FDF Response to Department for Business, Energy & Industrial Strategy (BEIS) Guidance to Reporting on Payment Practices and Performance

1. The Food and Drink Federation (FDF) is the voice of the UK food and drink manufacturing industry, the largest manufacturing sector in the country. The industry has a turnover of £81.8bn, which is 16% of total manufacturing turnover, and Gross Value Added (GVA) of £23.2bn. The industry employs around 400,000 people. Exports of food and drink are a valuable part of the industry, totalling £20.2bn in 2016. Exports of branded food and non-alcoholic drink have more than doubled in the last ten years, reaching £5.2bn in 2016.

2. FDF supports Government's plans to encourage prompt payment of invoices by introducing greater transparency. Late payments and payment policies remain areas of concern for SME manufacturers that make up 96 per cent of our sector. We believe that introducing greater transparency can make a real difference to small businesses that have faced late payments as it will raise awareness of payment terms and discourage the use of unfair practices.

3. Following the publication of guidance by the Department for Business, Energy & Industrial Strategy (BEIS) in January 2017, FDF consulted with UK manufacturers to find out their views on the implementing proposals. We have set out below specific concerns that these consultations highlighted, including areas that require urgent clarification.

Frequency of reporting

4. We remain concerned that the proposal to report on a bi-annual basis will add a significant and unnecessarily costly bureaucratic burden upon industry at a time when business confidence is already low[1]. This stands in marked contrast to Government's commitment to better regulation. We believe that the added cost of bi-annual rather than annual reporting significantly outweighs any benefits delivered through more frequent publication of reports. We again urge Government to adopt a more proportionate approach by amending proposals to allow data to be collected and published annually as part of a company's normal year-end statutory reporting procedures.

Disputed payments

5. There are often legitimate reasons why payments might be delayed in the event of a dispute with a supplier over, for example, the quality of materials supplied. Rather than incorporating disputed payments within the overall data submission, we would request that a separate section be included that allows companies to include separate itemised reporting of disputed invoices.

Audit process

6. It is not clear from the Guidance whether it is a requirement to have this report independently audited, and if so, how frequently. Clearly there would be significant costs associated with any audits undertaken and therefore our preference would be to have no audit requirement, or for auditing to be undertaken at random by Government.

Complexity

7. Our members have expressed concern that the guidance introduces a new level of complexity to the reporting process that will add significant costs. Companies have

[1] FDF quarterly business confidence survey (March 2017)

suggested that they will require legal guidance to help interpret the reporting requirements and identify what will and will not be in scope. Businesses had hoped to see a more user-friendly guide outlining the process of reporting and we regret that our sector's offer to provide early feedback to aid the development of practical guidance was not taken up.

8. FDF urges BEIS to revisit the document and to ensure the guidance is sufficiently simple, clear and user-friendly for finance teams to interpret when producing company reports. Accurate reporting is a legal requirement, it is therefore imperative that the guidance is straightforward to minimise the risk that businesses adopt differing interpretations, resulting in inaccurate reporting that is of limited comparability to suppliers.

Parent Company

9. The section on whether a parent company has a reporting obligation is unclear and requires clarification. It indicates that a parent company only has to report if it exceeds the thresholds on its own, and only reports on an individual company basis, but only if the group also exceeds the threshold. If the company exceeds the threshold but the group does not, there would seem to be no reporting obligation. Clear examples should be provided to help eliminate uncertainty in this section of the guidance, illustrating the different scenarios for parent companies and the group when falling above and below the thresholds that have been set.

10. The group test for assessing if a parent company has a reporting obligation refers to exclusion of intercompany or group transactions, but it is not clear if these transactions are to be included or excluded when looking at the individual company level. Again it would be helpful if this could be clarified.

11. The section on payments due but not paid in the period refers to "reporting period", "agreed period", "payment period", "agreed payment period" and "payment terms". Our members suggest this section would strongly benefit from simplification. It appears to require that companies report on both payments within the period paid late and payments due but still pending at the end of the reporting period. It would be helpful if this could be clarified.

Significant connection with the United Kingdom

12. Our members suggest that the section regarding a "significant connection with the UK" is overly complicated and would benefit from clarification and simplification. Multinational manufacturers can operate multiple procurement teams based in different countries. These teams put in place large numbers of contracts with thousands of different suppliers that are based in the UK, overseas or will themselves also be multinationals.

13. The overarching aim of the reporting requirement is to introduce greater transparency around payment performances between UK legal entities, but delivering this based on the legal application of contracts seems unnecessarily complicated. This could potentially be simplified by instead asking companies to report on contracts in place with companies that are registered for VAT in the UK. This would help to avoid the need to undertake a detailed review of legal terms in individual contracts which for the largest manufacturers would number in the hundreds of thousands.

14. We would welcome further clarification regarding paragraph 39 and whether this includes intercompany transactions where companies purchase from sister company affiliates in other markets.

15. Further clarity is needed on whether non-UK suppliers are to be included in the reporting if delivering to UK sites. Again, specific examples are needed to help ensure companies

fully understand the implications of this section of the guidance. The reports need to be relevant to UK suppliers and focussed on UK contracts. It is a concern that data could be adversely skewed by the inclusion of large volumes of data on contracts with suppliers that are located elsewhere in Europe, many of which typically operate to longer payment terms than UK suppliers.

Reporting date: receipt of payment by supplier

16. It would appear that under the reporting requirement, reporting companies are asked to provide an estimate of when payments clear in supplier bank accounts. This can vary by bank and by currency. Reporting companies will not necessarily have in place a mechanism that allows them to easily provide this data.

Qualifying contracts: exclusion of financial services

17. The requirement to exclude payments for financial services will add additional complexity for some manufacturers. Removing specific suppliers of financial services from reports could require a lengthy manual process to identify relevant payments. While achievable, a more practical solution would be to allow flexibility for reporting companies to decide whether to include or exclude these payments.

Supply chain finance

18. The requirement set out in paragraph 58 will be difficult for some companies to deliver as they do not have the specified data on when a payment is made by a third party to a supplier. If this is to be delivered, it would require manual investigation that risks generating significant additional cost to reporting companies. We would urge BEIS to reconsider this section of the guidance and to explore alternative and less disruptive solutions.

The UK Food and Drink Manufacturing Industry

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The following Associations actively work with the Food and Drink Federation:

ABIM	Association of Bakery Ingredient Manufacturers
ACFM	Association of Cereal Food Manufacturers
BCA	British Coffee Association
BOBMA	British Oats and Barley Millers Association
BSIA	British Starch Industry Association
BSNA	British Specialist Nutrition Association
CIMA	Cereal Ingredient Manufacturers' Association
EMMA	European Malt Product Manufacturers' Association
FCPPA	Frozen and Chilled Potato Processors Association
FOB	Federation of Bakers
GFIA	Gluten Free Industry Association
PPA	Potato Processors Association
SA	Salt Association
SNACMA	Snack, Nut and Crisp Manufacturers' Association
SSA	Seasoning and Spice Association
UKAMBY	UK Association of Manufacturers of Bakers' Yeast
UKTIA	United Kingdom Tea & Infusions Association Ltd

FDF also delivers specialist sector groups for members:

Biscuit, Cake, Chocolate and Confectionery Group (BCCC)
Frozen Food Group
Ice Cream Committee
Meat Group
Organic Group
Seafood Industry Alliance