cannabis trades association

8th June 2023

Mr Paul Tossell
The Foods Standards Agency
Foss House
1-2 Peaseholm Garden
York
YO1 7PR

Dear Paul,

The CTA has today undersigned a letter with EIHA regarding `1mg THC per closed container'.

We are also sending under separate cover letters, this and the one supplied to you yesterday by email, to the relevant parties at the Home Office, and others concerning this matter.

Our contentions about applying the `1mg of THC per closed container' – are:

According to the Guidance on analytical limits for controlled cannabinoids - GOV.UK (www.gov.uk)

1. Firstly, CBD is NOT a controlled drug, cannabinol (as a part of the THC molecule) is.
2. At 1mg of THC in a closed container, THC cannot be tested to any accuracy. It depends on the size of the closed container! A supplier aught not to be able to double the size of the container and `hey presto' suddenly become compliant with THC in the manufactured food product.
3. Therefore, for accuracy of testing, THC values in a product MUST be expressed as a percentage to apply equally to all products.
4. The `1mg in a closed container' recommendation was designed for laboratory testing protocols NOT for a finished consumer product. By misappropriating this `rule' and randomly applying it to finished food products is scientifically seriously flawed!

The CTA fundamental question to the FSA is this – Why is the Foods Standard Agency enforcing a legal limit for a drug (THC)? The FSAs remit is to ensure **Consumer Safety of a Foodstuff** (in this case CBD) NOT to enforce a drug limit particularly when that drug limit (THC) is under review and outside the remit of the FSA?

The FSA do not even have a uniform testing methodology for THC by your accredited laboratories (my letter to you yesterday afternoon by email).

It is not supportable that products are removed from the FSA Novel Foods List and given 14 days from the date of the FSA letter. It is not possible for these companies to re-test for THC at accredited

laboratories using the sample sent to yourselves and Fera to be returned in good time and provide a report to the FSA within that timeframe!

There is no FSA `Appeals Process' which is a misuse of the power as a regulator and is directly affecting the legitimate supply of CBD products in the UK, and a massive over-reach of FSA powers.

In banning (removing from the FSA Public List) without following FSA standard processes such as: checks for contamination issues, investigating the cause, issuing improvement notices, prosecution or product recall, is not acceptable and completely over-reaches the scope of FSA powers.

Whilst we appreciate THC is a banned narcotic, the levels found in CBD food products are at such low levels, that it has NO narcotic effect, so cannot be a narcotic by definition. You yourself told me that CBD is a food and not a narcotic. The definition by your own FSA claim is that CBD is (de facto) a food!

The Food Standards Agency (FSA) in the United Kingdom does not have the direct authority to ban companies from marketing products. However, it does have regulatory powers to act against companies failing to comply with food safety and hygiene regulations or engage in misleading or fraudulent marketing practices.

The FSA's enforcement powers include:

1. Issuing Improvement Notices: If a food business is found to be in violation of food safety regulations, the FSA can issue an improvement notice requiring the business to rectify the issue within a specified timeframe.

2. Prosecutions: The FSA can initiate legal proceedings and prosecute food businesses that consistently fail to comply with food safety regulations or engage in fraudulent or unsafe practices.

3. Product Recalls: In cases where a food product poses a serious risk to consumer health, the FSA can request or enforce a product recall to remove the unsafe product from the market.

4. Seizure of Products: The FSA has the authority to seize and detain food products that do not meet safety standards or are improperly labelled.

5. Suspension or Revocation of Approvals: The FSA can suspend or revoke approvals, licenses, or registrations of food businesses that repeatedly fail to meet regulatory requirements.

While the FSA does not have the power to ban companies from marketing products outright, it can take regulatory actions that effectively prevent companies from marketing specific products if they are found to be non-compliant with food safety regulations or engaged in deceptive marketing practices.

It's important to note that the FSA works in collaboration with local authorities, trading standards, and other regulatory bodies to enforce food safety regulations and protect consumer interests.

The recent letters issued by the FSA regarding `1mg THC in a closed container' are far outside the existing remit of the FSA, and according to your own powers of enforcement, outside these too.

Due to the sluggish and `ever evolving' Novel Foods process as applied to CBD food products, UK-based companies are going to the wall, or moving their businesses to offshore locations such is the disruption caused by the Novel Foods process to the CBD sector. This was estimated by the Parliamentary APPG CBD Report in 2022 to be worth ca £2 Billion and around 39,000 jobs when supported by Industrial Hemp growing in the UK.

The FSA has not engaged in a clear, open and transparent scientifically-based process regarding CBD products. The constant `amendments to CBD Novel Food processes' make it impossible for the industry to enact a Judicial Review, as changes to FSA Novel Foods `policy' are so frequent.

Recent actions of the FSA directly interfere with an entire legitimate industry sector, which is not the FSA remit, or in the interests of the legitimate UK CBD industry and economy.

The FSA as a result of the `1mg (THC) per container' (i.e., 'Regulation Point 2. limb c. of the Misuse of Drugs Regulations 2001) recommendation has deleted a number of CBD consumer products from the 'Novel Foods Public List'. This is an incorrect and misleading use of this regulation. This regulation specifically refers to how drugs should be tested in a laboratory therefore not applicable to content in food.

The ACMD report published in December 2021 with industry input provided a foundation for a review aimed at agreeing safe, practical, and science-based levels of controlled cannabinoid in CBD products, to assure consumer safety, whist preserving consumer choice and supporting the (then) growing UK CBD industry.

Subsequent ministerial changes in Westminster have undoubtably contributed to the slow progress of the process. This delay is now threatening the UK CBD industry.

Tests are currently underway regarding safe limits of CBD as a foodstuff conducted by EIHA. The ACMD Report is undergoing review at the Home Office.

Whilst the ACMD report is under review, we request a sensible `holding position' by the UK Government, ministries and FSA, until the ACMD review is completed.

This position the industry proposes is that UK authorities apply the Swiss values for THC (in relation to consumer safety) based on proper scientific processes and safety parameters.

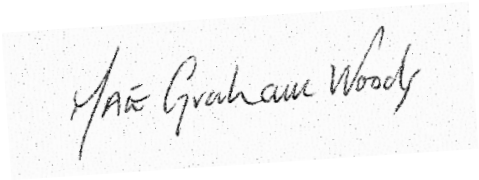
The Swiss approach is based on ARfD* of 490 microgram/average adult or **0.49mg THC per day/adult.** These values have been confirmed as being safe by EIHA toxicological results. These `safe consumption' levels were established by the Swiss Federal Office of Public Health in 1995, and in over 30 years NO adverse effects have been reported!

In adopting the Swiss approach and levels acceptable to consumer safety, the FSA and UK Government will be able to continue to balance public & consumer safety concerns, while allowing for the responsible consumption of CBD food products containing traces of THC.

Our trade body colleagues in the EIHA Consortium, are currently conducting the first comprehensive clinical study of THC toxicity involving 400 healthy adults and this is widely predicted to support a tolerated daily intake of THC of at least that set by Switzerland.

The CTA represents over 70% by volume of CBD producers and CBD consumer products in the UK. It is imperative for the survival of the UK CBD industry that regulators, Ministries, and wider Government step in and set a sensible daily safe limit for THC in CBD as a food ingredient, whilst clinical trials of CBD products and other reviews are being undertaken.

Yours sincerely on behalf of the Cannabis Trades Association and our UK Members,



Mrs Marika Graham-Woods
Executive Director
Hemp Trades Association and Cannabis Trades Association

Copies to:
Chief Executive Emily Miles Head of FSA
Chief Executive MHRA Dame June Raine DBE
Home Office Minister Rt Hon. Chris Philp MP
Home Office Drugs Policy Unit David McGroarty Head of Drugs Supply and Public Safety Group
APPG Industrial Hemp and CBD

*[Note: ARfD (acute reference dose) is an estimate of the amount of a substance in food or drinking water that can be ingested over a short period of time, usually during one meal or one day, without appreciable health risk to the consumer (JMPR, 2002). See 9cf8371e-2ce7-b62a-1089-04b7a63c2aa1 (europa.eu) for more detail.]

Attached:

Letter to Paul Tossell
Undersigned Letter from EIHA