



## HFMA UPDATE

by Graham Keen,  
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# The CBD rollercoaster ride

**A**t the HFMA, we have been watching very closely the developments around CBD food supplements. To my mind, the debate around the rights and wrongs of these products is quite unlike anything I have experienced in my time with the HFMA. At a recent meeting of the HFMA's CBD sub-group, we identified no less than 15 separate strands of activity/discussion around this issue, and clearly this is one of the more complex and emotive areas of recent times. This is why we commissioned a significant legal opinion and have met with the Food Standards Agency (FSA) and other relevant stakeholders to help seek a way forward on the issue.

That said, we have not joined others in clamouring to press our UK regulatory authorities to act quickly and ban these products from sale. It is critically important here to recognise that the FSA has acknowledged that no issues of consumer health concern are driving any response from them. In their response to our letter of March 1, they told us that they were aiming for a proportionate response but would never completely rule out a product withdrawal for safety reasons, but importantly, as there are no safety concerns raised, they are not considering that scenario.

It is rather unfortunate that CBD has become a pejorative term, eliciting undue regulatory attention when there must be more pressing priorities with the real war on illicit drugs and the economic and regulatory uncertainties resulting from Brexit.

In my opinion, two separate but related issues here are being incorrectly conflated into one. In other words, can these products be marketed lawfully in the UK, and what do we do about the companies, invariably from outside the UK, selling these products with

outrageous and non-authorised claims? And the conclusion seems to be; if in doubt, ban it. But I think it is so important to keep these two issues separate, and to take appropriate action for each of them.

We would be the first to say that enforcement authorities should do everything in their power to stop companies from marketing these products in such an overtly brazen and illegal way. Indeed, we are regularly reporting these companies and their products to enforcement authorities and will of course continue to do this. But that should be separate and distinct from the question about whether these products can be lawfully sold as food supplements, correctly labelled, with no illegal claims being made for the products.

It is worth remembering here, and the FSA is acutely aware of this, that the World Health Organization (WHO), in its June 2018 *CBD Critical Review Report*, stated quite clearly that there were no consumer health concerns. In fact, the WHO report was quite clear in its summary, where it stated:

*"CBD is generally well tolerated with a good safety profile. Reported adverse effects may be as a result of drug-drug interactions between CBD and patients' existing medications..." and also, "To date, there is no evidence of recreational use of CBD or any public health-related problems associated with the use of pure CBD."*

The FSA has now asked the Committee on Toxicity (COT) to review the safety of CBD products and has produced an excellent scoping paper on the potential adverse effects of CBD products. So, presumably, the FSA will let matters take their course and await COT's findings before jumping into any premature enforcement activity? If CBD food supplements



are shown to be safe, and if they are marketed in an appropriate way, why then should they not be allowed to continue to be freely sold?

And then, of course, there is what has quickly come to be known as the 'Boris Factor'. This is the notion that a post-Brexit UK might better and more responsibly and appropriately regulate itself going forward, and, therefore, not simply accept that the Brussels way is the only way. That harmonisation, a 'one size must fit all' approach, no matter where in Europe you are, and whatever differing national circumstances, is not the only way and that clear national interests can be recognised. And Boris Johnson is already giving the impression that a hands-off, less nanny-state approach is clearly part of his thinking going forward.

So, why do I mention this? Well, you may have seen the reports emerging last week that the legalisation of cannabis, which the Liberal Democrats favour but the Conservatives and Labour have historically resisted, may now be coming back onto the new Government's agenda. Whether you are for or against this is not the point I am making here, what I'm suggesting is that in an environment where the legalisation

of cannabis can be considered, why on earth would the sale of CBD extract sold safely in food supplement form be deemed to be unacceptable?

The situation is clearly very fluid, and there's every chance by the time you are reading this that the situation will have moved on. But it is perhaps worth underlining that no laws have changed, but rather a guidance document (the EU's Novel Food catalogue) has been arbitrarily amended to make the regulatory environment more uncertain – thereby, having a restrictive effect on the market. This threatens responsible operators in it for the long-term but has little impact on opportunistic rogues who care nothing for product quality or what claims they will make for their products. You can rest assured that the HFMA will be doing everything in its power to protect this dynamic sector that, when appropriately regulated, offers so much public benefit. **hfb**

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 me at [graham@hfma.co.uk](mailto: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](mailto:hfma@hfma.co.uk) or call 020 8481 7100.

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