

To: Business Taskforce

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Business Taskforce on EU Red Tape

The National Farmers Union welcomes the opportunity to input into the Government's business-led taskforce on EU regulation. The NFU represents more than 55,000 farmer and grower members and in addition some 40,000 countryside members with an interest in the countryside and rural affairs.

Regulation is a priority issue for farm businesses who regularly report ¹that administrative burdens and bureaucracy have a negative impact on their business. Much of the regulation that impacts on farmers and growers stems from policy and legislation set in Brussels.

The European Unions 'Directory of EU legislation in force' confirms that the agricultural sector has the second highest number of EU legal acts in force, second only to external relations. There are 3184 (as at 1 January 2013) specifically classed as relating to 'agriculture'. When taken alongside 'Environment and consumers and health protection' (a further 1724 acts) it is apparent just how significant a role the EU plays in farmers everyday lives. This review is therefore a timely opportunity to highlight proposals for reform to European rules, and regulations that have the most impact on agricultural businesses.

The NFU objective is to ensure the right framework is in place to allow our member's businesses to grow and flourish, ensuring that UK farmers can contribute to make a meaningful contribution towards addressing the global challenges that society faces. For this to happen we believe that the conditions under which our members operate must be fair. Given that we operate on an EU common market, UK farmers must be able to compete on level playing field with our European competitors. In practice, application and implementation of EU regulations and Directives has led at times to UK producers being placed at a competitive disadvantage.

This particular review follows on from a recent succession of better regulation initiatives and reviews to address the impact of red tape and flow of new regulation. These have included:

- Farming Regulation Task Force
- Animal Health and Welfare and Food Law Balance of Competences review
- Environment and Climate Change Balance of Competences review
- Agriculture, Plant Health and Forestry Red Tape Challenge

In responding to these reviews we have highlighted areas where EU regulation could be improved to reduce the regulatory burden on agricultural businesses. We have referenced these in our response where applicable. Our responses have also made clear that Member States need to recognise that their role in implementation can also significantly influence business experience of EU policies. The responsibility for cost, experience and impact of EU policies does not fully rest with EU institutions. All too often it is an over precautionary interpretation of EU legislation by UK Government that places barriers on business competitiveness. We believe this should also be a focus for this business-led taskforce.

The NFU also believes that a number of principles should be considered when initiating, shaping and reviewing policies. We have outlined these in Appendix 1.

Our response to this review starts by commenting on regulations in areas where the review group will have a particular focus. These include regulations pertaining to employment, pesticides, digital economy and life sciences. We then focus on examples of regulations in other areas where regulatory burdens impact on agricultural businesses competitiveness and growth.

¹ see NFU Confidence survey

<http://www.nfuonline.com/Our-work/Economics-and-International/News/Weather-and-costs-cast-cloud-on-confidence>

Employment

Employment legislation is complex and can be hard for small businesses to understand. Much of the burden and red tape involved with employment matters is a result of European regulations. We highlight below three areas of EU employment legislation that employers often raise:

Working Time Directive 2003/88/EC

Although this started as an employment reform, the eventual directive was enacted as health and safety legislation to overcome the vigorous opposition of the UK to this proposal. The shortcomings of the directive generally are well known, particularly the opposition to allowing some Member States to allow workers in their countries to opt-out and work higher weekly hours than as prescribed by the directive. Attempts at reform stalled, initially because the EU Council and Parliament could not agree a joint text and a further attempt to revive the process through negotiations between the social partners collapsed in December 2012.

The NFU supports reform of the Working Time Directive to rein in the decisions of the European Court of Justice which have unreasonably stretched the reach of the directive.

- ***When reform of the directive resumes, the NFU wants retention of the opt-out and a strict and narrow application of inactive on-call working time.***
- ***In the meantime, NFU members fear further extension of the directive by the European Court of Justice extending the application of inactive on-call working time.*** This would be potentially damaging to our livestock businesses who must have workers available 24/7 to deal with unplanned events such as mechanical breakdowns and emergencies.

Business Transfers Directive (or Acquired Rights Directive)

The Transfer of Undertakings (Protection of Employment) regulations 2006 is applied into UK law by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). As a consequence of TUPE being essentially EU legislation there appears limited room for the UK regulations to be adapted to conditions in the UK.

- ***The NFU considers the TUPE regulations excessive red tape because they hamper the re-organisation of agricultural businesses. The regulations are also difficult to understand and re-writing the regulations to introduce clarity would be welcome.***

Agricultural businesses require a great deal of flexibility to re-organise due to diverse factors including crop rotation to produce quality crops, joint ventures to maximise the economic benefit of specialist machinery, joint ventures to efficiently assemble blocks of crops for efficient production, and contract farming. The addition of TUPE unnecessarily complicates and restricts the re-structuring of farm businesses.

The Agency Workers Directive

From 1 October 2011, temporary workers have been entitled to the same employment and working conditions as comparable permanent staff after 12 weeks of service. This has meant a fundamental shake-up in the engagement of temporary staff, with wide ranging repercussions for both employers and employment agencies.

For labour users this requires full disclosure of the employment terms and conditions of their own employees to any employment agency retained and the threat of claims being made by agency workers against the labour user despite the fact that the agency workers are employed by the agency. Full disclosure of employment terms and conditions is a particular threat to small and medium sized enterprises, which typify agriculture and horticulture, because they are unlikely to have internal human resource department to manage employment relationships and record all employment terms and conditions.

- The NFU considers that the Agency Workers Directive reduces the flexibility of the labour market by imposing unnecessary restrictions on agency labour required to cope with temporary labour needs. **As a result the NFU would welcome a lengthening of the 12 week period to 6 months which would reduce the restrictions of the use of agency workers for seasonal work.**

Pesticides

There are a number of specific issues relating to pesticides and biological pest controls that have a significant impact on the availability and innovation of crop protection technologies. The resultant effect of the barriers to innovative technologies is to reduce the overall competitiveness of UK and European agriculture on the global market. As we have highlighted in previous submissions on better regulation (Farming Regulation Task Force review, Balance of Competences review) all regulatory decisions need to be based on sound science and risk.

The EU Plant Protection Products Regulation, which lays down rules for the placing of plant protection products on the market introduced hazard cut off criteria which lowers the threshold of tolerance for active toxicity, rather than adopting a risk based approach. The implications for agriculture are that this leads to further restrictions on vital crop protection products, important for securing crop yields and quality. This is likely to become increasingly problematic in coming years with the development of cut off criteria for Endocrine Disruptors and the possibility of a bee hazard criteria.

The impact of this approach has been seen with recent restriction of three Neonicotinoids based on a theoretical risk not evidenced in field trials which will have wide ranging impacts on EU farming competitiveness, which is even more acute given the continued use of these actives in other non-EU countries. This reduces the attractiveness for developing new crop protection technologies within Europe, as European agriculture is seen as a secondary target for new innovative technologies.

Similarly the Drinking Water Directive sets an arbitrary and illogical limit for the amount of pesticide in drinking water which is not risk based (i.e. there is no indication of relative risk and the likelihood of an impact for such risk).

- **As a result the NFU recommends:**
 - ***That the registration process for evaluation of plant protection products is based on risk criteria which accounts for real field risk and considers mitigation options***
 - ***The Drinking water Directive is based on risk***

Digital Economy

In 2010 the European Commission published targets² for all broadband connections at speeds of at least 30 megabytes per second (Mbps), and for at least half of European households subscribing to speeds above 100Mbps, by 2020.

The NFU estimates that most farm businesses (and many others in rural areas) will manage very well for several years on speeds as low as 10-15Mbps (which would be a big improvement on the current rural average³). We are concerned that EU targets (and related state aid rules) and UK Government schemes prevent state investment in networks providing less than 'superfast speeds'.

When introduced, the Governments Rural Community Rural Broadband fund was confined to supporting projects providing speeds of 24Mbps or faster, and although Defra stated that it was 'technology-neutral' this meant that only fibre-optic cable schemes could attract funding.

We were pleased to learn that Defra had requested the approval of the Commission for its Rural Community Broadband Fund to be used to support wireless broadband projects at lower than 'superfast' speeds, though the Commission have said that wireless must be treated as transition technology, and there must be a clear intention to move to fibre-optic cable use within a short time.

- ***We need to see barriers resulting from EU targets and UK Government schemes removed as they risk concentrating the investment into small pockets of the countryside when we require everyone to be on a 'reasonable speed'.***

² A Digital Agenda for Europe - COM(2010) 245

³ The average broadband speeds in rural areas are considerably lower than speeds in urban areas (4.4. Mbit/s in sparse rural hamlet and isolated dwellings compared with 14.8 Mbit/s in less sparse urban areas in 2012). Source: Defra (2013) Rural Proofing Guidelines

Life Sciences

The regulatory areas outlined in this section are covered more fully in our response to the second semester of Balance of Competences reviews. The full NFU responses to these reviews are available on request.

Innovation and technological development

The NFU has significant interest in R&D, specifically that relating to agricultural and horticultural production. The practices, technologies, tools and services that farmers use are grounded in science and research. Innovation and technological development play a key part in enabling farm businesses to become more productive, resilient and competitive. For the farming industry to fully contribute to food security, economic growth and UK competitiveness, there must be a strong science based engaged in highly-relevant and impactful research; a clear pipeline to commercialisation; widespread knowledge-exchange activity; and effective skills and training provision. This can only deliver to its full potential if agricultural policy and regulation is working towards the same goals. EU action in all these areas ultimately has a significant impact on the UK farming industry.

The EU legislative process for key agricultural technologies and innovations is broken. Current examples of most concern to UK agriculture are GMOs and crop protection products. There are also problems with livestock cloning and nanotechnology. The emotive nature of these technologies makes them subject to political involvement that reflects personal views and national politics.

The resulting decision making and interventions in the regulatory process are not based on sound scientific evidence. Specific examples are the restrictions on Fipronil; the commissioning of a GM feeding study to repeat research already discredited by EFSA (Seralini 2012) and related increases in data requirements for GMO dossiers; and the extremely lengthy GMO approvals process, including no-votes with no basis in science, completely out of step with that in third countries. Ultimately, this means that companies are discouraged from investing in the EU, exemplified by BASF Plant Science moving its headquarters to the US in January 2012 and Monsanto ceasing to seek approvals for new biotech crops in Europe in July 2013.

This is completely contradictory to the goals of a knowledge economy and the desire to achieve a globally competitive European Union.

Existing EU activities could be made more effective and efficient if the associated regulatory processes required to exploit the science commercially worked properly.

- ***As a result the NFU recommends that there should be an overarching strategy for encouraging innovation that proactively and robustly deals with the conflicting actions between institutions. The influence of EFSA, the Joint Research Centre, the Science and Technology Advisory Council and the Commission's Chief Scientific Adviser must be boosted significantly.***

To the industry and science communities it appears that these bodies are having no impact whatsoever in tackling the extremely poor policy making in key areas of agricultural technology.

Nitrates Directive

The Nitrates Directive (ND) requires Member States to designate Nitrate Vulnerable Zones (NVZs) where the drinking water standard of 50 mg/l nitrate is or is likely to be exceeded, or where eutrophication is occurring. It requires an Action Programme (AP) comprising a prescribed minimum set of measures to be implemented in these.

The Nitrates Directive is very prescriptive and inflexible, imposing high costs to agriculture, and particularly the livestock sector. Administrative costs alone borne by agriculture (in England) have been estimated to be some £19.1m (+/- 25%) in the first year (2008) of the revised programme and £7.1m per year (+/- 25%) in subsequent years⁴.

⁴ ECONOMICS REPORT FOR NIT18 NVZ ACTION PROGRAMME IMPACT ASSESSMENT.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82410/20111220nitrates-directive-consult-evid3.pdf

However, the long term trends in reducing fertiliser inputs predates NVZ implementation, most NVZ action programme measures only limit nitrate pollution by small percentages and the impact depends wholly on the local situation ***so a one-size fits all approach cannot deliver benefits equivalently across all areas.***

Habitats Directive

The Habitats Directive is another example of inflexible legislation. It does not take account for or recognise that climate change will impact on and change habitats. Member states are therefore disadvantaged in that they still have to ensure compliance to protect habitats and species within designated areas, even though climate change may be causing these areas to alter or for species to move.

Although the principles of cost effectiveness and disproportionate costs are clear and well established, across areas of EU environment legislation, such as the Water Framework Directive, these principles do not appear to be considered by the Habitats Directive, unless there are Imperative Reasons of Overriding Public Interest (IROPI). This notable absence means that habitat protection almost always wins out against any business or economic consideration.

- ***The NFU believe that greater consideration of the economic case for development of the cost-effectiveness of measures to protect habitats is needed.***

Industrial Emissions Directive

The Industrial Emissions Directive (formerly the Integrated Pollution Prevention and Control Directive) was borne out of the Integrated Pollution Control legislation, aimed at large industrial sectors such as chemicals plants and the energy sector. But, during negotiations on the draft Directive, pig and poultry units were brought in within the scope of the legislation. Fundamentally, we believe that the Directive provisions are more suited to industrial process sectors rather than livestock units, run by, more often than not, single farming businesses.

The costs of compliance to the pig and poultry sectors include meeting best practice environmental standards, permit applications, and on-going annual regulator fees.

- ***The NFU regard the regulation as wholly unsuitable for agriculture and believe that livestock units should be removed from within scope of the legislation***

CAP Implementation

The EU has finally reached an outline political agreement on the next Common Agricultural Policy (CAP). Unfortunately that agreement leaves the door wide open for member states to implement a less common, less market orientated, more complicated CAP regime in the future. This will do nothing to help British farmers compete on a more level playing field in the future. For almost every element of the new CAP, there will be flexibilities for Defra to select with regards to implementation of the future policy.

Specifically there are two elements of CAP implementation that causes the NFU the greatest concern. Namely, the unilateral powers conferred on Defra to transfer money from pillar 1 (direct payments) to pillar 2 (rural development) and secondly, the potential for Defra to gold plate the new environmental rules.

Transfers from direct payments to rural development (previously known as modulation)

The EU budget 2014-2020 settlement already places UK farm payments per hectare considerably lower than our main competitors and leaves the UK facing the largest loss of all member states in terms of our rural development fund envelope. To shore up the estimated 22% cut to the UK rural development envelope. Defra has been granted the “flexibility” to cut English farmer’s payment levels by up to 15% and move this money across into the rural development envelope. The rural development fund is primarily used to finance environmental undertakings and broader rural concerns. Defra has welcomed this “flexibility” and has sought ways to maximise the actual amount of money that can be cut from English farmers payments and moved across.

The consequence of applying the cuts to the pillar 1 direct payments would be to widen the already significant differences in payment levels per hectare even further. This is concerning and leaves farmers here in England more vulnerable than our competitors in Europe and across the UK. We are competing in a single market. In a year of exceptionally poor weather the direct payment is an important element in the resilience of farming businesses. Other governments see the direct payments as, in part, a mitigation of the more stringent environmental regulations which apply in Europe and the restrictions, ever more costly, in our use of plant protection products and other technology. Higher payment rates allow our competitors to invest in their farming operations and to enhance their competitiveness.

- ***We believe that it is wrong for Defra to start from the premise that the maximum amount must be transferred from pillar 1 to pillar 2. What is required is a quantifiable analysis that establishes how any transfer of monies to Pillar 2 will impact on English farmers and if transferred, how monies can remain accessible to active farmers before any rate of transfers is set.***
- ***Defra has the flexibility to set the transfer rate initially to less than the maximum 15%. There would then be the option of reviewing the rate in 2017, if experience proves that to be necessary, depending on the demand for rural development measures.***

New Environmental rules known as “greening”

The CAP agreement includes within it new mandatory requirements for farmers to undertake certain actions beneficial for the environment. These new rules are known as “greening.” Three greening measures have been agreed at the European level. In addition Defra has successfully negotiated the right to implement some tightly defined alternatives to the three measures and to deviate from the minimum approaches to implementation.

Our fundamental starting point is that there should be no gold plating of the new rules, a view we are pleased to note is shared by Defra Ministers. We believe that Defra’s approach to greening should be in line with the [guiding principles](#)⁵ issued by BiS earlier this year on the implementation of European legislation. In short, we fully support the principles of not going beyond the minimum requirements, seeking alternatives to regulation, endeavouring to ensure that UK businesses are not put at a competitive disadvantage compared with their European counterparts and undertaking future ministerial review.

In our opinion, “no gold plating” fundamentally means that English farmers should not be put at a disadvantage to our competitors. English farmers should not face more costly or burdensome conditions to unlock the 30%

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229763/bis-13-775-transposition-guidance-how-to-implement-european-directives-effectively-revised.pdf

greening aid than farmers in other parts of the UK or across the EU. This is irrespective of whether there is a choice in the regulation for Defra to undertake alternative options or flexibilities offered. If Defra were to go beyond the minimum requirements as a condition of unlocking the 30% greening aid, we believe that this would clearly be contrary to the Governments principles for transposition.

In the context of implementing the new greening rules “no gold plating” specifically means to us that:

- **Farmers should have access to the 3 European measures ⁶ with all of the options and exemptions offered.**
- **Farmers with more than 75% grassland and small areas of arable (less than 30ha) should be exempted from the ecological focus area and crop diversification requirements as laid out in the agreement.**
- **Where the requirements can be fulfilled at the national level (for example relating to the permanent grassland measure), this approach should be taken to avoid unnecessary costs on individual businesses.**
- **We expect the implementation rules associated with the ecological focus areas measure to respect the European Council declaration of the 8th February 2013: “The requirement to have an ecological focus area (EFA) on each agricultural holding will be implemented in ways that do not require the land in question to be taken out of production and that avoids unjustified losses in the income of farmers”.⁷**
- **We believe that the industry voluntary initiative “The Campaign for the Farmed Environment” can increase the environmental outcome of the new rules by providing locally targeted advice.**

⁶ Article 29 1a of draft direct payments regulation

⁷ <http://register.consilium.europa.eu/pdf/en/13/st00/st00037.en13.pdf>

Animal health and welfare

The NFU has responded to a number of Government and independent inquiries into 'red-tape'. The examples below are covered more fully in our responses to the Farming Regulation Task Force but are summarised below as we believe they are still relevant. The full NFU submissions to these reviews are available on request.

Animal Health and Welfare in the EU

EU enlargement has resulted in a more diverse European Union and animal health and welfare does not carry the same priority weighting across the European membership. This is reflected in the reluctance of some countries to comply with European legislation relating to animal health and welfare.

Whilst in the past the NFU has welcomed Government's commitment to end 'gold-plating' of any new European legislation via the transposition process, we are concerned that other Member States' failure to comply with both current and new European legislation will create an uncompetitive trading environment regardless.

One such example is the Sow Stall ban, implemented across Europe from 2013

- ***The NFU want the UK Government to support our industry's right to competitive trading across Europe by pressing the Commission to sanction against non-compliance activities amongst other Member States.***
- ***There should be a moratorium on all new European and domestic welfare legislation until there is adequate enforcement of existing regulations throughout the EU.***

Animal Medicines: The 1-1-1 concept: A single market for animal medicines in Europe

The current regulatory system for veterinary medicine authorisation across the European Union, while necessary and effective is also highly complex and costly. Each Member State has its own licensing system, and this places a burden on the development of medicines that ultimately impacts on the food chain industry and animal welfare.

- ***The UK agriculture and animal health sector, which includes the NFU, want to see a system so-called the 1-1-1 Concept implemented.*** This would create the situation whereby veterinary licensing would require only a single dossier; a single scientific assessment and a single decision to license; in other words, the creation of a single licensing system for animal medicines in Europe.

Sheep EID

The NFU believes that the regulation to compulsorily individually identify and movement report sheep is based on flawed principles and does not deliver any additional animal disease control benefits over batch traceability to warrant the additional costs and practical difficulties for farmers.

In terms of disease transmission and traceability, we believe that the risks are not associated with the movement of individual animals but through batch contact. It is not necessary to know the individual identity of every animal, only which batches have been in contact with each other.

The NFU acknowledges that there may be a number of commercial / management benefits for implementing individual identity and EID. However this regulation is drafted for disease control purposes and therefore the implementation of the regulation should be entirely dependent on the effectiveness of the regulation in terms of improving disease control.

This regulation has increased costs for farmers, auctioneers and processors both in equipment, tags and the time spent recording movements. For farmers, this regulation has the added consequence of increasing the threat and level of cross compliance fines.

- ***The NFU does not believe the regulation is appropriate and proportionate and would prefer a return to a traceability system which only requires batch movement records as a compulsory element. We also believe that there are a number of improvements which could be made in the EU to make sheep traceability regulations more practical while not increasing the risk of disease spread.***

Transmissible Spongiform Encephalopathies (TSEs) Regulations

The Regulations relating to TSEs define the skull including the brains and eyes, tonsils, spinal cord of sheep over 12 months (or permanent incisor erupted) as specified risk materials.

At present in the UK the spinal cord is removed from sheep that have one permanent incisor erupted by splitting the carcass. Other European countries and large sheep meat exporters such as New Zealand use suction / air pressure removal. To date, trials in the UK have not produced results satisfactory to the competent authority and the method being trialed was found to incur many of the same inefficiencies as splitting. Continuing to require the splitting of the carcass incurs costs for the processor and producer and increases uncertainty in supply chains.

AHDB estimates detail that the increased time to process an animal on the slaughter line, results in slower line speeds. One abattoir operator estimated that splitting slowed the line from 500/h to 200/h. At an estimated cost of running the slaughter line at £700/h this increases the cost per carcass from £1.40 to £3.50.

The carcass is devalued by as much as 40% by the splitting process, as a split carcass is an indicator of an older animal. AHDB estimates indicate a loss per lamb in 2009 of between £15 and £23 and the total cost to GB sheep producers being within a range of £23 million to £34 million per year, based on 1.5 million lambs over 12 months. In addition, splitting itself devalues the carcass with buyers preferring “whole” carcasses as they can be hung to mature. This was estimated to be worth an additional £2 per animal loss in value.

These are significant costs to an industry which is struggling with low returns and a lack of confidence to invest in production. We believe that the evidence for the need for this practice is weak. There is no proven link between the classical TSE's in sheep and vCJD in humans and there has never been a case of BSE found within a commercial flock of sheep. There is also no evidence to show that atypical scrapie can be transmitted to humans. Due to the age profiles of the national flock, we believe that any sheep that may have had contact with contaminated feed are no longer present.

- ***The NFU believes it is time to review the need to take out the spinal cord of small ruminants over 12 months of age with a view to either removing this requirement or increasing the age at which this practise is conducted.***

The legislation currently refers to the eruption of permanent incisors. This eruption happens at different times for all sheep with variation not only between breeds which mature at different rates but between identical sheep depending on diet. This means that farmers must check the mouths of lambs before they are sent to market and regularly leads to a situation where sheep are sent to market under 12 months of age and with not incisors erupted, only to have incisors erupt en route to the slaughterhouse, a short period after, requiring the lamb to be split.

This not only devalues the carcass to the producer, providing a great deal of uncertainty, but can also lead to logistical issues for the abattoir as these lambs may not fit with retail specification, requiring alternative markets to be found and more lambs then purchased to make up this shortfall. Moving to a fixed date in the year instead of an arbitrary measurement governed by many biological factors would help to reduce many of these inefficiencies without compromising food safety.

- ***The Government should call for change in Europe and the OIE to roll back TSE controls for sheep in the same way as cattle – there is no evidence that scrapie is transmissible to humans, and the regulation as it stands increases red tape for no measurable benefit.***
- ***Change the assessment of older animals from two teeth to a fixed date in the year following birth instead. This “cut-off date” would simplify the legislation, decrease costs for processors and give producers the confidence to send lambs for slaughter knowing that they will not be penalised if the incisors erupt early.***
- ***Continued investigation into practical alternative forms of spinal cord removal, where this would not lead to devaluation of the carcass. The current practice of splitting serves to gold plate our requirements compared to other EU member states and international trading partners such as New Zealand.***

Transport

Whole Body Vibration for agricultural vehicles

Directive 2002/44/EC (Vibration) is implemented in the UK through the Control of Vibration at Work Regulations 2005. Principally these regulations require employers to make an assessment of the risk to their workforce of vibration. If the vibration is likely to exceed an action level, they should take measures to reduce vibration to as low as reasonably practicable. They must ensure that vibrations do not exceed a daily limit value. This limit value will apply to older agricultural vehicles (pre 2007) from July next year.

Unlike other industries, farmers have to operate to tight weather windows in order to undertake certain agricultural tasks (e.g. harvest). Introducing a limit value is entirely impractical for farmers where there are limitations on the control measures that can be taken in such a short space of time and it is very difficult to tell, in the field, when a limit value has been exceeded. We see this as one of many EU requirements which could impede upon the competitiveness of UK farmers. We think that the emphasis should be upon machinery manufacturers to design machinery that limits vibration. As responsible operators and employers farmers will use equipment safely and appropriately on a daily basis.

This is an example of where a Directive should not include such prescriptive requirements as they will impact on sectors differently.

- ***As a result the NFU recommends that there should be flexibility within the Directive and the exposure limit values for agricultural vehicles should be removed***

Driver CPC

The NFU believes that the UK's implementation of Directive 2003/59 in relation to Driver Certificates of Professional Competence to incidental drivers in agriculture is a disproportionate burden.

Whilst the Directive is clear in its recital that it should not apply to "vehicles used to carry out transport where this is considered to have a lesser impact on road safety or where the requirements of this Directive would impose a disproportionate economic or social burden" the UK has directly transposed the requirements of the directive without further exemption for incidental drivers. The Netherlands is an example of a country that has included an exemption for drivers who are at least 21 years old and drive within a distance of 50km, and small businesses.

Farmers may fall under the Directive when using goods vehicles to take produce or livestock to market, or when taking harvesters to the field in minibuses. Such driving is either sporadic or seasonal, as is the case during harvest where farmers may drive for a very limited distance for a couple of months a year. This directive is designed to improve driving standards and safety. It is most appropriate for drivers who spend significant time driving and not incidental driving where any benefits would be disproportionate to the burden of the training

- ***We do not consider Driver CPC a necessary requirement for the UK given the UK's excellent road safety record and robust driver training programme. The UK also has far reaching and comprehensive health and safety and environmental legislation. We therefore consider that there are existing ways to implement these changes***

The Commission has clarified to the Government that the exemptions should not apply to a whole industrial sector such as farming. The recent consultation from the Commission seeks views on harmonising the scope and exemptions in the Directive to that for drivers hours. If this change happens it will exempt most transport activities for farming businesses.

Driver CPC is an example of poorly drafted EU legislation being directly transposed into UK law. There is a shared responsibility between the Commission and Member States to understand the nuances and impact of legislation on businesses. This is especially important for businesses where driving and transport are incidental to their main business activity.

If you would like to discuss anything in our response, please contact Lee Osborne, NFU Better Regulation Adviser.

Appendix 1

EU Implementation Regulatory principles

The NFU would like to see the following principles adopted to ensure better regulation throughout the agricultural industry:

- **It is vital Government engage at a European level at the earliest possible opportunity to negotiate on how proposals will be implemented in the UK throughout the regulatory process.**
- **Regulation must only be considered when all voluntary or industry-led methods have been shown to fail.** A specific example includes an overarching policy on soils which should definitely be addressed at a Member State level, particularly since so many other legal mechanisms exist at an EU level to protect soils such as CAP cross compliance, Water Framework Directive and agri-environment schemes.
- **Where rules are deemed necessary for the functioning of the common market, these should be agreed at a European level, with the flexibility to adapt to local conditions**
- **Ensuring safeguards so that any rules are implemented in an equitable way by all participants on the common market to ensure no gold-plating or distortions in competition can prevail**
- **Building in useful principles or tests such as cost-effectiveness and disproportionate cost.** A good example here is the Water Framework Directive that allows cost effectiveness to be taken into account to allow the least costly solution to be used and for less stringent objectives to be set where costs are disproportionate
- **Working on the basis of sound evidence and robust science-base, rather than relying on a precautionary or hazard-based approach.** An example here is the EU Plant Protection Products Regulation which lays down rules for the placing of plant protection products on the market. This regulation introduced hazard cut off criteria which lowers the threshold of tolerance for active toxicity, rather than adopting a risk based approach
- **There should be a common application across the EU with UK Government implementing policy in line with other Member States.** Early implementation of Directives has impacted on agricultural businesses competitiveness and placed them at a serious disadvantage compared to their EU counterparts. Particular examples here include early introductions of a ban on stalls and tethers to improve pig welfare ahead of most of the EU, which placed a heavy financial burden on the industry.