



## BRUSSELS NEWS

### April 2012

#### A very, very grey area...

...and we are not talking about the weather!

Buried deep within a European Council Regulation is the definition of agricultural activity – “the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition” and then the Commission’s view on how Member States should approach any problem relating to agricultural activity or indeed the lack of it.

As part of our ongoing relationship with Brussels, it was pointed out to me in clear terms that the receipt of a payment by a farmer from a third party who is carrying out an agricultural activity on that farmer’s land is a very, very grey area meaning that the farmer who will in all probability be already claiming the single farm payment could lose that payment wholly or in part.

Cropping arrangements are very common. Unfortunately so is the payment of the SFP and the acknowledgement that to obtain it the recipient has to comply with the Pillar 1 rules which among other things require him to carry on an agricultural activity – if he receives the payment for another to undertake that activity places at a real risk the payments that he has applied for.

This issue has been brought to the Commission’s attention by the actions of an Italian tomato grower. What is not yet clear to the author of *Brussels News* is when the entirety of the SFP is lost and when only part may be at risk, because Member States have a degree of discretion to decide that issue.

It is not uncommon to find a cropping agreement which in writing bears little relevance to what is actually happening on the ground and it is that which the inspectors will consider in detail. Our useful discussions in Brussels did indicate that there are alternative ways of avoiding this problem provided they are set up correctly from the start.

But the author was left with the clear impression that it is either right...or wrong.

This is a very real concern since the European Regulations require that 5% of all farmers submitting a Pillar 1 claim in any one year be subjected to a (generally unannounced) site inspection and of that 5%, one quarter are chosen completely at random.

You will no doubt be aware that the proposals for the reform of the CAP include new entitlement criteria for the basic payment to come into effect in 2014 and a loss of rights now could have a material impact. Unfortunately it is not possible to say any more on that issue now, particularly bearing in mind the Court of Auditors has issued a report which speaks of the relevant legislation being too complex, too overbearing, too administratively burdensome, and with inappropriate checks in place to see whether the legislation actually achieves what it sets out to do. Expect some revisions, if not to the draft Council Regulations then to the yet to be published Commission measures which will seek to implement most of the Council Regulations.

***Richard Barker and the Agricultural Team  
can be contacted on 01473 611211 or  
[bg@barkergotelee.co.uk](mailto:bg@barkergotelee.co.uk)***

*41 Barrack Square  
Martlesham Heath  
Ipswich  
IP5 3RF  
[www.barkergotelee.co.uk](http://www.barkergotelee.co.uk)*