3. Introduction of the animal SBO ban

Introduction

3.1 In June 1989 the Government announced its intention to ban Specified Bovine Offal (SBO) from human food. The introduction of the ‘human SBO ban’, on 13 November 1989 by the Bovine Offal (Prohibition) Regulations 1989, is examined in vol. 6: Human Health, 1989–1996. The intention of the SBO ban was to prohibit the use of SBO in the preparation of food for human consumption. SBO was defined as the brain, spinal cord, thymus, spleen, tonsils and intestines from a bovine animal over 6 months of age.633

3.2 The inclusion of any ruminant-derived protein in feed intended for ruminants had been prohibited by the ruminant feed ban (RFB) since July 1988 (see Chapter 2: ‘The ruminant feed ban 1989–96’ and vol. 3: The Early Years 1986–88).634 However, the announcement in June 1989 of the Government’s intention to introduce a ban for human food raised questions about the inclusion of SBO in feed for non-ruminant animals. Most pet food manufacturers acted soon after the Government’s announcement by voluntarily excluding from their products any SBO that they had been using up to that point. Significant pressure was also exerted on the Government by industry and consumer groups to introduce a statutory ban on the inclusion of SBO in feed for all animals. This chapter describes the form that this pressure took and the Government’s resistance to it.

3.3 The United Kingdom Agriculture Supply and Trade Association (UKASTA), the principal body representing the interests of agricultural merchants and animal feedstuff manufacturers, lobbied MAFF for the SBO ban to be extended to include animal feedstuffs. In November 1989, following the Government’s refusal to introduce such a ban, UKASTA recommended the voluntary exclusion of SBO from animal feed to all its members. MAFF maintained that such action was unjustified and unnecessary. However, in September 1990 MAFF announced the introduction of a ban on the inclusion of SBO in all animal feed. The Spongiform Encephalopathy Advisory Committee (SEAC) had recommended such a ban following the diagnosis of spongiform encephalopathy in a number of cats and also the experimental transmission of BSE to a pig. This chapter describes the events that led to this decision and the preparation of the resultant Order.

Voluntary pet food ban

3.4 The pet food industry acted before the rendering and animal feed industries in moving to exclude what was later to become known as SBO from its products. In June 1989 the Pet Food Manufacturers’ Association (PFMA) advised its members...

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633 Regulations 2 and 4 of the Bovine Offal (Prohibition) Regulations 1989 (L2 tab 3B)
634 Article 7 of the Bovine Spongiform Encephalopathy Order 1988 (L2 tab 1)
not to include certain bovine offal in their products. This advice was issued upon the announcement of the Government’s intention to introduce a statutory ban on SBO in human food. This reflected the fact that by this time some large pet food manufacturers had given independent consideration to the safety of bovine material, and had concluded that it was prudent to exclude certain material from their products.

Voluntary measures taken by pet food manufacturers prior to May 1989

3.5 Pet food manufacturers did not receive formal notification or ‘warning’ of BSE. A representative of Pedigree Masterfoods (Pedigree), one of the UK’s larger manufacturers, thought they first became aware of its existence around June 1987. A representative of Spillers Petfoods (Spillers), another large pet food manufacturer, said that following publicity about the emergence of BSE, they were monitoring the issue closely and held their first seminar on 21 July 1988. Both Pedigree and Spillers took steps in response to the perceived risk posed by BSE.

3.6 In June 1988 Mrs Elizabeth Owen of MAFF’s Food Safety, Fertilisers and Feedingstuffs Standards Division, set out in a minute her discussions with a company representative, who believed that the company’s practices were representative of the industry, on the inclusion of certain offal in pet food manufacture. Mrs Owen recorded that, given the very low level of nervous tissue used in pet food, it was thought that the risk was ‘commensurately low’. There was also discussion on the temperatures used in the canning process. It was thought this would reduce, but not eliminate, any BSE infection. Literature studies undertaken by manufacturers indicated that contamination by the oral route was unlikely, but was much more likely through lesions. The existence of a ‘species barrier’ was also noted. Mrs Owen commented:

We prompted Animal Health to consult PFMA at an early stage in the BSE story and it’s clear that this contact has given [the company] the opportunity to look critically at their raw material usage and canning operations. They conclude that since they are not using prime contaminated materials the risk to their workers, pets and pet owners is very low indeed. I can only agree.

3.7 Nonetheless, in July 1988, Pedigree considered the issue serious enough to warrant commissioning Dr Richard Kimberlin, an independent consultant on transmissible spongiform encephalopathies (TSEs), to ‘help with its understanding of BSE, and whether or not BSE carried any risk for pets who were fed prepared pet food’.

3.8 Since the late 1970s, Pedigree had ceased using certain bovine products in its products, including bovine brain, tonsils, thymus and intestines. Until May 1989 (see paragraph 3.20) they continued to use a limited amount of UK-derived spleen and vertebrae, which could include spinal cord.

635 T63 pp. 2–3
636 S168 Plant paras 5–6
637 Part of the Food Safety Group from November 1989
638 YB88/6.21/8.1
639 S163 Malin para. 4
640 S163 Malin para. 17
3.9 Spillers responded to BSE by following a policy whereby only mammalian materials from animals that had been inspected and passed fit for human consumption were used. In July 1988 Spillers stopped using bovine spleen in its products and replaced it with liver. At the same time, they changed their specification for ground bone so that it excluded the use of bovine heads and backbones, with the intention of eliminating brains and spinal cord. In October 1988 Spillers stopped using meat and bone meal (MBM) which originated in the UK and replaced it with poultry meal, imported pork meat meal and prairie meal (derived from maize).641

3.10 In February 1989 the report of the Southwood Working Party (see vol. 4: The Southwood Working Party 1988–89) stated that domestic pets could be susceptible to BSE, ‘were the agent to reach them in an adequate dose by an appropriate route’. The implications for pet food were considered:

Whilst pet food frequently contains offal from both sheep and cows, so that the source material must have contained scrapie and possibly BSE agents, there is no evidence of relevant neurological disease in cats or dogs. It seems unlikely, but possible, that preclinical infection exists but it is not revealed because of an incubation period longer than the natural lifespan. On the other hand, it may be that infection cannot be acquired orally by these species or that the high temperatures used in pet food canning destroys any infectious agent . . . Nevertheless, transmission experiments in cats and dogs and surveillance of the health of domestic pets are items that should be brought to the attention of the Consultative Committee on Research and the veterinary profession.642

3.11 By March 1989, as reported by Miss C Harrold, of the Food Safety, Fertilisers and Feedingstuff Standards Division, most companies manufacturing pet food were ‘avoiding UK cattle nerve tissue, spleen and brains’. She said they were continuing to use all parts of sheep from all sources, though one manufacturer was using only poultry meat in dry products.643 At the end of the month, the PFMA Executive Committee considered the Southwood Report and its recommendation on the ‘non-use of brain, spinal cord, thymus, spleen and tripe in baby food’:

The possibility of recommending to all PFMA members’ non-use of brain and spinal cord was discussed. There was no justification in doing so for some of the identified materials and not others, especially when cats and dogs did not appear to be at risk. It was therefore agreed to simply inform all members of developments and provide a reserve statement, and to monitor the situation, especially any further government research into the transmission of BSE to domestic pets.644

641 S168 Plant paras 8(a) and (b)
642 IBD1 tab 2 p. 13 para 5.2.4
643 YB89/3.13/6.1
644 M49 tab 5 p. 84; S164 Lowe para. 4
MAFF’s attitude to the use of SBO in pet food

3.12 On 15 March 1989 the Minister of Agriculture, Mr John MacGregor, and the Parliamentary Secretaries in MAFF, Mr Donald Thompson and Mr Richard Ryder, met a number of MAFF officials to discuss a note prepared by the Chief Veterinary Officer, Mr Keith Meldrum, on animal health issues. At the meeting the use of MBM in dog and cat food was discussed:

Mrs Attridge pointed out that if we were to go wider than Southwood suggested on this issue then logically we would also need to look at such points as the use of thymus in hamburgers. It was thought that the dog and cat food manufacturers were very sensitive to the good image of their product and would alter their feeds if they felt that there was a public perception problem. It was agreed that Mr Thompson would meet the pet food manufacturers to explore the issue further with them.

3.13 Following the meeting, Mrs Attridge informed other MAFF officials of the agreement that Mr Thompson would meet the pet industry to discuss the Southwood Working Party’s recommendations. She advised caution in what was said to the pet food industry about the risk posed by BSE:

...we assume that dogs, cats and humans have been used to eating meat and have therefore evolved defences. Therefore, there should not be any specific concerns relating to products which have been traditionally used both in human diet and in the diet of dogs and cats... I am concerned particularly if we were to leave the pet industry with the impression that dogs and cats should not be fed ruminant meat and offal when this is a normal part of human diet. We need to be consistent.

3.14 Mr John Garnett, Head of the Food Policy Division of MAFF, concurred with Mrs Attridge and went further, advising Mr Thompson, ‘or indeed any Minister’, against entering into discussions with the industry:

I entirely share her concern that, in raising with the pet food industry at Ministerial level the possibility that the Southwood Committee’s references to the desirability of monitoring cat and dog populations were based on something more than extreme prudence on the part of the Committee, we could be creating ‘problems’ which do not exist. Worse still, there is serious risk that the media would get to hear of such a meeting and might then begin to ask questions along the lines of why we were apparently concerned that cats and dogs should not be fed ruminant meat and offal when we were content that these should continue to form part of the adult human diet.

3.15 During a subsequent meeting to discuss the issue, Mr Garnett was able to convince Mr Thompson that the proposed ministerial consultation with the pet food industry was inadvisable or unnecessary. The minute records Mr Thompson as stating that ‘he did not feel it essential at the present for him to have a meeting with the industry to discuss BSE’. Nonetheless, it was noted that he would welcome the
opportunity to ‘meet the industry on a social occasion to discuss this issue less formally’.  

3.16 In a statement to the Inquiry, Mr Terry Plant, Quality Assurance Manager at Spillers, said that MAFF only consulted with the pet food industry to a small degree, because the ‘pet food industry was on the sidelines of the BSE crisis.’ However:

MAFF personnel were continuously available for consultation and to discuss the latest scientific information on BSE. The Ministry also gave early advice of major developments as the BSE crisis unfolded.

3.17 The minutes of Mr Garnett’s meeting with Mr Thompson also record Mr Garnett as stating:

. . . infective levels of the scrapie agent in pet food were so low that, even if domestic animals were susceptible to BSE (and there was no evidence that they were), there was unlikely to be any risk of the disease developing.

3.18 Mr Derek Andrews, MAFF Permanent Secretary, subsequently asked Mr Meldrum to confirm Mr Garnett’s advice about the risk of BSE for domestic pets. On 24 April 1989 Mr Meldrum circulated a minute within MAFF noting:

In particular I do not believe one can say that the levels of the scrapie agent in pet food are so low that domestic animals are not exposed.

3.19 Mr Garnett explained to Mr Meldrum the next day that his statement at the meeting was based on conclusions drawn from research by the pet food industry. On 3 May 1989 Mr Meldrum elaborated his concern about the advice given to Mr Thompson on the risk of BSE in pet food:

On occasions, material obtained from slaughterhouses will be derived from sheep affected with scrapie or cattle that may be incubating BSE for the use in petfood manufacture. Some of this material must be classified as high risk since it contains brain, spinal cord, spleen or lymphatic glands.

The above material will be exposed to a low processing temperature in the preparation of dry petfood (as against canned petfood) which will be insufficient to destroy the agent of scrapie/BSE. Thus, on occasions, domestic pets will be exposed to the agent. This was recognised by Southwood who said ‘domestic pets could well be susceptible to BSE were the agents to reach them in an adequate dose by an appropriate route’. He went on to say that it seemed ‘unlikely but possible that preclinical infection exists but is not revealed because of an incubation period longer than the natural life span’. Southwood went on to comment that ‘hounds that are often fed uncooked carcasses would be particularly appropriate for study’.

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649 YB89/4.14/1.1
650 S168 Plant paras 10–2
651 YB89/4.14/1.1
652 Sir Derek Andrews from 1991
653 YB89/4.19/4.1
654 YB89/4.24/3.1
655 YB89/4.25/1.1
656 YB89/5.03/7.1
Pet food manufacturers adopt a voluntary ban on specified offal

3.20 Meanwhile, the pet food industry was determining its own approach, based on advice obtained independently of MAFF. Dr Kimberlin wrote a series of five reports for his pet food industry clients between September 1988 and March 1989. In May 1989, following receipt of advice from Dr Kimberlin, Pedigree decided to cease purchasing from UK sources both spleen and those parts of the vertebrae that might include spinal cord. This was in addition to its existing policy to exclude bovine brain, tonsil, thymus and intestine from its products (see paragraph 3.8).

A representative of Pedigree said:

In essence this advice [from Dr Kimberlin] was that certain bovine raw materials which Pedigree were then using did carry a potential risk, which could only be avoided if their use was discontinued. He was unable to be definitive but nonetheless he recommended that the limited number of risk materials which Pedigree were using should no longer be included in its raw material purchasing programme and recipes. The materials did not represent a major part of Pedigree’s raw material supply and could be relatively easily and inexpensively replaced. Pedigree decided in May 1989 no longer to include them in its recipes, and told the PFMA and MAFF of its decision.

3.21 On 16 May 1989 Mr Meldrum attended a meeting where Pedigree presented research that had been undertaken to try to assess the risk of using bovine products in pet food. Following the meeting, at Mr Meldrum’s request and with the permission of his clients, Dr Kimberlin explained his research to Mr Meldrum and provided him with copies of his reports. The significance of these meetings is considered in vol. 6: Human Health, 1989–96. In his final report, Dr Kimberlin had concluded that it was not possible to predict with certainty whether BSE might be transmissible to cats and dogs via the oral route. However, in his second report, by analogy with scrapie, Dr Kimberlin identified those tissues that could possibly carry the infective agent at sufficient levels to transmit the disease (see vol. 6: Human Health, 1989–96).

3.22 By June 1989 MAFF had decided to introduce a ban on the inclusion of certain bovine offal in all human food – ‘the human SBO ban’ (see vol. 6: Human Health, 1989–96). On 13 June 1989 Mr MacGregor announced the Government’s intention to introduce such a ban in Parliament and via a joint press release with the other agriculture departments and the Department of Health (DH).

3.23 Three days later, the PFMA announced a voluntary code of practice under which its members would not use certain bovine materials of UK origin. The materials to be excluded were the same as those to be banned from human food.
under the Government’s proposals. In particular, PFMA members were advised not to include:

– spleen;

– thymus gland; and

– tonsils;

– any emulsions, forms of ground material or other product containing any material from heads (from which cheek meat, tongues and lips have been removed) and spinal columns, including the spinal cord.  

3.24 In a letter to its members, the PFMA explained the basis for the advice:

Although there is no scientific evidence for giving this advice, (the Government’s expert Southwood Committee having reported in February that there are no descriptions of spongiform encephalopathies in domestic pets) it is nevertheless being given owing to the adverse publicity which could well accrue if the pet food industry does not react to the latest Government announcement.  

3.25 The level of compliance with the PFMA voluntary ban appears to have been high. Members of the PFMA were responsible for at least 95 per cent of all pet food manufactured in the UK, and the PFMA said that compliance was not difficult for its members as the specified tissues were ‘only in minimal use for quality and quantity reasons’. Whilst the PFMA was satisfied that its members were observing the ban, it was less certain about observance by non-member manufacturers. These tended to be small businesses who were unlikely to have distributed their products nationally. They were considered a mixed group, which included ‘small enterprises attached to granaries, abattoirs, knacker’s yards and butcher shops’.  

3.26 In November 1989 the PFMA added small and large intestines to its list of bovine products to be excluded from pet food, so that it accorded with the human SBO ban.  

Voluntary animal SBO ban

Concerns about SBO in animal feed

3.27 Concern about the transmissibility of BSE to animals by including bovine offal in their feed was not limited to the pet food industry. On 20 June 1988 Dr Hilary Pickles informed Sir Donald Acheson that at the first meeting of the Southwood Working Party on that day, it was noted that the RFB still permitted ‘affected sheep/cattle to be rendered for feed (with existing low-temperature
processes) for pigs and poultry’. Dr Pickles said that this had ‘caused concern’. The official minutes of the Working Party’s first meeting did not mention this concern, but stated:

> Although there was no certainty that the agent could not jump the species barrier into pigs and poultry, action in relation to these species would not be recommended.

3.28 During late 1988 and early 1989, some members of the rendering and feed industries raised concerns about the inclusion of bovine offal in animal feed. The UK’s largest renderer, Prosper De Mulder (PDM), was among them:

> . . . we realised that if MBM was the vehicle for transmission of the infective agent then the tissue in which the agent could be expected to be found in animals not displaying clinical symptoms should be excluded from animal feeds as well as human foods.

3.29 On 31 October 1988 Mr Raymond Bradley of the Central Veterinary Laboratory (CVL) reported that Mr Paul Foxcroft of PDM ‘thought it would be practical for brain (or heads), spinal cord, spleen and other specified tissues to be removed from the rendering chain (but at abattoir expense!!)’. Mr Foxcroft told the Inquiry that he repeated this suggestion ‘on many occasions’. For instance, on 22 May 1989 he wrote to Mr Meldrum:

> Over recent weeks we have had many requests from our customers following requests from their customers to give some reassurances regarding the absence of BSE contaminated material in our products . . . [I]t is obvious to anyone that undiagnosed/sub-clinical BSE animals are slaughtered normally, not to mention Scrapie infected sheep! . . . It appears to me that inevitably there will have to be a restriction on the use of ruminant brain and spinal cord materials in human food products and I repeat our suggestions of last year that these materials should be diverted at the point of slaughter from the by-product cycle . . .

Suggestions have been made that the UKRA should consider a voluntary refusal to handle such material from the slaughtering industry. Our company has approached several large abattoirs to ask if they would consider keeping this material separate. In every case the answer was no!

3.30 This correspondence echoed concerns about dealing with brain, spleen and spinal cord raised by the UK Renderers Association (UKRA) in a letter to Mr Meldrum in November 1988. At an earlier meeting with UKRA Mr Meldrum had identified this material as the most likely to transmit BSE, and UKRA stated that the feeling within the rendering industry was that ‘we would now prefer not to handle these items’. UKRA proposed that MAFF ban these items from ‘use as renderable materials’. The letter concluded:

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671 YB88/6.20/3.1  
672 YB88/6.20/2.3  
673 S37C Foxcroft paras 4.2–4.3  
674 YB88/10.31/3.1  
675 S37C Foxcroft para. 4.4  
676 YB89/5.22/6.1
We would therefore urge you to give this proposition serious thought. If the present restrictions on Meat and Bone Meal are not lifted then the renderers will voluntarily adopt your previous recommendations and not collect heads at all, nor accept any spinal cord materials or spleens . . .677

3.31 UKRA representatives subsequently met Mr Meldrum, Mr Kevin Taylor678 and Mr John Wilesmith,679 amongst others, on 28 November 1988. The note of the meeting records that:

UKRA was dismayed by Southwood’s [interim] recommendation of an indefinite ban on meat and bone meal, which they thought would be unnecessary if the head, spine and spleen were not processed. However, Mr Meldrum pointed out that this partial exclusion would reduce but not remove the risk and it was for Ministers to decide whether to opt for a low risk, or for no risk at all. Ministers were aware of the problems an extension to the ban would cause, but had to consider other factors, such as human health, the public perception of ‘animal cannibalism’ and threats to cattle exports.

. . .

UKRA urged a lifting of the ban at least until meat and bone meal is actually proved to be the cause of BSE. This was ruled out as we are certain that it is the cause; there is no evidence to contradict the conclusion.680

3.32 Further consideration of what material ought to be fed to non-ruminant farm animals arose with the delivery of the Southwood Report to Ministers in February 1989. The report itself mentioned modern feeding practices in two places. Under the heading ‘General Conclusions’ the report said:

This problem has arisen as a result of the practice of feeding ruminant materials to herbivores, which are thus exposed to infective risks against which they have not evolved any defences. Such practices are a feature of modern intensive agriculture, but inevitably (as with BSE, and bacterial pathogens in poultry) they open up new pathways for infection to the farmed animals and potentially from them to man, via food and/or medicinal products. We note that animal meal supplements do increase the rate of growth of animals, whilst also providing a superficially efficient way of disposing of animal waste. But we believe the risks from inadequately sterilised animal products are such that this method of disposing of animal waste should be changed so as to eliminate these novel pathways for pathogens. We urge Ministers to address this general problem as part of the adjustment of the framework of the agricultural policy of the EC in the coming years.681

677 YB88/11.17/8.1–8.2
678 Veterinary Head of the Notifiable Diseases Section
679 Head of Epidemiology, Central Veterinary Laboratory
680 YB88/11.28/2.2
681 IBT1 tab 2 p. 21, para. 9.4
3.33 In its summary, the report stated:

We note that this disease appears to have originated from unnatural feeding practices as found in modern agriculture. We question the wisdom of methods which may expose susceptible species of animals to pathogens and ask for this general issue to be addressed.682

3.34 These recommendations caused ‘very difficult presentational problems’ for the Government.683 A MAFF note prepared for the Prime Minister and Mr MacGregor’s MISC 138 Cabinet Committee colleagues noted a further discussion with Sir Richard Southwood on the matter. It stated that Sir Richard had made it clear to Mr MacGregor that he was ‘not advocating a ban on the use of all animal protein for pigs and poultry’. The note stated that poultry were ‘most unlikely to be affected’, and that the Southwood Report regarded the risk as ‘so remote that no action is appropriate at this stage’. Pigs were omnivores and thus at greater risk, but the feeding of swill to pigs had taken place for many years without the development of any encephalopathies. Transmission experiments in pigs had commenced, and in the meantime it was not intended to ban the feeding of animal protein to them.684

3.35 The matter was raised in a meeting the next day between Mr MacGregor, Mr Kenneth Clarke685 and Sir Donald Acheson. The minutes of the meeting record:

MAFF had spent some time clarifying this [reference to ‘unnatural feeding practices’] with Sir Richard Southwood and were now satisfied that it meant, for example, feeding meat products to animals which were naturally herbivores. The point was made that, until very recently, most members of the public were not aware that such practices took place.686

3.36 The Southwood Report was discussed at a full Cabinet meeting later that day, but no reference was made to the recommendations on ‘unnatural feeding practices’.687 However the Question and Answer brief provided with the note prepared for MISC 138 members summarises the Government line:

Q.22 Is the Working Party recommending a total ban on the feeding of re-cycled animal waste to livestock? (Ban already applies to feeding of ruminant-based material to ruminants.)

A.22 No – they conclude that if animal waste is to continue to be re-cycled as animal protein feed it must be properly sterilised to eliminate the risk of disease transmission.

Q. 23 Government attitude on this?

A. 23 The Government will be giving further consideration to the Working Party’s recommendations on animal feed in the light of the research which may be recommended by the Tyrrell Committee. The manufacture of processed protein feeds is a good way of using waste materials which it

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682 IBD1 tab 2 p. 22, para. 10.7
683 YB89/2.22/6.1
684 YB89/2.22/16.6–16.7
685 Secretary of State for Health
686 YB89/2.23/3.2
687 YB89/2.23/9.1–9.5
would be difficult to dispose of safely in other ways. Our concern is to ensure that it is safe.

Q. 24 Is there not a need for more immediate action?

A. 24 Southwood concludes that the risk of BSE spreading to poultry is so remote that no action is appropriate at this stage. So far as pigs are concerned, transmission studies are already under way. The Government will, as Southwood recommends, be considering the whole issue in the context of the adjustment of the agricultural policy of the EC in coming years. 688

3.37 However, farmers remained concerned about the possible transmission of BSE through animal feed. At the meeting on 15 March between MAFF Ministers and officials to discuss animal health issues (see paragraph 3.12), it was noted that:

The Minister said that the question of a risk analysis on animal protein used in feed was really the most difficult question. Concern was growing among farmers generally and this centred not just on the question of destroying the BSE agent but also on the labelling of compound feed and whether we should go even further and ban animal protein in feed anyway. Farmers were worried that the disease might come back through the feed. It was agreed that there was a big educational job to be done in this area with farmers. 689

3.38 Following the Government’s announcement of the introduction of the human SBO ban, the Chairman of UKRA, Mr John Field, informed Mr Alan Lawrence, responsible for BSE and related issues in MAFF’s Animal Health Division, that UKRA was considering taking initiatives to improve customer confidence in its products. One measure under consideration was to identify regional rendering plants dedicated to processing the ‘condemned bovine offals’, whereby the tallow could be extracted and the MBM possibly incinerated. Mr Lawrence’s note of the conversation on 22 June 1989 recorded that he had indicated that his personal view was that it was helpful and constructive that UKRA was thinking about the issue, and ways that it could reassure its customers and the public of the safety of its product. 690

3.39 Renderers’ concerns that the announcement of the human SBO ban would encourage animal feed compounders to refuse to include SBO material in their products were raised again on 14 July 1989, at a meeting between Mr Lawrence, Mr Crawford and UKRA representatives. UKRA stated that the ‘message was loud and clear that Industry’s customers did not want the banned materials in meat and bone meal’. UKRA had been informed that UKASTA would meet soon to consider a ban on MBM that contained SBO. UKRA representatives indicated that UKRA might be forced to refuse to take SBO from slaughterhouses if UKASTA decided that it would not accept MBM that contained SBO. In response to Mr Crawford’s query as to what UKRA were asking of MAFF, UKRA suggested that ‘it would be beneficial if MAFF were able to put out a form of official statement that gave meat and bone meal “a clean bill of health” and which also highlighted the necessity of distinguishing between the animal food chain and the human food chain’.

688 YB89/2.22/16.15
689 YB89/3.16/3.1
690 YB89/6.22/1.1
Mr Lawrence said this was not possible, since it must be accepted that there was a causal link between MBM and BSE. The note of the meeting continued:

Mr Metcalfe [of UKRA] said that it should be recognised by MAFF that whatever materials were included in the list, once they were refused by Renderers, the abattoirs would have the responsibility of their disposal . . . [Mr Field of UKRA] continued there seemed to be a belief within MAFF that Renderers would still handle and dispose of these materials, whereas by stating that they would no longer take these materials, this effectively meant that the Abattoirs or some other sector of the Meat Industry would have to take and dispose of them.691

3.40 On 17 July 1989 Mr Lawrence informed Mr Thompson of the concerns raised by UKRA. In advising that a meeting should be held with UKASTA to determine whether the renderers’ concerns were justified, he said:

UKRA have concluded that in order to protect their business they may be forced into a position of having to refuse the specified offals for rendering. If this were to happen it would cause grave problems for which there is no obvious and immediate solution. In global terms the specified offals probably represent a total of some 500 tons of material per week.692

3.41 On 21 July 1989 Mr Lowson briefed Mr MacGregor on a number of BSE developments. He referred to Mr Lawrence’s minute to Mr Thompson and said that ‘For the time being it is not easy to assess how serious this threat might be, but as Mr Lawrence says the consequences could be serious’. Mr Lowson advised that if it appeared a real problem was likely to arise, detailed advice would be needed, but in the meantime he suggested alternative courses of action that could be pursued should renderers find that they were unable to find economic outlets for SBO:

alternative disposal methods – nothing else (dumping at sea, landfill, etc) appears to offer a solution;

allowing the market to sort out the problem. The abattoirs would quickly have to cease slaughtering if they could not dispose of their waste (they are legally required to dispose of it within 48 hours), so renderers would be in a strong position to charge for a disposal service if necessary, in which case the cost would be passed on to producers and consumers;

to do what the renderers appear to want, ie, for the Government to finance disposal of the restricted offals. This would be very expensive, and the cost of it would be very difficult for the Government to control; or

for the industry as a whole to finance disposal through the MLC levy. Initial advice is that this could be done without primary legislation, but setting up the arrangements would no doubt be formidably complex and controversial.693

3.42 On 25 July 1989 Mr Lawrence and Mr Meldrum met representatives of UKASTA. A MAFF note of the meeting records that UKASTA explained their
concern about adverse publicity, particularly in relation to animal waste. It was made clear that the Minister’s action on bovine offals was ‘simply to maintain public confidence’.  

A UKASTA note of the meeting records that UKASTA outlined the decisions that its Feed Executive Committee had reached in relation to BSE:

a) the ban on certain cattle offal from human consumption should be extended to cover animal feedingstuffs

b) the continued use of sheep offal in both human food and animal feedingstuffs should be reconsidered.

3.43 UKASTA explained the background to these decisions:

. . . the feed industry were extremely concerned about the public perception of the use of these offals, particularly after MAFF announced the ban on certain cattle offals from human consumption. It was also considered that the decision not to include specified sheep offal appeared to be inconsistent with the line taken on cattle offal.

The industry had suffered badly because of the salmonella in eggs crisis and, in order to avoid similar experiences through BSE, considered that positive action was necessary. It was reported that some farmers were now asking for meat and bone meal to be removed from pig rations. A number of supermarkets were also expressing concern about the use, in animal feedingstuffs, of the cattle offal to be banned from human consumption. Failure on behalf of the feed industry to respond to these concerns could result in questions being raised in public on the use of meat and bone meal in general.

3.44 MAFF outlined what was to become its standard response to these concerns:

. . . MAFF considered that no further legislation was required. Action already taken, and particularly the decision to ban certain cattle offal from human consumption, was as a means of extreme prudence. The introduction of additional measures now would, very likely, heighten public concern, penalise UK agriculture and associated industries and lead to increased imports of livestock products from overseas . . .

MAFF counselled against over-reacting to the situation. UKASTA accepted that the technical/scientific risk was very low; however the risk from adverse publicity on the continued use of cattle offal, in particular, was very high.

3.45 Mr David Williams of BOCM Silcock, a major feed compounding, reported to others within his company, including board members, that at the meeting Mr Meldrum seemed relaxed about the prospect of voluntary ban action being taken and had suggested that removing bovine organs from MBM was a commercial decision for the trade. Mr Williams also reported that Mr Meldrum had urged UKASTA to reconsider its views on the inclusion of sheep offal in the ban. It was

694 YB89/7.26/3.1
695 YB89/7.25/1.1
696 YB89/7.25/1.1
697 YB89/7.25/1.1–1.3
recorded that Mr Meldrum said that any action on sheep offal would have dramatic effects on the UK livestock industry and that action in relation to sheep was unnecessary at that time, since there was no evidence that scrapie in sheep ‘had any effect whatsoever on the human population’. 698

**MAFF’s resistance to UKASTA’s proposal for a voluntary animal SBO ban**

3.46 Two days after the meeting with UKASTA, Mr Lawrence conveyed his concerns to Mr Brian Hilton, 699 Mr Crawford, Mr Meldrum, Mrs Attridge and others including Dr Pickles of DH. He noted that:

i. UKASTA intended to seek voluntary agreement amongst its members not to use MBM that included material processed from SBO in animal feedingstuffs;

ii. there was a possibility that the rendering industry, whose actions would be dependant on the attitude taken by UKASTA, would refuse to accept SBO once the human SBO ban was in place, or possibly even before; and

iii. abattoirs could face difficulties in removal of SBO. 700

3.47 Mr Lawrence suggested that ‘in practical terms the only real option is for the market itself to sort out the problems’, and that if this was accepted, there was merit in the Government acting quickly to make a public statement to the industries involved that they could not look to the Government for assistance. However, he noted the dangers of making public statements about a subject like BSE:

It would focus attention on BSE and might lead to criticism that the Government was neglecting a potential health hazard. It would also highlight the fact that the [human SBO] ban is not yet in force. 701

3.48 Mr Meldrum agreed with this approach. A manuscript note on Mr Lawrence’s minute said:

I would play this issue low key, advise industries involved that this is a problem for them to resolve and that Government does not intend to take any action. 702

3.49 On 7 August 1989 UKASTA wrote to Mr John Gummer, who had succeeded Mr MacGregor as Minister of Agriculture in July, confirming that pressure from supermarkets and livestock farmers about the use of offal in animal feeds had compelled UKASTA to act:

After very careful consideration, and discussion with others in the industry and with your officials, we have concluded that a measured response to these concerns by the animal feed industry is essential if the confidence of our customers and the public is to be maintained. UKASTA is therefore

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698 YB89/7.28/6.2  
699 Head of Land and Resources  
700 YB89/7.27/6.1–6.2  
701 YB89/7.27/6.1–6.2  
702 YB89/7.27/6.2
recommend its members to stop using meat and bone meals containing the cattle offals which the Government proposes to ban from human food . . . We believe this move may help to allay farmers’ worries about the safety of animal feeds, and thus discourage them from seeking the exclusion of all meat and bone meals – a trend which, if continued, could have devastating consequences for the slaughtering and rendering industries. 703

3.50 On 10 August 1989, as part of the official consultation process on the proposed human SBO ban, UKASTA wrote to Mr John Maslin 704 notifying him of the intended voluntary ban and emphasising that it considered the compound feed industry to be ‘an integrated part of the human food chain’. 705 UKRA’s submission on the proposed human SBO ban, dated 31 August 1989, stated that they would continue to remove from the slaughterhouse parts not intended for human consumption, provided that the end user of the products accepted them. Thus, ‘as we expect the Feed Compounders to impose a ban on the inclusion of all products listed as prohibited for human consumption those items will by definition therefore be left at the abattoir etc for local authority disposal’. 706

3.51 If MAFF officials had previously been relaxed at the prospect of a voluntary ban on SBO in animal feed, concern was now developing about such a ban and its timing. On 11 August 1989 Mr Meldrum telephoned UKASTA and asked that the voluntary ban be introduced at the same time that the human SBO ban came into force. His primary arguments were that:

i. any voluntary ban by UKASTA in advance of the legislation banning SBO in human food would cause a ‘major disruption in the marketplace’;

ii. MAFF was still consulting interested organisations on the proposal to ban SBO from human food;

iii. the SBO to be covered by the human food ban could change; and

iv. MAFF officials had yet to discuss the matter with the new Ministerial team. 707

3.52 At a meeting between UKASTA and UKRA one week later, it was agreed to hold off commencement of the voluntary ban until the Government’s human SBO ban came into force. This was because they could be guided by the Regulations as to what offal would be included in the ban, and such offal would be stained and separated, which would make it easier to identify in practice. 708

3.53 Meanwhile, MAFF was assessing the likely impact of UKASTA’s ban. On 11 September 1989 Mr Lawrence forwarded a submission to Mr Gummer, which was copied widely within MAFF. Its purpose was two-fold: first, ‘to alert the Minister to the difficulties which seem likely to arise if UKASTA advise their members not to accept meat and bonemeal which includes material rendered’ from the specified offal; and second, to suggest ways forward for the forthcoming

703 YB89/8.7/1.1
704 Mr Maslin was head of the Notifiable Diseases Branch within Animal Health Division, but reported to Mr Lawrence on BSE and related issues
705 YB89/9.25/1.6–1.7
706 YB89/9.25/1.5
707 YB89/8.11/3.1
708 YB89/8.18/2.1
meeting with UKASTA. The submission envisaged the following problems if UKASTA was to go ahead with its ban:

i. UKRA members would be likely to refuse to collect SBO, which could amount to 1,500 tonnes per week, leading to serious disposal problems;

ii. if SBO could not be disposed of, some slaughterhouses might be forced to close; and

iii. the difficulties would focus ‘a great deal of attention on the use of animal protein in feeding stuffs’, and might lead to public pressure to impose a complete ban.709

3.54 The submission concluded:

Clearly there are likely to be serious implications if UKASTA go ahead with the action they envisage. If we wish to avoid this situation arising it will be necessary to try and head them off. The meeting the Minister is having with UKASTA will provide an opportunity for him to explain some of the consequences of their action, to underline his concern and seek to find ways in which it might be possible for UKASTA to reverse its decision. It is also recommended that the Minister or Parliamentary Secretary (Commons) (Mr Curry) should talk to representatives of the UKRA to discuss the issues involved.710

3.55 On 18 September 1989 MAFF and DH officials including Mr Meldrum, Mr Lawrence, Dr Metters and Dr Pickles met Sir Richard Southwood, Dr Tyrrell and Dr Kimberlin to discuss BSE. In relation to animal feed, the minute of the meeting recorded:

Sir Richard Southwood saw no reason to change his view about the feeding of ruminant material to [pigs and poultry]. In the case of pigs they were noted scavengers and had been exposed to higher concentrations of meat and bonemeal for a number of years without any apparent ill-effect. Neither was there any recorded transmissible spongiform encephalopathy in pigs or poultry.711

3.56 On 2 October 1989 Mr Gummer ‘reacted forcibly’ to the proposed voluntary ban at a meeting with representatives of UKASTA. The meeting was attended by the new Parliamentary Secretary, Mr David Maclean,712 and by officials including Mr Richard Packer,713 Mr Cruickshank, Mr Meldrum, Mr Richard Gueterbock and Mr Lawrence. Mr Gummer was recorded as saying:

The Southwood Report provided no basis for such action. In making its proposals to ban these offals from entering the human food chain, the Government had gone slightly beyond the Southwood recommendations, but only for the purposes of administrative convenience. This would be made clear when final decisions on this matter were announced. The additional measures which UKASTA was proposing to take were not justified
scientifically and would create a most unfortunate precedent for its members. Pressure would arise for them to take scientifically unjustified decisions in other areas too and UKASTA would have no credible means of responding. Moreover the tide of public opinion was changing and people were beginning to be less affected by unjustified scare stories. If UKASTA acted on a non-scientific basis, this would lend additional credibility to the scaremongers.\textsuperscript{714}

3.57 Mr Meldrum added that:

It was important to prevent a ‘steam roller’ effect of reacting to scares: if UKASTA reacted as they proposed to do, pressure would arise to act on sheep offals, then a control programme for scrapie would be pressed for.\textsuperscript{715}

3.58 Mr Jim Reed, Director-General of UKASTA, who was present at the meeting, recalled in his oral evidence to the Inquiry:

It needs to be borne in mind that there were not many issues on which we ever disagree with the MAFF view. But we have done on this occasion. Great efforts had been gone to to persuade us out of our position and we had stuck to our guns. It was a very uncomfortable position to be in because as we have said repeatedly we did not have any expertise to match their scientific understanding of the situation. We nevertheless felt that it was wrong at that time to allow something to be done in the human field that was not done in animal feed.\textsuperscript{716}

3.59 On 6 October 1989 Mr Meldrum wrote to the major feed compounders, and UKASTA, to ‘summarise the position as we see it and consider some of the implications if major compounders seek to restrict the origin of the feed material they use’. He stated that MAFF had no plans to introduce any ban on the use of ruminant feed material in pig and poultry feed. He noted that the Southwood Working Party had stated in relation to ruminant material in pig and poultry feed that ‘the risks are so small that action is not appropriate’. He said that it was worth noting that a spongiform encephalopathy had never been recorded in a pig and that in all the circumstances there was ‘absolutely no justification for any additional measures’. Mr Meldrum stated that Sir Richard Southwood fully supported this view.\textsuperscript{717}

3.60 When Mr Crawford, Mr Meldrum and Mr Lawrence next met UKASTA representatives on 11 October 1989, UKASTA reiterated its intention to recommend a voluntary ban on SBO to its members. It was also considering the possibility of extending this ban to include sheep offal. MAFF responded that:

. . . tremendous problems would be caused if the animal feed industries stopped using sheep offal. Firstly, they would be taking action that the Government had not perceived to be necessary. It could precipitate official action on Scrapie which would decimate the UK sheep industry . . .
Secondly, there was a physical problem of trying to separate out sheep offal from the rest of the carcass.  

3.61 UKASTA suggested that MAFF’s support on how to handle the sheep offal ‘dilemma’ was necessary. Mr Meldrum said that once MAFF was given a clear indication of the line that UKASTA members would take on sheep offal, he was prepared to meet with representatives of the major supermarkets. UKASTA welcomed this and agreed to keep MAFF informed of the decisions taken by the companies represented at the meeting. Finally, UKASTA agreed that it would keep a low profile on the voluntary ban, and that members would be asked not to publicise their decision to exclude bovine offal from animal feedstuffs.  

3.62 During the meeting UKASTA also suggested that it would be useful if it had written confirmation from Sir Richard Southwood that there was no scientific justification for extending the ruminant feed ban to pigs and poultry.  

3.63 On 16 October 1989 Mr David Curry, the Parliamentary Secretary, Mr Meldrum and Mr Lawrence met UKRA representatives. It was pointed out that feed companies were concerned about product liability. MAFF said it would write to Sir Richard Southwood to ask him to confirm that there was no scientific basis to ‘extend the feed ban to include pigs and poultry’. UKRA also asked MAFF to make a public statement about the use of MBM in feed for non-ruminant animals.  

3.64 Two days later, Mr Meldrum wrote to Sir Richard Southwood explaining UKRA’s and UKASTA’s concerns about the implications of the proposed human SBO ban and sought his views on the issue. He noted that major feed companies might seek assurance from the renderers that the MBM they provided was SBO-free and that renderers might react by refusing to remove SBO from slaughterhouses. He continued:  

    Our view, following extensive discussion with all parties, is that the worst case scenario is unlikely to materialise because it seems probable that not all feed companies or renderers hold the same view. Nevertheless we are concerned to try and ensure that we do not end up with a huge disposal problem and, to that end, we have explained to UKASTA that there is absolutely no scientific evidence which suggests that a ban on the feeding of animal protein containing the specified offals to pigs and poultry is either necessary or scientifically sound.  

    It would be extremely helpful indeed if I could have your own views on this issue.  

3.65 Sir Richard replied on 26 October 1989, agreeing with Mr Meldrum’s stance against extending the feed ban to include pigs and poultry. He said ‘there is no evidence that these encephalopathies could be transferred to pigs or chickens. Indeed I think it extremely unlikely that they would be transferred to either group’. He noted that ‘to cross the mammal/bird barrier would indeed be a major jump’. 

718 YB89/10.11/1.3–1.4  
719 YB89/10.11/11.4  
720 YB89/10.12/2.2  
721 Succeeded Mr Ryder in July 1989  
722 YB89/10.17/6.1  
723 YB89/10.18/1.1  
724 YB89/10.26/2.1
UKASTA had not seen this reply by the time of its next meeting with MAFF officials on 1 November 1989 (see paragraph 3.68).\textsuperscript{725}

\textbf{3.66} A minute of 23 October 1989 from Mr Lawrence to Mr Hilton gives an indication of MAFF’s attitude to the animal feed industry at this time, and of the level of opposition to UKASTA’s proposed action:

\begin{quote}
Despite all our efforts UKASTA seem hell bent on pursuing their potentially damaging course by advising members not to purchase MBM which contains the specified offals . . .
\end{quote}

\begin{quote}
I am concerned and aggrieved that UKASTA seem blind to the consequences of their actions. I therefore feel that the Minister should write to them now in a last effort to get them to think again.\textsuperscript{726}
\end{quote}

\textbf{3.67} He attached a draft letter from the Minister for this purpose. It appears that Mr Hilton decided the letter should not be sent.\textsuperscript{727} The draft letter read in part:

\begin{quote}
I am writing because I am quite frankly very concerned indeed about this. I do of course recognise the arguments you have put forward in support of the action. But in this particular case we have a situation where, if there is customer resistance, it has no scientific basis. The stance you are taking can only focus attention once again on this issue and increase speculation about the practice of feeding meat and bonemeal to pigs and poultry. I say again, there is absolutely no scientific evidence to warrant the action being taken. If there were steps would have been taken to prohibit the action some time ago.

\ldots

I cannot overstate the situation both here and abroad should you go ahead, especially if it results in disposal problems at slaughterhouses, with all the adverse and unwelcome publicity that would bring.\textsuperscript{728}
\end{quote}

\textbf{3.68} Mr Curry and Mr Cruickshank met with UKASTA representatives on 1 November 1989. A UKASTA minute of the meeting records that Mr Crawford of UKASTA said that it had been extremely difficult to persuade compound manufacturers not to ‘jump the gun’ on excluding certain offal from animal feed. However, national compounders were now prepared to continue to use sheep and goat offal, provided UKASTA made a clear recommendation to its members against the continued use of bovine offal, as soon as the Government introduced the human SBO ban. Mr Curry expressed his hope that this step would not be necessary, but accepted that ‘it was no use asking the feed industry to do the impossible’. He did, however, suggest that the handling of the issue in public required great care, and hoped that it would be possible to coordinate any response to the Government’s announcement of the human SBO ban.\textsuperscript{729} A MAFF minute of the meeting records that:

\textsuperscript{725} YB89/11.1/5.1
\textsuperscript{726} YB89/10.234.1
\textsuperscript{727} YB89/11.10/5.1
\textsuperscript{728} YB89/10.234.3
\textsuperscript{729} YB89/11.1/6.1; see also YB89/11.2/3.1
UKASTA explained that major members were under intense pressure from multiple retailers and producers to follow the expected ban on certain offals for human consumption with a ban of their use in animal feedingstuffs. If UKASTA did not take these steps, there was a danger that major members would move along this route alone, thus making fragmentation of the market.730

3.69 On 2 November 1989 Mr Lawrence sent a submission to Mr Gummer seeking agreement to the terms of the Regulations implementing the proposed human SBO ban. He submitted:

Although there are signs that UKASTA are having second thoughts, it seems unlikely that they will reverse their decision, which comes largely from pressure from the four major feed companies. On the other hand they are now fully aware of the implications, both domestically and internationally, that their action could spark. Because of this they have at least conceded that it would be unwise to make any press statement about their action.

At the same time what seems to be emerging is the view that it is unlikely that feed companies or renderers will act in unison, whatever action their Associations may advise. In other words some renderers will process the designated offal and some feed companies will still buy material which includes it. What it might lead to, at least for a time, is a two tier price structure, with grade 1 material (not including specified offal) selling at a high[er] price than grade 2 meat and bone meal (including the specified offal).731

3.70 This submission was considered at a Ministers’ meeting on 7 November 1989 to discuss the proposed human SBO ban. However, the note of the meeting does not record any discussion of the feed industry’s concerns.732

3.71 MAFF officials met the British Retail Consortium and representatives of Britain’s major retailers on 6 November 1989. Mrs Cheney of the British Retail Consortium told the meeting that she was not aware of any retailers categorically refusing to accept products from pigs and poultry that had been fed MBM containing SBO. Retailers such as Sainsbury’s, Marks and Spencer and ASDA stated that, whilst they had not introduced a specific ban on such products, they were actively considering the issue.733 Mr Stephen Ridge of Somerfield told the Inquiry that:

There were customer complaints, customer letters and enquiries all the way through this period depending upon what was in the media at any particular one time. Certainly there would have been questions asked as to whether the ruminant ban was being operated effectively and whether it was getting any wider.734

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730 YB89/11.2/3.1
731 YB89/11.2/2.5–2.6
732 YB89/11.07/2.1–2.2
733 YB89/11.8/3.1
734 T63 pp. 112–3
3.72 Furthermore, whilst they might have initially supported MAFF’s position, Mr Ridge suggested that ‘I think we changed our view after a period of time that we did not support [MAFF’s position] and we wanted to take [SBO] out of all feeds.’

3.73 Mr Maclean wrote to retailers on 21 December 1989 confirming MAFF’s advice that there was ‘no scientific justification’ for prohibiting the inclusion of SBO in pig and poultry feed.

UKASTA recommends a voluntary ban on SBO in animal feed


3.75 UKASTA responded to the ban on 9 November 1989 by issuing Feed Circular 454 to its members. The circular set out details of the Government’s human SBO ban. It recommended that in the light of this ban, compound feed members should make the exclusion of SBO a condition of contracts for the purchase of all MBM for incorporation into compound feedstuffs. The circular said that UKASTA believed a voluntary ban would ‘help allay consumers’ fears about the wholesomeness of animal products, and would protect the image of the feed and animal production industry’.

3.76 Mr Reed explained to the Inquiry why UKASTA had considered it necessary to disregard MAFF’s advice and introduce such a ban:

... my personal view is that it was, at that time, the reason we stood out so strongly and it does rather prove the exception to the general rule, the reason was more to do with public perception, our understanding of public perception and the views being reflected by customers. There was also an unease about the risk of including something in animal feed when we had no idea whether any potentially dangerous material might travel through livestock and eventually end up on a human food plate. But that unease was, I think, not the main factor.

3.77 In a statement to the Inquiry, Mr Meldrum stated that he was unconvinced that such measures were necessary:

It was a matter of judgement whether the SBO ban should be extended to pet food and all other animal food and it was my view at the time that there was no compelling reason to recommend a total ban on the SBOs, although I kept an open mind on the subject and did ask others for their expert opinion on the subject.
Observance of the voluntary animal SBO ban

3.78 Mr Reed told the Inquiry that UKASTA intended that the voluntary ban would be as comprehensive as possible within the feed industry. However, its effectiveness was dependent on the cooperation of individual feed manufacturers and their relationships with their suppliers.\textsuperscript{741}

3.79 In 1997 a report prepared for MAFF stated that UKASTA represented 90 per cent of the UK’s feed compounders and its members produced 67 per cent of livestock feed used in the UK, the remainder being produced by home-mixing and non-UKASTA members.\textsuperscript{742} The Inquiry is not aware what proportion of feed compounders were members of UKASTA in 1989, but it is assumed that it did not differ dramatically from this figure.

3.80 Mr Foxcroft of PDM told the Inquiry that:

All the major feed companies in the UK (BOCMS, Dalgety, Bibby and Pauls), accounting for a large proportion of animal feed production had all required SBO-free MBM since the end of 1989 and free from fallen stock since March 1990.\textsuperscript{743}

3.81 However not all manufacturers observed the voluntary ban. On 13 February 1990 Mr Foxcroft wrote to Mr Tony Taylor of Dalgety Agriculture Limited, a major feed compounder, indicating that a significant proportion of the animal feed manufacturers it was supplying were not observing the voluntary ban:

We still have approximately 25% of our meal customers not requiring the removal of the tissues proscribed from human foods under the Bovine Offal (Prohibition) Regulations 1989 . . .\textsuperscript{744}

3.82 A note circulated within MAFF by Mr Lawrence on 6 February 1990 noted that:

The avenues for sales of meat and bonemeal containing specified offals seems to be diminishing. Prosper De Mulder reckon that only 25% of the purchases by compounders are for this particular meat and bone meal and that this will go within a month or so.\textsuperscript{745}

3.83 On 14 March 1990, Mr Alan Sadler of UKRA wrote to Mr Spurr of the Meat and Livestock Commission stating:

In general larger buyers have insisted that the specified offals should be excluded, but at the same time many of the smaller buyers, who account for about 20% of the total sales tonnage, have been prepared to buy with the specified offals included.

However, continued adverse media interest in meat and bone meal’s alleged involvement with B.S.E has led to an overall reduction both in contracted

\textsuperscript{741} T61 p. 76  
\textsuperscript{742} Leatherhood Food Research Association and Meat and Livestock Commission, Audit of Bovine and Ovine Slaughter and By-products Sector (Ruminant Products Audit), May 1997 (IBDS tab 17 p. 18)  
\textsuperscript{743} S37C Foxcroft para. 5.3  
\textsuperscript{744} YB90/2.13/5.1, Prosper De Mulder’s share of the rendering industry was approximately 40–50 per cent (S37 Foxcroft p. 1)  
\textsuperscript{745} YB89/2.06/5.1
deliveries and in total sales with the result that nationally there are substantial stocks of meat and bone meal in [store] and the industry is faced with a rapidly reducing value of the commodity. 746

3.84 The lack of demand for SBO meant that its price fell, making it a cheaper raw material for conversion into MBM. A two-tier pricing system developed for SBO-free MBM and MBM derived from SBO. A draft paper prepared by Mr Lawrence in early June 1990 stated that there was ‘still a small market for meat and bone meal processed from specified offal, but the price is well below that of other material’. 747 This market was, however, a diminishing one. UKRA representatives provided Mr Gummer, Mr Meldrum and Mr Lawrence with an update at a meeting on 11 July 1990:

The UKASTA requirement that meat and bonemeal produced from specified offals should not be included in animal rations had virtually removed the market for this material. The large renderers were storing the material at present, in the hope that a market would be found for it. Otherwise, it would be necessary to use land fill for disposal. 748

Renderers’ cooperation with UKASTA’s voluntary ban

3.85 Compounders’ compliance with the voluntary ban depended on their being able to obtain SBO-free MBM from their suppliers. This led feed compounders to contract on terms that MBM supplied would be ‘SBO-free’. For instance, in November 1989 BOCM Silcock Ltd requested that the following clause be included in its purchase contract with PDM:

The Meat and Bone meal supplied in fulfilment of this contract excludes totally cattle offal from the following organs: brain, spinal cord, thymus, spleen, tonsils and intestines. 749

3.86 When asked how common the inclusion of such clauses was, Mr Reed of UKASTA said:

Well, at some stage we endeavoured to survey our members in the feed manufacturing sector and find out. And although I do not think we now have the records within UKASTA, I think the responses we got were that a very, very large percentage of all those feed manufacturers within UKASTA were seeking those assurances; and on the whole I think at the time we carried out the survey they were getting them. 750

3.87 On 5 December 1989 Mr Foxcroft of PDM sent a circular to ‘customers requiring SBO guarantees’. The letter included the following:

In view of the Government’s move on 13th November 1989 banning certain specified bovine offals (brain, spinal cord, spleen, thymus, tonsils and intestines) from use in the preparation of food for sale for human consumption; the recommendations made by UKASTA to its members in
Feed Circular No. 454 and many requests from our customers; we now wish to inform you of the position regarding all meat meals and meat and bone meals produced by the De Mulder Group.

Since the 13th November 1989 our staff have visited all suppliers of raw materials asking them to give an undertaking that the above proscribed tissues will be separated from the materials we collect for processing into our meals. As you might expect this has provoked a range of responses but suffice it to say that all existing suppliers are now complying with our requests, or intend to do so once they have obtained necessary equipment and completed staff training. This, we feel, is not unreasonable and can confirm that all our products will conform with the UKASTA recommendation. Withdrawal of these materials has already commenced. This will be a gradual process which should be completed by the end of January 1990. Active monitoring at the abattoirs and our plants will be carried out by ourselves. Should any supplier be found not matching their undertaking with appropriate actions then their materials will cease to be used in De Mulder Group protein meals.  

3.88 UKRA issued interim guidelines to its members on 13 November 1989 on how they should deal with UKASTA’s recommendations to its members. Following the meeting with MAFF on 16 November 1989, and an informal meeting with UKASTA on 21 November 1989, UKRA managed to secure agreement with UKASTA that:

1. They would accept that it was totally impracticable for either [UKRA] or the meat industry to give cast iron guarantees that the offals would all be excluded. They would however agree to buy on the basis of ‘substantially free’ on a best effort basis.

2. UKASTA buyers who were present also agreed that in view of the problems being encountered by firms seeking to export meat and bone meal within the BSE situation they would take all the U.K. production.  

3.89 On 13 February 1990 Mr Foxcroft of PDM sent a letter to Mr Taylor of Dalgety Agriculture Limited. He said:

Following my letter to you in early December regarding specified bovine offals, BSE and our meat and bone meals; I am writing now to confirm that all the actions we indicated would be taken have now been implemented with the exception of our Hartshill factory.

We still have approximately 25% of our meal customers not requiring the removal of the tissues proscribed from human foods under the Bovine Offal (Prohibition) Regulations 1989, and therefore, continue to process these at that plant. However no meat and bone is, or will be, supplied to your company from Hartshill.
We can, therefore, confirm that all meal supplied to yourselves is produced entirely from raw materials from which the specified offals have been excluded before collection at source.753

3.90 Against this backdrop, on 26 February 1990 UKRA issued a notice to its members. It recounted UKRA’s and UKASTA’s agreement on MBM, and said:

At that point in time therefore all members were being given specific advice of the position and had it been taken up it is very likely that the industry would be in a more healthy position than it is in today:- the problem being that overall our members have not made a concerted effort to have the specified offals removed at the abattoirs and thereby excluded from the end products, and UKASTA members, presumably realising this and recognising the effects of the sustained barrage of adverse publicity about meat and bone meal’s alleged association with BSE have fallen down on their agreement to take the full production, and in many cases, have not even taken their contracted tonnages on schedule. The result, as you will be aware is that there are substantial tonnages of meat and bone meal in stock seeking buyers.754

3.91 The notice strongly recommended that:

[Members] seek full co-operation of all their abattoir suppliers to have the specified offals separated and stored separately for collection. The offals should also be stained by the meat inspectors according to the MAFF regulations.

The council recommends that if possible, to assist the abattoirs you collect these offals and process them separately. DO NOT USE THEM TO PRODUCE GREAVES OR MEAL FOR SALE TO COMPOUND FEED MANUFACTURERS. It is suggested that the protein residues produced from them should be used as fertiliser or dumped at licensed sites . . .

3. You should assess the costs to yourselves of this disposal and charge the abattoirs accordingly.755

3.92 The notice concluded:

We would emphasise that we are not attempting to make these proposals compulsory in any way. They are to be regarded as VOLUNTARY RECOMMENDATIONS, but are recommendations which are in everyone’s best interest to comply with in view of the difficult circumstances we find ourselves in at present.756

3.93 In March 1990 UKRA also issued a statement for the attention of slaughterhouse owners and operators:
Owing to the adverse trading conditions resulting from the MAFF Order banning the use of certain bovine offals in feedstuffs for human consumption which came into force on the 13 November 1989 [UKRA] has advised its members not to collect the specified offals from abattoirs i.e. brain, spinal [cord], thymus, spleen, tonsils and intestines; unless they have been separated from all other animal waste; are stained, as stated in the Order; and are stored separately for collection and disposal by our members. This is to come into affect from Monday 26 March 1990.757

3.94 On 20 March 1990 Mr Foxcroft of PDM wrote to all its customers advising that:

A further measure which will now be taken by us is to offer meal which also excludes any raw materials originating from fallen stock, condemned animals or tissues.

You may not be aware that some productions of meat & bone meal contain significant levels of raw materials from these sources (in excess of 20%). As well as being likely to contain some of the ‘prescribed offals’ the use of fallen stock would at least be viewed by many as an unacceptable practice. We believe it prudent to take this action and remove a possible point of criticism before it can be turned into a ‘media issue’.

Of course, in the absence of any ‘test’ for proscribed tissues or fallen stock such undertakings and assurances require a large degree of confidence in the individual renderer on the part of the feed producer.758

3.95 On 24 May 1990 PDM went as far as issuing a press release to reassure the agriculture sector that its MBM did not include SBO.759

3.96 Most renderers undertook the voluntary measures recommended by UKRA.760 Renderers told the Inquiry that they did their best to ensure that no SBO was included in material that was meant to be SBO-free, but without statutory backing they were reliant on the cooperation of the slaughterhouses. The willingness of slaughterhouse owners and managers to adhere strictly to the requirements varied.761

3.97 On 3 April 1990 at a meeting between UKRA and UKASTA representatives, UKRA reported that 75 per cent of its members were supporting the voluntary ban on the use of SBO. As a result, UKRA estimated that between 90 and 95 per cent of the MBM produced by its members was free of SBO. Those renderers who had not confirmed support were expected to do so shortly.762 Mr Bill Bacon, former Council member of UKRA, told the Inquiry that in 1986 the majority, but not all, of UK renderers were members of UKRA.763

3.98 On 9 April 1990 UKASTA issued Feed Circular No. 467. It recommended that its members visit their suppliers of MBM to assure themselves that their contractual
specifications were being met. Representatives of Dalgety, Bibby and BOCM Pauls said in oral evidence that their companies commenced inspections of their suppliers’ rendering plants to assure themselves of compliance with the voluntary animal SBO ban. Mr Reed of UKASTA told the Inquiry that whilst some other feed manufacturers would also have started auditing their suppliers:

... inevitably most of them would not have had the sort of resources that the national companies could bring to bear on this problem. On the other hand they often did not need to. A smaller compounder might only buy on a regular basis from one or two sources so the problem of going round a lot of different rendering premises would not arise. I am well aware that some other companies were making inspection visits but I am sure it was not universal.

3.99 Mr David Goldwater of the Grain and Feed Trade Association (GAFTA) added that smaller feed manufacturers could use some other entity – such as a veterinary advisor service – to inspect suppliers on their behalf and report back.

3.100 UKASTA’s concern over the enforcement of the voluntary ban is illustrated by further advice in Feed Circular No. 467, which suggested that members who wished to assure themselves further that SBO was being handled separately, should visit the slaughterhouses supplying the raw materials to the renderer. However, the Inquiry received no evidence that this was ever done.

MAFF’s continued opposition following the introduction of the voluntary ban

3.101 MAFF’s opposition to UKASTA’s voluntary ban did not cease after the ban came into effect, and those within the Department remained ‘most unhappy’ with the action taken by the industry. They maintained that the ban was unjustified, and Mr Lawrence suggested that Mr Curry could write to UKASTA to register his ‘disappointment’, particularly as Sir Richard Southwood had restated on 26 October 1989 that there was no evidence that the encephalopathies could be transferred to pigs or poultry.

3.102 On 10 November 1989 Mr Meldrum wrote to the Chairman of UKRA, Mr Field, restating the Ministry’s firm view. Quoting from the Southwood Report and referring to the recent advice from Sir Richard Southwood, Mr Meldrum concluded:

In all the circumstances, based on the best scientific evidence available, there is no justification whatsoever for considering a ban on the feeding of meat and bone meal derived from ruminant material to either pigs or poultry.

3.103 Mr Meldrum wrote along similar lines to UKASTA’s President, Mr Peter Webb, on 15 November 1989, expressing his disappointment that the Association
had felt it necessary to advise its members to embark on the voluntary ban and emphasising the lack of a scientific justification for the action. He said that recent transmission studies undertaken at the National Institutes of Health in the United States also supported his position that it was ‘perfectly safe to feed meat and bone meal to pigs’. 771

3.104 Mr Meldrum explained his approach at this time to the Inquiry:

> ... I was happy to rest upon the scientific evidence until we had information later that pigs succumb to BSE when challenged experimentally in the laboratory. 772

3.105 Mr Meldrum emphasised to the Inquiry that this scientific evidence was no longer confined to the Southwood Report as by this time the totality of MAFF’s knowledge of TSEs and his personal knowledge had increased significantly. This included evidence that:

i. pigs had had greater exposure to the agent, without any ill effect, both from meat and bone meal in feed, and also through the feeding of waste food; 773

ii. there was no record of pigs having succumbed to a transmissible spongiform encephalopathy under natural or indeed artificial conditions; and

iii. in a study (undertaken at the USA’s National Institutes of Health), in which the agent which caused kuru in man was injected intracerebrally into pigs, the disease was not transmitted, whereas in similar studies it was successfully transmitted to a number of other species including sheep and goats. 774

3.106 On 16 November 1989 Professor Anthony Epstein, 775 a member of the Southwood Working Party, wrote to Sir Richard Southwood. A passage from the letter suggests that he did not share Sir Richard’s views on the issue:

> I was not very happy to hear that bone/meat meal containing presumably infected sheep/cow material is being fed to pigs in UK and also exported to countries where it may be fed to cows, but what can one do? The CVO from the Ministry was not very helpful on this point. 776

3.107 A meeting was held on 17 November 1989, attended by Mr Meldrum, Mr Cruickshank, Mr Lowson, Mr Lawrence and representatives of UKASTA, UKRA, the Meat Industry Liaison Group (MILG) and the National Farmers’ Union (NFU), to discuss the voluntary ban. A UKASTA note of the meeting records that UKASTA explained that their decision reflected the pressure from retailers and farmers on feed compounders. They said that they could not risk any criticism that they were using material excluded on safety grounds from human consumption. UKRA reported that they had visited the supermarket groups and there was no evidence of any concern about the inclusion of SBO in animal feedstuffs. MAFF

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771 YB89/11.15/4.2
772 T68 p. 26
773 YB88/2.23/1.1–1.2
774 S184E Meldrum para. F6
775 Sir Anthony Epstein since 1991
776 YB89/11.16/1.1
also reported that their discussions with representatives of the large supermarket groups suggested the major multiples accepted the scientific advice. Similarly, the NFU said that its Livestock Committee chairman had reported that there was no consistent pressure from farmers for SBO to be excluded from animal feedstuffs. It was argued that UKASTA was over-reacting to the concerns of a small minority of farmers and retailers. UKRA also emphasised that the function of renderers was to make the by-products of the meat industry safe for use by feed compounders. However, in light of the development of BSE, UKASTA challenged whether this statement was true in practice. The note of the meeting recorded that the ‘general consensus of opinion was that UKASTA was getting the whole issue out of perspective and should rescind the recommendation for the voluntary ban’. In turn, UKASTA undertook to advise the Feed Executive Committee ‘of the strength of feeling being expressed by the other organisations represented at the meeting’.777

3.108 The MILG’s summary of the meeting notes that:

MILG reiterated the seriousness created by the UKASTA decision. There would be a very significant additional cost as a result and this could not be absorbed by the abattoir sector. There was an element of risk in all foods and the remote BSE risk had been magnified out of all proportion. UKASTA should accept that no 100% guarantees could be given. They should reconsider their decision in the light of the comments made.778

3.109 In a minute of the meeting prepared by Mr Lawrence and circulated within MAFF four days after the meeting, it was recorded:

Predictably UKASTA was criticised by the other sectors of the industry. In defending their actions they mentioned farmer/retailer concerns and the fact that they did not have a copper bottom guarantee that there was no risk of transmission to pigs and poultry.779

Consideration of a statutory animal SBO ban

3.110 In the months that followed UKASTA’s introduction of the voluntary ban, MAFF came under increasing pressure to take legislative action on the feeding of bovine material to non-ruminants. In December 1989 the position on MBM and SBO could be summarised as follows:

i. no MBM from ruminants could be fed to ruminants (under the ruminant feed ban), whether or not it included SBO;

ii. no SBO could be included in human food (under the human SBO ban); and

iii. there was no restriction on feeding MBM including SBO to non-ruminant animals, but the PFMA had introduced a voluntary ban on the inclusion of SBO in pet food and UKASTA had introduced a voluntary ban on the inclusion of SBO in animal feed.

777 YB89/11.20/4.1–4.2
778 YB 89/11.17/2.1–2.2
779 YB89/11.21/13.1
3.111 Industry and consumer groups lobbied MAFF to introduce further controls on the feeding of ruminant material to non-ruminant animals. Mr Meldrum identified the two distinct proposals:

There are two separate issues in respect of animal feed which should not be confused. The first issue was whether or not the SBO ban in relation to human food should be extended to feed for animals other than ruminants (ruminants already being protected by the ban on ruminant protein in ruminant feeds). The second much wider issue was whether or not the ban on ruminant protein in ruminant feed should be extended to feed for all other animals.780

**Ministers’ concerns allayed**

3.112 On 5 January 1990 Mr Gordon Gresty, the County Trading Standards Officer for North Yorkshire County Council, wrote to Mr Maclean stating that the County Council’s Public Protection Committee had passed a resolution that the Minister be asked to consider, amongst other things:

Why allow animal protein which may have come from BSE infected animals to be fed to other livestock, such as pigs, when it is suspected that the disease has already spread from sheep to cattle?781

3.113 Such enquiries and the increased media attention to this issue was causing concern amongst MAFF Ministers. On 17 January 1990 Mr Gummer and Mr Andrews discussed the response to BSE. Mr Andrews said that there were only two areas where they could be open to criticism. The first was the argument for 100 per cent compensation and the second was the question of feeding animal protein to animals. Mr Gummer asked for a note on the practicality of banning the feeding of animal protein.782

3.114 On the same day Mr Maclean’s Private Secretary asked Mrs Attridge, who was now head of the Animal Health Group, to re-examine the practice of including animal protein, in particular SBOs, in animal feed. The requesting minute stated that:

[Mr Maclean] is concerned that, particularly in view of the intense media focus, pressure will continue to grow on BSE, and may eventually lead to a backlash in public opinion against the whole practice of recycling animal protein. He feels that this growing pressure may force retailers to impose conditions on their suppliers about the type of feed they give to their animals. This would in turn make the line we were currently taking increasingly difficult to defend.

... Mr Maclean will continue to take the line that the action that we have taken is already ultra-precautionary and that there is no justification for further action. I would, however, be grateful for advice on possible contingency plans that Mr Maclean could consider on the possible action that Ministers could take, if pressure continues to mount. What are the areas...

780 S184E Meldrum para. F2
781 YB90/1.5/6.1
782 YB90/1.17/3.1
in which we could make limited concessions to avert moves to an outright rejection of all recycled animal protein.\textsuperscript{783}

3.115 Mr Curry agreed with Mr Maclean on these points ‘because there is increasing unease at the practice of feeding specified offals to pigs and chickens’. Further, he did not feel ‘that we can permanently defend actions which the public sense are wrong’.\textsuperscript{784}

3.116 On 23 January 1990, in response to Mr Maclean’s request, Mrs Attridge circulated a minute in preparation for a meeting with Mr Gummer scheduled for the following day. Recipients included Mr Maclean, Mr Capstick, Mr Meldrum, Mr Lowson and Mr Lawrence. In relation to the risk of infection from SBO, she said:

. . . there is however no indication that pigs and poultry (neither of which are herbivores) would be in any way affected. Pigs in particular have been exposed to meat and bone meal at higher inclusive rates from ruminants for a considerable time – no cases of encephalopathy in pigs has been reported.

Against this background there is clearly no scientific justification for any further restriction on meat and bone meal. There is indeed a danger that any such move would simply lead to questions on the safety of animals (pigs and poultry) which have already consumed the feedingstuffs on the grounds that if we now decided that they were ‘unsafe’ the animals which had consumed them must somehow have been put at risk.\textsuperscript{786}

3.117 Mrs Attridge concluded:

There is no obvious fall back from the present position that only the specified offals need to be removed from the human food chain and that it is safe to include these in meat and bone meal fed to pigs and poultry. Any ban on their use would lack scientific justification and would raise concerns about the safety of pigs and poultry already fed such material. It would not therefore reduce media pressure.

. . .

For the reasons set out above there are no satisfactory fall back positions. Ministers are recommended to make no changes at present. If the supermarkets require contracts with their suppliers to avoid meat and bone meal for pigs and poultry, that is a commercial decision by them. … Government action could only be justified on human or animal health grounds.\textsuperscript{787}

3.118 On 24 January 1990 Mr Gummer and Mr Curry met Mr Andrews, Mr Meldrum, Mr Lowson, Mr Packer, Mrs Attridge, Mr Capstick and others to discuss BSE. The Minister expressed concern about the risk of transmission to pigs via MBM and thus to people. He asked how MAFF could be certain that ‘the agent

\textsuperscript{783} YB90/1.17/6.1
\textsuperscript{784} YB90/1.17/6.2
\textsuperscript{785} Head of Food Safety Directorate. The Animal Health Group became part of the Food Safety Directorate from November 1989
\textsuperscript{786} YB90/1.23/14.3
\textsuperscript{787} YB90/1.23/14.5
would not also infect pigs and poultry’. He also wondered, given the uncertainty about whether the disease was transmissible to pigs, whether:

. . . it would not be appropriate to ban the feeding of meat and bonemeal to pigs, perhaps on a temporary, precautionary basis until definitive results of the risk-assessment tests were available.\textsuperscript{788}

3.119 Mr Meldrum and Mrs Attridge opposed such a measure as being without scientific justification:

Such a move would give rise to pressures for a whole range of equally unjustified restrictions which would have a major damaging and permanent effect on the rendering industry . . . In effect, there would be a total ban on the use of animal protein for feeding to other animals. This was not justified, would be more onerous than the rules applying to other Member States and would create environmental problems in disposing of the waste materials.\textsuperscript{789}

3.120 Pet food was also discussed at the meeting:

Mr Meldrum pointed out that there was no problem in relation to dogs or cats because the pet food industry had been scrupulous in ensuring that the scrapie agent could not be transmitted through pet food.\textsuperscript{790}

3.121 Mr Gummer discussed the matter further with Baroness Trumpington, Minister of State, and Mr Maclean after the meeting. In response to Baroness Trumpington’s concerns about ‘the likely political impact of public opinion turning towards the risk of dogs and cats becoming affected’, Mr Gummer:

[A]greed and said that, despite the precautions which the pet food industry had taken, it would be appropriate for the Government to take measures (and be seen to be taking measures) to protect domestic pets. He asked [Mr Maclean] to pursue the options for doing this . . .\textsuperscript{791}

3.122 Mr Meldrum minuted Mrs Attridge on 29 January 1990 to voice his ‘considerable alarm’ about the views expressed by Mr Gummer and Baroness Trumpington. He advised ‘considerable caution in pursuing the various options which Ministers wish to discuss further’. His minute was copied to Mr Andrews and Mr Capstick, among others, and stated:

I am equally concerned at the Ministers comments that we need to consider taking measures to protect domestic pets. I do not believe that is so bearing in mind that they are not susceptible to the encephalopathies under natural conditions and the industry has already put in place a significant raft of measures to reduce any residual risk to a minimum.

I remain concerned that we are still running before the wind and considering taking action without any scientific reason for doing so. It is therefore imperative that we consider the consequences of any further actions that we
take to ensure that they are commensurate with any risk and equally important to ensure that any consequences are controllable.\footnote{YB90/1.29/9.1–9.2}

3.123 On 26 January 1990 Dr Pickles distributed a draft briefing for a meeting between Mr Roger Freeman, the DH Parliamentary Secretary, and Mr Maclean. An annex headed, ‘Additional Measures that have been Proposed (Mostly by the Media) in Response to the Challenge of BSE’, included as its third proposal:

\begin{quote}
Ban all feeding of recycled animal protein to food animals
\end{quote}

At present, meat and bone meal and other products made from animal remains can still be fed to non-ruminants including pigs and poultry. As well as containing scrapie-infected sheep, subclinically affected BSE-infected cattle will be being recycled this way. (Only clinically affected cattle are destroyed; the ‘stained and sterilised’ bovine offal now being excluded from human food can go for rendering). The rendering process may be adequate for salmonella, but not for BSE/scrapie. Southwood considered possible spread of BSE this way to other animal species [see para. 5.2 of the report] and recommended monitoring of the relevant species but no further extension of the feed ban. However, Southwood also questioned the wisdom of ‘unnatural feeding practices’ [paras 9.4 and 10.7]. Any extension of the animal protein feeding ban would need careful planning: it could leave abattoirs with no way of disposing of offal and increase costs very markedly in the poultry and pig industries. However, we would encourage MAFF to move in this direction.\footnote{YB90/1.26/4.7}

Mr Gummer advises the Prime Minister

3.124 By late January 1990 it was decided to place the current issues about BSE before the Prime Minister, Mrs Margaret Thatcher. On 26 January 1990 Mr Lowson prepared a draft note for Mr Gummer to give to the Prime Minister regarding BSE. The note stated that the ‘current very high level of attention has produced pressure for a number of specific measures’, including the extension of the RFB.\footnote{YB90/1.26/13.5} On 29 January 1990, in preparation for a meeting with Mr Gummer the following day, Mrs Thatcher was provided with a revised version of the note prepared by Mr Lowson. The reference to the ‘current very high level of attention’ had been replaced with the following:

\begin{quote}
In general, the public have responded well to our actions and there has been little sign of major criticism. However, there are four areas to which commentators point increasingly where it may be felt we are vulnerable.\footnote{YB90/1.29/7.4}
\end{quote}

3.125 One of these areas was the extension of the RFB. The note stated:

It is argued that if the scrapie agent can cause BSE in cattle, it could do the same in pigs and poultry. Professor Southwood has advised that there are no grounds for such an action. Indeed no encephalopathy has ever been diagnosed in poultry or pigs. Such a step would have serious implications for
the livestock industry because it would close off the most important outlet for some 1.3 million tonnes of animal waste per year, at least reducing the competitiveness of the UK industry and perhaps jeopardising the slaughtering process and creating a direct public health risk through its disposal. This is however an area which will be closely studied, particularly in the light of work being undertaken to identify the treatments needed to destroy the BSE agent in animal protein production.796

3.126 By the time Mr Gummer met the Prime Minister on 30 January 1990, he had accepted the position advocated by Mr Meldrum in relation to animal feed. In his statement to the Inquiry, Mr Gummer records his advice to the Prime Minister:

I told her that although scientists thought the possibility that BSE could be transferred from cattle to humans was remote, it was a risk that should never be ruled out and therefore research was continuing to see whether under certain circumstances a transfer across species could occur. I said that I did not think extending the ban on the use of ruminant protein in animal feed to pigs and poultry could be justified because to do so would be to take action without a single encephalopathy ever having been diagnosed in pigs or poultry.797

3.127 Later that day, Mr Gummer and Mr Maclean held a meeting attended by, among others, Mrs Attridge, Mr Andrews, Mr Cruickshank, Mr Capstick and Mr Lowson. The minute of the meeting to Mrs Attridge recorded that:

[Mr Gummer] reported on his discussions on BSE with the Prime Minister. She had queried whether we should not ban the feeding of meat and bonemeal containing animal protein to pigs and poultry but he had persuaded her (drawing upon the excellent briefing which you and Mr Meldrum had provided) that this would not be appropriate.798

Increasing pressure on MAFF to ban SBO in animal feed

3.128 In the face of mounting pressure, MAFF continued to assert that a ban on SBO in animal feed was neither necessary nor appropriate. On 9 January 1990, prior to Mr Gummer’s meeting with the Prime Minister and as requested by Mr Meldrum and Mrs Attridge,799 MAFF published an issue of Food Facts stating:

There is no scientific justification to extend the ruminant feed ban to pigs and poultry. The Southwood Report acknowledged the importance of the feed ban for ruminants, but did not recommend that it be extended to pigs and poultry. . . .

Ruminant-based processed animal protein is a useful and nutritious food supplement, the production of which is subject to stringent Ministry controls to ensure that the material is safe for feeding to non-ruminants.800

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796 YB90/1.28/7.4–7.5
797 S311 Gummer para. 88. The official note of the meeting is at YB90/1.31/1.1
798 YB90/1.31/5.1–5.2
799 YB89/12.22/2.1
800 YB90/1.96/2.2
3.129 UKASTA representatives met Mr Meldrum and Mr Lawrence on 5 February 1990 to discuss salmonella and BSE. UKASTA’s note of the meeting records that Mr Meldrum was ‘still extremely annoyed at UKASTA’s decision to recommend a voluntary ban on the use of meat and bonemeal containing the specified bovine offal now prohibited from use in human foodstuffs’. He was particularly concerned that stocks of SBO were building up in slaughterhouses, and the industry would have to bear the costs of disposal. Mr Meldrum ‘maintained that there was no reason to restrict the use of meat and bonemeal containing the specified bovine offals in either pig or poultry rations’.801

3.130 On 6 February 1990 Mr Lawrence circulated a note on the sale of meat and bone meal to Mr Meldrum, Mrs Attridge, Mr Crawford, Mr Lowson and others. He said:

There is growing evidence that the renderers are running into trouble, primarily because of the ban on specified offals, but also the media attention which is being given to the whole practice of recycling protein materials to pigs and poultry. . . .

There is now apparently a stockpile of over 12,000 tonnes of unsold meat and bone meal in GB; it is growing. . . .

. . .

The Chairman of UKRA has indicated that the way things are going it is only a matter of weeks before they will be forced to carry out the threat of not taking specified offals . . .802

3.131 One month later, the Consumers Association wrote to Mr Maclean, calling for a comprehensive public review of all aspects of animal feed. It stated that the use of ‘scrapie infected sheep proteins and proscribed cattle offals in feed for pigs, poultry and pets’ should be suspended pending a thorough examination of the possible implications for both animals and humans.803 Mr Maclean’s reply of 19 June 1990 repeated MAFF’s assertion that there was no scientific justification for an extension of the ruminant feed ban.804

3.132 As a follow up to his letter of 15 November 1989 (see paragraph 3.103), Mr Meldrum again wrote to UKASTA on 11 April 1990. In this letter he referred to research in the USA which attempted to transfer kuru and scrapie to pigs and to various types of fowl without success. This research, Mr Meldrum concluded, supported his view that there was no evidence of any danger to pigs or poultry from scrapie or BSE.805

3.133 Minutes of a Meat and Livestock Commission (MLC) meeting held on 26 April 1990 record that the Chairman, Mr Geoffrey John, had also raised the issue of removal of ‘relevant materials’ from the animal food chain with Mr Gummer that

801 YB90/2.5/3.3
802 YB90/2.06/5.1. See paragraphs 3.90–3.92 for details of the advice on SBO that UKRA issued to its members on 26 February 1990
803 YB90/3.6/6.3
804 YB90/6.19/5.4
805 YB90/4.11/5.1
month. Mr Gummer had reiterated MAFF’s view that there was no scientific evidence that pigs or poultry could contract BSE. 806

3.134 On 10 May 1990 Mr Lowson sent a note entitled, ‘Feeding of animal protein to animals’, to Mr Andrews and various MAFF officials, including Mr Capstick, Mr Meldrum, Mr Lawrence and Mrs Attridge. It noted that ‘concern has been expressed in some quarters that official controls should go further – particularly to extend the ruminant protein ban to feed used for poultry and pigs’. Mr Lowson argued that ‘there is no scientific justification for this’, and that the Southwood Working Party had not recommended the inclusion of pigs and poultry in the ban. He reiterated views already expressed within MAFF concerning the problems surrounding the disposal of animal material if it was not to be used in animal feed, and the costs involved. 807

**Discovery of a cat with spongiform encephalopathy**

3.135 Whilst public concern over BSE had grown with each month of 1990, a further development was about to increase media interest in the issue dramatically both in the UK and in Europe. The death of a domestic Siamese cat from a spongiform encephalopathy (SE) in Bristol was reported to Ministers in May 1990. 808 It was the first of a number of cases of feline spongiform encephalopathy recorded in Great Britain over the next four years.

3.136 On 9 May 1990 Mr Lowson reported the diagnosis of the cat to Mr Gummer. The minute was widely circulated to MAFF, DH, CVL, Department of Agriculture and Fisheries for Scotland (DAFS), Welsh Office Agriculture Department (WOAD) and Department of Agriculture Northern Ireland (DANI) officials. 809 Mr Lowson stated that once news of the case became public it was ‘bound to excite comment and a connection will be made with BSE, scrapie and possibly even with CJD’. He noted that MAFF’s role was limited since it was for DH to field any questions on human health and for the veterinary profession, and in particular the British Veterinary Association (BVA), to respond to approaches about the implications for pets. However, he did note that:

> Public attention is bound to focus on the question of whether this case shows that BSE or scrapie can transfer to pets through their food, and whether it indicates a need for further action to limit the use of particular types of material for feeding to animals. 810

3.137 Mr Lowson said that further detailed enquiries were required because it was not certain that the case was a TSE. He then noted that the manufacturers of the large majority of pet food had been operating a voluntary ban on the use of SBO since the previous year, and that the Southwood Working Party had been aware of the susceptibility of cats when they formulated their recommendations. Nevertheless:

> Clearly this case will bring into sharp relief all the various issues that have been troubling the media for some time. We have already notified the various groups mentioned in this note so that they can prepare suitable...
defensive briefing for the press. There is nothing further that we need to do apart from bringing this issue to the attention of the veterinary profession so that suspect cases are brought to our attention. Above all it will be important not to encourage the public to jump to conclusions about the likely origin of this case. We will need to consider inviting [SEAC] to consider the implications. 811

3.138 On the same day, Dr Pickles identified for Mr Stephen Dorrell, newly-appointed DH Parliamentary Secretary, and other DH officials, some of the concerns this raised for MAFF:

* BSE has spread to yet another species: how many more?
* Whether it should still be permissible to include offal in pet food.
* Renewed pressure to ban the feeding of processed sheep and cow offal to pigs and poultry.
* Could there be spread between cats or to other species from cats? 812

3.139 A background note on BSE annexed to her minute said that:

. . . there are pressures to extend the ruminant protein ban: at present pigs and poultry receive this sort of feed. Publicity about the infected cat could increase these pressures. Such action, which would be hard to justify scientifically, would increase costs for the industry and cause perhaps insurmountable problems for abattoirs, who would find renderers no longer willing to accept offal. Many 1000s of tons of offal need to be disposed of daily. 813

3.140 On 10 May 1990 Mr Gummer and Mr Maclean met Mr Andrews, Mr Meldrum and others to discuss how to publicise the diagnosis of spongiform encephalopathy in a cat. The note of the meeting states that Mr Meldrum ‘confirmed the Minister’s assumption that there was no likely connection’ between the SE in the cat and BSE – ‘Nor was the illness necessarily linked with the cat’s diet.’ It was recorded that Mr Gummer thought ‘it desirable to make the information available as soon as possible’. It was agreed during the meeting that a letter to the Veterinary Record giving details of the case would be issued as a press release that day. 814

3.141 The conflict of evidence that arose in relation to this note of the meeting is discussed in detail in vol. 6: Human Health 1989–96.

3.142 A MAFF news release reporting the diagnosis of ‘a sub-acute spongiform encephalopathy in a five-year-old Siamese cat’ was issued that day. It attached a copy of a letter from Mr Meldrum to the Veterinary Record giving details of the case. 815
3.143 Also on 10 May 1990, Dr Pickles minuted Dr Metters, copied to Sir Donald Acheson, regarding the cat. Dr Pickles offered two alternative explanations:

Firstly, that cats have been susceptible to ingestion of infected meat for years and cases previously have gone unrecognised. Secondly, a new agent, presumably BSE, is virulent in a way in which previous agents such as scrapie have not been. The second possibility is most unlikely, but more worrying since it challenges the assumptions we have made for humans by analogy with scrapie.\(^{816}\)

3.144 Dr Pickles also suggested that pet food manufacturers would tighten their voluntary ban on SBO in pet food, but thought that:

\[
\text{. . . the public may start asking again about pig and poultry feed. We must be fully involved in discussions, particularly as some essential pharmaceuticals are made in pigs.}\(^{817}\)
\]

3.145 Sir Donald Acheson told the Inquiry that, based on both this minute from Dr Pickles and her minute on 9 May 1990:

\[
\text{. . . it was not immediately clear whether this represented a new disease, possibly caused by BSE infected pet food, or was a naturally occurring case of SE, previously unrecognised in cats. In either case it was important to get expert advice as soon as possible. I therefore gave instructions that although the first meeting of SEAC had just occurred and a second had been arranged for 2 July, an additional emergency meeting must be called. The first practicable date was 17 May. It was my earnest hope that I would not have to make a public statement on the significance of the case of FSE before having the advantage of the advice of SEAC on that date.}\(^{818}\)
\]

Consideration of MAFF’s presentation of the issues raised by the cat case

3.146 In saying that there was no basis for restricting the feeding of ruminant material to pets, pigs and poultry, MAFF officials consistently relied on the fact that no new scientific evidence had emerged since the Southwood Report. The question arose as to whether the position had now changed.

3.147 In his minute of 9 May 1990, Mr Lowson recommended that MAFF ‘take the initiative’ in releasing information to the public about the cat, cautioning that ‘it will be important not to encourage the public to jump to conclusions about the likely origin of this case’.\(^{819}\) On the afternoon of 10 May 1990, a draft brief and ‘Q&A’ paper in relation to the cat was faxed to DAFS, WOAD and DANI. The draft brief included the following:

4. There is no reason to suspect that this incident is caused by an infectious agent. Investigations will however thoroughly assess this option as part of the broader epidemiological study. Evidence on the feeding history

\[^{816}\text{YB90/5.10/4.1–4.2}\\^{817}\text{YB90/5.10/4.2}\\^{818}\text{S251 Acheson para. 80}\\^{819}\text{YB90/5.09/3.1–3.2}\]
of the cat is currently limited, but it does appear that it was fed on a wide variety of products which may or may not be implicated.

5. While there have been no descriptions of naturally occurring spongiform encephalopathies in domestic pets, the Southwood Working Party on Bovine Spongiform Encephalopathy did acknowledge that exposure to scrapie and BSE agents had been likely. It also stated that while infection with these agents seemed unlikely, domestic pets could be susceptible, and preclinical disease might exist.

6. The Consultative Committee on Research into Spongiform Encephalopathies (The Tyrrell Committee) emphasised the need for close surveillance of species fed on offal, including domestic cats and dogs. Cats in particular were known to be susceptible to experimental infection with spongiform encephalopathies.

7. In appreciation of perceived risks to domestic pets from BSE/scrapie, the Pet Foods Manufacturers Association (PFMA) has kept its members fully informed of progress since BSE was made notifiable.\textsuperscript{820}

\textbf{3.148} The draft Q&A paper included the following:

15. Will Government ban any use of cattle/ruminant derived feed?

Too early to draw conclusions from this case. First we need to investigate background and likely cause. [PFMA] already advised its members not to use specified bovine offals. There remains no evidence of spongiform encephalopathies in dogs, pigs or chickens. Indeed Southwood said that the chance of one occurring in poultry was so small and the risk is so remote that action was not necessary. For pigs, recent US studies using Kuru failed to provide evidence that the disease is transmissible to pigs.

16. Time to stop recycling animal remains?

Animal protein is a useful and nutritious food supplement used in many countries. Southwood only pointed out the need to ensure that pathogens are not recycled. The stringent Ministry controls on production ensure that this is so.

17. What will MAFF do now?

Investigations have already begun into the history of the affected cat to establish in particular what it had been fed and the likely cause. Once we know more we shall consult [SEAC] on the implications of this case and whether any further measures are required.\textsuperscript{821}

\textbf{3.149} On 11 May 1990 Mr Gerald Wells, Head of Neuropathology, CVL, drafted a note which he intended to send to Mr Bradley about comments made by Mr Meldrum concerning the cat case on the television news the previous day. Mr Meldrum had said:
This is only one cat death out of seven million cats in the UK, and there is no reason or cause for concern at all. If we hadn’t got the other encephalopathies in animals in this country, this report would have been published without comment.\textsuperscript{822}

3.150 Mr Wells expressed the view that Mr Meldrum’s comments were ‘unfortunate, inappropriate and provocative’. He explained:

The current situation requires a guarded public statement. The findings are preliminary but have potential agreed importance and should not, from virtually all viewpoints, have been represented as inconsequential.

Even at this early stage of investigation the indications are: that this is unlikely to be an isolated incident; that the cat is susceptible to a scrapie-like disease by a route other than the intracerebral; that the origin of infection is likely to be cattle or sheep and that the possible vehicles of implications include products of the rendering industry, prepared pet food and fresh meat trades. The temporal occurrence of this incident is also consistent with possible exposure to scrapie or BSE agents during the period of recycling of carcasses of clinically affected cattle in addition to the continuance of recycling of sheep material.

Reassurance regarding this incident from both the CVO and the BVA in the media is at present an over optimistic response which may well, in a very short time, result in a loss of credibility for the veterinary profession in this whole sensitive subject area.

Furthermore, the trivialisation of the occurrence in the public statement made has incensed the research workers in the Departments of Veterinary Pathology and Veterinary Medicine, the University of Bristol Veterinary School . . . \textsuperscript{823}

3.151 However, a manuscript note records that, in the event, the note was never used.\textsuperscript{824} Mr Wells told the Inquiry that his views about the significance of the case were still made known to Mr Meldrum:

I recall that Mr Meldrum telephoned me at home on a Sunday evening in May to discuss the implications of the occurrence of FSE and that I expressed my personal view that discovery of FSE was probably of profound significance in relation to BSE and should lead to a complete ban on meat and bonemeal entering the animal food chain.\textsuperscript{825}

3.152 Mr Meldrum told us that he remembered this conversation well, but that it took place after a number of further cases of feline spongiform encephalopathy (FSE) had been confirmed ‘later in the summer of 1990’. \textsuperscript{826}

3.153 Mr Meldrum also told the Inquiry that this case of SE in a cat had caused considerable uncertainty:

\textsuperscript{822} YB90/5.10/14.1
\textsuperscript{823} YB90/5.11/1.1
\textsuperscript{824} YB90/5.11/1.1
\textsuperscript{825} S65A Wells para. 103.
\textsuperscript{826} S184E Meldrum para. J2(d)
... it was not at that time known whether it was a TSE and, if it was a TSE whether it could have been caused by either scrapie or BSE (through feed or a medicinal product) or indeed could have been a sporadic case without a connection with any naturally occurring TSE... It would have been irresponsible and premature to conclude that this one case amounted to scientific justification for a ban on the use of SBOs in feed for pigs, poultry or other animals.\textsuperscript{827}

3.154 Mrs Attridge gave similar evidence:

... one of our problems was we did not know whether this was a phenomenon, a sporadic phenomenon, in cats which was now being picked up because of the interest in BSE, or whether it actually was a new manifestation.\textsuperscript{828}

3.155 Mr David Maclean, MAFF Parliamentary Secretary, told the Inquiry that there were a number of factors which satisfied him that the cat case was not linked with BSE:

... that this cat had no connection with the animal feed, that it did seem to have a diet which was of the highest quality cat food, which was made I think by manufacturers who said they used none of the specified offal, and therefore on the evidence which I think we were presented with there was no sensible possible connection between the cat and its diet and its behaviour or links to what were then the known sources of BSE, the animal feed.\textsuperscript{829}

3.156 Mr Gummer gave a similar explanation for the conclusion that there was no link between the cat case and BSE, both to the Agriculture Committee on 23 May 1990,\textsuperscript{830} and to the Inquiry:

So there seemed to be no background on which you could measure this, so we did not know whether this was merely us finding something because we were looking for it or whether this was in fact something new. Secondly, of course, all the indications from the diet were that there was not a link with the source of the disease, so the third thing was that when one looked at the nature of the cat, a Siamese cat I think, it appeared to have had a diet from a manufacturer — and this is entirely by memory, I may be wrong — but from a manufacturer who not only had not used this for the period of time before, but was one of those manufacturers who always claimed they did not use material of this kind. So it was very difficult to see that there was any link at all which you could place a finger on. And that was the background to coming to this conclusion.\textsuperscript{831}

3.157 Regarding the implications for other animals, Mr Kevin Taylor told the Inquiry that:

... the infection of a cat tells you nothing at all about the susceptibility of a pig or any other animal. It just tells you that a cat, as we learned later, is

\textsuperscript{827} S184E Meldrum para. F46
\textsuperscript{828} T117 p. 81
\textsuperscript{829} T126 p. 15
\textsuperscript{830} IBD1 tab 7 pp. 14–15
\textsuperscript{831} T126 pp. 16–17
susceptible to a transmissible spongiform encephalopathy, in this case BSE.

The transmission of infection/disease between two species gives you information only about those two species. Of course, we did have quite a lot of information at that time about the susceptibility of pigs by the oral route, not as a result of research but by the knowledge that both pigs and poultry were actually the animals which for decades had been fed most of the material which was believed to have caused the disease in cattle.

It has been suggested that pigs did not live long enough to go down with the disease. That is rubbish. There is a large breeding herd of pigs and they do live long enough, and because they are food animals they are pretty well surveyed through the VI Service surveillance system which actually picked up BSE in the first stages, so there was good evidence to suggest that, whatever was the situation with the cat, the pig was not susceptible to oral infection.

Mrs Attridge expressed a further view as to why the transmission to a cat had limited significance for MAFF’s policy on the feeding of pigs:

My understanding is that cats were known to be susceptible to spongiform encephalopathies under laboratory conditions. Pigs were not.

On 15 May MAFF issued a news release on BSE, which recorded that although some ruminant zoo animals had been diagnosed with a scrapie-like disease:

There is no record of pigs or poultry ever getting a similar disease. A recent post mortem of a cat in the UK showed a brain condition which is being further investigated. There is at present no evidence that it is transmissible or connected with other animal brain diseases of the scrapie family.

Pressure for a statutory ban from the NFU and others

On 14 May 1990 Mrs Dorothy Blatcher of the Association of County Councils wrote to Mr Maslin welcoming the decision to increase to 100 per cent the compensation payable for cattle confirmed with BSE. She went on to say:

However, the Association is concerned that, whilst the supply and feeding to cattle and other ruminants of feed containing animal protein derived from sheep have been banned by the Government in order to combat BSE, it is still allowed to be fed to other livestock, such as pigs and poultry. The Southwood Report recommended that transmission experiments should be conducted on pigs and these are, of course, being carried out. While there is insufficient knowledge of the BSE organism and associated risks of its presence in the food chain, it is wise to adopt the safest possible position until further research can be completed.

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832 T122 pp. 114–6
833 T117 p. 80
834 YB90/5.15/15.2
The Association considers that all animal feed should be labelled with its constituents and source. There is no compelling reason why ruminant-derived protein should form part of pig rations. The Association seeks the adoption of measures which will ensure that the BSE organism is removed from the food chain.  

3.161 The NFU proposed that SBOs should be banned from inclusion in feed for pigs and poultry. On 15 May 1990 Mrs Attridge, Mr Kevin Taylor, Mr Cowan, Mr Gueterbock and Dr Pickles were present when Mr Gummer met Sir Simon Gourlay, President of the NFU, and other NFU representatives. The NFU stated that whilst it accepted that there was no scientific basis for banning the practice, public concern existed about feeding SBO to pigs and poultry:

. . . in the light of the increasing number of species found to be susceptible to spongiform encephalopathies, the public was becoming increasingly nervous about the safety of pig and poultry meat. Many pig farmers were now already requiring from their feed suppliers that no specified offals be included in the feed. There was a strong case for the Department regaining the initiative and restoring public confidence by banning this practice outright.

3.162 Mr Gummer was recorded as responding that:

. . . he had considered this issue in the greatest detail on a number of occasions. It was extremely difficult and the consequences of what was being proposed were very considerable. There was no scientific justification for making the change and there was a major risk that doing so could merely move the debate onto another vulnerable area, whilst doing little to allay public concern.

3.163 Mr Cowan also pointed out that the change could have considerable consequences for producer returns, and Mrs Attridge stressed the danger of acting in an irrational manner instead of relying on scientific advice, which would risk MAFF being pushed into further, ‘equally unjustified’ measures later. In conclusion:

The Minister pressed the NFU hard to ensure that in any public statement they did not draw attention to the individual issues still to be discussed and did not do anything which suggested a division between them and MAFF. With some reticence, Sir Simon agreed to this.

3.164 Later that same day, Mr Gummer, Mr Maclean and MAFF and DH officials met to discuss how MAFF should respond to the NFU’s proposal to ban SBO in animal feed:

The question of animal protein feed had two aspects: pet food and pigs and poultry. As regards pet food, the PFMA guidelines covered the majority of

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835 YB90/5.14/5.1 The letter of 14 May 1990 was substituted with a second letter correcting inaccuracies in the earlier letter on 31 May 1990 – see YB90/5.31/21.1 There were no changes to the quoted paragraphs above
836 S184E Meldrum para. F38
837 Head of Beef Division, within the Agricultural Commodities Directorate
838 YB90/5.15/1.1
839 YB90/5.15/1.2
840 YB90/5.15/1.2
841 Mr Andrews, Mr Capstick, Mrs Attridge, Mr Meldrum and Mr Lowson were among those present
producers, and the PFMA would be writing to all the others. In answer to the question of whether the ban on feeding this material to pets should be made statutory, Mrs Attridge pointed out that there was no health justification for this. The Parliamentary Secretary added that, given that our primary concern was to protect public health, it would not be justifiable to ban animal protein feed in pets without banning its use in pig and poultry feed too. There was clearly no scientific justification for banning it in pig and poultry feed.\(^{842}\)

3.165 Mr Maclean and Mr Meldrum outlined possible ways of banning specified offal in pig and poultry feed without an overt shift in policy. The note of the meeting recorded:

After some discussion, however, it was agreed not to make any policy change. The NFU’s proposal was unjustified in health terms and would inevitably lead to pressure for further extensions of the ban. Thus, if we banned the specified offals (which came from healthy animals), we would come under pressure to ban them also from scrapie-affected sheep. However, for technical reasons this would in practice prevent the use of sheepmeat entirely in pig and poultry feed. Once sheepmeat was banned from pig and poultry feed, feeding scrapie-infected sheep to humans would come under scrutiny. A ban on this would be entirely without merit scientifically and would have devastating economic effects.\(^{843}\)

3.166 The NFU was due to be informed of this decision that evening.\(^{844}\)

3.167 In a statement to the Inquiry, Mr Meldrum said:

The NFU’s proposal to ban the use of SBOs in pig and poultry feed was clearly discussed at some length at [this] meeting . . . The scientific evidence which underpinned MAFF’s view that there was no reason to extend the ban to pig and poultry feed . . . had not changed . . . there were no transmission results yet reported from the intracerebral and intraperitoneal exposure of pigs to the agent of BSE . . .\(^{845}\)

3.168 On 16 May 1990 Dr Ruth Jacobs, Senior Medical Officer in the Welsh Office Health Department (WODH), wrote to Dr Pickles. Dr Jacobs had that day met the Chief Medical Officer in the Welsh Office to discuss the BSE situation. Amongst other matters raised in the letter, Dr Jacobs stated that the practice of ‘continuing to feed pigs and poultry with foodstuffs containing bovine offal is severely in question’. She added that the ‘continued use of sheep offal as an animal feedingstuff in species other than bovine, is similarly questionable.’\(^{846}\)

3.169 The Institution of Environmental Health Officers (IEHO) expressed similar concerns about SBO around this time. Referring to the PFMA ban on the inclusion of SBO in pet food, the IEHO’s BSE policy document stated that it would like to see the Government reconsider this issue.\(^{847}\)
SEAC meets to discuss the cat case

3.170 On 17 May 1990 SEAC held an emergency meeting. It discussed, among other things, the spongiform encephalopathy in the cat. The agenda of the meeting noted that the committee would need to consider:

a. are there any possible direct routes of transmission from cats to humans? and if so is any action called for?

b. what if anything this occurrence tells us about the species range of spongiform encephalopathies particularly BSE?

c. does this alter the advice given previously that the Southwood view on the probable lack of hazard from BSE to humans still stands.848

3.171 The minutes of the meeting record that the possible explanations identified by SEAC were:

(a) This was a feline disorder in its own right with no association with BSE or scrapie.

(b) It was feline scrapie, neither (a) n or (b) having been recognised previously in view of the rarity of cat neuropathological studies.

(c) It was feline BSE.849

3.172 Since at that time there had only been one confirmed case, SEAC felt it would be premature to draw conclusions without further data being available. It was noted that it would be discussed again at the next meeting. The Committee also asked for consideration of pig and poultry feed at the next meeting.850

3.173 On 22 May 1990 Mr Gummer discussed with Mr Andrews the possibility of referring to SEAC the question of feeding animal protein to animals. The note of this discussion records:

As regards the question of feeding animal protein to animals, the Minister said that, given that the Committee intended to look into this anyway, it was sensible for him now to request that they do so. There were three principal issues, all of which we should invite the Committee to address: first, the question of whether there should be a ban on the feeding of any animal protein to ruminants; secondly, whether we should continue to permit the feeding of any animal protein to any animal; and thirdly, whether there should be a ban on the inclusion of specified bovine offals in pig and poultry feed.

The Secretary acknowledged the case for requesting advice from [SEAC] in the circumstances. However, the issue would have to be very carefully handled. It would be appropriate for the Department to provide a background paper explaining our present policies and the reasons underlying these. . . .
The Minister is due to dine with Dr Tyrrell tomorrow evening and will convey this request orally on that occasion. He will also invite Dr Tyrrell to bring forward the Committee’s discussion of [this issue] in order that recommendations can be made well before July.\textsuperscript{851}

**Pressure for an animal SBO ban builds**

3.174 On 24 May 1990 UKASTA and NFU officials met to discuss animal feed. Many farmers were pressing feed manufacturers to supply feed which was free of all MBM, and the possibility of taking steps to remove all animal protein from feed was discussed. In the event, it ‘was agreed that the NFU would consider further the possibility of obtaining an industry-wide voluntary ban on the use of the specified bovine offals’.\textsuperscript{852}

3.175 On the same day Mr Maclean requested a paper to critically examine MAFF’s position on BSE issues in order that ‘Ministers can have carefully thought out their line to take rather than being forced to take decisions with no notice’. The paper was to include consideration of the possibility that UKASTA might seek to remove all meat and bone meal from all animal feed.\textsuperscript{853}

3.176 On 31 May 1990 Mr Gummer was informed that Mr C D Naish, the NFU Deputy President, had indicated that the NFU was in discussion with the rendering, slaughterhouse, feedstuffs and food industries about agreeing to a voluntary ban on the use of SBOs in all animal feedstuffs. In response, Mr Gummer considered that the industry would be ‘greatly mistaken in going down this road’ and would try to persuade Sir Simon Gourlay ‘to put a stop to it’.\textsuperscript{854}

3.177 On 1 June 1990 Prosper De Mulder (PDM) issued a circular to its ‘raw material suppliers’, which stated that:

. . . in response to the demands of their customers, mainly pig producers, many feed manufacturers have found it commercially necessary to produce animal protein free feeds. Such actions can of course have a ‘domino’ effect and there now exists the distinct possibility that animal proteins could cease to be used at all in feeds. Consequentially the rendering industry will become primarily one of waste disposal.

In such an event the costs of removal, processing and disposal of by-products from the meat industry are likely to be in the region of £100 per tonne.

This Company is and has been, for several months now, making every effort to avoid such a situation arising . . .

To assist in this aim you might consider asking your pig suppliers to ensure they do use Meat and Bone meal in their feeds. After all, they are the originators of the by-products in the first place and any disposal costs will inevitably be passed back to them!\textsuperscript{855}
3.178 A document attached to the circular setting out some of PDM’s actions so far said:

The cost of disposing of the 1.75m tonnes of animal waste produced in the UK each year would be about £200m. This would initially be borne by the abattoir operators, but would be passed back down the line and eventually lead to higher retail prices for meat.856

3.179 On the same day, Mr Lawrence minuted Mrs Attridge and attached a draft response assessing the impact of UKASTA’s proposed ban on the use of any MBM in any animal feed, as requested by Mr Maclean on 24 May 1990. Mr Lawrence noted that, in the event of such a ban, UKRA would probably seek Government assistance on the basis that their revenue would be reduced and their disposal costs increased. He calculated the overall cost of such a ban at £90 million a year. Dealing with the current position, he wrote:

Renderers have been attempting to balance the books and maintain profit margins by adjusting their collection charges from abattoirs. Currently they pay £20 to £35 per tonne for high grade material (fat and bones) and charge £20 – £45 per tonne for low grade material (green offal). However, their ability to do this have been complicated by the need to process specified offal separately. PDM have a single dedicated plant at Hartshill, Nuneaton, to process specified offal. Transport charges are an expensive element in this operation, which is again reflected in charges to abattoirs at up to £80 per tonne. They and all the other members of UKRA are part of a scheme to deal with specified offals separately, so that they can meet the demands of compounders that the meat and bone meal they purchase does not contain such material. Even so there is still a market for meat and bone meal processed from specified offal, but the price is well below that of other material ie up to £85 per tonne.

There is some evidence that the increased charges has led to abattoirs being reluctant to pay up, or at least delaying payment. This creates a cash flow problem for renderers, as does the unsold stock of meat and bone meal (currently put at 30,000 tonnes – valued at £3 million).857

3.180 Mr Lawrence forwarded the final submission to Mrs Attridge for onward submission to Mr Maclean on 12 June 1990. It was copied to Mr Meldrum, Mr Lowson and Mr Maslin.858 It appears that this submission did not go to Mr Gummer in this form, though Mr Andrews forwarded a note on 26 June 1990 based on the material in the submission (see paragraph 3.195).

3.181 On 5 June 1990, in accordance with a UKASTA Feed Executive Committee resolution of 16 May 1990,859 Mr Reed wrote to Mr Meldrum repeating UKASTA’s support for a ban on the use of SBO in animal feed.860 Mr Meldrum replied on 12 June 1990. He said:
I will not repeat the views I have expressed in earlier discussions but they remain the same and I see no reason to restrict the use of such materials in feed for pigs and poultry. Nevertheless, all such issues are kept under continuous review and if any new scientific evidence comes to light then it would be wholly appropriate for this Ministry to reconsider its position based on any recommendations from [SEAC].  

3.182 On 6 June Mr Maslin responded to Mrs Blatcher’s letter of 14 May 1990 (see paragraph 3.160). He said:

There is no scientific justification to extend the ruminant feed ban to pigs and poultry. No spongiform encephalopathy, either natural or experimental, has ever been reported in these species and the Southwood Report, whilst acknowledging the importance of the feed ban for ruminants, did not recommend that it be extended to pigs and poultry. Indeed, pigs have had a greater exposure to the agent than the feeding of meat and bone meal derived from ruminants – double the inclusion rate of that used for cattle and throughout their lives – without ill effect.

3.183 On 7 June 1990 Mr Capstick wrote to Mr McKinley, copied to Ministers, regarding a draft circular that UKASTA planned to send to its members in confidence. The circular reiterated UKASTA’s commitment to the voluntary ban on the use of MBM containing specified offal in animal feed. Mr Capstick had argued with UKASTA that the circular would not remain in confidence and that it would generate further controversy. UKASTA agreed not to issue the circular. However, it was clear to Mr Capstick that ‘UKASTA, with NFU support, are eager to take steps to further measures not supported by scientific evidence’.

3.184 On 13 June 1990 Mr Andrews forwarded a submission to Mr Gummer on labelling of feedstuffs. He said that ‘if we set off on the labelling route in relation to the specified offals, we could well come under pressure to take further action on ruminant protein generally’. He referred to the technical problems that would arise over disposal, the cost burdens that it would impose on the food chain and particularly the additional costs involved in finding alternative disposal arrangements either for specified offal alone or for MBM. He addressed a number of the ‘potential ramifications’ which, he said, were ‘difficult and uncertain’. He pointed out that SEAC was now reviewing the matter at Mr Gummer’s request and he suggested that Mr Gummer should wait to see what SEAC had to say. ‘It would look very strange if, in the light of all we have said about resting on scientific evidence, you were now to press ahead with a policy decision without regard to the conclusions of SEAC’s deliberations’.

3.185 At its meeting on 13 June 1990, SEAC had before it a paper prepared by MAFF’s Animal Health Division entitled, ‘Spongiform Encephalopathies and other Species: Pigs and Poultry’. The paper noted that the Government had ‘resisted calls to extend the scope of the ban in the firm belief that there is no scientific justification for such action’. It explained that this view was based on the conclusions of the Southwood Report that non-mammalian species were unlikely to be susceptible to...
BSE, scrapie or any spongiform encephalopathy and on the absence of any record of pigs getting a TSE. Kuru had not proved to be experimentally transmissible to pigs. The paper went on to explain the value of MBM as a source of protein. It gave details of transmission experiments of BSE to pigs, with negative results after 16 months.866

3.186 The minutes of the meeting record that SEAC agreed that the question of feeding ruminant material to pigs and poultry needed further study. Points for consideration were that pigs would have received the same exposure to the BSE agent as cattle, that most pigs were slaughtered before the disease was likely to express itself, and that bovine material in the gut contents of slaughtered pigs might be used in MBM fed to cattle. However, it was felt that the probability of the agent being recycled back into cattle was small.867

3.187 SEAC also had before it a paper entitled, ‘Domestic Cats with Spongiform Encephalopathies’, which included the history of two cats confirmed with a spongiform encephalopathy.868 The minutes of the meeting record that SEAC considered the question of possible human health implications. It was noted that specialists believed it to be a new condition but there was no way of knowing whether the condition was:

i. a species-adapted encephalopathy which had not previously been observed;

ii. a scrapie-based disease which had spread to cats in the same way as BSE had spread to cattle; or

iii. a BSE-based disease acquired as a result of consuming bovine material.869

3.188 The minutes record that SEAC ‘was in no position to offer advice on the implications for human health until more was known about the condition’.870

The NFU advises its members to avoid using MBM containing SBO

3.189 MAFF’s concerns that the NFU would follow the action taken by UKASTA were soon realised. On 13 June 1990 the NFU issued advice to farmers recommending that they should not use animal feed that included the bovine offal banned for sale for human consumption.871 A subsequent letter to members from Mr Naish about its action stated that:

. . . this is part of an agreement between ourselves, and representatives of abattoirs, renderers and compounders. They in turn will be making similar recommendations to their own members.

We have been in regular contact with the major multiple retailers and consumer groups all of whom have welcomed this initiative, acknowledging
that this action goes beyond the scientific need and is done in the interests of consumer confidence.872

3.190 The NFU communicated its decision to UKASTA on 28 June 1990. UKASTA in turn issued Feed Circular 480 to its members on 16 July 1990, informing them of the NFU’s position. It noted that ‘the NFU wholeheartedly backs the Industry agreement voluntarily to exclude specified bovine offals from any pig and poultry rations, in order to meet possible consumer anxiety.’873

3.191 Consumer groups welcomed the NFU’s action. The National Consumer Council’s submission to the Agriculture Committee of the House of Commons in June 1990 described the move as a ‘step in the right direction’, and called for a ban on the inclusion of SBO in pig, poultry and pet feedstuffs.874

3.192 A Food Safety Advisory Centre press statement dated 19 June 1990 also called upon ‘the Secretary of State for Agriculture to impose a ban on specified offal for pig, poultry and pet feed stuffs’.875

3.193 On the same day, Mr Maclean replied to Mr Prentice of the Consumers Association, who had written to him on 6 March 1990. In response to the Association’s call for a suspension on the use of ruminant protein, including the specified offal, in feed for non-ruminants, Mr Maclean stated:

. . . there is no scientific justification for an extension to the ruminant feed ban. The Southwood Report acknowledges the importance of the feed ban for ruminants but did not recommend that it be extended to pigs and poultry.876

3.194 On 21 June 1990 the Isle of Wight Council’s Public Protection Committee wrote to Mr Gummer, urging him to take a series of steps to minimise the risk of BSE to humans and animals. One of the measures sought was an extension of the ‘ban on feeding animal protein to sheep and cattle to include pigs, poultry and other animals’.877

3.195 On 26 June 1990 Mr Andrews put a submission to Mr Gummer about further measures to be taken on BSE. On MBM, he noted that a paper on the risk from specified bovine offal to animals other than ruminants was being prepared for SEAC’s meeting on 2 July 1990 (in the event, the paper was still in hand at the time of that meeting).878 He also addressed the proposal that there should be a blanket ban on the use of MBM in animal feedstuffs. He said:

. . . we have said that there is no scientific basis for such a ban. [SEAC] are not currently considering this question. I do not propose, therefore, to ask the Department to do more on this unless you or Mr Maclean want some specific aspect looked into.879
3.196 In a manuscript note on the minute it was recorded that ‘the Minister is content with the scope of the work currently in hand. He is content that there should not be any additional work on the possibility of a blanket ban on meat and bonemeal in [animal feedstuffs]’. 880

3.197 Mr Lawrence attended GAFTA’s Marine and Animal Products Committee meeting held on 2 July 1990 and confirmed MAFF’s position: no scientific justification existed for extending the ruminant feed ban to pigs and poultry. In particular, he explained that there was no record of BSE having occurred in pigs and poultry, and pigs had been fed MBM for many years and at a higher concentration than cattle. He referred to experiments in the USA where attempted transmission of kuru to pigs had failed. Mr Lawrence said that he appreciated that there had been pressure from certain groups to extend the ban – not necessarily for scientific reasons but because of public perception – and that the latter was something the Government would seek to remedy. 881

3.198 On the same day, Mr Maclean and Mr Lawrence met PFMA representatives. Dr Malin, the Chairman of the PFMA’s Technical Committee, explained that the PFMA had taken advice from independent consultants, including Dr Kimberlin, who had recommended that the industry should not use ‘high risk’ material. He also stressed that the pet food industry had introduced its voluntary ban on the inclusion of SBO in its products for ‘health as well as for marketing reasons; it took seriously the theoretical possibility that pets could contract the disease on a scrapie-type transmissible basis’. Indeed, the PFMA indicated that it was looking at means of implementing the recent EC ban on lymphatic and nervous tissue for pet food, but ‘felt hampered by the lack of statutory regulations governing the identification of these materials’. Mr Maclean expressed his view on the introduction of the PFMA ban:

[He] accepted that the move to equivalence with human foods had helped to market pet foods successfully. He added that the inevitable consequence of this policy was that any scare over human food would have a potential effect on the pet-food market. In short, the pet food sector was a victim of its own publicity: there was no scientific reason why pet food should share the same standards as human food. 882

Contingency planning for an animal SBO ban

3.199 On 5 July 1990 Mr Maclean sent a note to Mr Gummer setting out a series of proposals on BSE. The note was copied to a number of MAFF officials, including Mr Capstick, Mr Meldrum, Mrs Attridge, Mr Lowson and Mr Lawrence. On a possible SBO ban for pigs and poultry, Mr Maclean referred to the experiment involving pigs, which was being undertaken in accordance with the recommendations in the Southwood Report:

As you know, we are now 14 months into our experiment of injecting large quantities of contaminated material into pigs’ brains and so far they are all healthy. If, however, an encephalopathy does occur by this route, which an expert said is a billion times more sensitive than oral ingestion, we would
have no option but to ban specified offals from pig and poultry feeds also. No-one should imagine that we could do anything else. It would be pie in the sky to believe that we could hold the line on this or somehow distinguish poultry feed from pig feed.

If this eventuality (unlikely though it is) should occur, we must be ready with an immediate offals ban for pigs and poultry and I want us to prepare for that now. We do not need to say anything publicly at this stage, merely to accept the principle of being prepared.

Pets are another issue. If it was proved that the specified offals were responsible for pet encephalopathy there would be an instant and irresistible demand for banning led by the PFMA. When we are in the human food safety business, I am not convinced that we should be involved in taking action over pet food which has no human safety implications. Admittedly the great British public and media would not see it that way but perhaps there is a half-way house – namely labelling. We could announce that pet owners as consumers have a right to know what is in their pet foods and we will insist on adequate labelling throughout Europe.

If we got labelling, we could avoid a banning scenario. 883

3.200 In summary Mr Maclean set out key action required. This included:

7. Prepare for the possibility that we may in future have to ban offals in pig and poultry feeds. No immediate action required except to agree the principle and be ready to admit that if asked.

8. Prepare for the possibility of a problem with pet foods. Kick this into the EC forum by suggesting contents labelling throughout Europe. No immediate action required except agreement in principle and a willingness to admit this if pressed. 884

3.201 Mr Gummer’s Private Secretary replied to Mr Maclean on the same day that ‘the Minister feels that he could only take decisions on the proposals after having considered all their implications’. He asked that the Department urgently advise on the implications of the proposals. 885

3.202 On 9 July 1990 Mr Lawrence provided Mr Lowson with a ‘hurriedly prepared’ draft paper on the use of SBO in rations for pigs and poultry. 886 The paper was copied to Mr Meldrum and Mrs Attridge, among others. It specifically addressed the question of ‘whether there is a need to take action to restrict or prohibit the use of by-products derived from bovine specified offals in pig and poultry rations and in the preparation in pet foods’. 887 The paper set out action the industry had taken and the perceived risk from specified offals to pigs, pets and poultry. It examined this question at some length and concluded:

883 YB90/7.05/4.5–4.6
884 YB90/7.05/4.7
885 YB90/7.05/4.1
886 The paper was copied to Mr Meldrum, Mrs Attridge, Mr Crawford and Mr P Davies
887 YB90/7.83/2
In summary, there have been a number of developments which, put together, would indicate that the meat and bone meal derived from specified offal is unlikely to contain the BSE agent and if it does it would be at titre levels which would seem unlikely to provide a sufficient dose to create a risk of transmission, even if there was scientific evidence that such a risk existed.

In the circumstances, there would seem to be no justification for taking further measures to deal with specified offals. The scientific evidence does not point to the need for legislative action to proscribe the use of meat and bone meal derived from specified offal in pig and poultry rations and pet food. In practice however, the industry has adopted measures which largely ensures that this material is not fed to these species, even in the absence of any scientific evidence which points to the need to do so.888

3.203 On 9 July 1990 Mr Lowson minuted Mr Andrews in response to Mr Maclean’s note of 5 July 1990. He noted that he had agreed to deal with the topics of pithing rods, a ban on offals in pig and poultry feeds, and the implementation of Southwood’s suggestion on animal feeds. On the latter two he said:

There is not much that we can do now to prepare for the possibility that offals (presumably specified offals) will need to be banned from pig and poultry feed. We would need to do so if evidence arose that these species could be infected with a spongiform encephalopathy by the feed route (i.e. not simply that pigs were susceptible to infection by artificial means), and if asked we should make it clear that action would not be justified unless this happened.

Southwood asked that Ministers should address, as part of the adjustment of the framework of the agricultural policy of the EC, the general problem of changing the ‘novel pathway for pathogens’ represented by inadequately sterilised animal products used in animal feed. Work on this in the Community is already under way in two areas – in discussion of the Community’s proposal to lay down harmonised standards for the disposal of animal waste, and in work by the Scientific Veterinary Committee on the treatments necessary to neutralise the BSE agent.889

3.204 Mr Lowson told the Inquiry that his response was cleared with his veterinary colleagues and endorsed by Mr Andrews, and suggested that:

. . . it would be transmission by the feed route, not [just] experimental inoculation, that would justify the imposition of a ban (in practice of course, when such experimental transmission by experimental inoculation was confirmed, the advice from SEAC was that this alone provided sufficient justification for action); and

It was not necessary or appropriate to do any work at that time on measures to implement a ban either generally or in connection with meat staining and sterilisation regulations. This was because, firstly we could not reasonably have attempted to predict what action, if any, would be recommended by the Government’s scientific advisors in the event of transmission occurring.
Secondly, not much work would be needed to put the necessary legislation in place so it was not necessary to prepare until these uncertainties were resolved (a supposition that was borne out in practice). 890

3.205 On 10 July 1990 Mr Andrews put a submission to the Minister advising on each of the points set out in Mr Maclean’s minute of 5 July 1990. In relation to the ban on offal in pig and poultry feed he attached the note as provided by Mr Lowson. Mr Andrews commented on Mr Lowson’s views:

I agree with the comment. But if we wanted to move on this, how would we resist pressure on the ovine offals? This morning’s discussion underlined the problems that could build up for the rendering industry. 891

Agriculture Select Committee’s inquiry into BSE

3.206 On 10 July 1990 the House of Commons Agriculture Select Committee’s Fifth Report on BSE was published. The report covered a range of BSE issues, including the incorporation of SBO in pet food and non-ruminant rations. The Committee noted the Minister’s resistance to making the PFMA’s voluntary ban on the inclusion of SBO in pet food statutory, and stated that ‘in this instance, which is not one of pure science but political judgement, we take the opposite view.’ The Committee thought that ‘with a disease as distressing as BSE, people are entitled to expect that the food they feed their pets should be protected by the same basic legislative safeguards as their own food, particularly in view of the uncertainties surrounding the newly identified feline encephalopathies’. It therefore recommended that the PFMA’s voluntary ban on SBO in pet food be made statutory. 892

3.207 On the proposal for a statutory ban on feeding cattle offal to pigs and poultry, the Committee stated that it was a view with which it had some sympathy. It noted that MAFF had resisted a statutory ban due to a lack of scientific evidence, and then commented on UKASTA’s voluntary ban:

We understand the reasons for this measure which are, first, to maintain public confidence and, secondly, to insure against the remote possibility that BSE is transmissible to other species; and we trust that, in judging how long to keep it in force, the industry will be guided by the latest scientific evidence. 893

3.208 Whilst the Committee felt that it did not take enough evidence to reach firm conclusions of its own, it advised that the Government should establish an expert committee to examine animal feeds and advise on the need for industry regulation. 894 This led to the establishment of the Lamming Committee in 1991 (see Chapter 2).
Pressure from the food industry

3.209 On 3 August 1990 Mr Lowson minuted Mr Maslin and Dr MacOwan about discussions with the Food and Drink Federation (FDF). FDF representatives had met Mr Capstick, Mrs Attridge, Mr Lowson and Dr Metters on the previous day to discuss their concerns about BSE and the commercial damage they were suffering. Mr Lowson’s minute stated:

They pressed hardest on the question of excluding specified bovine offals from feed for non-ruminant animals. Individual consumers, and major purchasers (notably education authorities) were looking for products which derived from animals that had been fed on material which contained nothing unfit for human consumption. We went through all the usual arguments and Mr Capstick made it very clear that unless new scientific evidence became available (and [SEAC] was likely to review the evidence in this area) the Government would not impose any kind of ban. In the light of this the FDF side asked whether they could have some guidance notes that they could use with their customers. Dr Metters was not keen on this because [SEAC] have not formally looked at the evidence or expressed any formal opinion. But I do not see why we should not act in the same way here as we have done in the case of milk, namely providing material which sets out the justification for the line that we have taken, on which those interested can draw, without going as far as providing an authoritative on the record statement about the safety of the products concerned endorsed by the Department of Health.895

3.210 Dr Metters received a copy of this minute, and noted in manuscript that the point he had made ‘was that we should not attempt to second guess [SEAC], and as [SEAC] had this on their agenda it would be better to wait pending their view’.896

Experimental transmission of BSE to a pig: SEAC recommends an animal SBO ban

3.211 On 16 August 1990 Mr Lowson submitted to Mr Gummer a paper, to be put to SEAC at its meeting on 19 September 1990, on the inclusion of SBO in feed for non-ruminants. In his covering minute Mr Lowson noted that Mr Gummer wanted to clear the paper before it was submitted to SEAC, together with papers on slaughterhouse practices and scrapie in sheep. Mr Lowson sought Mr Gummer’s approval for the attached animal feed paper, and explained that the other two papers would be put forward in due course. The animal feed paper quoted the Southwood Report’s conclusions in relation to pigs, poultry and pets – essentially that no action was called for other than research. It gave details of unsuccessful efforts to transmit kuru to poultry and to pigs, and it described the CVL’s experiment to transmit BSE to pigs, which had to date produced no positive results. It set out by way of summary and conclusion:

Although cats have succumbed to a spongiform encephalopathy, and have been infected experimentally with CJD, no major pet species, pig or poultry have been shown to be susceptible to spongiform encephalopathies transmitted by ruminant material, even by intracerebral inoculations, and
there is no significant evidence of pigs, poultry or dogs having been infected with any scrapie like disease. Pigs and poultry will have been exposed to the BSE agent over as long a period as cattle have been, without succumbing to the disease, and the total quantity of agent in the specified offal is now likely to be a downward trend. There is wide scope for pet owners to avoid material which they consider unsuitable, in spite of the absence of evidence.

There does not therefore seem to be any current evidence on which to take the view different from the Southwood Working Party’s. This position would need to be reassessed if there was evidence that the inclusion of material derived from specified offals in pig and poultry feed or pet food was substantially higher than before the offals ban was introduced, but that is certainly not the case at present.

The Committee is invited to endorse these conclusions. 897

3.212 The paper was overtaken by the events that we now turn to describe.

3.213 On 20 August 1990 a positive result was recorded in the CVL’s experimental efforts to transmit BSE to pigs. One pig had been diagnosed by post-mortem pathology as having developed a spongiform encephalopathy. A confidential pathology report submitted by Mr Wells to Mr Michael Dawson, Research Officer, CVL Virology Department, included the following remark:

The result, albeit confined to one animal in the experimental challenge group is incontrovertible evidence of the transmissibility of BSE to the pig by simultaneous intracerebral, intravenous and intraperitoneal inoculation routes. 898

3.214 Mr Meldrum told the Inquiry that he decided that the discovery should be kept confidential until SEAC had had an opportunity to review and discuss it. However, he informed Mr Gummer by telephone as soon as the preliminary results were known and they discussed the matter via video link. 899

3.215 On 23 August 1990 Dr Pickles reported the discovery to Sir Donald Acheson. The minute noted:

CMO should be aware that a pig inoculated experimentally (ic, iv and ip) with BSE brain suspension has after 15 months developed an illness, now confirmed as a spongiform encephalopathy. This is the first ever description of such a disease in a pig, although it seems there are no previous attempts at experimental inoculation with animal material. The Southwood group had thought pigs would not be susceptible. Most pigs are slaughtered when a few weeks old but there have been no reports of relevant neurological illness in breeding sows or other elderly pigs.

...
An urgent meeting is being called of [SEAC] but since key members and the chairman are now overseas at a meeting this may not be until the week beginning the 3rd September. Points for consideration:

i. In view of the long term exposure of pigs to scrapie without ill effect, does this suggest the species range for BSE is wider than that of scrapie, and if so what are the implications?

ii. Should the feeding of ruminant protein including BSE and scrapie-infected offal to pigs now be discontinued?

iii. Is any action needed to protect humans, eg extending the offal ban to pigs?

... For information, there are now 9 cats with feline spongiform encephalopathy, suggesting this is indeed a new disease and exposure to BSE unlike exposure to scrapie has been hazardous for cats.

Mr Maclean was informed last night and has agreed an early meeting of [SEAC] is required to give advice on which decisions will be made. In the meantime, he does not want to go public. Mr Maclean is expected to advise Mr Gummer. In these circumstances, CMO might like to consider whether [Mr Dorrell] should be informed. 900

3.216 Sir Donald Acheson informed Mr Dorrell of the diagnosis of the pig on the same day:

While this clearly is a cause for concern we should not jump to the conclusion that this means that pigs will necessarily be infected by bone and meat meal fed by the oral route as is the case with cattle. An important point to take into account is that it appears that brain material from sheep infected with scrapie has never been experimentally injected into pigs and it may well be that pigs would also be infected by this route.

At the moment there is insufficient information on which to base any further action. In particular I do not think that it is necessary for the Medicines Control Agency or the Procurement Directorate to take any action about porcine materials. The next step should be to await the result of discussions at the next meeting of the Tyrrell Committee which will be held early in September. I have discussed the matter with Professor David Tyrrell and he agrees. Mr Maclean has been advised of the situation. 901

3.217 A meeting of SEAC was called at short notice on 7 September 1990 to consider the implications of the experiment results. A paper, prepared by Mr Meldrum, which considered the preliminary results of the experiment and considered whether as a consequence any changes to animal and health controls should be recommended, was before the Committee. The paper outlined the experiment results and noted that:
The Committee will wish to consider whether the transmission of BSE to one pig under challenging experimental conditions alters our scientific knowledge of the disease to an extent whereby additional animal or public health controls measures should be recommended to Ministers. 902

3.218 On the animal health implications the paper noted:

15. The committee will also wish to consider whether there is a need to make recommendations for further action relative to the animal health implications of BSE. There are a number of options:

Do Nothing

16. The argument would be that the result is not a surprising one, given the weight of challenge and method used. It is a laboratory experiment and is quite different from the position in field conditions. For instance, the oral route of transmission is less efficient than the parenteral route by a factor of 10^5 (Kimberlin and Walker, 1983). The monitoring of the adult pig herd nationally has not revealed any case suggestive of a scrapie-like sub-acute spongiform encephalopathy. Furthermore, most pigs are slaughtered at under 7 months. Thus, even if transmission were possible through the feed route, the vast majority of animals would be too young to pose any risk.

Legislate to ensure that meat and bonemeal derived from specified offal cannot be used in Pig Rations

17. Many industry and consumer organisations have advocated that the Government should legislate to prevent the use of processed specified bovine offals in pig and poultry rations and, indeed, in pet (dog and cat) food. The Government’s response has been to point to the lack of scientific evidence to warrant such a course. Clearly the situation has changed in that, for the first time, a transmissible spongiform encephalopathy has been recorded in a pig. Although the range of scientific and other arguments and counter-arguments do not, perhaps, point to this measure being necessary on strict scientific grounds or at least until more evidence becomes available from transmission studies, it would, in practice, simply add the weight of legislation to an arrangement which is already operating, de facto on a voluntary basis. This is the option that holds most attraction for the Ministry’s veterinary advisers and would ensure that bovine offals that are not permitted to be used for human consumption are not used in the food of livestock or poultry either. Such action might defuse a situation in Germany whereby guarantees are now being sought that imported pet food does not contain any bovine material of UK origin.

Ban the use of ruminant-based meat and bonemeal as a Feed Ingredient in Pig Rations

18. This would represent the most radical solution. It would deal not only with concerns about BSE agent being re-cycled to pigs, but also the continuing exposure of pigs to the scrapie agent from sheep. The logic of such a course would, almost inevitably, require that such rations are also
banned from use in other livestock – poultry and horses are also in pet food. In the latter case the evidence from the investigations arising from the 10 cats which have succumbed to a spongiform encephalopathy is that we are probably witnessing a new disease in cats. However, it could be argued that pursuing such an option would be over-reaction since there is no evidence of a porcine encephalopathy under natural conditions and it is possible that pigs are not susceptible to BSE by the oral route but only when presented with a massive challenge.

19. The consequences of following this option are very serious indeed. There would be major repercussions for the rendering industry, which would reverberate throughout the agri-food cycle. There is currently no practical or viable alternative use for the 400,000 tonnes of meat and bonemeal which is produced annually. This would mean that it would have to be buried or incinerated after processing. Cost estimates put this at about £70 million using burial and £150 million using incineration. It would mean an increase of something between 1p–2p per pound of meat. But it is unlikely that all this additional cost would be borne by consumers. Even if it were, it would only have a small impact on the retail price index. This, in turn, would put further pressure on the meat market and place the UK industry at a competitive disadvantage even though we have in place far more comprehensive control measures than any other country. There would also be some spin off in Europe making it more difficult to export pig meat as the public would perceive such action as tantamount to an admission that pig meat presented a public health hazard.903

3.219 At the meeting SEAC accepted CVL’s conclusion that the experimental result provided ‘incontrovertible evidence’ of the transmission of BSE to pigs. The points emphasised by SEAC included:

i. the pig had become infected after receiving a massive dose of BSE infected material by a highly efficient route i.e. intracebral, intraperitoneal and intravenous inoculation with brain tissue from cattle affected with BSE. This demonstrated the susceptibility of pigs to spongiform encephalopathies, but, as only one of the pigs had succumbed, did not demonstrate the degree of susceptibility;

ii. the clinical symptoms shown by the pig could not have been easily confused with those of any other condition. Therefore, it was unlikely that more than an occasional case had occurred and gone unnoticed in the field and the symptoms were sufficiently distinct for an effective monitoring programme to be put in place; and

iii. many questions remained unanswered; for example, would pigs be susceptible to smaller doses, or larger doses given by mouth; would scrapie produce spongiform encephalopathy in pigs under similar conditions; did the tissue of sick or healthy animals contain infectious BSE?904

903 SEAC 5 tab 8 pp. 4–6
904 YB90/9.7/1.1–1.3
3.220 The minutes of the meeting record that:

It was very difficult to draw conclusions from one experimental result for what may happen in the field. However it would be prudent to exclude specified bovine offals from the pig diet.

Although any relationship between BSE and the findings of a spongiform encephalopathy in cats had yet to be demonstrated, the fact that this had occurred suggested that a cautious view should be taken of those species which might be susceptible. The ‘specified offal’ of bovines should therefore be excluded from the feed of all species. 905

3.221 However, the Committee concluded that there were no grounds for extending the ban on the use of ruminant protein to non-ruminants, provided SBO was excluded. 906

3.222 On 14 September 1990 Mr Lowson put a submission to Mr Gummer, which set out the proposed action in light of the experimental transmission of BSE to a pig. 907 He noted that SEAC was due to meet the following week to finalise its advice. He said:

They can be expected in particular to recommend that the specified [bovine] offals excluded from human consumption and protein derived from them, should be banned for use in feeding to animals as well. A separate submission will be coming forward seeking Ministerial approval to an Order which achieves this. The aim will be that it should come into force as soon as the decision is announced. 908

3.223 It continued:

A ban on the use of specified offals in animal feed will no doubt lead to claims for compensation from the Industry, as it will effectively make meat and bone meal derived from them unsaleable . . . It is therefore recommended that when this point is raised we should take a negative line. Nevertheless the ban can be expected to lead to further costs being passed onto slaughtering and livestock industries by renderers and knackers.

. . .

Consultation has so far been restricted to a very limited circle. However as the ban on the use of the specified offals for animal feed will apply throughout Great Britain, and will need to be mirrored in Northern Ireland legislation too, I hope that the Minister will agree to our telling colleagues from the other Agricultural Departments about what is happening. We will also, if the Minister agrees, set up a meeting for interested organisations as soon as the information is released. 909

905 YB90/9.7/1.3
906 YB90/9.7/1.3. The minutes of SEAC’s resolutions at this preliminary meeting on 7 September were subsequently approved at a meeting of the full committee on 19 September 1990. Both meetings are examined further in vol. 11: Scientists after Southwood
907 Copied to Mr Maclean, Mr Curry, Mr Andrews, Mr Capstick, Mr Meldrum, Mrs Attridge among others
908 YB90/9.14/7.1
909 YB90/9.14/7.1–7.2
3.224 SEAC issued formal advice on 20 September 1990, following its meeting on the previous day. The advice stated:

Since this result shows that pigs can get spongiform encephalopathy, even though there is no evidence that they have done so in the field, we believe that pigs should no longer be fed with protein derived from bovine tissues which might contain the BSE agent, i.e. those ‘specified’ bovine offals that are already excluded from human consumption. It would make sense to extend this prohibition to feed for all species, including household pets, as other species have now developed spongiform encephalopathies. We are aware that many animal feed compounders and pet food manufacturers are already applying such a ban on a voluntary basis.910

3.225 In a statement to the Inquiry, Dr Tyrrell said:

It was the rapid increase in the BSE epidemic, the occurrence of more cases of FSE and the results of the pig transmission experiment which led SEAC to give the advice we did on the extension of the SBO ban. Before then (September 1990), we were not asked to advise on the extension of the SBO ban.

It was important to consider humans before other animals. It should be remembered that prior to the test results of the pig transmission experiment, pigs and poultry were not known to be susceptible to TSEs. Breeding pigs, in particular, were thought to have received a very high exposure to the same type of contaminated MBM as cattle but without any evidence of the occurrence of TSE. The issue of symptomless hosts was considered very carefully because it could apply to all domestic and farmed animal species.911

3.226 Mr Meldrum concurred that the result from the pig experiment had also changed the landscape for MAFF:

It was not until . . . August 1990, that the result from the pig persuaded both SEAC and us to change our view and to take out of pig rations any residual infectivity that might have arisen from the SBOs.912

Preparation of the legislation implementing the animal SBO ban

3.227 The Bovine Spongiform Encephalopathy (No. 2) Amendment Order 1990, designed to implement the ban on SBO in pet food and animal feed recommended by SEAC, was prepared in a relatively short period of time and with minimal consultation.

3.228 In a minute of 11 October 1990, Mr Maslin referred to the fact that the Order was proposed ‘in haste and secrecy’.913

910 YB90/9.20/2.2
911 S11B Tyrrell paras 187–8
912 T69 p. 108
913 YB90/10.11/6.1
3.229 In a statement to the Inquiry, Mrs Attridge did not accept that there was any undue haste. She told us that the Animal Health Group of MAFF undertook preparation of the legislation on a contingency basis, at the specific request of Ministers:

... Ministers were concerned that a speedy response could be made if SEAC recommended an extension of the ban. The contingency work was therefore helpful since there was in fact political pressure to take action as quickly as possible when the SEAC Committee reported. The work was ‘secret’ only in the sense of being contingency planning so that normal consultations with industry were not possible. 914

3.230 The extent of this contingency planning is unclear, though it would appear that the notification of the pig experiment result on 20 August 1990 (see paragraph 3.213), and SEAC’s preliminary advice of 7 September 1990 (see paragraph 3.219–paragraph 3.220) provided the impetus for the contingency work. During oral evidence, Mrs Attridge explained the circumstances as follows:

[SEAC] met on 19 September. The Order was ready for signature on 21 September. So clearly the work on the drafting of the order was put in hand on a ‘contingency’ basis between 20 August and having it ready, a keyed Order ready for signature on 21 September. 915

3.231 In his oral evidence to the Inquiry, Mr Meldrum also identified August 1990 as the month in which work began on preparing the necessary Order:

That is where things started to move, when there were discussions taking place within my team, when the first Order was drafted after SEAC had given its advice. 916

Drafting of the Order

3.232 On 28 August 1990 Miss Gillian Richmond of MAFF’s Legal Department provided Mr Lawrence with two alternative draft orders for his consideration. She noted that herself and Mr Yavash, also of the Legal Department, would welcome the opportunity to meet with him once he had had the opportunity to consider the minute ‘which of necessity is brief’. 917

3.233 She noted that she and Mr Yavash considered that the preferable approach to introducing the animal SBO ban would be to amend the existing orders, as they considered they ‘had as a maxim a need to identify as little change as possible’. She noted that:

Partly with this in mind we have a preference for alternative ‘B’ which merely isolates the provisions of article 8 and extends them.

This simple approach may not, however, achieve your wishes. Its effect would be to extend the provisions to all animals and birds but the definitions

914 S78B Attridge para. 45
915 T117 p. 91
916 T132 p. 55
917 YB90/8.28/7.1
in article 3 and for the remainder of the Order would be unaltered. We see merit in this approach as it is important not to ‘cast our net’ wider than is necessary since a blanket approach would need to be justified to the Joint Committee [on Statutory Instruments].

3.234 Both versions proposed amendments to article 8 of the Bovine Spongiform Encephalopathy (No. 2) Order 1988, which had implemented the ruminant feed ban. Both versions achieved this end by amendments to various definitions within the original Order. Miss Richmond discussed the effect of changing the definitions of carcass, offal, animal, animal protein and poultry. In addition, she had included a definition of ‘feedingstuffs’ in both alternative drafts ‘to put the coverage of pet food beyond doubt’.

3.235 Following a telephone conversation with Mr Lawrence on 31 August 1990, Miss Richmond forwarded another version of the draft order in the first week of September, which reflected instructions he had given. In her covering minute, she noted:

It is perhaps timely to ‘flag’ a matter in relation to enforcement of the provisions of article 8 for any of the versions – we could be criticised for including provisions which are unenforceable.

3.236 The new Version C provided by Miss Richmond dealt specifically with SBO, whereas the two earlier versions had not. Version C provided a definition of specified bovine offal as ‘the brain, spinal cord, spleen, thymus, tonsils and intestines of a bovine animal’. In contrast to the two earlier versions, the new draft incorporated additional provisions of article 8:

(2) (a) No person shall knowingly sell or supply for feeding to animals or poultry any feedingstuff in which he knows or has reason to suspect that any specified offal has been incorporated.

(b) Subject to paragraph (3) below, no person shall feed to an animal or poultry any feedingstuff in which he knows or has reason to suspect that any specified offal has been incorporated.

3.237 By 11 September 1990 further consideration had been given to the preparation of the Order. A handwritten note addressed to Miss Richmond recorded that Mr Meldrum and Mr Curry wished to exclude specified offal from bovines under six months of age from the proposed ban. This was to keep the Order in line with the ban on SBO in human food.

3.238 On 17 September 1990 Mr Lawrence provided Miss Richmond with comments on a draft Order. His minute, which was copied to Mr Meldrum, Mrs Attridge and Mr Lowson, set out a number of comments of the draft order. He noted:

918 YB90/8.28/7.1–7.2
919 YB90/8.28/7.1–7.11
920 YB90/9.00/7.1 – article 8, in all of the draft versions, sought to implement the proposed animal SBO ban
921 YB90/9.00/7.3
922 YB90/9.00/7.4
923 YB90/9.11/6.1
2. We need to include fish in Article 2A. Presumably fish will also need to be referred to in the Interpretation Article.

3. It has been decided to exclude specified offal from bovines under six months of age to keep it in line with the Bovine Offal (Prohibition) Regulations 1989. In addition, we want the restriction to be limited to animals slaughtered in the UK. We suggest that the best way to achieve this would be to revise the definition of specified offals as follows:

‘specified bovine offal means the brain, spinal cord, spleen, thymus, tonsils and intestines of a bovine animal over six months of age which has been slaughtered in the United Kingdom.’

4. Ruminating animals is not defined, presumably because it is under the definition of animal, in the parent Order. We will need to mention fish in the heading and Article 8(2) and (3)

5. In Article 8(2) and (3) we think it would make it clearer to say “any specified bovine offal or any feedingstuffs derived therefrom”.

6. Assuming that the conclusions drawn by [SEAC] at their meeting on 19 September are in line with the views expressed at their earlier meeting, Ministers will want to make an announcement on Friday 21 September, bringing the legislation into force at the time or very shortly thereafter. We are therefore preparing a letter to go to the Joint Committee on Statutory Instruments which will go out with the submission.

3.239 Miss Richmond responded the following day, following a further telephone conversation with Mr Lawrence. She explained that the prohibition could not be extended to cover fish under the Animal Health Act 1981, nor any other Act. She attached a revised draft setting out the changes to the previous draft. These included:

**article 2(b) (v)** definition of specified offal – I have extended this to incorporate the limitation to animals slaughtered in the UK.

**article 2(c) Exemption** – this is a new provision to exempt from the application of the Order specified bovine offal from a bovine animal not more than six months old when slaughtered. I preferred to make this a stand alone provision to keep it in line with the Bovine Offal (Prohibition) Regulations 1989.

**article 2(d) article 8 substitution** – as discussed with you by telephone, I have amended (2(a) and (b) to add ‘or is derived from’ in relation to feedingstuffs caught by the specified bovine offal prohibition. In sub-paragraph (3) I have retained my previous formulations as we need to encompass not only feedingstuffs contained or derived from, specified bovine offal but also that containing animal protein.
Consultation on the Order

3.240 There was no external consultation on the Order. Mrs Attridge explained this during her oral evidence to the Inquiry:

The area which we were precluded from carrying out was the actual normal consultation, because of the fact that [SEAC] had not at that stage actually said which way they would go, or whether they would say this one pig does not make any difference or whether they would say yes, this does justify a ban.927

3.241 This suggests that a decision had been taken in MAFF that the transmission of BSE to a pig would be kept confidential until SEAC’s response had been determined.

3.242 According to Mr Meldrum, the information was kept confidential to enable preparation of the new legislation banning SBO in non-ruminant feed, so that its introduction could be announced simultaneously with the announcement of the discovery.928 He explained in oral evidence why the result from the pig experiment had not been publicised earlier:

There is nothing worse than having a leak of a scientific finding when you have not decided and have not had time to consult upon the response to that scientific finding. In this case, therefore, I intentionally kept this information under wraps . . . [Mr Gummer] confirmed with me we must keep it under wraps until we have the advice from SEAC. I think that was a measured response to this new finding.929

3.243 It was not only those outside MAFF who were not consulted about the proposed Order. For instance, Mr Keith Baker, Assistant Chief Veterinary Officer (Meat Hygiene) at the time, told the Inquiry that he was not consulted about the measure prior to its introduction.930 Nor was there any consultation with agriculture officials in Wales, Scotland or Northern Ireland. Mr Lowson was informed on 17 September that:

As regards the question of informing the Territorial Departments, the Minister recognises that they must know of the situation in advance of the announcement. However, in order to minimise the risk of leakage, he would like them to be informed at the latest practicable moment and for this to be done at CVO level.931

3.244 Two days later, Mr Lowson was told:

As regards the making of the relevant Order, the Minister wishes the Territorial Departments to be informed at the latest possible moment and in such a way that as few as possible people are in the picture. . . . I have also asked Mr Meldrum not to inform the Territorial CVOs of the situation until

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927 T117 p. 92
928 S184A Meldrum para. E52
929 T132 pp. 94–5
930 T107 pp. 121–2
931 YB90/9.17/3.1 – see also S184E Meldrum para. G20
Friday [21 September]. They would be told on the understanding that the information is for their own and their Ministers’ use only.\textsuperscript{932}

\textbf{3.245} On 21 September 1990 a submission was sent to Mr Gummer seeking his approval and signing of the Bovine Spongiform Encephalopathy (No. 2) Amendment Order 1990. The submission stated that the Order’s purpose was to ‘prohibit the sale, supply or feeding of specified bovine offal or animal protein feedingstuffs derived from it, to all mammals, non-mammals, birds and poultry’. It also confirmed that, as desired by Ministers, the Order would come into force immediately, despite the fact that such Orders normally came into force 21 days after they were made. A draft letter to the Joint Committee on Statutory Instruments, attached to the submission, explained that in light of the pig experiment result and SEAC’s advice that SBO should not be used in animal feed, ‘the Government considered that it would be prudent to introduce these measures immediately’.\textsuperscript{933}

\textbf{3.246} In relation to the enforcement of the Order, the submission stated:

Enforcement is the responsibility of the Local Authorities. They are already monitoring and enforcing the Bovine Offal (Prohibition) Regulations 1989. In practice, the specified offal is being separated from other material at the abattoir. It is collected and processed separately by renderers. As with the existing ruminant feed prohibition, the ban on its sale, supply and feeding will, to a large extent, be self-policing. In these circumstances there would be little or no resource implications for Local Authorities.\textsuperscript{934}

\textbf{3.247} Under the heading ‘Consultation with Industry’, the submission noted:

In the time available none has been possible. However, the farmers’ unions, abattoir owners, renderers, compounders and other interested organisations will be advised on Monday, 24 September. A briefing for consumer groups will be held on 25 September.\textsuperscript{935}

\textbf{3.248} The Order, accompanied by an identical submission, was also sent to Lord Strathclyde, the Scottish Office Minister of State, on 21 September 1990 for signing on behalf of Scotland.\textsuperscript{936} A similar submission was prepared for Mr David Hunt, the Secretary of State for Wales, requesting his agreement to the Order.\textsuperscript{937} A manuscript note on behalf of Mr Hunt recorded that whilst the Order was duly signed by him and returned to MAFF, it had only been provided to him ‘late on Friday’.\textsuperscript{938}

\textbf{Industry and local authorities are informed of the Order}

\textbf{3.249} A meeting was called on 24 September 1990, chaired by Mr Meldrum and attended by Mr Bradley and Dr Kimberlin, to advise the feed industry, farmers and renderers of the developments in advance of a press notice announcing the ban on SBO in animal feed. Mr Meldrum explained that BSE had been transmitted by direct inoculation to a pig and that Ministers intended, with immediate effect, to act
in accordance with SEAC’s advice and to extend the ban on the use of SBOs in human foodstuffs to all animal feedstuffs and pet foods. He also stated that Ministers had considered the issue of disposal of unwanted SBO, and had decided that the Government would provide no assistance – it would be left to the industry to dispose of the material safely, with market forces deciding costs. It was appreciated that this would be ‘very hard on knackers’. UKASTA ‘noted that the voluntary action taken by the industry had now been confirmed by the Government’s decision to introduce appropriate statutory powers’. 939

3.250 As envisaged at the meeting, that afternoon MAFF made a press announcement about its intentions to introduce a ban. It recorded:

. . . as a further animal health precaution [SEAC] has advised the Government to make statutory the present voluntary ban by animal feed compounders and pet food manufacturers on the use of the specified offals already prohibited from food for human consumption. The Government is today making a Statutory Instrument prohibiting the use of the specified offals in all animal feed (including pet food).940

3.251 The News Release also incorporated SEAC’s advice issued on 20 September (see paragraph 3.224). This announcement was made two weeks after SEAC’s emergency meeting to consider the test results.

3.252 Whilst it was contemplated that local authorities would be responsible for enforcing the Bovine Spongiform Encephalopathy (No. 2) Amendment Order 1990, they were not consulted about the ban prior to its introduction. Mr Meldrum acknowledged in his oral evidence to the Inquiry that there was limited time in which to alert local authorities to the terms of the Order.941

3.253 On 24 September 1990 Mr Maslin wrote to local authorities to inform them of the Order, which, it was noted ‘comes into effect from midnight tonight’. Mr Maslin acknowledged in the letter that the lack of consultation with local authorities was regrettable:

I realise that bringing in this measure with immediate effect and without prior consultation causes difficulties for enforcement authorities. Ministers decided however that it was necessary to act on the Committee’s advice without any delay.942

Introduction of the Order

3.254 On 25 September 1990 the Bovine Spongiform Encephalopathy (No. 2) Amendment Order 1990 came into force, which banned the sale, supply and use of SBOs, feedstuffs containing SBOs or animal protein derived from SBOs for feeding to animals and poultry. In addition, the Order banned the export to other Member States of feedstuffs containing SBOs or animal protein derived from SBOs.943

939 YB90/9.24/4.2 940 YB90/9.24/1.1 941 T132 pp. 93–4 942 YB90/9.24/8.1 943 L2 tab 5 article 2. The Order applied to England Scotland and Wales. The Diseases of Animals (Feedingstuffs) Order (Northern Ireland) 1990 was enacted on the same day for Northern Ireland (LBA tab 8)
3.255 The lack of consultation and the haste with which it was prepared appears to have contributed to a number of shortcomings in the Order. These will be considered in detail in the next chapter, which examines the operation of the Order. The Order came into effect the day after MAFF announced the measure. By way of comparison, whilst the Government announced its intention to introduce a human SBO ban in June 1989, the Bovine Offal (Prohibition) Regulations 1989 did not come into force until some five months later.

Discussion

3.256 We propose to consider the following questions which are raised by the evidence which we have summarised in this chapter:

i. Did the PFMA, UKASTA, UKRA and the NFU act reasonably in seeking to exclude SBOs from animal feed?

ii. What attitude did MAFF officials and Ministers adopt to a ban on the incorporation of SBOs in animal feed?

iii. Was that attitude an adequate response to the issues raised?

3.257 The facts covered by the latter part of this chapter raise questions as to whether adequate consideration was given to the terms of the 1990 Order and whether those terms were adequate to achieve the objective of the Order. We shall postpone consideration of these questions until after our review in the next chapter of how the animal SBO ban operated in practice.

The pet food industry

3.258 The pet food industry took steps to ban bovine tissues which might carry the risk of BSE infection from their products before Government considered the desirability of banning such offal from the human food chain. The initiative first came from independent companies, Spillers and Pedigree Petfoods, but was rapidly taken up by the PFMA (see paragraphs 3.4–3.26).

3.259 The precautionary measures introduced by the pet food industry reflected a commitment to high safety standards and an approach that nothing should be included in pet food that could not safely form part of the human diet. The PFMA and its members did not wait for MAFF to determine what was safe for human or animal food. They acted on their own initiative and, incidentally, assisted MAFF with its own examination of the subject (see vol. 6: Human Health 1989–96, Chapter 3). They were, however, careful to ensure that they mirrored, in recommendations to their own members, any precautions introduced by Government to protect the human food chain.

3.260 The PFMA had the luxury of being able to base its policies on the interests of its members and their customers. The financial implications of banning specific ingredients from their products were not great. The implications for their suppliers of such action were more serious, but it did not have to weigh these in the balance.
3.261 We consider that the approach of the pet food industry to the effect of BSE on its choice of ingredients was logical and commercially sound. The remote risk of potential infectivity was not one it needed to take. It was wise to avoid it.

UKASTA and UKRA

3.262 Mr MacGregor’s motive for introducing the human SBO ban was, in large measure, to reassure the public that it was safe to eat beef. The measure was precautionary to address apprehended risk for which there was no scientific evidence but which, equally, could not be discounted on the basis of scientific evidence.

3.263 The reasoning that led to public apprehension about the safety of SBOs in human food also led to concerns on the part of the animal feed and rendering industries – not least on the part of Mr Foxcroft, whose letter to Mr Meldrum on 22 May 1989 was particularly perceptive (see paragraph 3.29). The concerns of these industries could not be divorced from similar concerns on the part of their clients. Indeed UKASTA’s evidence was that it felt bound to advise its members to introduce a voluntary SBO ban because of the perception of risk on the part of its customers rather than because of any actual apprehension that SBOs would prove infectious to non-ruminant animals.

3.264 Thus in July 1989 UKASTA explained to MAFF that if the feed industry did not exclude those SBOs that MAFF proposed to ban from human consumption, the incorporation of meat and bone meal in general might be put in question (see paragraph 3.43).

3.265 When Mr Meldrum met representatives of UKASTA on 23 July 1989 he told them that the Minister had decided to introduce the SBO ban simply to maintain public confidence – there was no scientific basis for concern about the safety of pig and poultry rations. UKASTA, however, was concerned in its turn for the public confidence of those who purchased feed from its members.

3.266 Later in the year at a meeting with Mr Curry, UKASTA members:

... explained that major members were under intense pressure from multiple retailers and producers to follow the expected ban on certain offals for human consumption with a ban of their use in animal feedingstuffs. If UKASTA did not take these steps, there was a danger that major members would move along this route alone, thus making fragmentation of the market. ... UKASTA emphasised that their objective was to maintain the position of meat and bone meal as ‘clean’ raw material ...

3.267 So far as renderers were concerned, they had little option but to fall into line with the demands of the feed manufacturers, who were their clients. As Mr Foxcroft explained to us:
Particularly as far as my company were concerned the majority of our customers, our major customers, major feed manufacturers, wanted the exclusion of those tissues. 947

3.268 We consider that both UKASTA and UKRA acted rationally in introducing together a scheme designed to exclude SBOs from non-ruminant feed. The commercial reasons for such action were compelling.

The NFU

3.269 So far as the NFU was concerned, the recommendation given to its members to avoid animal feed containing SBOs was largely designed to reassure the purchasers of livestock rather than to secure the adoption of a precaution that was scientifically justified. Once again we have no criticism to make of advice that was largely dictated by commercial realities (see paragraph 3.189).

What was MAFF’s attitude to an animal SBO ban?

3.270 In considering this question it is necessary to consider both MAFF’s attitude to the voluntary SBO ban which the industries had introduced and its attitude to the suggestion that MAFF should introduce a statutory ban on the incorporation of SBOs in animal feed. As we have seen, MAFF came under pressure from a number of quarters to introduce such a ban.

3.271 It was suggested to witnesses that MAFF maintained, both before and after the first case of spongiform encephalopathy in a cat, an ‘adamant’ opposition to an animal SBO ban, whether voluntary or statutory. This provoked indignant objections to that adjective. Witnesses made the point that their approach was to be guided by science. Objections to an animal SBO ban were based on the fact that there was no scientific justification for this. Thus Mr Gummer said:

I have to say we were not adamant at all. The only thing we were adamant about was making sure that we followed the science and moved as far towards the safety side of what the science allowed us to do as we could.

I never had, nor did the industry, any preconceived opposition to an SBO ban on animal feed. What we had was a preconceived opposition to action which was not based on the science. That is the distinction I would like to draw. 948

3.272 We are in no doubt that MAFF officials were strongly opposed to an animal SBO ban at all stages up to the point that SEAC advised that such a ban should be introduced. The same is not true of Mr Gummer and Mr Maclean. As we have seen, in January 1990 Ministers were exploring with their officials the possibility of a ban on feeding ruminant protein to pigs – if only as a temporary measure – and were contemplating the introduction of measures to protect domestic pets (see paragraphs paragraph 3.118–3.121). They were, however, persuaded by their officials that such measures were neither justified nor desirable, and thereafter remained opposed to any form of animal SBO ban. When Mrs Thatcher raised the question of whether it was desirable to continue to incorporate animal protein in animal feed, Mr Gummer

947 T60 p.80
948 T126 pp.7–8
reassured her that it was. Ministers and the Prime Minister are to be commended for raising the issue. They acted reasonably in accepting the advice proffered by MAFF officials (see paragraphs 3.124–3.127).

3.273 The opposition of MAFF officials was not merely to the introduction of a statutory ban. Vigorous attempts were made to dissuade UKASTA, UKRA and later the NFU from introducing or advocating a voluntary ban on the use of SBOs as an ingredient of pig and poultry feed.

3.274 We do not believe that there was any enthusiasm for referring this matter to SEAC. MAFF had a firm policy on the matter, which they believed was soundly based. Officials may also have had in mind the shock that Professor Southwood had caused when it seemed that his Working Party was going to advise against the practice of recycling animal protein. 949

3.275 Originally SEAC had simply been asked to advise generally on the implications of the cat case. 950 Mr Gummer told us that there was no scientific reason to refer to it the question of SBOs in animal feed. 951 SEAC itself had indicated that it wished to look at pig and poultry feed. 952 This led Mr Gummer to remark that as they intended to look into this anyway, it was sensible for him now to request them to do so. 953

3.276 Mr Andrews’s comment that the ‘issue would have to be very carefully handled’ and that a paper should be provided to SEAC ‘setting out the Department’s policies and the reasons for them’ demonstrated an anxiety that SEAC might produce what MAFF believed to be the wrong answer. 954 It also seems to us significant that Mr Gummer wished to approve the paper before it went to SEAC. 955 Dr Pickles was subsequently to comment that in DH it would be a ‘very unusual practice’ for Ministers to clear papers for a technical committee. 956 We suspect that Mr Gummer was anxious to ensure that the arguments in favour of MAFF’s policy were properly deployed before SEAC.

3.277 The paper prepared by Mr Lowson set out to make the case for continuing to permit the incorporation of SBOs in pig, poultry and pet food and invited SEAC to endorse MAFF’s policy. Such was the confidence of MAFF officials in the soundness of this policy that Mr Lowson and Mr Andrews, and their veterinary colleagues, had concluded that there would be no justification for changing it even if CVL’s experiment demonstrated that BSE could be experimentally transmitted to pigs (see paragraphs 3.201–3.203).

3.278 There is scope for semantic debate as to whether MAFF Ministers, and officials, opposition to an animal SBO ban is properly described as adamant. What is beyond doubt is that the opposition was firmly and consistently maintained both before and after the early cases of FSE.

949 See vol. 4: The Southwood Working Party, 1988–89, Chapter 9
950 T126 p. 32
951 S311B Gummer para. 17
952 YB90/5/17/1.3
953 YB90/5/22/5.1
954 YB90/5/22/5.1
955 YB90/8/16/8.1
956 YB90/8/28/2.1
Was MAFF’s policy reasonable?

3.279 We propose to consider MAFF’s policy both before and after the first case of FSE. First, however, we wish to turn to a general point made by Sir Derek Andrews in a supplementary statement that dealt with this topic. He pointed out:

MAFF had a duty, as a public body, to consider the consequences of any action taken, including the possible repercussions on commercial interests that might be affected. An important issue here was the possible impact on the disposal of animal waste of any further measures in relation to SBOs.957

3.280 As Mr Meldrum pointed out, there were two separate issues in play in relation to animal feed:

i. Should the SBO ban be extended to banning the incorporation of SBOs in animal feed? As all ruminant protein was already banned from ruminant feed, the farm animals that would principally be affected by such a ban were pigs and poultry.

ii. Should the ruminant feed ban be extended to all animals? A broader issue still was whether there should be a ban on feeding animal protein to animals. In practice, renderers did not treat ruminant and non-ruminant material separately.958

3.281 Rendering animal offal, producing tallow and recycling the resultant protein was on the face of it an extremely attractive way of disposing of what would otherwise be a waste product with potential for adverse impact on the environment. Before the emergence of BSE, approximately 1.75 million tonnes of raw material was processed annually, producing some 250,000 tonnes of tallow and 400,000 tonnes of MBM a year.959 Approximately 100,000 tonnes of the raw material consisted of SBOs.960 In 1988 the value of tallow was about £215 per tonne and MBM about £205 per tonne.961 Animal offal was thus a valuable by-product which could be sold to renderers at a profit. The consequence of the animal SBO ban which was subsequently introduced was that renderers charged up to £100 per tonne for removing and disposing of SBOs.

Before the cat case

3.282 The question of whether there was scientific justification for a ban on feeding animal protein to animals had received specific consideration by the Southwood Working Party. While the Southwood Report had expressed concern at the risks inherent in recycling animal protein, Sir Richard had subsequently made it clear that the Working Party was not recommending that this practice should stop. The Working Party had recognised the possibility that domestic pets might be susceptible to BSE, but observed that there were no descriptions of naturally occurring spongiform encephalopathies in domestic pets such as cats or dogs, or in
Formal monitoring of the health of pigs and pets had been recommended, but nothing more than this.\textsuperscript{963}

\textbf{3.283} The Southwood Working Party thus made no recommendation against the practice of feeding bovine offal to pets, pigs or poultry. It is equally true, however, that it made no such recommendation in relation to humans. The human SBO ban was introduced in circumstances where there was no evidence that BSE was orally transmissible to humans and where the likelihood of this was considered remote. Nonetheless, the ban was introduced as a precautionary measure and in order to alleviate public concern.

\textbf{3.284} Can it then be said that MAFF should have adopted the same approach to animals as had been adopted to humans? While there was no evidence that BSE could be transmitted orally to non-ruminants, there was concern that this might be possible. An animal SBO ban would alleviate that concern and reduce any risk that there might be.

\textbf{3.285} Initially we were attracted by this parallel between a human and an animal SBO ban. We were, however, persuaded that there were a number of grounds for distinguishing between the two:

i. TSEs occurred naturally in humans in a number of forms. They had never been recorded in pigs or poultry, or in pets, save that kuru had been successfully transmitted by inoculation to a cat. Experimental transmission of scrapie to a cat had been unsuccessful.

ii. Pigs had been fed ruminant-based MBM at double or more of the inclusion rates for cattle, without ill-effect. While fattening pigs were killed at 7 months, before symptoms would be likely to develop, the average lifespan of breeding pigs was 4 years.

iii. Transmission experiments with kuru-infected material had been tried unsuccessfully in the United States in the case of pigs and a number of different types of fowl.

iv. The precautionary principle applies with less force when animal lives are in issue than when human lives are in issue.

v. The financial implications of an animal SBO ban were much more significant than those of the human SBO ban, for almost all SBO had been rendered for animal feed even before the human SBO ban was introduced.

\textbf{3.286} We also felt that there was force in the argument that if MAFF introduced an animal SBO ban simply to allay concern on the part of purchasers of animal feed, this might have the effect of causing the concern to shift and focus on the use of any form of animal protein as an ingredient in animal feed. MAFF had good reason to be apprehensive of a policy that would result in all animal offal having to be disposed of as waste.

\textbf{3.287} For these reasons we have concluded that, prior to the first recognition of SE in a cat, MAFF officials and Ministers acted reasonably in resisting calls for the introduction of a statutory ban on feeding SBOs to animals.
Equally, before the first recognition of SE in a cat, we do not consider that MAFF officials or Ministers are open to criticism for seeking to dissuade UKASTA from introducing a voluntary SBO ban, although there seems to have been a failure to recognise that the animal feed industry did not approach the matter from the same standpoint as MAFF. In railing against UKASTA for being ‘hell bent’ on advising its members not to purchase MBM containing SBOs Mr Lawrence complained that they were ‘blind to the consequences of their actions’. was UKASTA, however, in a very different position from MAFF. UKASTA’s concern was for the commercial welfare of its members. For feed compounders, market perception was of critical importance. For them, a refusal to purchase MBM derived from SBOs had no commercial downside. The costs of such a stance would fall on the renderers, or those to whom they might be passed on up the chain.

After the cat case

With the benefit of hindsight, one can see that the first diagnosed case of SE in a cat had, scientifically, a significant bearing on the question of the risk of transmissibility of BSE to other animals, including humans. It is now accepted that this was the first of a series of over a hundred cases of BSE being transmitted in foodstuffs to cats. There was no previously recorded case of a cat contracting naturally a spongiform encephalopathy. Kuru had been transmitted to a cat by cerebral inoculation. Experimental attempts to transmit scrapie in this way had failed. The cat was an example of the fact that BSE had a wider host range susceptible to oral transmission than scrapie.

When the first case of SE in a cat was announced, many drew the conclusion that this was an example of transmission of BSE, and that it demonstrated that other animals were similarly at risk. It was this possibility that led Dr Ruth Jacobs to question the practice of continuing to feed SBOs to pigs and poultry (see paragraph 3.168) and Mr Wells to express the view, whether in May or somewhat later, that it should lead to a complete ban on MBM entering the animal feed chain (see paragraph 3.150).

These views were speculative, but not irrational. We do not suggest that the first, or even the first few cases of SE in cats, should have led MAFF to change its policy and extend the SBO ban to animal feed. We consider that the implications of the first and subsequent cases of SE in cats were pre-eminently a matter on which it was appropriate to seek the advice of SEAC.

Mr Gummer asserted in his supplementary statement to us that:

There was as at May 15 1990 no scientific reason to refer the question of a ban on SBO in pig, poultry or other animal feed to SEAC for further advice. The scientific advice which MAFF had received at that date was that such a ban was not justified scientifically.

We can understand Mr Gummer forming this view at the time, for he had left the meeting with Mr Meldrum on 10 May in the mistaken belief that there was no likely connection between BSE and the cat, and Mr Maclean shared this understanding (see paragraph 3.140 and 3.155–3.156). It was, however, logical for
SEAC to wish to consider, when examining the implications of the cat case, the practice of feeding animal protein and, in particular SBOs, to pigs and poultry. On the first occasion that it did so – 13 June 1990 – it decided that the matter needed further study (see paragraph 3.185).

3.294 It seems to us that, while the first case of SE in a cat did not demonstrate that MAFF’s policy on feeding SBOs to pigs and poultry was unsound, it placed a question mark over it. In these circumstances, we questioned whether it was appropriate to continue to challenge those who sought, or advocated, the avoidance of animal feed derived from SBOs. The question arose, once SEAC had been asked to consider the composition of pig and poultry feed, whether MAFF could have made that fact public. If MAFF had done this, then it would not have been open to criticism of maintaining an untenable position.

3.295 Sir Derek Andrews gave the following answer to that question:

It was not normal practice to announce publicly the issues referred to SEAC and the agendas for their meetings. Although I am not aware that this question was directly addressed during the relevant period in 1990, there would have been reasons for not making any such announcement which would have inevitably caused speculation about a possible change in policy at the time. The NFU and others with a direct interest in the feed issue were not advocating any change of policy on the grounds of risk to human health. Their concerns were with the commercial consequences of the consumer impact. In the absence of any scientific basis which would have justified a change in policy, there were clear public policy reasons against causing the current policy to be called into question by suggesting that it was being reviewed.

3.296 Mr Capstick painted a more extreme picture of the ease with which MAFF’s policy might have been undermined:

. . . changing even the phraseology of a statement about policy is interpreted as almost of earthquake proportions, and so one had to be very careful, and I learnt this from bitter experience before. One has to stick very carefully to the same line. Slight weaknesses are interpreted as having major significance.966

3.297 We did not find this rationalisation of MAFF’s stance compelling. By the time that the first case of FSE was announced, UKASTA’s voluntary animal SBO ban had been in place for six months and was observed by the majority of the animal feed trade. There remained a small market for MBM produced from SBOs at Prosper De Mulder’s Hartshill plant and sold at cut price. We question the extent to which this market would have been affected had it become known that SEAC was considering the composition of animal feed. We also wonder whether, had MAFF officials considered the matter, they would have been anxious to preserve a practice on the part of the bottom end of the market, of incorporating in animal feed MBM derived exclusively from SBO.

3.298 MAFF had quite cogent grounds for concluding that even if cats were susceptible to BSE, pigs and chickens were not. These were deployed in the paper.
that Mr Lowson prepared for SEAC (see paragraph 3.211). Had they not been overtaken by the transmission of BSE to a pig, we think it possible that they would have carried the day with SEAC. We consider, however, that MAFF officials and Ministers adopted an unnecessarily defensive approach in failing publicly to acknowledge that the cat raised issues in relation to animal feed that SEAC were considering. Their stance was, we feel, in part a response to some of the alarmist reactions to the cat that received prominent media coverage. These tended to produce a polarisation of attitudes. We have concluded that MAFF’s reaction was understandable and fell within the range of reasonable responses. It is thus not a matter for criticism.

3.299 In August, officials at MAFF realised that they would need to make public the experimental transmission of BSE to a pig. But they were concerned to have SEAC’s advice before they went public, and Ministers concurred. Again, given the furore that had surrounded the cat, we can understand the reasoning behind this decision, and the associated decision that the animal SBO ban should be announced at the same time as SEAC’s advice. While these decisions, too, were unnecessarily defensive, we do not criticise those involved.

Pet food

3.300 Mr Gummer and his officials were at odds with the Agriculture Select Committee as to whether a mandatory ban on incorporating SBOs in pet foods should be introduced. Their stance was that any risk that BSE might be transmissible to pets through feed was adequately addressed by the voluntary ban imposed by the PFMA, whose members constituted some 95 per cent of the market. Mrs Attridge also asserted that it was no part of MAFF’s remit to take steps to protect companion animals in circumstances where failure to do so had no implications for the health either of humans or of farm animals.967 We do not understand this view to have been shared by Mr Gummer. We consider, however, that the reliance on the voluntary SBO ban imposed by the PFMA as an adequate response to the possible risk of transmission to pets was not unreasonable.