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PRESENTATION TO THE UK MARKET FOOD LABELLING VERSUS FOOD SUPPLEMENT LABELLING

The decision as to whether a product should be presented to the market as a food or a food supplement can sometimes be quite difficult.

Whilst both Food and Food Supplement labelling is principally governed by the EU Food Information to Consumers Regulation ([EU No. 1169/2011](#), EU FIC), as implemented in the UK by the UK Food Information Regulations 2014, the labelling for Food Supplements also needs to take account of the requirements of the Food Supplements Regulations 2003 (FSR), as amended, which implement [EC Directive 2002/46/EC](#) (FSD), as amended.

The table in the Annex describes the main mandatory labelling requirements for Foods and Food Supplements, highlighting the differences for Food Supplement labelling in red. Please note that this is not an exclusive list and other labelling requirements may also apply.

Considerations

In order to determine the most suitable way to present a product to the market, it is best to initially look at the ingredients provided and the overall purpose of the product.

A food supplement is defined by the Food Supplements Directive as follows:

... any food the purpose of which is to supplement the normal diet and which is a concentrated source of a vitamin or mineral or other substance with a nutritional or physiological effect, alone or in combination, and which is sold in dose form...

'Dose form' is defined as forms such as capsules, pastilles, tablets, pills and other similar forms, sachets of powder, ampoules of liquids, drop dispensing bottles, and other similar forms of liquids and powders designed to be taken in measured small quantities.

In general, herbal teas/tisanes, herbal infusions or loose, dried and chopped herbs do not fall within the definition of a food supplement.

If the purpose of the product falls within the above definition, then it can be presented to the market as a food supplement. However, there are a couple of points to consider in relation to this definition as follows:

Is the product a supplement to the diet rather than being part of the diet - i.e. does it provide vitamins, minerals or other substances with a nutritional or physiological effect that would supplement the normal diet? Or does it provide macronutrients that might form part of the normal diet?

PRIMARY AUTHORITY PARTNERSHIP WITH
Buckinghamshire & Surrey
trading standards



Surrey and Buckinghamshire Trading Standards have assessed CLEAR CHECK service for its food standards support and concluded that "The quality level has been independently reviewed and in our opinion is likely to provide users of those services with a defence of 'having taken all reasonable precautions and exercised all due diligence'...". Please contact CLEAR CHECK for further details.

In some cases, products that are intended to be made up into a shake provide **macronutrients** such as protein or carbohydrates; whilst such products might supplement the 'normal' diet of an athlete or body-builder, it might be more difficult to defend such a product as a supplement to the 'normal' diet of the general public. Similarly, if the product were to provide nutrients for weight management to replace one or more meals of the diet, then it would form part of the diet rather than being a supplement to the diet and be presented to the market as an ordinary food rather than a food supplement. However, a product providing **micronutrients** as a supplement to the normal diet would likely be presented to the market as a food supplement.

Is the product in 'dose form' - i.e. is the product designed to be taken in measured small quantities?

There is no 'legal' definition of 'small' and so best judgement needs to be used as to whether for a powder product to be made into a shake, the amount of powder used could be considered 'small'. For example, an amount up to 30g (two tablespoons) might possibly be defended as 'small'; even up to 50g could perhaps be defended as such. However, it may be more difficult to defend larger amounts (100g and up) as falling within the definition of 'measured small quantities'.

In addition to the above, the following should be considered:

Ingredient status

A further issue is whether or not any of the ingredients used might determine the presentation required - for example, some ingredients might be considered 'novel' in an ordinary food presentation but not novel if presented as a food supplement.

Nature of ingredients provided

For a product consisting primarily of a mixture of vitamins, minerals and botanical extracts, it is likely that a food supplement presentation would be the best route to use, partly because characterising ingredients can then be quantified in product information.

Whilst it might be possible to present a vitamin/mineral/botanical extracts product as an ordinary food, there would be few macronutrients present for provision of prescribed nutrition information and it would be more difficult to quantify any ingredients for which no authorised/on-hold health claims are available; quantification of such ingredients would not be possible within prescribed nutrition labelling and where no claims are made these ingredients could not be quantified elsewhere on pack except perhaps as a QUID declaration in the ingredients list.

However, the inclusion of other ingredients providing macronutrients e.g. whey powder or fruit powders could potentially mean that a product could be presented as an ordinary food.

ANNEX

	FOOD ¹	FOOD SUPPLEMENT ²
NAME	<p>The legal name, or where none exists</p> <p>The customary name, or where none exists</p> <p>A descriptive name describing the true nature of the food</p>	<p>Prescribed name is 'Food Supplement'</p> <p>An indication of the names of the categories of nutrients or substances that characterise the product or an indication of the nature of the nutrients/substances [equivalent of descriptive name]</p>
INGREDIENTS LIST ³	<p>Must be headed 'Ingredients'. All ingredients, including additives, excipients, components of compound ingredients (e.g. vitamin preparations) unless exempted, must be listed, in descending order by weight in the product at the 'mixing bowl' stage.</p>	<p>Must be headed 'Ingredients'. All ingredients, including additives, excipients, components of compound ingredients (e.g. vitamin preparations) unless exempted, must be listed, in descending order by weight in the product at the 'mixing bowl' stage.</p>
ALLERGEN LABELLING ⁴	<p>Emphasis in ingredients list only of allergenic ingredients or processing aids, or those derived from allergens</p>	<p>Emphasis in ingredients list only of allergenic ingredients or processing aids, or those derived from allergens</p>
QUID LABELLING	<p>The quantity of certain ingredients or categories of ingredients given as a percentage e.g. in ingredients list (QUID)</p>	<p>Not applicable to food supplements</p>
QUANTITY MARKING ⁵	<p>The net quantity of the food in g or ml</p>	<p>The net quantity of the food in g or ml or for tablets/capsules format, the number of tablets/capsules</p>
MINIMUM DURABILITY	<p>The 'Best Before Date' marking plus any applicable storage conditions which may be required to keep the product until the date indicated.</p>	<p>The 'Best Before Date' marking plus any applicable storage conditions which may be required to keep the product until the date indicated.</p>

NAME AND ADDRESS	This must be that of the food business operator responsible for the food information and shall be the operator under whose name or business name the food is marketed or may, where applicable, be the importer.	This must be that of the food business operator responsible for the food information and shall be the operator under whose name or business name the food is marketed or may, where applicable, be the importer.
COUNTRY OF ORIGIN LABELLING ⁶	<p>A country of origin or place of provenance is required where packaging would otherwise be misleading to the consumer.</p> <p>Indication of origin of primary ingredient is required where this is not the same as the declared country of origin.</p>	<p>A country of origin or place of provenance is required where packaging would otherwise be misleading to the consumer.</p> <p>Indication of origin of primary ingredient is required where this is not the same as the declared country of origin.</p>
INSTRUCTIONS/DIRECTIONS FOR USE	Instructions for use where it would be difficult to make appropriate use of the food in the absence of such instructions	The portion of the product recommended for daily consumption
ALCOHOLIC STRENGTH (where applicable)	With respect to beverages containing more than 1.2% by volume of alcohol the actual alcoholic strength by volume	Not applicable to food supplements
NUTRITION ⁷ /PRODUCT INFORMATION ⁸	<p>A nutrition declaration in the format prescribed by EU FIC Articles 29 - 35</p> <p>Quantification per 100g/per 100ml; voluntary quantification per serving</p> <p>Units for the declaration as detailed in the EU FIC</p> <p>An indication of the % NRV or % RI for vitamins and minerals</p>	<p>A declaration of the amount of the nutrients or substances with a nutritional or physiological in the manner indicated by the FSD/FSR</p> <p>Quantification per total daily intake.</p> <p>No requirement for per 100g/per 100ml information.</p> <p>Units for the declaration of the vitamins and minerals must be those specified in the FSD/FSR</p> <p>An indication of the % NRV or % RI for vitamins and minerals</p>

