



HFMA UPDATE

by Graham Keen,
Executive Director

Once more into the breach...

"An appeal is when you ask one court to show its contempt for another court." – Finley Peter Dunne (US author and humourist, 1867-1936).

Probably the most hugely significant event for both the HFMA and this industry in 2014 was the very positive outcome of the glucosamine Judicial Review in the High Court in London in May last year.

The MHRA, strongly supported by the HFMA, successfully resisted the attempts of Blue Bio Pharmaceuticals to have the MHRA be required to determine that glucosamine products should be medicinal. The implications of this decision were profound, and had the decision gone against us the spotlight would have immediately fallen on a number of other key nutrients, for example, vitamin D, that have been marketed here in the UK as food supplements for decades.

Needless to say, we were very pleased with the outcome of this highly significant case, which had a very real capacity to have a major impact on the future for our members, this industry and, perhaps most significantly, the preservation of consumer choice. The judge, the Honourable Mr Justice Supperstone, speedily rejected all of the claims made by the Claimant in this case, and subsequently in very short order dismissed the Claimant's appeal of the decision.

However, the wheels of justice continued to grind and the Claimant lodged a request for permission to appeal the Judicial Review decision in the Court of Appeal. We have now learned that this request has been granted and the appeal will proceed at some point this year (we are hopeful of a hearing by late summer) before a three-person court. The Court of Appeal is normally constituted by any three of the 25



Lord Justices of Appeal and the Lord Chief Justice. Usually, no new evidence is allowed as the facts have been decided at the High Court stage. In theory, therefore, the appeal stage is quicker and less costly than the Judicial Review/High Court stage.

The important thing for me to report to you here is that the HFMA remains fully committed to continuing to support the MHRA, and our intention to stay involved has been lodged with the Court of Appeal. I'm pleased to say that the companies that financially supported last year's action have immediately committed to providing further funding for this next stage, and our extremely capable lawyer, Brian Kelly, of Covington and Burling, will again be representing us. Once again, the HFMA, supported by a small group of member and non-member companies, has risen to the challenge and we are indebted to those companies for their passion and commitment to the fight. Make no mistake, this is a ground-breaking case, the final outcome of which will have profound implications for this industry for years to come.

I am just back from spending most of last week in a cold, wet and gloomy Brussels, but unlike many of my previous trips, for once I returned full of hope following a series of meetings with our European federation EHPM, and other officials and MEPs. One meeting in particular was very positive, with

the UK's Permanent Representative in Brussels responsible for Food and Veterinary issues. I was able to provide him with an update on the HFMA and its members' activities, and our current issues and concerns. He now has a much greater understanding and I'm confident that he will be able to positively impact things going forward, and will certainly be on the lookout for potential problems.

I also met with some UK MEPS, one of whom had asked one of the potentially unhelpful European Parliament Questions to the new Commissioner regarding the status of the setting of maximum levels for nutrients in food supplements, still the greatest single issue that our industry may have to confront. I have yet to meet an MEP, or even a UK MP, who once I have explained the issue does not fully understand our position, and the huge hit the UK industry will take if restrictive harmonised levels are imposed.

One of the issues I regularly hear from HFMA members about is the selling practices of major online retailers, and the availability on these websites of products from outside the EU and therefore not compliant with EU legislation. I was therefore interested to see that MHRA recently reported that it took action to close down more than 1,600 websites illegally advertising and selling medicines last year, reporting that many of the medicines offered were

falsified, counterfeit or unlicensed. Enforcement officers also seized medicines with a value in excess of £3m, and the majority of packages seized originated in India and China. Additionally, nearly 19,000 online videos were removed for illegally advertising medicines as part of the MHRA's ongoing collaboration with social media and auction sites such as YouTube, Amazon and eBay to identify and take action against illegal operators.

At a recent meeting I attended at the MHRA I raised member concerns about illegal food supplements still being marketed by these retailers, and also inappropriately labelled and marketed herbal medicine equivalents. The MHRA acknowledged the issue and requested further details from me, and I have now provided comprehensive lists of the offending products. One of the many benefits of HFMA membership is that we can, on a member's behalf, contact another member company regarding any concerns, or if they are not a member company, refer them direct to enforcement authorities. By constantly trying to raise standards, the industry as a whole can only benefit.

The plans for the celebration of the HFMA's 50th anniversary this year continue to proceed well, and we are hoping for a year to remember for all of our members, with a number of initiatives being announced shortly. I am pretty sure that the year ahead will bring its usual challenges, but I'm also confident that we can produce some positive stories in the media that all of the industry can benefit from.

To help us in our efforts to protect this industry and benefit from the gold-standard advice we provide, join the HFMA at the earliest opportunity. To learn more about our activities, please contact graham@hfma.co.uk.

HFMA membership is vital to ensure that your company keeps abreast of the fast-changing regulatory environment. The HFMA is the UK's best source of information and most effective defender of our industry's interests. To help the HFMA defend your business at this most critical time contact hfma@hfma.co.uk or call 020 8481 7100.

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