HFMA Bulletin

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Are we finally seeing some Brexit benefits?

We are all aware of the negative impact of Brexit on imports, exports, transport costs, additional customs duties, skilled labour shortages etcetera. However, with the appointment of Jacob Rees-Mogg as the Minister of State for Brexit Opportunities and Government Efficiency, are we about to see some items in the positive column? In the area of food and supplements we have seen small signs of a divergence from EU practices to the benefit of the UK.

Under Article 8 of the EC Regulation EC-1925/2006, the EC has banned the use of aloe vera products due to the presence of HADs which are alleged to be genotoxic. The EC did not take into account the most recent data when making this decision. The UK authorities DHSC and FSA, at the request of industry trade groups, have not automatically followed the EC position. Instead, the UK Committee on Mutagenicity (COM) has been asked to review the totality of the genotoxicity of HADs, assessing the latest scientific data, particularly as it relates to products actually on the UK market.

Another relates to the import of vitamin D3 into the EU and UK. Because D3 originates from sheep lanolin, the EC has deemed it to be a product of animal origin (POAO), despite it posing no health risks due to the type of processing involved to convert the lanolin-based ingredients into vitamin D3. Because it is a POAO, the EC will require third-country manufacturers to be registered as food producers and a health certificate will be required for import into the EU, adding unnecessary costs and red tape. The UK has taken a more pragmatic approach based on the low risk to health and will not require the same registration and certification for imports.

The FSA has also demonstrated another risk-based approach to one aspect of a 2-Chloroethanol (2-CE) contamination issue. They had set an acceptable level for the 2-CE in a particular ingredient based on a risk assessment. On the other hand, the EC has a no tolerance approach which has led to products being removed from the EU market even when no 2-CE could be detected in those products.

A further divergence between the UK and the EC is over the use of titanium dioxide. Based on an EFSA report the EC has banned titanium dioxide as a food additive. The UK Committee on Toxicology (COT) has been critical about some of the studies referred to in the EFSA report and are likely to be asked to make their own evaluation before the UK decides whether to follow the EC position.

These are all welcome findings but hardly Earth-shattering. What could be of much greater benefit would be to allow the use of the term probiotic on product labels. Currently, although the term is actually used, for example by the NHS on its website, it cannot be used on labels due to non-legally binding 2007 guidance from the EC. This one should be a no-brainer to overturn, and approaches have been made to Rees-Mogg. We wait in hope of this and other Brexit benefits.