



FEFANA position on the differentiation of feed materials and feed additives

Issue

1. Feed operators and competent authorities are daily faced with questions regarding classification of products. The distinction between different types of feed is a critical issue since the legal framework and the regulatory requirements are different. The safety assessment and management is also fundamentally different in these two cases. It is now more critical since regulation 767/2009 opens new potential for feed materials regarding labeling and claims.

Background

2. The new regulation on Marketing and Use of Feed N°767/2009 indicates in its art. 7.1 that the Commission may adopt **guidelines clarifying the distinction** between feed materials, feed additives and other products such as veterinary drugs.
3. Regulation (EC) No 767/2009 of the European Parliament and of the Council on the placing on the market and the use of feed, states in Article 1 that its objective is to (...) "ensure **a high level of feed safety** and thus a high level of protection of public health, as well as to provide adequate information for users and consumers and to strengthen the **effective functioning of the internal market**".
4. Article 3.2 (g) defines **feed materials** as "products of vegetable or animal origin, whose principle purpose is to meet animals' **nutritional needs**, (...) which are intended for use in oral animal feeding (...) or as carrier of premixtures". The article provides no further definition on nutritional needs, although 'Whereas 11' alludes to the intentions of the legislator indicating that "feed materials are primarily used to **meet animal's needs**, for example for energy, nutrients, minerals or dietary fibres. They are usually not chemically well-defined except for basic nutritional constituents". It goes on to say that **effects** which can be justified by scientific assessment and which are exclusive **to feed additives** or veterinary drugs should **be excluded** from the **objective use of feed materials**.

5. **Feed additives** are defined in articles 2 and 5(3) of Regulation (EC) No 1831/2003 as “substances, micro-organisms or preparations, other than feed material or premixtures, which are **intentionally** added to feed or water **in order to perform** , in particular, one or more of the **functions** mentioned in article 5(3) *i.e.* to:
- (a) Favourably affect the characteristics of feed,
 - (b) Favourably affect the characteristics of animal products,
 - (c) Favourably affect the colour of ornamental fish and birds,
 - (d) Satisfy the nutritional needs of animals,
 - (e) Favourably affect the environmental consequences of animal production,
 - (f) Favourably affect animal production, performance or welfare, particularly by affecting the gastro-intestinal flora or digestibility of feedingstuffs, or
 - (g) Have a coccidiostatic or histomonostatic effect.

Based on these, Annex 1 of that Regulation described for better clarity the functions.

6. Article 3.1 of 1831/2003 then specifies that ‘no person shall place on the market, process or use a **feed additive** unless: (a) it is covered by an **authorization** granted in accordance with this Regulation (...)’. Article 5.1 then requires that an authorization should only be given where it has been adequately and sufficiently demonstrated that the conditions of **use intended are met**, the requirements on safety to the animal and consumer and the intended use with regards to information passed to the user are met and that the **additive performs the functions** listed at paragraph 5 above.

FEFANA Position

FEFANA supports the establishment of such guidelines and considers these guidelines of utmost importance to ensure fair competition and sustainability of the business. The criteria to define what a product is should be consistent and reliable (see paragraphs 9, 10, 11). FEFANA considers that the legal concept of Feed Additives in Europe is largely underlined by functionality and the intended purpose of their use. The fact that a product can have different status is intrinsic to the definitions.

FEFANA position considerations

7. Initially, it may seem there are no clear distinctions between feed additives and feed materials, since many products used as one or the other could fall with both definitions. This therefore leads to a number of so-called ‘grey zone’ products creating uncertainty.
8. The definition of feed additives suggests that they cannot also be classified as feed materials *i.e.* they should be intentionally added and perform the functions listed at paragraphs 5 and then 6 above. FEFANA doesn’t support a hierarchical approach to deciding the status of a particular product. FEFANA supports the view that a product could **exist as both** a feed additive and a feed material, since FEFANA considers that the classification should be based on their intended use.

9. FEFANA agrees that **reliable differentiation of feed materials and feed additives** cannot be made only on the basis of usage level, cost or any other single parameter. However it is clear that some products on the market and being traded as feed materials are included in feed only because of the **function(s)** they contribute. Such functions may be associated to those clearly required to be included in applications for additive authorization (see above paragraph 5). Should the interpretation of the law then allow certain feed materials to circumvent the requirements of Regulation 1831/2003, then the intentions of article 1 of 767/2009 concerning effective functioning of the internal market will not be reached.
10. FEFANA has developed a tool, showing that a combination of criteria can allow the correct classification of a product. The most important criteria is the **indented use**, which can be: **provide nutrients** (“does the product have a nutritional value ? “) or **perform a specific function** listed at paragraph 5 above. (“is the product intended to be used for a function defined in art 5 on the feed additive legislation the regulation 1831/2003 ?”)
11. FEFANA believes that should **feed material** status be applicable only to products which significantly **contribute specified macro-nutrients** to the diet or which are inert and play a role as **carrier** materials for feed additives or premixtures. If **the intended primary purpose** of use of any feed is to provide feed additive **functionality**, defined in Regulation 1831/2003, then such feed(s) should be classified as **feed additives**.
12. It is unfortunate that it seems the Commission appears to be considering relaxing controls designed to harmonize the marketing and use of feed additives at this stage FEFANA therefore believes that any such move of stance by the Commission would have wider consequences including negative impact on feed safety as products claiming additive functionality and used specifically for that purpose will no longer be subject to strict safety assessments and controls. This surely is a step backwards for the industry.