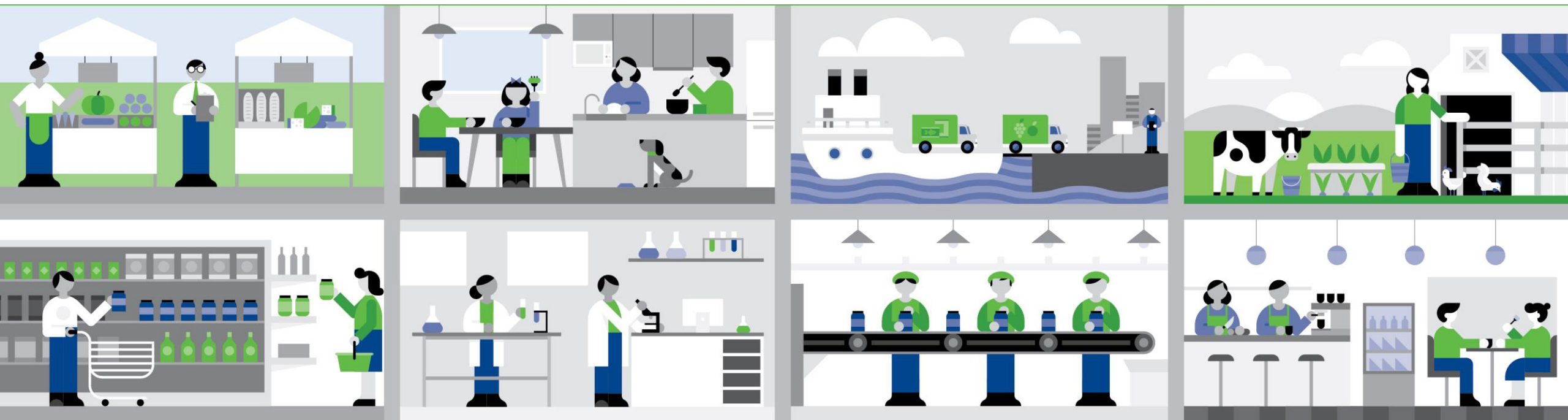


Food Law and Hemp

Presented by Dr Pat O'Mahony

April 8th, 2022



2019/2020 Survey Results

- **84% (32/38)** of products tested were found to contain the psychotropic substance THC. At the maximum stated dosage, **40% (15/38)** of products tested could deliver levels of Δ^9 -THC that would significantly exceed the EFSA acute reference dose of $1\mu\text{g/kg/body weight}$. (100kg person)
 - **34% (13/38)** of the samples are considered to be novel foods.
 - **41% (15/37)** of the products tested contained CBD levels which differed from the declared content by $\geq 50\%$.
 - **39% (14/36)** of food supplements had not been notified to FSAI.
 - **50% (19/38)** of the products made misleading claims (lactose free, gluten free and non-GMO, THC-free) as well as unauthorised nutrition or health claims and possible **medicinal claims**.
-

Misuse of Drugs Act 1977 (as amended)

- Not food law and therefore **not within the FSAI remit**
- Tetrahydrocannabinol (THC) is a controlled substance in Ireland with no threshold set
- Under the Misuse of Drugs Act, cannabis means any part of the plant of the genus cannabis but excludes the following after separation from the rest of the plant:
 - *The mature stalk and fibre produced from it; and*
 - *The seeds*

Leaf material is not exempt!

EU & Irish Food Law

Tetrahydrocannabinol (THC) is a “psychotropic substance” and **does not fall within the definition of “food”** as set out in Article 2(g) of Regulation (EC) No 178/2002 (S.I. No 747 of 2007)

The flowering or fruiting tops of the Cannabis plant are considered a “narcotic drug” in line with the General Principles of EU Food Law and so **do not fall within the definition of “food” in the EU** as set out in Article 2(g) of Regulation (EC) No 178/2002 (S.I. No 747 of 2007)

THC Contamination of Foods

- The EFSA ARfD applies to Δ^9 THC
 - Pending threshold for hemp seed and derived food products includes Δ^9 THC and Δ^9 THCa
 - The 0.2% THC threshold applies **only** to the eligibility to claim direct farm payment for hemp cultivation but **does not apply to any aspect of food law**
-

European Court of Justice



JUDGMENT OF THE COURT (Fourth Chamber)

19 November 2020 *

(Reference for a preliminary ruling – Free movement of goods – Common organisation of the markets in the flax and hemp sector – Exceptions – Protection of public health – National legislation limiting the industrialisation and marketing of hemp solely to fibre and seeds – Cannabidiol (CBD))

In Case C-663/18,

The request has been made in the context of criminal proceedings instituted in France in relation to the marketing and distribution of a hemp oil **electronic cigarette**

European Court of Justice

76 - It follows that the CBD at issue in the main proceedings is not a drug within the meaning of the Single Convention.

It should be noted that cannabidiol is found mainly in the leaves and flowers of the plant, and not in the fibre and seeds.

Novel Food

**Food or food ingredient not used for human consumption
to a significant degree in the EU prior to May 15, 1997**

Pre-market authorisation required

https://ec.europa.eu/food/safety/novel_food_en

Novel food Working Group – Brussels

A process may not be novel – but the resultant
product may be a novel food

Cannabinoids

The hemp plant (*Cannabis sativa* L.) contains a number of cannabinoids and the most common ones are as follows: delta-9-tetrahydrocannabinol (Δ 9-THC), its precursor in hemp, delta-9-tetrahydrocannabinolic acid A (Δ 9-THCA-A), delta-9-tetrahydrocannabinolic acid B (Δ 9-THCA-B), delta-8-tetrahydrocannabinol (Δ 8-THC), cannabidiol (CBD), its precursor in hemp cannabidiolic acid (CBDA), cannabigerol (CBG), cannabinol (CBN), cannabichromene (CBC), and delta-9-tetrahydrocannabivarin (Δ 9-THCV). Without prejudice to the information provided in the novel food catalogue for the entry relating to *Cannabis sativa* L., extracts of *Cannabis sativa* L. and derived products containing cannabinoids are considered novel foods as a history of consumption has not been demonstrated. This applies to both the extracts themselves and any products to which they are added as an ingredient (such as hemp seed oil). This also applies to extracts of other plants containing cannabinoids. Synthetically obtained cannabinoids are considered as novel

Status

Novel Food Applications

- In the UK almost 1,000 NF applications submitted
 - Validated NF applications can remain on the UK market pending assessment
 - The rest must be removed from the UK market
 - List published end of March 2022
-
- In the EU > 150 NF applications submitted
 - 5 synthetic and a small number of hemp-derived applications validated and moved to next stage at EFSA
 - Non-validated applications are terminated
 - Unauthorised novel foods **cannot** be placed on the EU market
-

Novel Foods

- Concentration/purification of hemp products = unauthorised Novel Food
 - Concentrated/purified CBD and any food it is added to = unauthorised Novel Food
 - Beware of bulk CBD products for sale
 - Beware of mis-/dis-information about novel food, THC etc.
 - Analysis should be only carried out by an accredited laboratory
-

- All food businesses must be registered with the Environmental Health Service of the HSE
 - Food Safety Management System
Traceability – Hygiene – Training – Documentation
 - Remember – hemp seed **do not** produce or store cannabinoids
-



Food Safety Authority of Ireland
The Exchange, George's Dock, IFSC,
Dublin 1, D01 P2V6

T +353 1 817 1300

E info@fsai.ie



Join us on LinkedIn



Follow us on Twitter @FSAInfo



Say hi on Facebook



Visit us on Instagram



Subscribe to our YouTube channel

www.fsai.ie

Questions ?



Our Values: Integrity | Respect | Passion | Transparency | Teamwork | Collaboration