

Manufacturing and the Changing Regulatory Environment – A White Paper

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Food & the Food Safety Act 1990

To the consumer, food is usually bought in a shop or restaurant and is eaten for sustenance and enjoyment. However, to a member of the legal profession, food has a rather different definition; particularly in reference to the Food Safety Act of 1990, a milestone in UK food legislation.

Whilst the 1990 Act does not provide an all encompassing definition of 'food', it does provide an important insight into what *is* legally defined as food. For example, within the Act 'food' includes drink, articles of 'no nutritional value used for human consumption' and most importantly, 'articles and substances used as ingredients in the preparation of food ...'

Food ingredients

The inclusion of ingredients means that the statutory rules and regulations governing food manufacture cover much more than the finished product. Many companies manufacture food ingredients, such as additives, with important functions in the finished food. These additives start, in many cases, as synthetic chemicals which could not remotely be considered as 'food'. Yet their end product – still a synthetic chemical substance – becomes food by statutory definition; despite the fact that it could not be consumed directly or may even be toxic unless used in minute quantities.

Food manufacture, the supply chain and the law

The total number of companies producing 'food' is, therefore, much

greater than those producing what is recognised by the consumer as food. Food manufacturers throughout the supply chain must now face the obligations and issues surrounding the production of food and a culture of regulation, risk assessment, inspection and compliance. The legislation covers all levels of the supply chain; manufacturers large and small must meet these obligations. Those who fail to do so risk legal prosecution.

The manufacturer's responsibility

What exactly are these obligations? At the consumer end, food products must be appropriately packaged and labelled with nutritional and batch information in order to identify products in the event of a defect being discovered. The most important implication here is that of traceability with the simple rule of one up - one down being applied as a basic standard. Thus any manufacturer in the supply chain (including manufacturers of ingredients) must be able to trace each component of each batch of material in terms of at least one step up the chain (the supplier) or one step down the chain (the customer).

Traceability systems

Traceability covers a very broad spectrum. For example, any system must be able to identify the course of a contaminant such as the recently publicised colouring Sudan 1. Traceability is also used to confirm that all ingredients in a product designated for example, organic, meet the required standard. There are now so many concerns relating to the production of food that the traceability system

employed must be tailored to meet the specific requirements of the company concerned, as well as the basic legal obligations. Since analytical techniques are becoming increasingly sensitive, the type of 'food scare' seen with Sudan 1 is likely to become more common.

Many manufacturers now insist on their ingredients (and thus products) being 'GMO free' so systems must be capable of tracing the origin of all ingredients. Any allergens declared on food labels and the country of origin of the main component must also be traceable.

Systems: speed of response and EU Regulation 852/2004

The key requirement of any traceability system, which by its very nature must be linked to the company's procurement, stockholding, manufacturing and quality control system, must be speed of response. Manufacturers must be capable of carrying out a full traceability scan to effect a product recall within as short a period as possible, certainly no longer than 24 hours. Another important area that should be built into an IT system is food hygiene. The Food Hygiene Regulations introduced into the UK in 1995 sought to impose the discipline of HACCP (Hazard Analysis Critical Control Point) into all food operations, although the steps set out were never identified specifically as

HACCP. However, this legislation is being significantly tightened as the EU regulation 852/2004, which requires companies to implement a 'Food Safety Management System', comes into effect on 1st January 2006. In parallel with this regulation, there is an existing ISO standard (ISO 22000) covering the area of food safety management.

Whilst it is not yet clear what the legislation for this area will demand in the UK, it is evident that all food producers will have to manage (and record) their food safety activities against a risk assessment relevant to their particular activity. Smaller companies are unlikely to be able to avoid these obligatory requirements; indeed there are suggestions that small catering firms may be specifically targeted.

All in all, it is the responsibility of the owners and directors of food operations to ensure that adequate systems are in place. Whilst paper-based records will provide some measure of compliance, they are unlikely to provide a speedy response in emergencies. Paper records alone may satisfy statutory obligations, but will not necessarily meet the needs of large customers. Ultimately, commercial pressures will oblige most food manufacturers to seek out suitable software solutions.

Dr Philip Ashurst is a Food Industry Consultant with over 40 years' experience in the food manufacturing industry. Previous positions include Directorships within various food manufacturing companies – including Chief Executive - and the management of his own company.

This is the first in a series of White Papers by Dr Philip Ashurst on the food industry and the issues affecting food companies. Philip is available to give independent advice to food companies - particularly in the areas raised by this article. He can be contacted in the first instance on +44 (0)1432 840448 or by email: philip@ashurstassociates.co.uk