

Campden BRI
Station Road
Chipping Campden
Gloucestershire
GL55 6LD, UK

Tel: +44 (0)1386 842000
Fax: +44 (0)1386 842100
www.campdenbri.co.uk



Exporting food and drink to the USA

The United States is an attractive market for many UK and European food and drink manufacturers but, with very different legislation and requirements, exporting can be a daunting task; simply sending a UK or EU compliant label to the USA would not be legal and could result in a costly border rejection.

This brief white paper summarises the current situation. To find out more, why not book on our upcoming seminar (28th October 2015) which will introduce you to the current US food regulatory system, introduce labelling; present and future and discuss the potential impact of the Food Safety Modernisation Act and Transatlantic Trade and Investment Partnership (TTIP).

Details at www.campdenbri.co.uk/exporting-usa-regulatory-seminar.php

Barnaby Hoare

Principal Food Law Adviser
+44(0)1737 824 227
barnaby.hoare@campdenbri.co.uk

Prevention is the backbone of US regulations and so the food regulations are centred on the prevention of misbranding and adulteration in foods. Foods are considered to be misbranded or adulterated unless they are made in compliance with these regulations. Any food considered to be misbranded or adulterated may be rejected at the border, causing huge unnecessary costs to businesses.

To add to the complexity of the regulatory landscape, there are multiple agencies involved in food regulations in the United States. This can make it difficult to understand who has regulatory control of your products. The primary US regulators in regards to establishing and enforcing food safety standards are:

- **The Food and Drug Administration (FDA)**
 - Responsible for the majority of food products.
 - Responsible for the initial screening of food imports under Prior Notice requirements.
- **Food Safety and Inspection Service (FSIS) of the United States Department of Agriculture (USDA)**
 - Responsible for meat, poultry and most egg products. (FDA shares regulatory authority for in-shell egg production, shipping, and distribution.)
- **Animal and Plant Health Inspection Service (APHIS) of USDA**
 - Responsible for overseeing import of most food animals, meat and other products derived from most food animals, and organisms and vectors of pathogenic diseases of livestock and poultry.
- **The Alcohol and Tobacco Tax and Trade Bureau (TTB) of the Department of the Treasury.**
 - Responsible for most alcoholic beverages such as beers, wines and spirits products (note the FDA is responsible for the alcoholic beverages not regulated by the TTB, such as sorghum beers, and for additives and flavoring used in alcoholic beverages).
 - TTB is also responsible for non-alcoholic malt beverages.
- **Customs and Border Protection (CBP) of the US Department of Homeland Security (DHS)**
 - Responsible for the enforcement of import regulations of these and other US regulatory agencies.
 - Responsible for tariffs, quotas (e.g., sugar), and other import requirements.

It is important that companies exporting to the US have a good understanding of the legislative requirements and of which of these agencies are responsible for their products. It is also advisable to work with a trusted and competent importer or distributor able to advise and guide you through the process.

Here are some top tips that you should remember when thinking of exporting to the United States:

1. Remember to register your facility with the Food and Drug Administration (FDA) in the United States. All manufacturers / packers that supply food subject to FDA's jurisdiction to be imported into the United States are required to register with the FDA. If a facility is not registered, the food may be considered to be adulterated and entry may not be permitted.
2. The labelling of foodstuffs in the US is very different to the EU. The nutrition declaration, allergens, minimum date of durability and weight declarations are just some of the labelling particulars that are significantly different from the EU requirements. This means separate labels for the US and EU markets are required.
3. Check your product name. The names of foods in the EU or UK may differ to those in the US due to subtle differences in language. For example, cider is often a non-alcoholic product in the US whilst the term 'hard-cider' is often used to refer to the alcoholic beverage, although this is not required because the label is required to declare the alcohol content. Additionally in the US the term 'cookies' are used to describe what in the UK are called 'biscuits' and crisps are called potato chips.
4. In the United States, there are over 300 standardised products which must conform to the standards of identity detailed in US regulations. For example, Gorgonzola (along with many other cheeses) in the United States has a compositional standard but this differs from that described in the EU regulations. As such, Gorgonzola produced in the United States could not be sold as Gorgonzola in the EU. In the US, if a product conforms to a standard it must use the specified name. And it follows that if a product is named as a standardised food in the regulations it must follow the prescribed compositional requirements. If it does not, it could be considered to be misbranded.
5. All US labels must contain a US address and as such an agent or distributor that is responsible for your product must be in place prior to import.

The US is a vibrant market with plenty of opportunity, but it can be challenging to meet all regulatory compliance requirements in this complex market. Campden BRI's regulatory team is able to help with legislative queries and label reviews for the US market; please contact us at

foodlaw@campdenbri.co.uk

We are also hosting a seminar that will introduce you to the current US food regulatory system, introduce labelling, present and future, and discuss the potential impact of the Food Safety Modernisation Act and Transatlantic Trade and Investment Partnership (TTIP). Speakers will include Charles M. Breen, an ex-Food and Drug Administration (FDA) Director with 41 years' experience at the FDA, and a representative from the UKTI (United Kingdom Trade and Investment).

For more details and to register for the Exporting Food and Drink to the USA Seminar on 28 October 2015, please visit:

www.campdenbri.co.uk/exporting-usa-regulatory-seminar.php

Issued Sept 2015