

Vaughan Gething AC / AM
Y Dirprwy Weinidog Iechyd
Deputy Minister for Health



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref LF/VG/0807/15

David Melding AM
Chair of the Constitutional and Legislative Affairs Committee
The National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

23 September 2015

Dear David,

Thank you for your letter of 8th July to Carl Sargeant AM, Minister for Natural Resources, regarding the European Commission's proposals for genetically modified food and feed. I am responding as this matter falls within my portfolio.

The Food Standards Agency (FSA) is the competent authority for genetically modified (GM) food and feed, and as a non-Ministerial Government Department advises the National Assembly for Wales and the Welsh Ministers through me as Deputy Minister for Health. The Deputy Minister for Farming and Food also has an interest in this issue as the Welsh Ministers are the competent authority in Wales for the purposes of the deliberate release of genetically modified organisms into the environment.

You asked specifically about the ability of devolved administrations to take their own decisions in relation to this proposed legislation. The FSA advises that the European Commission's proposals to reform the authorisation process for GM food and feed by amending Regulation 1829/2003 is at an early stage and there is insufficient certainty at the present time as to how the proposals would work in practice.

The Welsh Ministers have existing powers in relation to food and animal feed in the context of the European Union. The European Communities (Designation) (No2) Order 2005 designates the Welsh Minister for the purposes of section 2 (2) of the European Communities Act 1972 in relation to food and feed. The Welsh Ministers also have powers in relation to "*measures relating to the control and regulation of the deliberate release, placing on the market and trans-boundary movements of genetically modified organisms*" under the European Communities (Designation) (No.4) Order 2003 No.2901.

Any assessment as to whether the power conferred by these designation orders would be sufficient to allow the Welsh Ministers to "take their own decisions" will involve a detailed consideration of the finalised EU regulation.

You also asked about the discussions the Welsh Government have had with the UK Government. The FSA as the competent authority is in regular dialogue with both UK Government and the European Commission regarding this proposal. The Right Honourable Elizabeth Truss, Secretary of State for Environment, Food and Rural Affairs, wrote to me recently seeking my views on the proposal prior to the EU Agriculture and Fisheries Council meeting in July.

The Welsh Government supports the UK Government's position which is not to support the proposal to amend Regulation 1829/2003 because the analysis has identified a number of significant concerns:

- it undermines the principle of the EU single market, which we support. It could impact on existing trade flows in GM products into and within the EU;
- national bans for non-safety reasons undermine the principles of science-based regulation, and of allowing fair market access for safe products;
- to date we have not been able to identify the non-safety grounds which might be WTO compliant or defensible under EU law;
- the UK livestock sector is heavily dependent on imported GM feed, using upwards of 3 million tonnes per year (70% of total UK animal protein feed). If a number of Member States banned the use of GM food and feed, the EU market could become far less attractive to the main exporting countries (Brazil, Argentina and the USA) and the effect on UK supplies and costs is unknown;
- the negative impact on wider international trade; and
- it has already had a detrimental impact on negotiations for the EU US Transatlantic Trade Investment Partnership.

I note the concerns of the other Assemblies outlined in your letter. Our concerns regarding the proposal, set out above, suggest a degree of similarity, particularly regarding the proposal's compliance with EU-law and the principle of the single market.

I am copying this letter to the Chair of the Environment and Sustainability Committee.

Yours sincerely



Vaughan Gething AC / AM
Y Dirprwy Weinidog Iechyd
Deputy Minister for Health

Carl Sargeant AC
Y Gweinidog Cyfoeth Naturiol
Llywodraeth Cymru

8 Gorffennaf 2015

Annwyl Carl

Cynnig am Reoliad Ewropeaidd ar Organebau a Addaswyd yn Enetig

Yn ein cyfarfod ar 22 Mehefin 2015, gwnaethom ystyried cynigion y Comisiwn Ewropeaidd ar gyfer Rheoliad newydd ynghylch defnyddio bwyd a bwyd anifeiliaid a addaswyd yn enetig.

Nodwyd nad oes unrhyw awgrym ym Memorandwm Esboniadol Llywodraeth y DU y bydd y gweinyddiaethau datganoledig yn gallu gwneud eu penderfyniadau eu hunain ynghylch y Rheoliad arfaethedig. Gan fod materion sy'n gysylltiedig ag amaeth wedi'u datganoli, a allwch gadarnhau mai Llywodraeth Cymru a'r Cynulliad Cenedlaethol fydd yn penderfynu ar y mater hwn? Byddai'n ddefnyddiol hefyd pe gallech ddarparu manylion am unrhyw drafodaethau yr ydych wedi'u cael â Llywodraeth y DU ynglŷn â hyn.

Rydym yn ymwybodol bod nifer o seneddau a chynulladau rhanbarthol wedi mynegi pryderon am y cynigion, gan gynnwys seneddau Thüringen (yr Almaen), Rwmania ac Iwerddon. Dyma grynodedb o bryderon Senedd Talaith Thüringen:

“Bearing in mind the very strict legal requirements set out by the Commission in its proposal, it is highly questionable whether it is actually possible for a Member State to adopt opt-out measures in compliance with EU-law, especially with regards to the international obligations of the Union. Questionable is also to what extent the involvement of all 28 EU states in the mandatory notification and control procedure contributes to fulfil the intended objectives.”



Byddai gennym ddiddordeb clywed i ba raddau, os o gwbl, yr ydych chi'n cytuno â'r pryderon hyn.

Yn gywir

A handwritten signature in black ink that reads "David Melding". The signature is written in a cursive style with a long, sweeping tail on the final letter.

David Melding AC

Cadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Croesewir gohebiaeth yn Gymraeg neu Saesneg.
We welcome correspondence in Welsh or English.

