

Summary: Intervention & Options

Department /Agency:	Title: Impact Assessment of EU Proposal for a Council Regulation amending the poultrymeat marketing standards	
Stage: Final	Version: 1.1	Date: 23 / 11 / 2009
Related Publications: None		

Available to view or download at:

<http://www.>

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What is the problem under consideration? Why is government intervention necessary?

The Commission has extended the scope of the poultrymeat marketing legislation to apply to poultrymeat preparations because of increased consumption and trade use of poultrymeat in this form. This applies to these preparations some of the principles currently applying to poultrymeat. This includes the requirement that poultrymeat sold in a chilled state should not have been frozen beforehand.

What are the policy objectives and the intended effects?

EU Proposal 9214/09 is for a Council Regulation to amend Regulation (EC) No 1234/2007 as regards certain marketing standards for poultrymeat. The aim of the proposal is to –

- i. extend the scope of the poultrymeat marketing legislation to also apply to poultrymeat preparations.
- ii. amend the definitions of frozen and fresh and technological processes.

What policy options have been considered? Please justify any preferred option.

The UK is against this proposal and has suggested an number of alternatives including the introduction of additional labelling, a seasonal derogation to maintain the status quo and a one year extension to transitional period to smooth transistion for the industry.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The policy will be reviewed in May 2012.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence

Policy Option: The EU regulation was adopted at the October Agriculture Council.

Description: Full implementation of the EU Regulation

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£ 23.5m	10	
	Average Annual Cost (excluding one-off)		
£ 25.73m		Total Cost (PV)	£ 237.9m
Other key non-monetised costs by 'main affected groups' Possible restrictions on consumers' choice and increase in price of barbecue & Christmas poultrymeat preparations.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£	10	
	Average Annual Benefit (excluding one-off)		
£		Total Benefit (PV)	£ N/A
Other key non-monetised benefits by 'main affected groups' Much clearer definitions of poultrymeat preparations & market transparency for consumers. Some UK producers (many of whom are small scale) may face less competition from imported poultrymeat.			

Key Assumptions/Sensitivities/Risks

This proposal impose significant costs on the UK consumer and poultrymeat supply chain. It could also result in the loss of jobs in the UK poultrymeat supply chain and processing industry.

We have assumed a 5% adjustment rate for those in the chicken supply chain as they have scope for making the adjustments necessary to overcome the change in law. See chart 4 at annex for full breakdown.

Cost estimates have been drawn entirely from industry sources & are not capable of independent verification.

Price Base Year 0	Time Period Years 10	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ N/A
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What is the geographic coverage of the policy/option?		EU	
On what date will the policy be implemented?		1 May 2010	
Which organisation(s) will enforce the policy?		TSO	
What is the total annual cost of enforcement for these organisations?		£ 0	
Does enforcement comply with Hampton principles?		No	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£ 0	
What is the value of changes in greenhouse gas emissions?		£ 0	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	No	No	N/A N/A
Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £ 0	Decrease of £ 0	Net Impact	£ 0

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base (for summary sheets)

EXECUTIVE SUMMARY

BACKGROUND

EU Proposal 9214/09 is for a Council Regulation to amend Regulation (EC) No 1234/2007 as regards certain marketing standards for poultrymeat. The aim of the proposal is to –

- i) extend the scope of the poultrymeat marketing legislation to also apply to poultrymeat preparations.
- ii) amend the definitions of frozen and fresh and technological processes.

The original proposal also amended the definition of poultrymeat to include the use of certain substances (AMTs – anti microbial treatments) to treat poultry carcasses. This will not be taken forward as at the December EU Agriculture and Fisheries Council there was an almost unanimous vote against the related Commission proposal (under Regulation (EC) No 853/2004, the Food and Feed Hygiene Regulations) to authorise use of anti microbial treatments. The UK abstained.

The Commission has extended the scope of the poultrymeat marketing legislation to apply to poultrymeat preparations because of increased consumption and trade use of poultrymeat in this form. Some of the principles currently applying to poultrymeat, including the requirement that if sold as `fresh` it should not have been frozen beforehand, would be extended to cover poultrymeat preparations. In practice this regulation will effectively remove chilled poultry meat preparations from the market by requiring them to be sold in a frozen state. Initially there was wide spread support for the Commission proposal across all UK producers and trade organisations. However once they analysed the full extent of the proposal views have changed as the proposal imposes considerable costs on the majority of the UK poultrymeat sector, and restricts consumer choice.

This proposal has a disproportionate impact on the UK poultrymeat supply chain due to our advanced and innovative industry. The UK chilled food market accounted for 60% of the EU market.

The UK lobbied extensively, at both Ministerial and official level, for an amendment to the proposal as they believed that the changes was disproportionate, would limit consumer choice and may exacerbate the market failure. The UK proposed the introduction of mandatory labelling of preparations containing previously frozen poultrymeat, which would have ensured that consumers were properly informed and would have imposed relatively minor costs on the industry still able to purchase chilled poultrymeat preparations. More recently the UK as lobbied for an extension to the transitional period. However there has been little support for these requests from either the Commission or other Member States.

The Commission made several technical changes to the text clarifying definitions at the 5th October Special Committee on Agriculture (SCA). The proposed changes did not cause us additional or specific concerns and the UK remained opposed to the proposal. The UK intervened to stress once more that the proposal flouted best practice in the proposal's failure to be accompanied by an impact assessment. The UK, supported by several other Member States argued that the Commission should extend the transitional period, both to smooth transition and to accommodate concerns of third countries. The Commission deferred to the Presidency who proposed an additional one-month, falling somewhat short of the twelve-months called by the UK, and six-months suggested by Germany. The final round of negotiations took place at 12th October SCA where the Presidency tabled its compromise proposal and concluded it had a Qualified Majority on the text. Again the UK, Germany and Austria intervened exhorting

the Presidency to provide a longer transitional period than the one-month it had offered by way of compromise. However these requests fell on deaf ears.

At Agriculture Council on 19th October the Presidency secured a qualified majority on the proposal and it was adopted. The UK voting against the proposal, made a statement to the Council minutes, noting the disproportionate cost impact on the UK market as well as criticising the Commission's failure to carry out an impact assessment before adopting the draft legislation. The regulation will apply from 1st May 2010.

Rationale for Government Intervention

Council Regulation (EC) No.1234/2007 as amended is directly applicable.

The approach

Who will be affected?

All those in the UK involved in the production, slaughter, processing, sale (both wholesale and retail, including supermarkets) and purchase of poultrymeat will be affected by the new measure.

Stakeholders have explained that many poultrymeat preparations are made from British poultrymeat that has been produced and frozen earlier to be able to meet periods of very high seasonal demand. This is particularly true for turkey and duck at Christmas, and also some chicken cuts for summer barbecue demand, and which are presented to the consumer in a chilled (unfrozen state). The proposal would also apply to preparations made from imported frozen poultrymeat.

The current rules do not specifically cover the sale of poultry preparations that have been prepared from previously frozen poultry. Whilst broader legislation means that little of this is labelled misleadingly as e.g. fresh, the Commission are probably right that it is an area that needs clarification. Indeed the UK supports the aim of the draft proposal which is to ensure that preparations containing chicken are not labelled as fresh if the chicken has at some stage been frozen. But the proposed solution will severely restrict much of the existing chilled food market which contains poultrymeat preparations made from frozen or previously frozen poultrymeat.

Importers will also be affected as poultrymeat imported from third countries will have to be marketed in the Community in accordance with these new rules (i.e. if it has been frozen it can only be marketed in that state and not defrosted then used in poultrymeat preparations sold as chilled). China and Brazil have raised this with the WTO and called this proposal trade restrictive. China also called for a 1 year extension to the transitional period.

Consumers should benefit from increased confidence in the final product, as any poultrymeat and poultrymeat preparations in the chiller cabinet will be 100% fresh. However this could come at the cost of increased price and a less convenient product.

Developing policy in partnership with stakeholders

Defra have had regular meetings with stakeholders from across the poultrymeat supply chain, enforcement bodies and consumer organizations.

The whole poultrymeat supply chain, enforcement bodies and consumer organizations support the underlying aim of the draft proposal which is to ensure that preparations containing chicken are not labelled as fresh if the chicken has at some stage been frozen. However the majority of stakeholders believe that the proposed solution will severely restrict much of the existing chilled

food market which contains poultrymeat preparations made from frozen or previously frozen poultrymeat.

With the agreement of the whole poultry supply chain (the NFU later changed its stance after the March Working Group and supported the proposal) the UK have argued that strengthening of labelling requirements and better positioning on packs would be sufficient to achieve the objectives set out in the proposal by the Commission, such as protecting consumers from being misled. This approach would have enabled both continued development of the convenience food market and clear consumer understanding of purchases. More recently the UK supported by stakeholders argued for an extension to the transitional period.

Enforcement

It is envisaged that inspections at the slaughterhouses/cutting plants will be made by the Meat Hygiene Service (MHS) in England, Wales and Scotland; and in Northern Ireland by DARD inspectors. It is envisaged that checks at the retail level will be carried out in England, Wales and Scotland by Trading Standards Officers (or in some parts of the UK by Environmental Health Officers); and in Northern Ireland by DARD Quality Assurance Branch inspectors. This change will be enforced using existing legislation but the extension of the marketing standards will mean a minor increase in enforcement costs

Economic impact

A. Benefits to stakeholders

The EU proposal effectively bans the use of previously frozen poultrymeat in poultrymeat preparations therefore a premium will be placed on fresh poultrymeat. This will benefit some UK farmers as it will increase demand for their product at seasonal peaks of demand and may lead to increased revenues.

The proposal will virtually halt the use of poultrymeat imported from third countries in poultrymeat preparations sold as 'chilled' in the UK which will benefit British farmers as it will increase demand for their product. This increase in demand may lead to increased revenues.

The proposal will improve consumer confidence in the final product, as all poultrymeat and poultrymeat preparations in the chiller cabinet will be 100% fresh.

In the short term the proposal is unlikely to benefit the majority of British producers or traders but in the longer term, the market position will become clearer to the any advantage, although the time frame and actual extent is indeterminate and unquantifiable at the present time.

B. Costs to stakeholders

This proposal will effectively ban the use of previously frozen poultrymeat in poultrymeat preparations sold as chilled. This will place significant costs on the majority of UK producers, the majority of processors, retailers and the consumer.

Producers / processors

The proposal could lead to a loss of revenue which lead to a loss of jobs in this sector and mean that less British poultrymeat is sold in the UK. The proposal will affect the ability of the majority producers and processors to meet seasonal peaks in demand for poultrymeat preparations, such as turkey crowns and marinated barbecue chicken cuts. These are sold as meat preparations and rely heavily in their manufacture on the use of UK poultry meat which has been frozen down in times of surplus specifically for this purpose.

The UK poultry production capacity is not sufficient and cannot easily be adjusted in the short term to enable only 'fresh' preparations to be sold to meet the widely variable seasonal demand. Production skills, equipment and timing/duration of production cycles are sufficiently different for turkeys and chickens for example, to make it impractical to substitute one for the other in commercial production units. In the short term it is unlikely that such peaks in seasonal demand could be met by imports of fresh poultrymeat from other Member States or third countries.

Producers cannot predict precisely such peaks for summer barbeques especially as this is driven entirely by our highly variable weather (see chart 1 at Annex). Therefore freezing of poultrymeat, which later will be used in preparations, is the only practical way of ensuring sustainable and commercially viable supplies to satisfy such peaks in consumer demand. It has been estimated that total additional cost from a ban on the use of frozen chicken meat to manufacture preparations sold in an unfrozen state is £27 million per annum. As there is scope for those in the chicken supply chain to make the adjustments necessary to overcome the change in the law we have assumed a 5% cost adjustment rate for chicken producers over 10 years.

For turkey producers and processors, the problem is more pronounced in that the seasonal demand for turkeys in the three weeks before Christmas is twice that of the other 49 weeks of the year (see chart 2 at Annex). Much of this is in raw turkey meat preparations. To meet this high peak without using previously frozen turkey meat produced throughout the earlier part of each year, production and processing capacity will have to be expanded for use solely for one flock at Christmas. Companies are differently placed in terms of existing processing capacity but factory capital required to accommodate production all being in a heap in December and not spread throughout the year is £1.5 million.

The additional cost of increased agricultural downtime for turkeys is £1 million. To accommodate the production change companies would have to create around 800,000 square feet of extra rearing space which, at £15 per square foot will mean an agricultural investment of £12 million. Change from using meat frozen down in surplus to only fresh meat in further processed lines and the reduced flexibility of the new definition proposed for fresh poultry meat preparation will add a further £3.8 million to the cost.

In total, turkey companies representing over 80% of total turkey sector production face an estimated additional cost of £18.3 million in the first year, with £4.8 million of this recurring annually.

These estimates for the majority of the chicken and turkey sectors add up to extra costs totalling £45.3 million of which £31.8 million is recurring. See chart 4 in annex for more information.

It is possible that as a result of this proposal some food processors will need to change the source their raw materials. This could mean an increased cost to production, if the processor was using imported previously frozen breast meat. This increased cost would mean a diminished profit margin and possible downsizing of food businesses. The Chilled Food Association and British Poultry Council have already identified at least two separate companies that would each have to make over 250 members of staff redundant as a result of this change. An additional processor is considering investing £10 million in new capital to convert production from using previously frozen poultrymeat to fresh poultrymeat.

Retailers

In the short term this proposal will have far reaching repercussions for the UK retailers and remove a safe and popular source of food from consumers. The retail industry has estimated that sales of previously frozen poultrymeat preparations as chilled foods are in excess of £150m per annum (see chart 3 in annex for detailed breakdown).

Although the change in law may lead to a decrease in sales of poultrymeat preparations due to a decrease of supply, any associated costs would be mitigated by consumers shifting to other meat categories or buying lesser quality reconstituted poultrymeat products and possible diversification of ‘fresh’ poultrymeat preparations by the retailers.

Supermarkets have indicated that they believe that they can work-around the problem in the longer term. For example, it has been suggested that at least one supermarket will reconfigure the content of its BBQ packs to include more breast meat, or by using breast meat in kebabs so that the whole bird is being used and nothing needs to be frozen down. This is reflected in the 5% cost reduction over 10 year, see annex for more information.

Additionally it might be possible, with appropriate marketing, to increase the popularity, and sales, of frozen poultrymeat in the UK. If this be could done there would be less reliance on the need to produce fresh/chilled poultrymeat thus reducing the potential problems caused by the change to the Regulation.

Consumers

The proposal will reduce the supply of poultrymeat at seasonal peaks in demand and place a premium on fresh poultrymeat preparations. This will invariably lead to price increases and a reduced choice for UK consumers in the interim period before a long term sustainable answer to meeting seasonal peaks in demand is found.

One of the Commission’s reasons for introducing this proposal was to improve quality and ensure the consumer was not mislead. As the proposal will halt the use of frozen meat in whole muscle poultrymeat preparations it could lead to an increase into directly competing reconstituted poultrymeat (and almost certainly previously frozen) products e.g. Kievs, Escalopes and so devaluing and degrading not increasing value or quality of Poultrymeat sales. The composite poultrymeat mix product falls outside restrictions imposed by the amendment even if (as is often the case) the product is directly competing in the chilled cabinet with recognised whole muscle preparations as above.

The proposal will virtually halt the use of poultrymeat imported from third countries in fresh poultrymeat preparations therefore removing a source of cheaper meat on the UK market. This will mean an increase prices which will inevitable be passed onto the consumer.

The Commission has stated that this change in the law will result in improved food safety for consumers. However there is an argument that by forcing consumers to buy frozen poultrymeat preparations at periods of peak demand, the changes it introduces are less safe than the current arrangement. The FSA have confirmed there is no health risk with using previously frozen poultrymeat in preparations sold chilled. Advances in freezing technology and hygiene controls in recent years have enabled “chilled” to be a safe and convenient food category approved by the FSA which benefits consumers and also promotes more efficient and sustainable use of agricultural resources throughout the year.

Costs summary

Cost	Amount
Chicken processors switching from using previously frozen chicken meat to fresh meat in preparations	£27 million / annum ¹
Turkey producers / processors having to increase production capacity to ensure that sufficient fresh meat is available to meet consumer demand.	£13.5 million one off capital investment ¹ £1M / annum downtime ¹
Turkey processors switching from using previously frozen turkey meat to fresh meat in preparations.	£3.8 million / annum ¹
Processors investing in new capital to allow the production of fresh	£10 million one off cost ² .

poultrymeat preparations.	
Inspection and Enforcement	£5,000 / annum

¹ Source British Poultry Council

² Source Chilled Food Federation

Costs to taxpayers

This change will be enforced using existing legislation but the extension of the marketing standards will mean a minor increase in enforcement costs.

Specific Impact Tests

Competition Assessment

The measure has no impacts on competition as it applies to all businesses and it will not significantly affect opportunities for entry for new enterprises.

Small Firms Impact Test

The measure has no impacts on competition as it applies to all businesses. However small-scale chicken producers and seasonal/Traditional fresh turkey production are not adversely affected by the proposed change in the Regulation. In this sector, production is largely based on fresh whole birds sold at the farm gate or through local butchers (although there is a growing trend for producing fresh turkey cuts such as crowns, rolled breasts, three bird roasts etc). Indeed, some in this sector have welcomed the proposed change as they are currently competing with products, such as previously frozen turkey crown preparations, which can be brought to market at lower costs, but still sold in a chilled state.

Unintended Consequences

Legal Aid

As offences in the regulation are summary offences only, with no prospect of custody upon conviction and as the proscribed behaviour will be carried out by those employed in the trade, there will be no impact on legal aid.

Sustainable Development

The Proposal will have no effect on sustainable development.

Carbon Impact Assessment

The Proposal will have no effect on carbon emissions.

Other Environmental Issues

The measure has no implications in relation to climate change, waste management, landscapes, water and floods, habitat and wildlife or noise pollution.

Health Impact Assessment

The Proposal will not directly impact on health or well being and will not result in health inequalities.

Race /Disability/Gender

There are no limitations on meeting the requirements of the Proposal on the grounds of race, disability or gender. The Proposal does not impose any restriction or involve any requirement which a person of a particular racial background, disability or gender would find difficult to comply with. Conditions apply equally to all individuals and businesses involved in the activities covered by the Proposal.

Human Rights

The Proposal is consistent with the Human Rights Act 1998.

Rural Proofing

There is no identified impact on rural communities at this stage.

Implementation

The EU proposal is due to come into force on 1st May 2010

Evaluation

During the first two years of its implantation there will be an ongoing dialogue with stakeholders to evaluate the changes that it has bought in.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes

Chicken meat preparations

Producers cannot predict precisely such peaks for summer barbeques especially as this is driven entirely by our highly variable weather (see chart 1 below). Therefore freezing of poultrymeat, which later will be used in preparations, is the only practical way of ensuring sustainable and commercially viable supplies to satisfy such peaks in consumer demand.

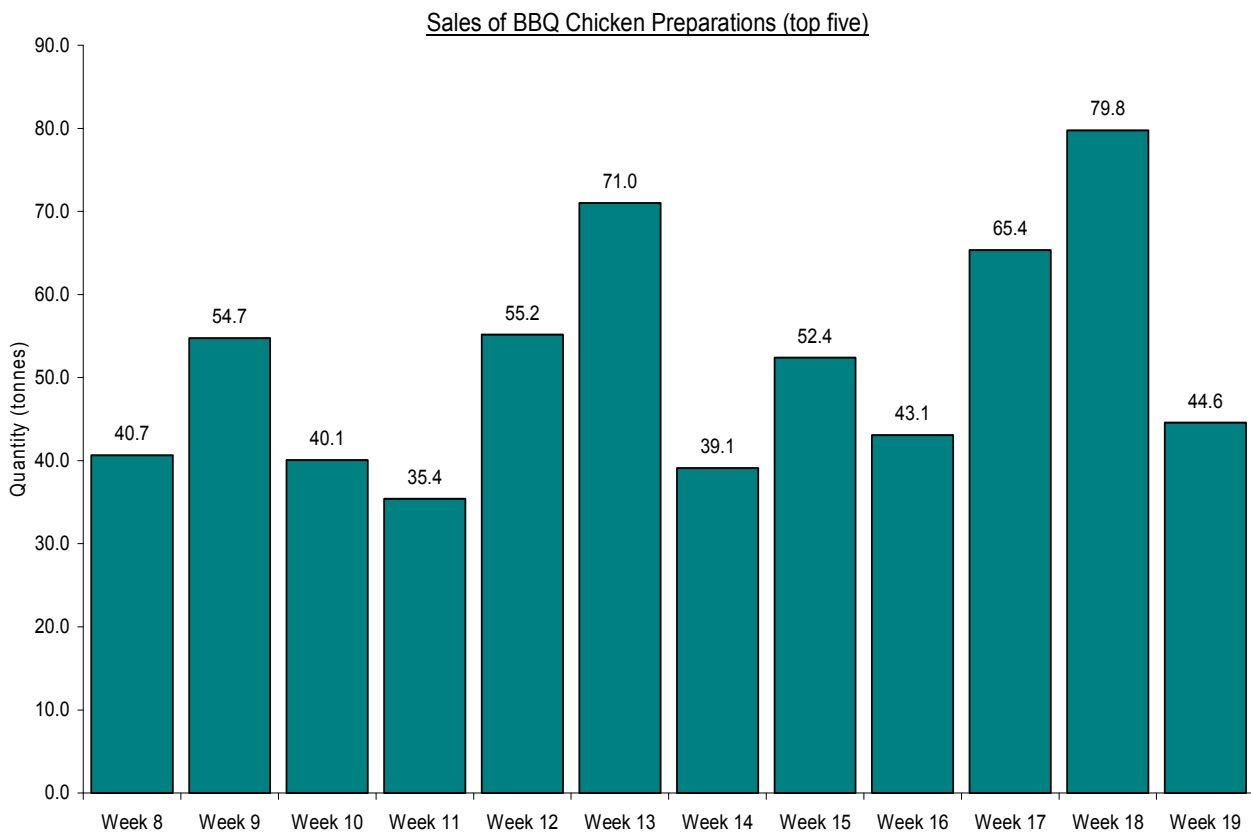


Chart 1 – A leading British supermarket’s sales figures for the top 5 BBQ chicken products (which may use previously frozen chicken).

The supermarket’s week 8 began on 19 April and week 19 on 5 July. The quantity stated is tonnes of product, however all these products mainly raw chicken (95%) so for tonnes of product you can read tonnes of raw chicken.

From the data you can see that the average weekly sales are 51.8 tonnes. The lowest was 35.4 tonnes (week 11) and the highest 79.8 tonnes (week 18) - so there is a big variation. Weeks 18 and 19 show how sales can drop off dramatically in just a week - around 45% lower in week 19 compared to the previous week.

The sales data suggests that there is a 'core' demand for these lines in the summer of around 40-45 tonnes, this can then spike up to 80 tonnes depending on the weather and demand for BBQ preparations. So whilst the 40 tonnes can be predicted and planned for on a medium term basis, the spikes are completely unpredictable.

Although it is possible for food business operators to source poultrymeat from other Member States at peaks of demand practically this on the spot purchasing doesn’t work due to the strict deadlines and short lead in times imposed by the retailers as well as the product shelf life. Even

with the ability to use previously frozen poultrymeat in chilled preparations the food business operators are fined on occasion when they fail to meet the retailer's demands.

Turkey Production

The chart below demonstrates that over the course of the year the turkey industry over produce to meet peaks of seasonal demand. Despite the sectors best efforts to increase production (a 6 fold increase compared to other months) for Christmas are still not of the same incline as sales/consumption of Turkey during the festive season.

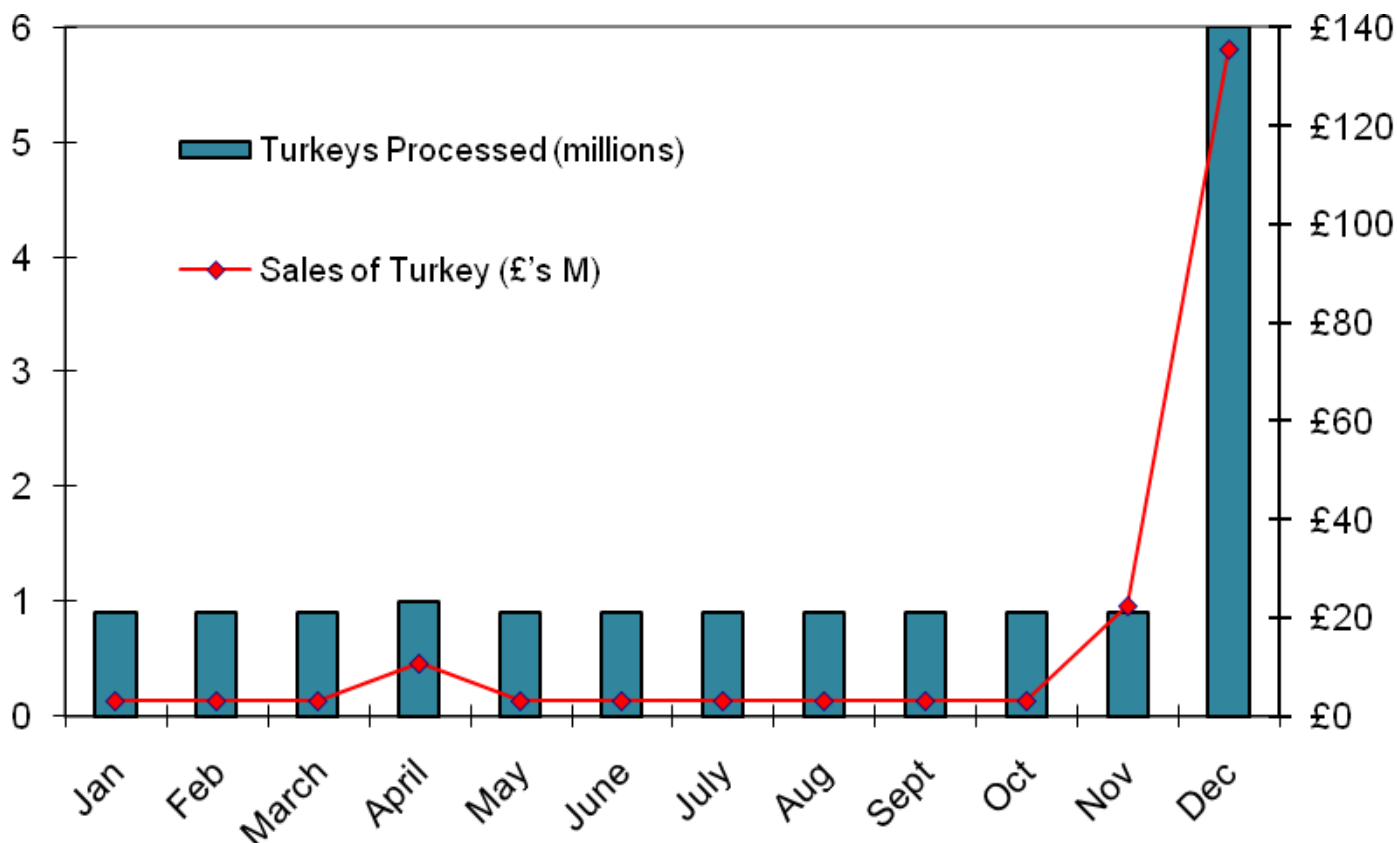


Chart 2 – Relationship between turkey sales and quantity processed on a monthly basis*

**Data provided by the British Poultry Council.*

The seasonal demand for turkeys in the three weeks before Christmas is twice that of the other 49 weeks of the year. Much of this is in raw turkey meat preparations. To meet this high peak the industry over produces throughout the year and freezes down excess production. This excess meat is then used to in the practice of producing previously frozen turkey crown preparations to meet peaks in demand.

Retailers

The following data was obtained from 4 multiple retailers who between them account for 67% of the UK grocery market the figures represent the current sales value of poultrymeat dishes (preparations and products) listed.

Poultry dish	Sales (£m)*
Prepared turkey crowns, chicken and duck joints	£47.8m
BBQ preparations	£12.7m
Prepared poultry – breaded chicken etc	£60m
Ready meals with raw poultry	£15.2m
Total	£135.7m

**Sales data provided by the British Retail Consortium.*

Chart 3 – Annual sales of poultrymeat preparations and products.

NB Scaled up to 100% of the food retail market, assuming these 4 companies which have 2/3 of the market are representative it exceeds the £150m.

Cost Adjustment for chicken supply chain.

There is more scope for chicken producers, processors and retailers to make the adjustments necessary to overcome the change in the law. Therefore we have assumed a 5% cost adjustment rate for chicken producers over 10 years.

Year	0	1	2	3	4	5	6	7	8	9	10
total cost	0	55.3	30.45	29.1	27.75	26.4	25.05	23.7	22.35	21.0	19.7
Ongoing	0	31.8	30.45	29.1	27.75	26.4	25.05	23.7	22.35	21.0	19.7

Chart 4 - Cost adjustments for chicken supply chain