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For feed and food law enforcement, and port health authorities in England

Letter to importers regarding foods that do not conform with UK food legislation

Summary: The Food Standard Agency (FSA) will be writing to importers of certain categories of products to remind them of their responsibility as Food Business Operators to ensure imported food placed on the UK market is compliant with relevant legislation.

Dear colleague,

Further to our [letter of 23 February 2023](#), the FSA is aware of the ongoing challenges that local and port health authorities are facing due to imported food and drink products that are not formulated for the UK market, and do not comply with UK legislation.

Using HMRC data we have identified a list of importers of food and drink products that may fall into this category and will, on 4 June 2024, write directly to them, reminding them of their responsibility to ensure food that they import and place on the market is compliant with UK legislation.

It is important to note that we are writing to all importers of this kind of product, not just those where there is evidence of potential non-compliance. We are doing this as a preventative measure, targeted at the source of the problem, to reduce the number of non-compliant products being imported in the future. We hope that this will help ease the burden on local authorities.

There is no additional action required from local authorities relating to this letter, we are writing to you for awareness should a business in your area contact you with enquiries following receipt of our letter. Should you wish to, please feel free to forward the letter to importers to any relevant businesses within your authority.

The letter which will be sent to identified importers is attached as Annex 1.

This is an area subject to further coordinated activities across ports and local authorities and we will keep updating you on developments.

Please contact us at standards.support@food.gov.uk if you have any questions.

Yours sincerely,

Aaron Esler

Head of Food Standards

Food Standards Agency

Annex - Letter to importers

We are writing to you, as an importer and food business operator, over concerns that the Food Standards Agency (FSA) have in relation to some food and drink products imported from outside of Great Britain (GB).

We have reason to believe that a number of imported products are not formulated for the GB market and may contain unauthorised additives or may not comply with GB food information requirements, meaning consumers could be at risk from:

- missing/incorrect allergen labelling,
- the inclusion of ingredients that don't meet GB food safety standards,
- the inclusion of ingredients that are not permitted for use in GB, and /or
- food additives at levels that exceed the permitted maximum use level in GB.

The attached Annex 1 provides a list of examples of unauthorised additives and potentially non-compliant products where these additives are commonly found. These have been identified through import surveillance sampling and the occurrence of food incidents.

Non-compliant products must not be placed on the GB market, and we are working with local authorities to tackle offending behaviour to ensure such products are removed from the market and potentially destroyed.

We would like to remind you of your responsibilities as an importer under food law – please see Annex 2 for the relevant legislation. Failure to comply with legal requirements is an offence and may lead to enforcement action, including destruction of non-compliant imported goods. Supplying non-compliant food products can lead to financial, legal and reputational risks for a business, who may be required to recall and withdraw products from the market, risk breaching business contracts and in instances where an allergen fatality occurs, risk being the subject of a criminal investigation.

If you have any queries, please contact the Trading Standards or Food Safety team at your local authority.

Yours faithfully,

Food Standards Agency (FSA)

Annex 1: Examples of commonly known unauthorised ingredients and non-compliant products

This list provides an indication of the **imported** products which evidence indicate are likely to contain unauthorised additives. They have been identified through import surveillance sampling and the occurrence of food incidents. Some of the brands, e.g. Fanta and Kellogg's, also make products that are intended for the GB market and are compliant with GB legislation. You should check the ingredients label on a case-by-case basis, as **some** products listed below may come from a source that uses authorised ingredients.

Issue	Example
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Use of food additives not permitted under GB legislation.	Imported drinks containing brominated vegetable oil (BVO) contained in some imported Mountain Dew and Faygo Moon Mist drinks.
Use of the colour erythrosine (E 127)	Erythrosine (shown on US products as Red 3) which is only permitted for use in cocktail cherries in the GB, but has been found in breakfast cereals, coloured cake sprinkles and various confectionery.
Foods containing the Southampton colours (sunset yellow FCF (E 110); quinoline yellow (E 104); carmoisine (E 122); allura red (E 129); tartrazine (E 102); ponceau 4R (E 124) have levels in excess of those authorised and / or no mandatory warning statement stating, <i>'May have an adverse effect on activity and attention in children'</i> .	Fanta not intended for the GB market (imported from the USA and Nigeria) has been found to contain excess levels of colours i.e. Sunset Yellow FCF which made the product non-compliant.
Use of Southampton Colours in food categories where they are not authorised.	Some batches of Mrs Klein Dill Pickle, some batches of Van Holten Pickles, some batches of Cheetos Crunchy, some batches of Nerds Rainbow Candies, some batches of Calypso lemonade and some batches of Brachs Classic Candy Corn.
Food products that have not been correctly labelled with the functional class of the food additive along with either its name or E number. Products containing Yellow 5, should include information in the correct format i.e.: Colour: E 102 or Colour: tartrazine.	Products previously identified as non-compliant in this area, from a food additive perspective, include Nerds Rainbow Candies, Calypso lemonade, Brachs Classic Candy Corn.
Calcium disodium EDTA (E 385) and erythorbic acid (E 315) being used in drinks. They are authorised and permitted for use in certain foods, but they are not permitted to be used in drinks.	For example, E 385 & E 315 are contained in some imported Mountain Dew, Bang Energy and Kool-Aid drinks.
Unauthorised use of Butylated hydroxytoluene (BHT) (E321) in flavoured drinks.	For example, Arizona Watermelon Fruit Juice Cocktail, Mountain Dew Major Melon, Kool-Aid Cherry Limeade, Grape, Cherry unsweetened and Bursts Tropical punch.

Bakery products containing bleached (white) flour are not permitted in GB.	For example, some flavours of Pop Tarts and some Hostess products including Mrs Freshley's mini donuts frosted, Mrs Freshley's grand iced honey bun, Hostess range, Pop Tart range, Ho Ho's, Twinkies and Ding Dongs, Betty Crocker Coffee Cake Mix, Betty Crocker Reese's Brownie Mix imported from outside the EU.
Use of mineral oil in soft candy. Mineral oil is not authorised as a glazing agent in GB.	Some Swedish Fish, Jolly Ranchers, Twizzlers range, the originals Red Hot cinnamon flavoured candy and Jujufruits imported from outside the EU.

Annex 2: Legislation

Imports

The principle aim of assimilated [Regulation 178/2002](#), 'General Food Law' is to protect human health and consumers interests in relation to food. [Article 11](#) of assimilated [Regulation 178/2002](#) requires that food which is imported into Great Britain (GB) for placing on the market in GB shall comply with the requirements of GB food law, or if there is a specific agreement between GB and the exporting country, then the imported foods must follow agreed requirements.

Labelling and additives

Assimilated [Regulation 1169/2011](#), on the provision of food information to consumers, contains mandatory food labelling requirements for all food. Other specific food legislation may apply to certain foods and all food additives are regulated by assimilated [Regulation 1333/2008](#).

Food additives must be authorised for use in food and they can only be used in the specified permitted categories of food listed within assimilated [Regulation 1333/2008](#). Assimilated [Regulation 1333/2008](#) establishes conditions of use for all food additives authorised in GB. It sets out the acceptable conditions of use, the foods in which they may be used and where necessary, maximum permitted levels or use in accordance with the 'quantum satis' principle. Quantum Statis means no maximum numerical level is specified and substances must be used in accordance with good manufacturing practice, at a level not higher than is necessary to achieve the intended purpose and provided the consumer is not misled.

Allergens

Under [Article 9\(1\)\(c\)](#) of assimilated [Regulation 1169/2011](#), also known as the Food Information to Consumers (FIC), all FBOs must declare the presence of any of the 14 major allergens listed in Annex II to the Regulation. The 14 allergens listed in Annex II of the FIC are recognised as the most common ingredients or processing aids that cause food allergies and intolerances. If a food contains or uses an ingredient or processing aid in the manufacture or preparation of the food derived from one of the substances or products listed in Annex II, and it is still present in the finished product, information

regarding the presence or use of the allergen must be provided to the consumer. The mandatory information must be easily accessible, in a conspicuous place, easily visible and clearly legible.