

CRL Fees

FEFANA would like to thank the Commission for consulting our industry on the project of updating the Commission Regulation 378/2005 on the task and duties of the Community Reference Laboratory for feed additives authorisations under Regulation 1831/2003. As rightly pointed out by the Commission, the experience gained so far with this Regulation allows a better appreciation of the functioning and consequences of the measures sets, which are now being subject to potential revision.

In 2005, the Regulation No 378/2005 set up a fee for the handling of samples and the evaluation analytical methods for the control of feed additives in feeds. This fee was to be paid to the CRL and was set at a nominal level of 3000 Euros. FEFANA at that time already raised concern on the application of such a fee especially for the application not linked to a specific holder but reckon that the fee was subject to revision. The current proposal to double the level of the fee raises serious Industry concern.

Indeed, there are two types of authorisation foreseen in the Regulation No 1831/2003:

- Holder specific authorisation:
 - o The applicant is well defined and is individual
 - o The feed additive is specific to the applicant
 - o The applicant gets individual benefit from the authorisation
 - o The method of analysis evaluated by the CRL is specific to the feed additive
 - o The samples of feed additive are well defined and the renewal of the samples can be organised by the holder of the authorisation for the period of the authorisation
- Non Holder specific authorisation:
 - o The applicant may not be the only one placing the additive on the market
 - o There is no exclusive benefit from the authorisation for the applicant
 - o The products placed on the market (feed additive or preparation) are not exactly the same for all suppliers, i.e. the sample is only one example of the products being placed on the market
 - o The method of analysis should be valid for all forms of the feed additive placed on the market (i.e. harmonised, common analytical method)
 - o The first applicant may stop production and may not be in a position to continue the replacement of the feed additives in the CRL collection.

As foreseen by the Regulation No 378/2005 Article 4(3):

'The adaptation shall take into account the experience gained during the operation of this Regulation and in particular the possibility of fixing different fees for different types of applications'.

In line with legal difficulties already identified by the Commission in other context, FEFANA considers that the setting of a fee should be limited to the holder-specific authorisations. In the case of non-holder-specific authorisations, there is no clearly identified beneficiary and the applicant is one of several who might profit from the authorisation. It would be unfair that this applicant has to bear additional cost and burden related to the analytical aspects and this will suppose an official recognition of the representativity of this applicant which is in fact not possible; FEFANA considers that the current fee is not justified and proposes to take advantage of the current revision of the fee to withdraw any fee for non-holder-specific authorisations. For the reasons explained above, we also propose to reconsider the need to supply samples for non-holder specific authorisations.

Regarding the increase of the fee for the feed additives subject to holder-specific authorisation, FEFANA can agree that the fee paid should contribute to the real costs of administering and handling

the part of the application managed by CRL and its NRLs. We however cannot support the suggestion made in your letter that this fee should reinforce the stimulus to the NRLs to actively participate in the process. As established in comparable contexts, the fee must be based on the cost of the service rendered; what also requires that analytical instruments be put in place enabling the actual costs to be measured. If this would not be the case, the fee would be seen as a direct tax on the industry, levied to fill the shortfall in CRL funding as a result of inadequate government resourcing.

It is indicated by the Commission that the cost of administration and handling have increased and have been better evaluated on the basis of the recent experience. We are missing any tangible justification in this area and, should the Commission pursue in this direction, FEFANA requests access to documents and particular audit which will be capable to justify such a request.

Should the Commission and CRL consider that the burden of establishing the necessary instruments is not worth the potential benefit, we would suggest maintaining the flat fee contribution at the current level for the holder-specific authorisations, which in our understanding is reasonably covering costs for the service.