

Labelling and Market Entry Considerations for the UK

PerformanSC

BORD BIA
IRISH FOOD BOARD

 **ECOVIS®**
WINGRAVE YEATS

15th June, 2022: 10:00 – 11:30

Agenda

BORD BIA
IRISH FOOD BOARD



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Agenda Points

PerformanSC

- UK packaging requirements coming into effect from 1st October 2022
- Implications of these changes to your packaging
- Local address requirements within the UK – manufacturer or importer
- Practical options to meet these requirements



- Legal entity structures in the UK – background and choices
- Funding expansion in the UK and tax considerations
- Practical do's and don'ts of setting up UK entities

Housekeeping

1. Please Send Questions to GoToWebinar Chat Function and if possible **note** who the question is for
2. Information discussed here today is based on what is currently publicly available from relevant authorities
3. Bord Bia London Team will consolidate questions for the Q&A session and I will manage these during the panel discussion
4. If your question isn't answered today, you can also email Brexit@bordbia.ie
5. We will be recorded this webinar and a copy of all presentations will be shared with you after this webinar
6. And finally, I'll do a re-cap at the end of this webinar on the **Trading with the UK** supports we have available for Bord Bia client companies



Updated food labelling requirements for the UK market

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Practitioner led supply chain consultancy



- Dublin – London – Chicago

Performance Optimisation

International Trade & Compliance

Outsource Process Management

Channel & Market Strategy

Training & Development

Circular Economy & Risk Management

- Consulting partner to Bord Bia
 - Logistics and supply chain
 - Trade and customs

Update to food labelling requirements – UK market

- From **1st October 2022** any **pre-packaged food or caseins** sold in GB
- Need to include the following information on the label:
 - Address in the UK of the business whose name the food is marketed under, **or**
 - Address in the UK of the business that has imported the food
- This is to provide market surveillance authorities a local contact within the UK
 - The address needs to be a physical address where your business can be contacted by mail. You cannot use an email address or phone number.
 - This is the **entity who takes responsibility for the information on the product label**
- Pre-packaged food or caseins sold in NI must include a **NI or EU FBO address**
 - If the FBO is not in NI or EU, include the address of your importer, based in NI **or** the EU.
- May include additional information (can meet both EU and UK requirements on same label)

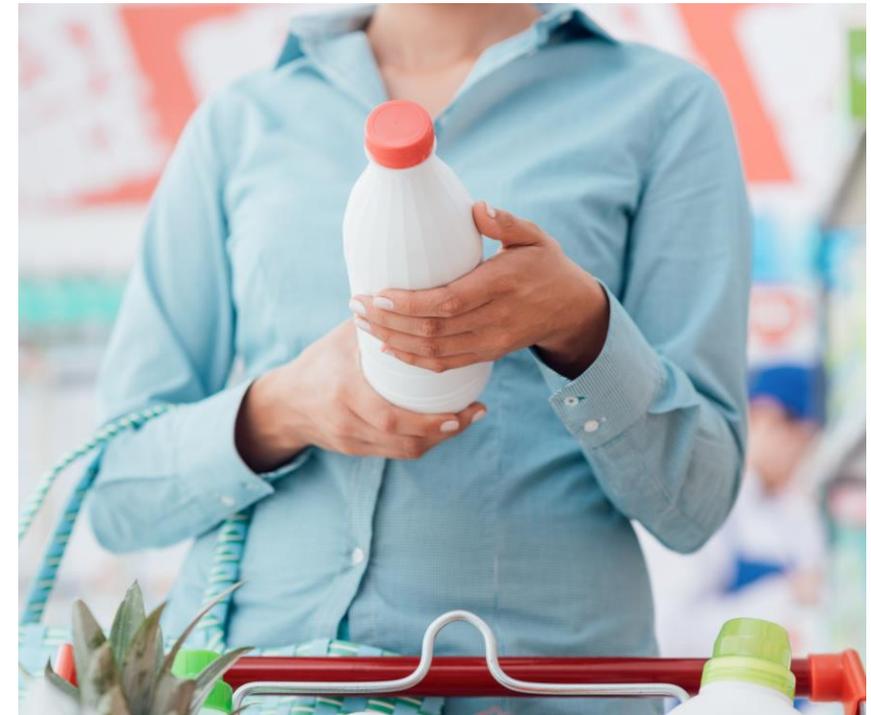


Labelling pre-packed food

Pre-packed food is any food that's put into packaging before being put on sale and that cannot be altered without opening or changing the packaging

- Information to display on labels or packaging
 - the name of the food
 - the quantitative ingredients declaration (QUID), where needed
 - a list of ingredients (including allergens)
 - the weight or volume of the food (net quantity)
 - a 'best before' or 'use by' date
 - **name and address of food business operator (FBO) responsible for food information**
 - alcoholic strength by volume (as a %) on drinks containing over 1.2% alcohol by volume

- There are specific regulations by food type – for more information
 - <https://www.gov.uk/guidance/food-labelling-giving-food-information-to-consumers>



How to display information on labels or packaging

- Information on labels must be difficult to remove (indelible)
- Labelling must allow the customer to see all the following information at the same time (must be in the same field of vision):
 - the name of the food
 - the net quantity of the food
 - alcoholic strength by volume (for drinks containing over 1.2% alcohol)
- You must print all the mandatory information using a font with a minimum x-height of 1.2 millimetres.
 - If the largest surface area of packaging is less than 80cm squared, you can use a minimum x-height of 0.9mm.



Legend

1	Ascender line
2	Cap line
3	Mean line
4	Baseline
5	Descender line
6	x-height
7	Font size



Country of origin labelling – additional changes

- Specific food origin labelling requirements for:
 - Beef and veal
 - Poultry, sheep, goats and swine
 - Fish and seafood
 - Minced meat
 - Eggs
 - Olive oil
 - Blended honeys
 - Wine
 - Fruit and vegetables

- From 1st October 2022 - ‘simplified’ changes ‘EU / Non-EU’ → ‘UK / Non-UK’

- Need to have country of origin on other prepacked products if the consumer could be misled by the packaging / description
 - For more information see
 - <https://www.gov.uk/guidance/food-labelling-country-of-origin>
 - <https://www.gov.uk/food-labelling-and-packaging/food-labelling-what-you-must-show>



Business to business shipments

You must pass on information about products if you are selling food products to other businesses.

At the end of the supply chain, whoever is selling a food product to the final consumer must have all the information they need to provide.

- If food will be sold **non pre-packed**, must provide all required information for non pre-packed foods
 - Name of food
 - Allergens present
 - (If meat) - a meat content/QUID declaration
 - (if irradiated) an irradiated food statement
 - Label should be on the packaging if possible, but can also be written on a notice close to product or given verbally to customer

- If food will be sold **pre-packed**, must provide all information required for pre-packed food
 - If already pre-packed when you sell it information should be **on the pre-packaging**, or a **label attached to the pre-packaging**
 - If product will be **pre-packaged by another entity** you should provide all information on the **commercial documents**
 - External Packaging:
 - If the product is enclosed in external packaging OR
 - If it will be **used by a mass caterer** to prepare food, the external packaging should contain:
 - the name of the food
 - the best before/use by date
 - any special storage conditions, and
 - **the name/address of your business**

- If you do not know how the product will be sold to the final consumer, you should **assume it will be pre-packed** and provide the required pre-packed information.

<https://www.gov.uk/guidance/food-labelling-giving-food-information-to-consumers#selling-food-products-to-other-businesses>

Requirements of the food business operator

- **Natural or legal persons responsible for ensuring the requirements of food law are met within the food business under their control**
- The food business operator responsible for the food information shall be the operator under whose name or business name the food is marketed or, if that operator is not established in the market, the importer into the market
- Name and address of the food business operator (FBO) responsible for the food information
 - Needs to be a physical address where your business can be contacted by mail
 - You cannot use an email address or phone number
- Responsibilities including (but not limited to):
 - Holding the technical file for the product, and being able to produce the file immediately if it is requested by a market surveillance authority
 - Being the first point of contact for authorities if there is any query or issue with a product
 - Co-ordinating any product recall if required
- Enforcement
 - Local authorities responsible for enforcement
 - In most cases - improvement notice if you have not complied with food regulations
 - Can continue to operate if you get improvement notice, but must do what it tells within the time specified
 - Committing an offence and may be prosecuted if you do not comply with an improvement notice
 - Improvement notices cannot be issued in relation to net weight contraventions - can be prosecuted
 - May be prosecuted (without first being given an improvement notice) if you break the rules on allergens
- **Customer impact if product is reported as not compliant**

UK address requirements – options for Irish producers

Several options available to Irish food producers. Best option for any food producer will depend on individual circumstances.

- Use your own business entity in the UK
 - May be a viable option if you already have a physical office or presence in the UK
 - Consider costs and potential tax implications of setting up and maintaining entity
 - Additional considerations from Ecovis

- Use your distributor / importer's address
 - Need to confirm that they are happy to take on this responsibility
 - Need to provide them with access to technical files to support each product
 - Need clarity on legal responsibilities and costs

- Use the services of a Third Party Authorised representative
 - Professional companies that provide this as a service for a fee
 - Typical fees include set up (by product / product group) and ongoing service fees
 - Need to have food and drink experience
 - Register as an FBO on behalf of the manufacturer

<https://www.gov.uk/guidance/food-labelling-giving-food-information-to-consumers#show-the-name-and-address-of-the-food-business-operator>

DOING BUSINESS IN THE UK

In Partnership with

BORD BIA
IRISH FOOD BOARD



Business Advisors
Chartered Accountants
Tax Specialists

ECOVIS WINGRAVE YEATS

An Overview

- > General service accounting practice based in Soho, London. 7 Partners and 70 staff
- > Internationally focused with 50% approx. of clients overseas-owned
- > Large Irish client base
- > We act for clients from the US, Europe and most of Asia and Australia
- > We provide accounting, tax, audit and general advisory services to a very broad range of industry sectors
- > Part of Ecovis International. Can assist companies expanding worldwide through our associate firms in 85 countries. We have assisted Enterprise Ireland clients for 10 years + Especially pre/ post Brexit
- > Very pleased to assist Bord Bia with their clients
- > Ben & I help companies looking to set up in the UK from pre-market entry stage

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SETTING UP IN THE UK

Issues		Branch (UK Establishment)	Limited Company	Partnership (LLP)
TimeFrame	Timeframe to set up:	• 4 – 6 weeks to set up branch at Companies House	• 1 week	• 1 week
	Advantages:		• Simple process • Formal entity	• Simple process • Formal entity
	Considerations:	• Must provide a lot of parent company information • Detailed process • Not a formal entity – no legal protection		
Legal Protection	Advantages:	• All claims against parent company (benefits UK entity)	• Legal protection for UK entity	• Legal protection for UK entity
	Considerations:	• All claims against parent company (disadvantages parent)	• Parent company may need to give some guarantees	• Parent company may need to give some guarantees
Accounts Filing	Advantages:	• No branch accounts on public record	• UK Entity only • Filing 9 months after year end	• UK Entity only • Filing 9 months after year end
	Considerations:	• Legal requirement to file parent company accounts in UK GAAP - can be a confidentiality issue		
Taxation	Advantages:	• Losses can be offset against parent company profits	• Can retain profits to grow business	• Can retain profits to grow business
	Considerations:	• Fully taxable in the UK if you have a tax presence • No relief for indirect costs • Can give rise to tax on incorporation in parent	• Fully taxable in the UK if you have a tax presence	• Fully taxable in the UK if you have a tax presence • All profits fully taxable on partners
Commercial Issues	Advantages:	• If strong brand: okay to choose • A strong brand may find this type of entity advantageous	• Shows commitment to new market • Most popular choice	• Shows commitment to new market • Can be a flexible structure if you want to attract "key" management
	Considerations:	• If <u>not</u> strong brand may be perceived negatively as not committing to new market	• Level (£s) of share capital can be important	

PLC option not viable

INTERNAL FUNDING OPTIONS

Share Capital (Permanent)	Loan Capital (Mid-Term)	Intercompany (Flexible)
<p>Boosts the balance sheet</p> <p>Signals intent / market commitment</p> <p>Can be denominated in any currency</p>	<p>Can be borrowed Directly from parent company</p> <p>Commercial interest rate must be applied for transfer pricing purposes</p>	<p>Short-term funding via intra-group transfers</p> <p>Possible tax implications where transactions are not at arms length</p>

ENTERPRISE INVESTMENT SCHEME

Salient Qualifying Criteria

- > £5m max raise in 12 months
- > £12m max raise in company lifetime
- > <7 years since first commercial sale
- > Must have a permanent establishment in UK
- > Unlisted
- > Carry out qualifying trade
- > Not be more than 50% owned by another entity
- > <250 Employees
- > <£15m gross assets

TAXATION

UK Tax Receipts (£bn)





EVOLUTION OF TAX PRESENCE IN THE UK

Is There A Permanent Establishment?

“A stable & ongoing presence in a foreign country” i.e.

- > Fixed place of business through which business is carried on
- > An employee having authority to conclude contracts
- > An agent who habitually exercises authority to act on behalf of entity

CORPORATE TAX

Current Rate: 19%-25% from April 2023

Corporation Tax reliefs

- > Basis of corporation tax computation
 - > Cost plus entity: 5-7% margin
 - > Full trading with transfer pricing exercise
 - > Consideration of cross-charging
- > Tax losses
- > R&D
- > Holding company reliefs
 - > Can act as platform for further expansion
 - > No withholding tax on dividends paid
- > Patent Box 10% (not relevant for most)





VAT IMPLICATIONS

For a Non-Established Taxable Person (NETP)

- > Normal UK VAT registration threshold of £85,000 does not apply
- > Immediate requirement to register for UK VAT if NETP makes any taxable supplies in the UK
- > VAT chargeable on supplies made in the UK
- > Import VAT and import duty on goods imported into the UK from outside EU

RECOMMENDED ACTIONS

Key Considerations



- > Consider UK VAT registration to reduce import concerns for your UK customers
- > Apply for UK European Operators Registration & Identification (EORI) number
- > Consider effect of import tariffs on your pricing to UK customers
- > Consider Postponed VAT Accounting (PVA)

PAYROLL

- > Allow 3 weeks (usually much quicker) to set up a Pay As You Earn (PAYE) scheme
- > 13.8% employer's national insurance (NI)
- > 3% employer pension contribution
- > Payroll benefits, submit annual P11Ds, or use a PAYE Settlement Agreement (PSA)

Don't Forget...

Must have employer's liability insurance when employing anyone in the UK

Consider key person insurance

UK bank account needed for pension direct debit

Check employment contracts are UK compliant (don't just port them over)



DO'S AND DON'TS

Key Considerations

- > Commercial viability
 - Extensive market research
- > Can you fund a launch?
 - Outsource non-operational services
 - Must have a realistic Year 1 budget
 - What will success look like?
 - Realistic spend commitment
- > Knowledge: To demystify the real or imaginary barriers to entry
 - Assistance of Bord Bia
- > Strong local management
 - Irish companies cannot manage a UK entity remotely from Ireland

DISASTROUS STRATEGIES

Common Pitfalls



- > Allowing staff to focus on activities not outcomes. “Busyness” does not mean success.
- > Not understanding the **financial drivers** in the business.
- > Not sharing your vision so that staff feel part of it. Tell stories...
- > Not having a “**Plan B**”.
- > Paying little or no attention to **liquidity management**.
- > Allowing senior people to operate from different codes of conduct.
- > Expand the business in an uncontrolled manner.
- > Failing to avoid concentration risk.
- > Letting costs expand to keep pace with revenue growth.
- > Losing sight of core values – they should be enduring.

THANK YOU FOR LISTENING

Do you have any questions?



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Q & A

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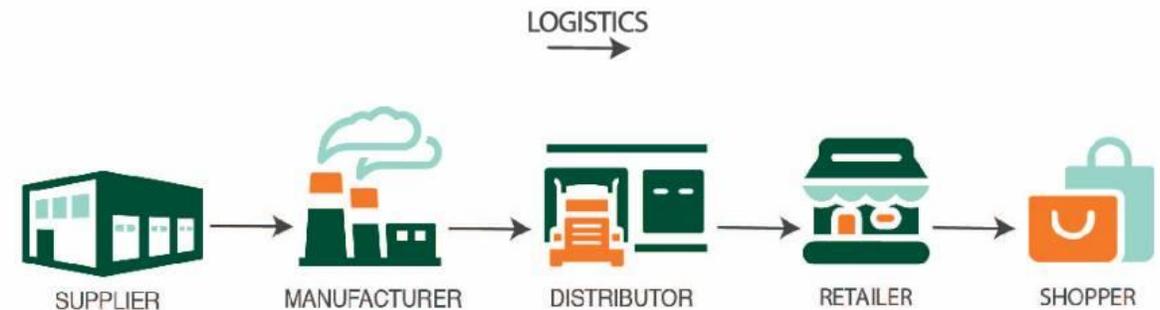
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Bord Bia Supports 2022

- **1:1's and Workshops**
 - Business Entity
 - Customs
 - SPS
 - Logistics / Supply Chain
- **Updated LSP Database July 22**
- **Bord Bia Brexit Bulletin**
- **UK PR Campaign**
- **Client Capability Development**
- **Brexit@bordbia.ie**



Thank You

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