March 2020 Board Meeting

Questions

1. From A member of the public. (twitter: @Greedspam) who asked:

Dear FSA Board,
Question for the meeting:
A British food business operator notified a Novel Food Application for Theobroma Cacao Pulp, (Commonly marketed as Cocoa Fruit)
Public comment was invited on 30 Jul by the FSA under condition of being publicated & additional considerations from the public were acknowledged as being received & validated by the Secretariat & sent to various relevant departments. The November meeting of ACNFP under FSA observation, recorded the following statement: "It was noted that no comments were received in the 10-day consultation on Committee's advice to FSA."
In the interest of "openness, transparency, trust, safeguarding public interest, consumer engagement, Risk Communication, Risk Analysis Process, usefulness of any committee, triggering event, qualitative intelligence, clear accountability, best practice, putting consumers first, Food And You, consumer integrity, ambition, protected product names, conflict of interest, code of conduct", and so on.

There are many questions, Foremost these issues:
1 Are there many or even any public responses to Novel Food Applications?
2 The time restricted 10 day consultation period severely limits interested consumers ability to respond.
3 There appears to be multiple failings of the FSA Code of Conduct which need to be urgently addressed.

Recommendation:
FSA Withdraw ACNFP opinion and/or raise consumer safety concerns on Theobroma Cacao Pulp & Theobroma Cacao fractions of, pending thorough investigation.

Our response was:

The FSA would like to thank the enquirer for their question.

The ACNFP's role in the assessment of traditional foods from third countries, an EU owned process until the end of the transition period, is to undertake a risk assessment based on the information provided by the applicant. As part of our openness processes the ACNFP

have decided to consult on their draft opinion. This allows stakeholders to share their experience of the food and to subject the opinion to peer review.

A 10 day period is given for response, in part because of the short time scale for the FSA to make the assessment and reach a position, 4 months, and in part because this is the time period the committee has used effectively for some years for final opinions on new foods entering the market.

The level of public response to the consultation varies, for cocoa pulp two responses were received and shared with the Committee and this is in line with the normal response rate. As you can see from the final ACNFP committee opinions on the two cocoa pulp dossiers, the consultation responses and how they influenced the assessment are discussed and included in the final opinion.

https://acnfp.food.gov.uk/traditional-food-assessments-for-third-countires-0/old-traditonal-food-applications.

In light of this practice, in the past we have not published detailed responses to ACNFP consultations. This is something we will consider further as part of the process for handling these applications in future.

The opinion is used by risk managers to decide if a further assessment is required or if other risk management measures such as labelling requirements are needed if the product is authorised. In this case, cocoa pulp was authorised for sale cross Europe in February 2020 subject to the conditions outlined.

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020R0206

If you have concerns that the appropriate procedures have not been followed you can choose to raise this through the FSA Complaints Policy details of which can be found here; https://www.food.gov.uk/contactconsumersfeedback/complaints-and-comments-about-the-fsa

2. From David Wagstaff Executive Director – Europe, Visit Ju.st who asked:

Hi There

Following Jason Feeneys post on Linkedin re FSA board meeting & question opportunity.

I would like to pose the following question on behalf of JUST Inc. and the wider plant based food community;

How do the FSA plan to manage and upskill to resources to deal with the dynamic plant based food & ingredient industry that consumer are demanding and investors are moving funds into to ensure that products are assessed in a more appropriate timescale (i.e. not a 18month EFSA novel food process) to allow the sector to meet rising demand and stop companies going to market regardless and then securing a post market authorisation

without recourse – disadvantaging companies who look to secure regs approval prior and who wait prior to launching?

The system is far from satisfactory in terms of clarity, pace & resources applied.

Our response was:

Thank you for your email and the query you raise in relation to the novel food process currently within Regulation (EU) 2015/2283, and its future applicability to the UK plant-based food market.

As you'll be aware, the UK left the EU on 31 January 2020 and we are in a transition period which lasts until the end of 2020. During this time, the current EU legislation continues to apply and existing processes remain broadly unchanged.

From 1 January 2021, EU regulations will be transferred into UK law, including novel foods legislation. The FSA will be one of two 'Food Safety Authorities' who oversee and implement the novel food legislation; the other being Food Standards Scotland (FSS).

Prior to the current novel food process within Regulation (EU) 2015/2283 that requires all applications to be made to the European Food Safety Authority, relevant applications could be made to Member States that evaluated them and made a recommendation to EFSA. So, until the end of 2017 applications had been assessed by the FSA. This means that we maintain a considerable knowledge base both within our team and within the independent Advisory Committee on Novel Foods and Processes that has significant involvement in that process.

The novel food requirements will remain the same after 1 January 2021 as EU regulations will be transferred into UK law. After this time, in similarity with all legislation, the novel food requirements will be subject to review as appropriate. There are no current plans to amend the overall requirements. Whilst the FSA oversees these requirements, the day to day enforcement is undertaken by local authorities. This includes taking appropriate actions to ensure that novel foods being marketed without the necessary authorisation will be removed from sale.

The plant-based food and ingredient industry includes a wide range of products, and some of these fall within scope of novel foods requirements. In contrast some are not novel, and others may fall under other appropriate related products legislation (e.g. additives). The pace at which any particular product, deemed as a novel food, proceeds through evaluation will depend on a variety of factors, not least the quality of the application dossier and any supporting evidence and safety studies.

The FSA continues to monitor changes within such industries and we are more than willing to help provide advice and guidance on the relevant legislative requirements.

3. From Hannah Bell of the Anaphylaxis Campaign:

The Anaphylaxis Campaign supports the inclusion of allergen hygiene/management as part of the Food Hygiene Rating Scheme. In reference to the 'next steps' outlined in the Food Hypersensitivity Strategy board papers, could the board give further details of the 'similar schemes' that are being considered to provide this allergen information to the consumer? Does the FSA plan to hold a consultation open to the public and key stakeholders on this matter in due course?

Our response was:

As Rebecca Sudworth, Director of Policy, confirmed in discussion at the Board, there are a number of ways in which such a scheme could be introduced. This could include changing the FHRS scheme, designing a parallel scheme or working with third party schemes. Work is at an early stage and an update will be provided at the June Board.

As part of the development of the FSA's Food Hypersensitivity Strategy we are taking a proactive and open approach to engaging with a wide range of stakeholders and will be doing so as we develop our thinking in this area. Any proposed policy changes would be subject to the normal approach to formal consultation.

4. The next question was received once the meeting had started and related to the first one received above.

Dear FSA,

Re: @foodgov: Hi. I'm happy to send you more details of our novel foods process. Can you DM us so I can respond fully? Thanks, AL

questions as follows

1 Please send all details of ACNFP/FSA public consultation process relating to Theobroma Cacao Fruit Pulp.

2 please provide public link to this information as to "will be made public"

3 who are the "two consumer representatives" have they been involved?

Our response was:

The following link is to the ACNFP minutes for the meeting in July 2019 when these applications were considered:

https://acnfp.food.gov.uk/sites/default/files/acnfp-137-00-minuteswebsite_0.pdf

From these minutes, we can see that the two consumer representatives, Ms Claire Nicholson and Ms Nichola Lund were both present at this meeting to discuss these applications.

Below are two links to the ACNFP considerations of the two applications for this product, which includes reference to the consultation responses:

https://acnfp.food.gov.uk/sites/default/files/summarycocoapulp866finalwebsite.pdf

https://acnfp.food.gov.uk/sites/default/files/summarycocoapulp1014finalwebsite.pdf

These contain links to the full dossiers on the Commission website.

Below is a link to a news story announcing the public consultation for these products. Because the consultation is now closed, there is no active consultation page to view.

https://acnfp.food.gov.uk/news-updates/news/2019/17476/views-wanted-on-the-traditional-use-and-safety-of-theobroma-cacao-fruit-pulp-as-a-novel-food-by-8-august-2019

5. From Adrian Sheppard of Body and Mind Botanicals who asked:

We at Body and Mind Botanicals fully support the FSA's re-iteration of CBD and novel foods. We have a question on this. Q1, What are the plans in terms of having a formalised CBD testing method with registered food labs.

Our response was:

The FSA are currently looking at the issue of CBD testing standards. As well as discussing with public analysts, we are in discussions with the UK Accreditation Service (UKAS) regarding this and are looking to organise a workshop involving UK laboratories and others linked to CBD testing in food.

6. From Sue Garlick of Erudus Ltd who asked:

There are increasing calls within the foodservice industry for a centralised mandatory database for ingredient and allergen information. How can companies such as Erudus work with the FSA to help achieve this?

Our response was:

The FSA is aware that large manufacturers already have such systems in place where they are able to provide their buyers with up to date information on allergens used in their food products. For smaller businesses this information should also be available from their suppliers and the issue here is how such suppliers can maintain records and a track of such information so as to provide it accurately to hypersensitive consumers. We welcome the development of technological solutions that can assist businesses but these need to be highly responsive to ingredient changes in the supply chain.