations foreseen.

Nevertheless, it is important to focus and amend some specific issues.

¹ UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](#).

UNION EUROPEENNE DE L'ARTISANAT ET DES PETITES ET MOYENNES ENTREPRISES
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 UNIONE EUROPEA DELL'ARTIGIANATO E DELLE PICCOLE E MEDIE IMPRESE

- Impact Assessment (New Article 8 bis)

To start with, we recommend that a further article be added to the regulation as Article 8b which demands to take into consideration the impact regulations and interpretations may have on small and micro food business operators (after article 8 which is on the protection of consumers' interests). There must be a regulatory demand for the protection of small business' interests, also.

In order to achieve the free movement of food and feed due account shall be taken of the impact food law and any interpretations may have on food and feed businesses. It shall aim at the prevention of:

- (a) Demands that may not be practical for all enterprises irrespective of size*
- (b) Demands that may favour particular sizes of business*
- (c) Any other obligations that may jeopardise the supply of adequate safe feed and food.*

The free movement of safe and wholesome food is an essential aspect of the internal market and contributes significantly to the health and well-being of citizens, and their social and economic interests.

-Traceability (Article 18)

The existing system of “one up one down” as defined in the regulation works well and should not be amplified as suggested by some member state CAs. That would only add to bureaucracy for no apparent benefit. However, there is a need for some clarification and flexibility.

According to the European guidance on the application of the GFL and to avoid an “extensive” interpretation by national CAs, it is important to state that the obligation to say *who is the supplier and what he has supplied* is limited. That is to say that a food business operator must display the supplier who is “one up” and tell the competent authorities, only upon request, the essential information concerning his supplies: name and address of the supplier; nature and quantity of the goods received.

A bakery in the UK does not necessarily know if he is engaged in a B2B or a B2C transaction. In the latter case no record of sale is required. In the first case if a café owner bought bread for their customers without saying they were a business, the bakery would not know that the sale had been to a business. The bakery would not know and therefore this should not constitute an offence.

The same applies to the case where the food business operator sells/delivers the goods. The food business operator must display the buyer who is “one down” and tell the competent authorities, only upon request, the essential information concerning his goods: name and address of the buyer; nature and quantity of the goods sold. (This last point is not applicable in the case in which the buyer is the final consumer.)

Concerning the obligation of the registration of the raw materials bought by the operator and the products sold by the same operator, it is enough to keep the information related to name and address of the supplier/buyer; nature and quantity of the good received/sold, date of receipt/delivery.

This registration could be done through an existing mechanism as long as the operator is able to inform the CA.

The GFL does not foresee for the food business operators the obligation to have an “internal” traceability. It is up to the food business operators to decide if it is better for them to have or not an internal traceability. On the one hand internal traceability can have a positive impact and be a useful tool to optimize the production and to contribute to hold down the costs that could occur in case of recall of products. On the other hand internal traceability can be difficult or impossible and have devastating implications for a small food business producing several different customised products at a time. Some MS request internal traceability.

A local bakery in Luxembourg produces and sells Quiche Lorraine. The ingredient of meat might be used from the day before in the next product. Therefore, with a very small production and customised products it is difficult to apply the internal traceability.

A butcher producing and selling sausages has a similar case against internal traceability. To offer customised products on a small scale he needs to use ingredients in a more versatile way. A sausage might be made of meat from the day before and the supplier might vary. Internal traceability causes problem, here, too.

A bakery in the Netherlands makes 30 kinds of breads and 50 kinds of cakes and pastries during the day. The main ingredient of the bread is wheat flour that is stored in a big silo from one supplier. When the supplier informs the bakery that there is a problem with the flour it could mean that the bakery has to throw away 3000 kg of flour. It also means that the baker has to throw away almost all of his goods and he has to inform all of his consumers. A problem with that is that the product has already been eaten before one can inform the consumer. A croissant, small bread and other fine bakery goods are often eaten within 24h after production.

-Definitions (Article 3)

Whilst definitions are generally satisfactory there is need for a comprehensive list of all terms used in secondary legislation compiled in the GFL.

In addition, we plead for a definition at European level of hand-craft enterprise that takes into account the "nature" of the production, independently from the size linked to the number of employees. This latter, in a craft business could be high, due to the meaningful manual contribution to the production done by the employees. (The Reg.178/2002 lacks a definition of handcraft production and, moreover, at point 19 of Annex V of Reg.1169/2011 only one reference is made to “food including handcrafted food” in an enterprise which produces and sells directly small quantities of products without defining the quantity).

Regardless of the number of employees such a craft business must be granted the same benefits as an SME.

-Liability (Article 21)

The questions to do with liability of defective products are regulated according to national law. However, the application of national law might lead to differing interpretation by MS which might jeopardize fair competition. In addition the national law needs to be clear and comprehensible by all food business operators.

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