



20 November 2009

UEAPME position on Inspection fees from EC 882/2004

Summary

The UEAPME position is that the costs of regular inspection should not be recovered from those being inspected. The rationale and logic for this position is set out below.

Current practice

The European Commission is of the opinion that inspection fees or charges imposed on feed and food business operators are among the tools that Member States can use to make adequate financial resources available for organising official controls.

The current law is “Member States shall enforce food law, and monitor and verify that the relevant requirements of food law are fulfilled by food and feed business operators at all stages of production, processing and distribution”. (EC 178/2002 article 17.2). The situation all over Europe however, is much more complicated than the Commission has foreseen it in the regulation. This is shown by the study which was elaborated by an external contractor

- to describe the inspection fees systems as implemented in the 27 Member States;
- to consider possible changes/improvements to the Community provisions.

The study found a wide variety of practices and charges. Some Member States have accepted that it is their role to protect consumers. Other States have seen this statutory role as one that could generate money. The picture across all 27 States is diverse and confused at present. The research shows a very different outline for the implementation of EC Regulation 882/2004 for both countries and sectors. This situation has not created the expected “level playing field” for SMEs, but on the contrary we record a de facto distortion of free competition between businesses.

The enforcement of food law is for the protection of consumers. It is not a subsidy to the industry. The food industry from very small to large would be more profitable if it did not have to spend time convincing unwelcome inspectors that it is complying with the rules.

Principles

1. All inspections are to protect consumers. Consumer protection is an obligation of the state.
2. Consumers must trust in the responsibility, enforcement and financing of the basic controls by public funding.
3. Businesses should know what possible additional charges if any are.
4. Any charge on business for inspection must be seen as a burden on that business.
5. There should not be a disproportionate charge per throughput between large and small undertakings.
6. The Commission could set up permanent observers to ensure consistent application of food law as envisaged in article 13 of EC 178/2002.
7. Detailed regulations on the implementation of inspections must not be ruled by the EU.

Justification and logic

Visits by inspectors are for several different reasons. Their frequency and duration are by decision of the inspector, not the business. Therefore visits to enforce general food hygiene regulations should not carry a charge. Visits may be to “approve” premises to be used for the processing of products of animal origin. (EC 852/2004 article 6.3). They should not carry a charge. Visits may also be made to premises where products of animal origin are processed. These may be to ascertain the fitness of stock for slaughter, animal welfare considerations or the enforcement of hygiene and safety legislation. In high throughput plants inspectors may need to be permanently on the premises. Such visits or presence could carry a maximum charge based on the numbers of animals checked.

Visits may also be made when there is suspicion that a contravention of the rules has taken place. Such visits must carry no charge to prevent mischievous and malicious accusations of malpractice. If however confirmed evidence is found of malpractice then, on conviction, the business could be charged at least the cost of the investigation but also a fee to deter repetitions.

Inspection is not a subsidy to the industry. Inspectors and producers, processors or distributors are complementary to each other. They both have the same aim of ensuring the product is safe.

Different traditions in the public administration and food control systems (federal states) result in different schemes of inspection which cannot be harmonized on European level.

Therefore members of UEAPME see it as the duty of competent authorities to protect consumers by undertaking routine inspections. We are concerned, after looking at the evidence provided in the independent research, that article 28 of EC 882/2004 may not be applied fairly in all circumstances. We recommend the seven principles shown above.

Brussels, 20 November 2009