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UK FSA Adds More CBD Products To List, Some 'Removed,' As Regulatory Chaos Continues

by [David Ridley](#)

The UK's Food Standards Agency has added almost 2,500 products to its recently published cannabidiol list, and "removed" 34, meaning that they must be withdrawn from retail shelves immediately. Confusion remains, however, with the regulator's shadowy "active application" category conflicting with its advice to enforcers to start clamping down not just on products marked "removed" but also products not on the list.

The UK's Food Standards Agency has added almost 2,500 products to its recently published cannabidiol list, and "removed" 34, meaning that they must be withdrawn from retail shelves immediately.

Among the latter are products using CBD from Dragonfly Biosciences Ltd – which stocks, among other retailers, pharmacy chain Boots' and grocery multiple Tesco's shelves – and brands like Jacob Hooy, which is the white label brand of the Holland & Barrett health food chain.

Among the former is the US-based CBDfx, which claims to be the "second largest privately held CBD company in the world," and whose Europe managing director Carlo Buckley shared on LinkedIn what it's like to experience the FSA's CBD regulation rollercoaster first hand.

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Contributing to the upheaval described by Buckley, the FSA recently issued a deadline to CBD suppliers to submit evidence that their products are "linked to a credible application and were on

the market before February 2020” by 26 April.

As part of this announcement, the FSA said it would update its CBD list twice before 30 June, with the first update “due very shortly.”

The reason the FSA gave for these updates – which seem to contradict the finality of the list as published on the 31 March with its threat of enforcement against products not on the list – was that a number of companies had “come forward with new evidence linking large numbers of individual products to applications.” (Also see "[UK CBD Industry Vexed As FSA Publishes Searchable Public List – A Year Late](#)" - HBW Insight, 8 Apr, 2022.)

This was an “unexpected development,” the regulator said, as this product information “should have been provided to us much earlier in the process.”

“To support businesses to achieve compliance for their products,” the FSA said that it was “making one final call for evidence from businesses to link their products to credible applications.”

Fourth Category

For some, however, this development may not have been so surprising, given the existence of a shadowy fourth “active application” category of products that have not made it onto the list of “validated” products and those products for which the regulator is “awaiting evidence,” and have not yet been marked as “removed.”

As consultancy firm Global Regulatory Services pointed out when it was first published, despite containing 3,536 entries, the FSA’s CBD list was perhaps not actually complete.

“The publication of this List is a key milestone but clearly it needs time to ‘settle in’ and thankfully, the FSA is open to receiving feedback and queries so as to ensure the accuracy of the List’s contents,” the firm said on LinkedIn.

GRS aimed their warning, on the one hand, at CBD retailers, distributors and their legal teams, who may be taking a “black and white view” that if a CBD product “is not on this List as of 31st March 2022 then they are terminating contracts etc with their CBD suppliers with immediate effect,” and on the other, at CBD firms that didn’t make it onto the list that may now be panicking about such implications.

“It is going to take TIME to ensure the accuracy of this #CBDPublicList,” the firm wrote. “So to all those #CBDretailers, #CBDdistributors and #legalteams / #lawyers, please do NOT ‘jump the gun’, please be PATIENT and allow for another couple of months or so for the #CBDPublicList to be adjusted and updated.”

Confusing Situation

The FSA's novel foods chief Paul Tossell provided some clarification in a recent public discussion with the Canna Consultants' Stephen Oliver at the CBD Show.

An active application is one that "hasn't been withdrawn" by the applicant, he said.

Presumably, an active application is also one that has not been marked by the FSA as 'removed' – a third category of applications "deemed unsuitable for progressing to authorisation" that has so far only been applied to 0.6% of all products on the list.

"The Public List [was to be] a reflection of the active applications," Tossell reflected. "Now, at the moment there's some that need to go on...but that doesn't change the principle."

As indicated above, this confusing situation seems to have come about because of the new information provided by applicants, prompted by the publication of the CBD list, with the FSA attempting to provide some flexibility for industry.

The FSA had intended that the CBD list was complete on 31 March, reflecting all "active applications" at that point, Tossell said, and that any suppliers of products that had not made it onto the list were expected to withdraw their applications.

What About Enforcement?

Now the FSA's Tossell is acknowledging that "at the moment, there's obviously some that aren't on the list" – so where does this leave enforcement?

According to HBW Insight's sources, local authorities responsible for enforcing the UK's novel food regulation and the FSA's CBD list have already started contacting suppliers whose products were/are not on the list, with some companies using the list to undermine their competitors.

The FSA seems to be issuing contradictory advice: on the one hand it is telling authorities to prioritise those who are not involved in the "active application" system, "which should be the ones not on the Public List," while acknowledging that "at the moment, there's obviously some that aren't on the list," according to Tossell.

To manage this situation, Tossell said that the FSA is apparently engaging with enforcement authorities and retailers to explain that the list is "evolving" and that a final list "will come," because the 26 April deadline means that "it's not going to grow anymore."

"Until that point, local authorities and retailers know that they can come to us and they can check the status of the application," he said.