



**Consumer  
Focus**  
Campaigning for a fair deal

**Consumer Focus response to Food  
Standards Agency consultation  
review of regulatory framework  
(England) (Wales) and (Scotland)  
October 2009**

# About Consumer Focus

---

Consumer Focus is the statutory organisation campaigning for a fair deal for consumers in England, Wales, Scotland, and, for postal services, Northern Ireland. We will be the voice of the consumer, and work to secure a fair deal on their behalf. We were created through the merger of three consumer organisations – Energywatch, Postwatch and the National Consumer Council (including the Welsh and Scottish Consumer Councils). The new approach allows for more joined-up consumer advocacy, with a single organisation speaking with a powerful voice and able to more readily bring cross-sector expertise to issues of concern.

[www.consumerfocus.org.uk](http://www.consumerfocus.org.uk)

## Summary

---

The Food Standards Agency (FSA) has developed a regulatory framework for decision making which outlines how it will:

- put consumers first
- be open and transparent
- act as an independent voice using the best available evidence

The Consumer Focus *Rating Regulators* report 2009 noted that the FSA is best in class for transparency and has a strong consumer-focused culture. It notes that the FSA has 'comprehensive systems in place to identify food safety risks, but it has sometimes been reluctant to take a lead on other policy matters, such as issues related to new technologies and sustainability<sup>1</sup>'

The 'Framework for Regulatory Decision Making' provides a clear signal about how the FSA intends to achieve its objectives. Key principles of intervention include taking into account the consumer interest and the risks of inaction. These are vital to ensure consumer confidence in the FSA.

These important areas should be incorporated into the Agency Strategic Plan 2010-2015 currently being developed.

---

<sup>1</sup> Steve Brooker & Anne Taylor Rating Regulators Food Standards Agency 2009  
[www.consumerfocus.org.uk](http://www.consumerfocus.org.uk)

# Responses to specific questions

---

## **Q1: To what extent would you say that the FSA's regulatory interventions:**

### **1.1 are evidence-based, proportionate, and risk-based?**

It is important that the FSA is at the forefront of developments where ethical considerations may be more apparent than scientific evidence. It must instruct action itself or within Government to work in the best interests of consumers.

The ethics around controversial policy issues such as cloning, nanotechnology and GM are less clear than areas such as nutrition, but none the less have important implications for consumers.

We welcome the FSA efforts in this regard for example working alongside Government, with an independent steering group, to facilitate public debate on GM, including consumer engagement work on issues surrounding GM food and feed.

### **1.2 use the market, where appropriate, to achieve change?**

The FSA has successfully harnessed consumer power to provide an incentive for food businesses to change their behaviour, for example in advocating a front of pack traffic light nutrition labelling system. Utilising the market has also been successful in salt reduction through food category specific salt targets.

Major publicity campaigns – using all media, including TV advertising, to promote key messages, for example on salt intake, traffic-light labelling and cooking food safely are also important in influencing consumers and therefore the market. Investment in these and consumer behaviour change initiatives including using social marketing techniques should continue to push the market to make change for the consumer benefit.

### **1.3 focus on practical and deliverable solutions?**

The FSA has approached initiatives such as salt reduction in practical and deliverable ways. It has focused not on a single approach but a package of initiatives reflecting often complex causal interrelations. Results show a reduction in salt intakes, indicating that a multi-directional approach, including in this case, influencing the wider environment through working with caterers, retailers and manufacturers on reformulation labelling as well as consumer campaigns can prove fruitful.

### **1.4 minimise regulatory and administrative burdens where this does not compromise outcomes?**

Unnecessary regulation harms consumers when the true costs of regulation are passed on by business to consumers or taxpayers, as the costs of regulation grow.

We consider that the better regulation team within the FSA as a positive and necessary use of resource to ensure appropriate regulatory intervention.

## **1.5 drive improvement and reward good performance, whilst seeking firm action against those who persistently fail to meet acceptable standards, or negligently expose the consumer to serious risk?**

Firm action is required to tackle food safety issues. The FSA could do more to improve consumer trust in areas such as misleading labelling.

Regulators hold information about the compliance records of businesses which inform consumer choice and stimulate improved business compliance. For example the FSA publishes restaurant food hygiene inspection results, which give restaurant owners a commercial incentive to improve their practices. Similar action to publish properly contextualised firm-specific data on misleading labelling will help improve consumer trust in food businesses.

## **1.6 take account of ethical issues surrounding food?**

The Government announced in the Cabinet Office report 'Food Matters, towards a strategy for the 21<sup>st</sup> century' a commitment to a food system that is more sustainable – economically, socially and environmentally. The report stated that future strategic policy objectives should be to secure:

- fair prices
- choice
- access to food and food security through open and competitive markets
- continuous improvement in the safety of food
- a further transition to healthier diets
- a more environmentally sensitive food chain

The FSA needs to be at the heart of cross-Government working to ensure a more sustainable food system.

The FSA has appeared reluctant to embrace the sustainability agenda. This is difficult ground for the FSA because there are potential conflicts to resolve between nutrition needs and sustainability principles, for example around fish consumption. Defra (and the devolved administrations) are responsible for achieving the sustainable production of fish, but the FSA has a role to promote the nutritional benefits of eating more fish. These trade-offs are hard for consumers to figure out, so it is important for there to be a source of independent advice for them to turn to. We look forward to taking part in the debate on these issues when the FSA publishes its programme on healthy sustainable food advice.

## **Q2. To what extent would you say that as a regulator the FSA:**

### **2.1 supports voluntary approaches, using the market to achieve change, provided they deliver proportionate consumer protection and are consistent with the requirements of EU law?**

While the FSA has an extensive toolkit with respect to food safety, it has few powers related to other matters, such as its role in promoting healthy eating. The FSA must therefore rely on consumer empowerment and encouraging voluntary approaches from the food industry, or ask Government to introduce change. While voluntary approaches are not necessarily a bad thing, a lack of powers in this area does reduce its options and stakeholders will be aware of these constraints in negotiations. This makes it important for the FSA to show it is ready to call on Government to introduce mandatory measures when necessary. Consumer Focus recognises that there are limitations here, for example it is not possible to introduce legislation in areas which have been fully harmonised at EU level.

### **2.3 seeks to work collaboratively with responsible businesses, and/or their representative organisations, to protect consumers?**

We welcome the FSA's efforts to collaborate with businesses in order to ensure the best possible outcomes for consumers.

### **2.4 works with enforcement bodies to help responsible businesses comply and to penalise those that are wilfully and repeatedly noncompliant, or seriously negligent with respect to consumer safety?**

The FSA is very dependent on local authority regulatory services to identify problems on the ground it is crucial that there are adequate resources and reporting mechanisms to ensure that all relevant information is fed back centrally.

### Q3. Particularly aimed at consumers: do you think regulations on food should focus primarily on:

- making sure food is safe?
- healthy eating for all?
- making sure food information is comprehensive and easy to understand?
- setting food compositional quality standards?
- making it as simple as possible for businesses to comply and so perhaps keeping down prices and keeping a wide range of products?

A regulatory approach is one lever to induce change. A regulatory approach should be taken forward in consideration with other tools with due regard to potential for success and consumer protection requirements.

We note that the FSA has a range of options to choose from, including a regulatory approach, for important issues including safe healthy eating for all, and easy to understand information to enable an informed choice. It is important that a range of methods are utilised to ensure these outcomes and that a regulatory approach is one option that can and should be utilised depending upon the issue in question.

The FSA programme of work relating in reducing public intake of salt (healthy eating for all) is an example where a regulatory approach may not be as appropriate as utilising other tools. The programme of work taken forward including public education campaigns and dialogue with business for salt reduction has had some success without a legislative platform being put in place.

There is a need for work to ensure consumers are not misled and a regulatory approach may be suitable in this area. Concerns over nutrition and health claims, marketing terms and references and labelling data have been raised in the media, by Non-Governmental organisations and noted by the FSA's own research<sup>2</sup>. The recently published research on comprehension and use of UK nutrition signposting labelling schemes found that trust in labels was a barrier to their use. Without confidence in the truth of marketing, consumers could be reluctant to make the informed healthy choices the Government would like to see. If consumers are to regain their trust in food labels, strong leadership by the FSA is needed and this may include a regulatory approach.

---

<sup>2</sup> Review and analysis of current literature of consumer understanding of nutrition and health claims made on food April 2007

**Authors**

Jeff Alder

**Senior Policy Advocate**

Lindsey Kearton

**Senior Policy Advocate Consumer Focus Wales**

Mary Lawton

**Senior Policy Advocate Consumer Focus Scotland**

**Contact for further enquiries:**

[jeff.alder@consumerfocus.org.uk](mailto:jeff.alder@consumerfocus.org.uk)

**Tel: 0207 799 7975**

[www.consumerfocus.org.uk](http://www.consumerfocus.org.uk)

Copyright: Consumer Focus

Published: October 2009

If you require this publication in Braille, large print or on audio CD please contact us.

For the deaf, hard of hearing or speech impaired,  
contact Consumer Focus via Text Relay:

From a textphone, call 18001 020 7799 7900

From a telephone, call 18002 020 7799 7900

**Consumer Focus**

4th Floor  
Artillery House  
Artillery Row  
London  
SW1P 1RT

Tel: 020 7799 7900

Fax: 020 7799 7901

Media Team: 020 7799 8005 / 8006