For the attention of the Health and Sport Committee at the Scottish Parliament

The attached submission is made by the Scottish Food and Drink Federation (SFDF) in response to the Scottish Parliament’s Health and Sport Committee call for evidence under Stage 1 consideration of the Food (Scotland) Bill. We are a division of the Food and Drink Federation (FDF), the trade association for the food and drink manufacturing sector and as such our membership extends across companies registered and operating in Scotland and a wide range of companies including multinationals registered elsewhere which operate in Scotland. In this response we represent all of these views.

SFDF appreciates the importance of scrutinizing this Bill, as it is essential that the outcome creates an effective regulatory system that provides for consistent and proportionate regulation and enforcement - the best working environment for economic sustainable growth.

This is important as a successful food and drink manufacturing industry is a vital component of a healthy Scottish economy. In Scotland our industry has annual sales in the region of £10.4 billion, exports worth just £5 billion and employs 46,000 people.

In the UK, food and drink is the largest manufacturing sector accounting for 16% of the total manufacturing sector and turning over £76.7bn per annum; creating Gross Value Added (GVA) of £20.4bn and employing up to 400,000 people.

As a regulated industry, SFDF will continue to work constructively on behalf of members with a new Food Standards Scotland (FSS). We would stress, however, the importance of maintaining appropriate links on food regulation to ensure a consistent regulatory framework across the UK, thereby minimizing unnecessary burdens on companies. This is of particular importance for SMEs which make up the majority of the food manufacturing sector in Scotland.

Since the FSA Scotland (FSAS) was set up in 2000, as part of the Food Standards Agency (FSA), we have found FSAS and its officials credible, straightforward to work with and prepared to discuss the scientific reasoning behind decisions. Our experience of FSAS, as well as of FSA, has been of constructive working relations, even where there has been a difference of views. We look forward to continuing these relationships with the FSS.

A number of issues for the food and drink manufacturing industry have been identified. Some of these arise due to the nature of the industry which works across UK boundaries. Scottish based companies sell the majority of their products in the UK. Companies including global manufacturers based elsewhere sell their products in Scotland. Therefore two separate approaches could bring extra burdens and costs.

Issues for the food and drink manufacturing industry are:

- **Consistency of approach to enforcement** – a proportionate approach that is consistent across the UK. The FSS must have appropriate mechanisms in place for engagement with other bodies and committees throughout the UK;
• **Consistency of approach to regulation** - much of the legislation that relates to food and drink manufacturing emanates from the EU and it is important that there is consistency in implementation across the UK. The FSS in our view must ensure consistency of approach across the UK;

• **Voice for Scottish specific food and drink issues into Europe** – given that the UK is currently the Member State there needs to be a robust mechanism to ensure Scottish views are taken into account. Where there is direct contact between the FSS and European bodies, this should reflect the needs of all the Scottish food and drink manufacturing industry and be open and transparent;

• **Access to scientific advice** – it is essential that the FSS has robust peer-reviewed evidence on which to base its decisions. Appropriate arrangements should be made to ensure that the FSS makes use and has access to all information from existing government advisory bodies and is represented on all relevant committees;

• **Management of potential conflict of interests** - an FSS with a broad remit could represent many diverse stakeholder groups. When incidents or issues arise which impact across these groups, there must be appropriate mechanisms in place for dealing with and managing any conflict issues;

• **Adequate resourcing** – it is vital that the FSS has the funds and other resources to deliver all aspects of its remit, retain experienced staff and be able to recruit or access expertise to fill skill gaps. This should be reviewed if and when FSS takes on any further responsibilities;

• **Independence** – the FSS must be independent and have credibility with all stakeholders in order to build and retain consumer confidence and thus industry’s reputation. The make-up of the Board is crucial for ensuring independence. There should be Members with appropriate knowledge of all stakeholders including industry and a full declaration of all interests;

• **Understanding of industry sector** - the FSS should have a structure that enables it to provide a service for all food and drink manufacturers. This includes indigenous companies with key brands, global players and SMEs many of which may have a strong heritage and potential to grow.

Comments on specific questions in the consultation are below:
SFDF Response to Scottish Parliament’s Health and Sport Committee Call for Evidence under Stage 1 consideration of the Food (Scotland) Bill

1. The merits of creating a stand-alone body rather than enhancing the current FSA Scotland arrangements

Our members operate across the UK and the EU so it is important that there is at least a consistent UK-wide approach to food safety and co-ordination in response to EU food safety legislation. Consistent implementation of this legislation across the UK is also important. It is vital therefore that the views of companies based in or operating in Scotland are fully reflected in UK negotiating positions in Europe. We believe that the most effective and robust way to achieve this consistency is for food safety to remain within a structure that has appropriate, effective links across the UK.

It is vital that Scottish Government provides adequate resources to support a stand-alone body and mitigates any risks that the new structure may cause.

2. The scope of the objectives and functions of the FSS, including whether and how they could support Scotland’s sustainable development

SFDF has a very positive relationship with the FSAS across the breadth of its activities and would wish this to continue. Any expansion of scope needs to provide clear definable benefits that are evidence based. It would also be prudent to get the FSS set up to work efficiently based first on the current model before looking to extend the scope, in order to manage the learning curve of the team and ensure adequate resources for any additional responsibilities.

Any extension of its scope and remit beyond those of FSAS should not negatively impact the effectiveness of the current model. Therefore, any new responsibilities need to be properly costed and resourced. The ability to access and share resources, expertise and advice through the wider FSA UK model has been a key factor in the effectiveness of the FSAS and this needs to be retained.

Diet and Nutrition

The FSAS has fulfilled an important and influential role in Scotland in diet and nutrition in Scotland since inception. Dealing with the unacceptable levels of obesity in the population requires a multifaceted approach as detailed in the Obesity Action Plan. Given that this covers such areas as building design, physical activity and planning there needs to be overall government co-ordination and a joined up strategy based on solid intervention and effect evidence, not opinion. Clearly FSS will have a contributory role.

It is important to note that extensive diet and nutrition expertise exists in the food industry and academia. There should be a mechanism to access this based on scientific merit and independence. Any potential conflict of interest should be noted but this should not negate the work provided it is found to be robust.
Sustainable development and economic growth

In considering the scope and remit with respect to economic sustainable development, it is important to take into account the nature of the food and drink manufacturing industry. Companies that sell food products to consumers in Scotland are not all based in Scotland. Similarly, companies in Scotland sell their products to consumers in other parts of the UK and further afield. Sales to the rest of the UK are a vital part of the Scottish Government’s food and drink policy.

FSS should have a structure that enables it to provide a service for all food and drink manufacturers. This includes indigenous companies with key brands, global players and SMEs. SMEs play an important part in the Scottish context; ONS figures show that 64% of firms had 1-49 employees in 2011. and many of these have the potential to grow and contribute more to economic growth.

It is important that the service FSS provides is tailored appropriately, and minimizes costs and unnecessary bureaucracy. Links with the UK regulators are therefore paramount.

3. The proposed administrative and governance arrangements for the FSS

SFDF supports the FSS being at arm’s length from government and believes this is important for the delivery of Scottish Government’s aim to protect public health and maintain consumer confidence and trust. The make-up of the Board is crucial for ensuring independence. There should be Members with appropriate knowledge of stakeholders including industry and a full declaration of all interests.

4. The proposed powers of the FSS

Food Hygiene Information Scheme

SFDF does not agree that enabling powers should be made available at this time to provide regulations requiring the outcomes of official food inspections to be displayed by food business operators and requiring local authorities to participate in such schemes.

The Food Hygiene Information Scheme (FHIS) works by providing consumers with accessible information so they can make an informed choice on where to eat, thereby driving improvement in hygiene standards at this type of business.

New Enforcement Sanctions

SFDF does not support the proposals to create new enforcement sanctions. We are concerned about the risk of inconsistencies in enforcement across local authority areas and the additional uncertainties and burdens that these would generate for businesses. There is a whole spectrum of contraventions from minor to major and there needs to be a proportionate approach by Local Authorities and between Local Authorities in dealing with these. It is unclear from the Bill what systems and lines of communications will exist between Local Authorities and
FSS to ensure transparency and consistency of approach. These should be clarified.

Any effective and proportionate controls systems for food and feed should be consistent across operating boundaries and comply with better regulation principles. This is essential if Scottish based businesses are to remain competitive in the future. Whilst we all support ensuring a high standard of manufacture, sales and service from the food industry, creating new hurdles and penalties to be implemented in Scotland uniquely will create complexity, possible additional costs and may deter investment in the sector.

SFDF is also concerned that extending the scope of existing powers could seriously undermine the collaborative approach to compliance between enforcers and food manufacturers when it comes to issues of interpretation of new or existing legislation on minor labelling issues. This is not an unlikely scenario given the context of the new EU Food Information to Consumer Regulation.

In the context of labelling compliance, we also believe that there is a clear difference between rogue traders purposefully trying to mislead consumers and responsible companies navigating their way through new and complex legislation, often without the benefit of clear guidance endorsed by government. The proposed extension of existing powers fails to consider such important differences.

We continue to advocate a positive and open dialogue between enforcement officers and businesses so that any necessary improvements can be quickly carried out without the need for costly and potentially inconsistent implementation of additional powers.

5. **The likely efficacy of the new provisions related to food information to prevent food fraud (such as the recent horsemeat incident)**

SFDF feels the new provisions are disproportionate. It is important to note that during the recent horse meat incident, which arose as a result of fraud and criminal activity, products that were confirmed to be labelled incorrectly were promptly removed from the market and consumers informed.

6. **The provisions set out in the Bill for non-compliance with food safety and standards**

SFDF has concerns regarding how these provisions would work in practice. There are potential risks regarding lack of consistency in application and the possible scenario where enforcement officers are given targets which would incentivise them to look for minor breaches. This could lead to a distortion of priorities for scarce resources. More clarity is needed on these provisions.

7. **Any other comments on the Bill that relate to areas not covered above**

FSA plays a major part in global supply chain activity including emerging issues, emergency prevention and rapid response via a cascade process of dissemination involving various national, European and international bodies. It is unclear in the Bill how FSS intend to feed into this in the short and longer term.
For example will FSS continue to adopt common publications with the FSA such as their Principles for Preventing and Responding to Food Incidents?

As a responsible trade association FDF/SFDF produce advice for industry such as the “Food Authenticity: Five Steps to Help Protect Your Business From Food Fraud” and “Sustainable Sourcing: Five Steps towards Managing Supply Chain Risk”. We would appreciate clarity on the extent to which FSS also will produce guidance for industry and provide help.

In order for the FSS to be successful and independent, it needs to be well-resourced and understand the nature of the food and drink manufacturing industry so it can advise and negotiate appropriately on its behalf. There should be mechanisms to avoid conflict of interest. It must be joined up with relevant bodies at Scottish, UK, Europe and global level, have access to robust evidence and deliver on consistency of approach.

FSS also has a role in helping to grow and build a responsible food industry. This will require some expertise in encouraging food export not just to the EU but to the more rapidly growing non-EU export markets. A sustainable competitive food industry is good for the Scottish economy and employment and any additional help it provides outside of the UK would be welcome and good for Scotland.

Scottish Food and Drink Federation 7 May 2014