

Annex D

Communication 1 – For release

From: [Section 40] @fordelaw.com

Sent: 04 July 2018 15:04

To: Carles Orri <Carles.Orri@food.gov.uk>

Cc: 'Declan Ferguson' <declan.ferguson@finnebroque.com>; Denis Lynn <Denis@finnebroque.com>; Mathew Forde <Mathew@fordelaw.com>; FCT <FCT@food.gov.uk>

Subject: Ref: FOI2236 – Consultation on a Freedom of Information request received by the Food Standards Agency

Dear Sirs,

We refer to the above matter and attach correspondence for your attention.

Yours faithfully,

FORDE CAMPBELL LLC



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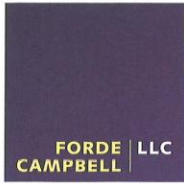
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4 July 2018

Private & Confidential

Carles Orri
Head of Food Additives, Flavourings and Food
Contact Materials
Food Standards Agency
125 Kingsway
LONDON
WC2B 6NH

Your ref: FOI2236
Our ref: LYN001-0001/MGF

By Email to: -
Carles.Orri@food.gov.uk

Dear Sirs,

Freedom of Information Request / Consultation – Ref FOI2236

We have been instructed by Finnebrogue ('our client') to respond to your letter of 27 June 2018 concerning a Freedom of Information Request – Consultation Query.

You have invited our client to consider whether information which may be released into the public domain in connection with a particular request and which concerns our client, is "sensitive" and likely to cause commercial damage. We would comment as follows:

Firstly, we note that you have attached an *example* of correspondence which you deem not to contain confidential information and which the FSA considers would fall within the scope of the freedom of information request which you have received. This consists of one chain of emails and relates to the organisation of a meeting between the FSA and our client on 24 May 2018. Whilst our client is grateful that it has been given chance to comment on the example information, it is clearly impossible for our client to make an informed decision on whether the release of any **other** information directly concerning our client is likely to be harmful until it has had sight of *all* of the information which you are considering releasing in relation to our client. Only after our client has seen this information will it be able to determine whether the release of such information is likely to be harmful and/or whether such information would fall into any of the categories of exemption as provided for under the Freedom of Information Act 2014, including but not limited to Section 43. We would therefore request that you provide our client with the opportunity to consider all such information before you reach any final decision on release.

Secondly, we note that the example provided relates to a meeting held on 24 May 2018 and which forms part of ongoing discussions concerning our client's Naked Bacon product and the classification of the Prosur Natpre T-10 Cur S substance.

As a general observation, the release of *any* information into the public domain concerning our client and its products which pertain to on-going discussions and correspondence between our client and the FSA clearly has the potential to be prejudicial to our client's commercial interests (and may in fact prejudice those discussions and/or any final determinations on related issues by any Competent Authorities) **in circumstances where the information disclosed is open to interpretation with the risk of misleading the public into believing there is a food safety issue with our client's products when none exists**. The example information you provide actually forms part of a wider exchange of correspondence and discussions between our client and the FSA, some of which is marked 'confidential'. The example information therefore risks providing an incomplete picture of the true context of the 24 May 2018 meeting.

We would also submit that any information relating to ongoing discussions concerning our client's products that have yet to conclude (as between our client and the FSA) has the potential to fall under the 'commercial interests' exemption provided for in Section 43(2) of the Freedom of Information Act 2000. This provides that

Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

As requested above, in order that our client can provide an **informed** response to your request (i.e. as to whether the information about our client's business should be released to into the public domain), please can you first provide us with copies of all relevant information concerning our client which you propose to disclose in relation to the FOIA request.

We look forward to hearing from you.

Yours faithfully,

[Section 40]

Mathew Forde
FORDE CAMPBELL LLC

cc. Declan Ferguson / Finnebrogue
Denis Lynn / Finnebrogue
FCT / FSA

Communication 2 – For release

From: Declan Ferguson [<mailto:declan.ferguson@finnebrogue.com>]
Sent: 09 July 2018 22:39
To: David Self <david.self@food.gov.uk>
Cc: Heather Hancock <heather.hancock@food.gov.uk>; Denis Lynn <Denis@finnebrogue.com>; owpaterson@gmail.com; Mathew Forde <Mathew@fordelaw.com>
Subject: Finnebrogue Briefing Note & Related Information
Importance: High

Dear David,

Sincere thanks to Heather and yourself for your time today.

I have attached some related info that we didn't get to share fully with you during the meeting.

Coupled with the Spanish notification on the Natpre T10 that I provided to you today, if you believe that the way to resolve this quickly is to gain a fuller insight of the product info from Prosur, we can facilitate this while protecting Prosur's commercial confidentiality and using AECOSAN's support in delivering the information to you to satisfy the queries that still exist over what the ingredient is and how it is used?

Also to reconfirm our approach on our Made without Nitrite bacons - we are offering a far different proposition from that of **[Out of Scope]** As discussed we in no way seek to use Nitrites to cure the bacon in our process and the ingredients used are not in any way used to replicate 'Vegetable Extracts' that have been ruled against in previous Standing Committee rulings and FSA guidance to compliance. All testing done by the Local Authority and other Competent authorities support these findings.

Please let me know if you require any further information.

Thanks

Declan

Declan Ferguson

Technical Director

Mobile: [Section 40]

Landline: [Section 40]

“ We always look at what's wrong with food to figure out how to make it the best it can be, without being bound by the way it has always been done ”

Artisan
Finnebrogue

Lynn's Country Foods Limited
Down Business Park
Downpatrick | BT30 9UP
finnebrogue.com

Communication 3 – For release

From: David Self [<mailto:david.self@food.gov.uk>]

Sent: 10 July 2018 16:43

To: Declan Ferguson <declan.ferguson@finnebrogue.com>

Cc: Heather Hancock <heather.hancock@food.gov.uk>; Denis Lynn <Denis@finnebrogue.com>; owpaterson@gmail.com; Mathew Forde <Mathew@fordelaw.com>; Carles Orri <Carles.Orri@food.gov.uk>

Subject: RE: Finnebrogue Briefing Note & Related Information

Dear Declan,

Thank you very much for sending the further information through.

As we proposed at the meeting yesterday, I can confirm that the FSA has now written to the 9 Member States (Austria, Belgium, Denmark, Finland, France, Italy, Poland, Portugal and Spain) that sell products containing Prosur's NATPRE T-10, to aid with further clarification. As discussed yesterday, we will be back in touch once we've received replies from the agencies/departments of the countries concerned.

All the best,

David

Dr David Self
Private Secretary to the Chair and the Deputy Chair

Strategic Food Systems Project Lead
020 7276 8278 / 07984 883451
david.self@food.gov.uk

Communication 4 – For release

From: Mathew Forde [<mailto:Mathew@fordelaw.com>]

Sent: 10 July 2018 17:24

To: David Self <david.self@food.gov.uk>; Declan Ferguson <declan.ferguson@finnebrogue.com>

Cc: Heather Hancock <heather.hancock@food.gov.uk>; Denis Lynn <Denis@finnebrogue.com>; owpaterson@gmail.com; Carles Orri <Carles.Orri@food.gov.uk>

Subject: RE: Finnebrogue Briefing Note & Related Information

Dear Mr Self,

Thank you for your email.

Just so we are all clear about the precise information upon which the FSA now seeks clarity, can you please provide us with the text of the particular query posed by the FSA to each of the 9 Member States in relation to products containing Prosur's Natpre T-10 product. This would clearly be of assistance to these discussions

Thank you

Kind regards

MATHEW FORDE

Director



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