



European Food Safety Authority

DECISION OF THE MANAGEMENT BOARD OF THE EUROPEAN FOOD SAFETY AUTHORITY CONCERNING IMPLEMENTING MEASURES OF TRANSPARENCY AND CONFIDENTIALITY REQUIREMENTS

THE MANAGEMENT BOARD OF THE EUROPEAN FOOD SAFETY AUTHORITY

Having regard to Regulation (EC) No 178/2000 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law; establishing a European Food Safety Authority and laying down procedures in matters of food safety, as amended by Regulation (EC) No 1642/2003 of the European Parliament and of the Council of 22 July 2003¹, and in particular Articles 10, 39 paragraph 3, 52 paragraph 1, 57 paragraph 2 and Chapter III Section IV thereof,

Having regard to Commission Regulation (EC) No 1304/2003 of 23 July 2003 on the procedure applied by the European Food Safety Authority to requests for scientific opinions referred to it², and in particular Article 2 thereof,

Whereas the Authority was established with a view to improve the confidence of EU institutions, the general public and interested parties in food safety matters and that a high level of openness and transparency contributes to achieving this objective through availability of objective, reliable, and easily accessible information,

Whereas the Authority is committed to ensure the widest possible public access to information it generates, except where specific and justified exceptions apply according to European Union legislation,

Whereas the Authority will ensure the protection of sensitive information, without prejudice of responsibilities assigned by law to the European Commission or the Member States.

Whereas confidentiality requirements may be waived in exceptional circumstances in order to protect public health.

HAS DECIDED

¹ OJ L 245, 29.9.2004, p. 4

² OJ L 185, 24.07.2003, p. 6

SECTION 1 – TRANSPARENCY

Article 1 – Commitment to openness and transparency

1. The Authority affirms that openness and transparency form an essential pillar of its culture and operating principles. It shall endeavor to maintain the highest possible standards in this respect throughout the spectrum of its activities.
2. The Authority shall in a proactive manner communicate about its activities and results, and disseminate information tailored to meet the needs of its different partners, stakeholders and audiences, using various media and communications tools.
3. The Authority shall whenever possible, subject to availability of resources, publish significant information in all its working languages.

Article 2 – Meetings of the Management Board

1. The Management Board shall have open meetings and closed meetings. All open meetings of the Authority's Management Board shall be held in public and reports from those meetings shall be made available on the website of the Authority. The attendance of the public shall take place both through live web stream available on the Authority's Internet site and by allowing attendance of a live audience. For each meeting, web stream playback will remain available on the Internet site for public consultation until the following Management Board meeting has taken place. Public attendance at Board meetings shall be allowed through advance notice through the Internet site of those wishing to attend in person. The period for giving notice shall expire one week before the Board meeting in order to allow for the necessary logistic arrangements to be made. Members of the public who choose to attend meetings in person shall have the right solely to observe and shall not be allowed to participate in the discussions.
2. In order to assist the public in following the debates, documents pertaining to agenda items shall be posted on the Internet site in advance of each meeting.
3. On a proposal from the Executive Director and in agreement with the Chairman, closed meetings of the Board may be organized. ~~to address internal administrative matters.~~
4. Agendas and minutes of Management Board open meetings shall be published on the Authority's internet site.

Article 3 – Advisory Forum meetings

Agendas and minutes of meetings of the Authority's Advisory Forum and its working groups shall be published on the Authority's internet site.

Article 4 – Scientific Committee and Scientific Panels

The Authority shall make public on its Internet site:

1. Agendas and minutes of meetings of the Scientific Committee and Scientific Panels.
2. All scientific opinions in their original language, minority opinions always being included, together with summaries in all its working languages as soon as they are available.
3. The Authority's scientific opinions for publication shall contain references to information on which they are based, except where such background information is considered confidential in accordance with the criteria and procedures referred to in Section II of this decision.
4. Reports from Scientific expert working groups separate from the Scientific Committee and Panel structures, e.g. on BSE/TSE or zoonoses monitoring and data collection
5. Draft opinions or reports where open consultation has been specifically agreed by the Executive Director in consultation with the Scientific Committee or a Scientific Panel.

Article 5 – Declarations of interest

1. The annual declaration of interests of members of the Management Board, Advisory Forum, Scientific Committee, and Scientific Panels and of the Executive Director and the Deputy Executive Director shall be published on the Authority's Internet site.
2. Ad hoc declarations of interests made in relation to agenda items shall be recorded in meeting minutes of the Management Board, Advisory Forum, Scientific Committee and Scientific Panels and other minutes issued by the Authority.

Article 6 – Requests for scientific opinions

1. The Authority shall make available on its Internet site all requests for scientific opinions submitted to it. The register shall include own initiatives opinions and other scientific work. The register shall include information on the identity of the originator/applicant, the panel to which the preparation of the opinion is assigned, relevant procedural milestones (date of reception and acceptance of the question, adoption and publication of the opinion) and the status or progress in the preparation of the opinion.
2. Requests for scientific opinions which have been refused or modified and the justification for the refusal or the modification shall be made public on the Internet site.
3. The register shall also include an indication of whether a document submission is being considered in the framework of the preparation of the opinion.

SECTION II - CONFIDENTIALITY

Article 7 – Individuals' obligation of confidentiality

Members of the Management Board, of the Scientific Committee and Scientific Panels, of the Advisory Forum and external experts shall sign a written declaration that they comply with the obligation to protect confidentiality. The Executive Director has extended this obligation to all staff of the Authority.

This obligation shall last during the term of office or appointment and shall continue even after their duties have ceased.

Article 8 – Scope and assignment of confidentiality

1. Unless in case of overriding public interest in disclosure, the Authority shall not divulge to third parties information for which confidential treatment has been assigned.
2. The overriding public interest in disclosure shall be considered in exceptional circumstances, in particular in case a food or feed presents risks to public health. Where applicable, the highest level of transparency shall apply, with proactive communication on product identification, the nature of the risks and the measures taken to prevent, reduce or eliminate such risk.
3. In assessing whether information is confidential, the Authority shall consider whether its disclosure would be likely to:
 - Cause financial loss or facilitate improper gain for individuals or companies
 - Breach undertakings to maintain the confidence of information provided by third parties

- Breach statutory restrictions on disclosure of information
 - Disrupt significantly activities of the Authority.
4. The Authority shall develop operational procedures governing the assignment of confidentiality and the declassification of documents.

Article 9 – Confidentiality of product or substance related information

1. The Authority shall duly take into account specific provisions as regards confidentiality set out in Community legislation governing the scientific evaluation of substances, products or procedures subject to a system of prior authorization or entry into positive list. These provisions relate in particular to the consultation procedure between the European Commission and the applicant on the assessment of confidentiality, the scope of information that cannot be considered confidential, the content of public summaries of applications and the status of information in case the application is withdrawn.
2. The confidential nature of information shall be assessed by the Authority on a proposal from the originator, applicant or notifier. Where applicable, the Authority shall duly take into account or follow confidentiality assignments previously established by the European Commission or a Member State where these are justified under EU legislation.

Article 10 – Access to information by Member States and Commission

The Member States, through the Advisory Forum membership or pre-identified contact points, and the European Commission shall upon request have access to all information referred to in Article 9, irrespective of whether it is confidential. In case the information is classified confidential, the recipients shall fully maintain such confidentiality and information will be passed on only with the agreement that they will maintain confidentiality.

Article 11 – Entry into force and review

This decision shall enter into force on 10 March 2005. The Management Board will review this decision, in the light of experience gained in its implementation, by July 2006.

Done at Parma on 10 March 2005

Dr Stuart Slorach
The Chair