

Annex D - Material re. 24 May 2018 meeting

Communication 25 – For release

From: David Self
Sent: 26 April 2018 18:23
To: Carles Orri <Carles.Orri@food.gov.uk>
Cc: Michael Wight <Michael.Wight@food.gov.uk>
Subject: Finnebrogue

Hi Carles,

Further to our chat, I went back to Owen Patterson and said that the FSA was prepared to meet, but that we needed the outstanding information either before or at the meeting. I explained that it would be a technical meeting, and said that his attendance is not required, which he agreed with. As such, the meeting should be able to take place before the deadline you've set, and so there should be no need to extend it (OP requested on or before the 9th for a reason that escaped me).

OP will go back to Finnebrogue and try and cajole them into providing the information, and I batted away concerns about commercial sensitivity. However (and you're not going to like this), OP asked whether one final clear email could be sent that sets out what information is still outstanding, so that nobody can be under any doubt for the meeting.

I understand that Michael is going to have a chat with you about organising the meeting and the final statement.

Many thanks,

David

Dr David Self
Private Secretary to the Chair and the Deputy Chair
Strategic Food Systems Project Lead
020 7276 8278 / 07967 826884
david.self@food.gov.uk

Communication 26 – For release

From: Carles Orri
Sent: 27 April 2018 17:29
To: David Self <david.self@food.gov.uk>
Cc: Michael Wight <Michael.Wight@food.gov.uk>
Subject: RE: Finnebrogue

Hi David

Thanks for the update. I will draft something on Monday and speak to Michael before I contact Finnebrogue about the meeting and information.

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orri@food.gov.uk (please note both office and email addresses have changed)

Communication 27 – For release - some content removed as not in scope

From: Carles Orri

Sent: 01 May 2018 11:35

To: Michael Wight <Michael.Wight@food.gov.uk>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Mark Willis <Mark.Willis@food.gov.uk>

Subject: Possible meeting with Finnebrogue - late May

Michael, Stuart

Please find attached (and repeated below) my reply to Finnebrogue regarding a meeting in late May (24 May at 16:00, 25 May (14:00 – 17:00) or 1 June at 15:30).

Michael – you are unavailable around those dates, are you happy for the meeting to go ahead without you. I am keen to hold the meeting as soon as possible as we are hearing that similar products might be appearing across the country.

Mark – the summary of questions is based on discussions at the previous meeting.

Any comments on the questions?

Many thanks,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orri@food.gov.uk (please note both office and email addresses have changed)

[Attachment removed as content in draft form – final version provided].

Communication 28 – For release

From: Carles Orri <Carles.Orri@food.gov.uk>
Sent: 01 May 2018 14:40
To: Michael Wight <Michael.Wight@food.gov.uk>
Cc: Mark Willis <Mark.Willis@food.gov.uk>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>
Subject: RE: Possible meeting with Finnebrogue - late May

Michael

They are the same questions we asked before, but I have made them more specific/rephrased those they said they did not understand. It's a long list as it is very difficult to extract detailed information from them. Unfortunately, with this issue, the devil is in the detail.

OP suggested 9 April but I thought that could be interpreted as us adding pressure/shortening the deadline, so I have looked for dates after 14 May, by when OP should also be back working full time.

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials
Food Standards Agency
+442072768406
carles.orri@food.gov.uk

Communication 29 – For release

From: Carles Orri
Sent: 02 May 2018 16:50
To: 'Declan Ferguson' <declan.ferguson@finnebrogue.com>
Cc: 'Denis Lynn' <Denis@finnebrogue.com>; 'Brian McMonagle' <Brian@finnebrogue.com>; Owen Paterson [**Section 40**]; Ronan Marlow <Ronan@fordelaw.com>; 'Mathew Forde' <Mathew@fordelaw.com>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Michael Wight <Michael.Wight@food.gov.uk>; David Self <david.self@food.gov.uk>
Subject: Finnebrogue - FSA meeting

Dear Declan

Thank you for making time to speak to me today on the phone and apologies for interrupting your lunch. I am writing to confirm what we discussed earlier and to check your availability for a meeting with the FSA.

We agreed that there are still some outstanding issues and that an early meeting would be beneficial. I undertook to send you a list of the questions we would like information on. To facilitate discussion, I have highlighted those areas where we think we still need more information – please see the attached. You would like to use

the opportunity to present your case and supporting evidence and will check Prosur's CEO availability to attend. You expressed a concern about the disclosure in written form of commercially confidential information on Prosur natural flavouring. I explained that we are used to handling commercially sensitive information and are happy to work within the confinement of confidentiality.

In my letter of 13 April, I asked you to provide the requested information by 14 May 2018. Since we will be discussing your case and supporting evidence at a meeting soon, we will set the date aside.

Our availability is as follows: 9 May (am), 18 May (9:30-11:00, 15:00-16:40), 24 May at 16:00, 25 May (14:00-17:00) and 1 June at 15:30, 5 June (9:30-10:30), 7 June (15:00-16:40). I would be grateful if you could confirm whether any of the proposed dates are suitable or suggest alternatives.

I hope my summary captures the main points of our discussion, but please feel free to highlight anything I might have missed. With your agreement, I am also copying this email to your colleagues, Mr Owen Paterson and the firm of solicitors you have instructed.

Kind regards,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orri@food.gov.uk (please note both office and email addresses have changed)

ATTACHMENT

Request for information – information gaps (02/05/18)

Finnebrogue

Extraction process

1. What are the source materials used to make the Prosur extract (Natpre T-10 or any other used in the manufacture of your products)?

You have indicated that edible spice and fruit extracts are used but we require more detail on this.

2. What kind of processes are being used e.g. physical, chemical or microbiological for the extracts? How many steps are there in the extraction process?

You have provided a simple flowchart and said "simple ethanol water extraction, using traditional methods of extraction and no selective physical or chemical extraction of constituents". We require further detail, for example, is the extract a standardised product?, how do you prevent variation?, etc.

3. What components of the raw materials (used for the production of *the Prosur natural flavourings*) are not extracted at each step of the production process i.e. fibre, fat-soluble aromatic components?

You have told us that the components of food that are not extracted are non-flavouring components.

4. Is the extraction process removing some of the flavouring components of the herbs, spices and fruits or are the flavouring components being concentrated?

You have said that no flavouring components are removed during the extraction process, they are concentrated during the drying process.

5. What is the composition of any Prosur extracts/products you use in your meat products (bacon, sausages, etc.)? What are the constituents in the extracts? (e.g. antioxidants such as ascorbic acid at X level). Does the extraction process result in high levels of antioxidants and/or other chemical components?

[No information provided]

Functions of the commercial components

6. What is the active component or components that are being used as a substitute for nitrite/nitrate preservatives to prevent the growth of harmful microorganisms and/or increase shelf-life? If this is considered commercially sensitive information can you describe how it kills or prevents the growth of microorganisms?

Insufficient information has been provided. This information will also help us to understand how you ensure your meat products are safe.

7. You have previously said that the “Prosur Flavour might have *some* technological effect”. Please explain this in detail, including the effect on both the flavouring and the food.

No information provided. This information will also help us to understand how you ensure your meat products are safe.

8. Please explain in detail if any other material added/used in the production of the meat product contribute to any technological function? If so, how? Are any materials used to stabilise the Prosur extract? If so, do they have an effect on the final food?

No information provided. This information will also help us to understand how you ensure your meat products are safe.

9. How do you control microbial growth on the bacon (please refer to your food safety management system documentation)?

No information provided. This information will also help us to understand how you ensure your meat products are safe.

10. How is the preservation controlled, if the product does not have any preservative?

No information provided. This information will also help us to understand how you ensure your meat products are safe.

11. What flavours (odour and/or taste) are being imparted to the meat or how is the flavour of the meat being modified by the flavourings? Would consumers identify your product as a flavoured bacon?

You have provided insufficient information on this, more detail is required.

12. Does any component impart a colour change in the pork meat?

You have said that no component used imparts a colour change in the pork meat.

No information provided.

13. Does any component prevent colour change?

No information provided.

Labelling

You do not market your product as 'flavoured bacon' but the *Prosur natural flavouring* is an integral part of your product. What is the reason?

No information provided.

Communication 30 – For release

From: Carles Orri <Carles.Orri@food.gov.uk>
Sent: 02 May 2018 16:53
To: Mark Willis <Mark.Willis@food.gov.uk>; **[Section 40]**
Subject: FW: Finnebrogue - FSA meeting

FYI

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orri@food.gov.uk (please note both office and email addresses have changed)

Communication 31 – For release

From: Declan Ferguson [<mailto:declan.ferguson@finnebrogue.com>]
Sent: 10 May 2018 08:42
To: Carles Orri <Carles.Orri@food.gov.uk>
Cc: Denis Lynn <Denis@finnebrogue.com>; Brian McMonagle <Brian@finnebrogue.com>; Owen Paterson **[Section 40]**; Ronan Marlow <Ronan@fordelaw.com>; Mathew Forde <Mathew@fordelaw.com>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Michael Wight <Michael.Wight@food.gov.uk>; David Self <david.self@food.gov.uk>
Subject: RE: Finnebrogue - FSA meeting

Dear Carles,

Apologises for the delay.

Would it be possible to try and have a meeting slot between 12pm and 3pm on the 24th May so I can ensure all necessary attendees can make it?

Thanks

Declan

Declan Ferguson
Technical Director
Mobile: **[Section 40]**
Landline: **[Section 40]**

Communication 32 – For release

Sent from my iPhone

On 10 May 2018, at 12:07, Carles Orri <Carles.Orri@food.gov.uk> wrote:

Dear Declan

Thank you for your email. We should be able to re-arrange other commitments in order to accommodate your request. I will pencil the slot in our diaries but would be grateful if you could confirm it at your earliest convenience.

Many thanks,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orri@food.gov.uk (please note both office and email addresses have changed)

Communication 33 - For release

From: Declan Ferguson [<mailto:declan.ferguson@finnebrogue.com>]

Sent: 10 May 2018 17:18

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

Cc: Denis Lynn <Denis@finnebrogue.com>; Brian McMonagle <Brian@finnebrogue.com>; Owen Paterson **[Section 40]**; Ronan Marlow <Ronan@fordelaw.com>; Mathew Forde <Mathew@fordelaw.com>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Michael Wight <Michael.Wight@food.gov.uk>; David Self <david.self@food.gov.uk>; Chris Elliott <chris.elliott@qub.ac.uk>

Subject: Re: Finnebrogue - FSA meeting

Hi Carles,

Thanks for fitting us in.

12.30pm on the 24th would work for us.

Thanks

Declan

Declan Ferguson

Technical Director

Mobile: **[Section 40]**

Landline: **[Section 40]**

Communication 34 – For release

From: Carles Orri [<mailto:Carles.Orri@food.gov.uk>]

Sent: 11 May 2018 09:55

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

Cc: Denis Lynn <Denis@finnebrogue.com>; Brian McMonagle <Brian@finnebrogue.com>; Owen Paterson [**Section 40**]; Ronan Marlow <Ronan@fordelaw.com>; Mathew Forde <Mathew@fordelaw.com>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Michael Wight <Michael.Wight@food.gov.uk>; David Self <david.self@food.gov.uk>; Chris Elliott <chris.elliott@qub.ac.uk>

Subject: RE: Finnebrogue - FSA meeting

Dear Declan

Thanks for confirming the meeting.

In order to arrange security passes for Clive House, we will require a list of attendees. I would therefore be grateful if you could let me know at your earliest convenience who will be accompanying you on 24 May.

Many thanks,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orra@food.gov.uk (please note both office and email addresses have changed)

Communication 35 – For release

From: Declan Ferguson [<mailto:declan.ferguson@finnebrogue.com>]

Sent: 11 May 2018 11:25

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

Cc: Denis Lynn <Denis@finnebrogue.com>; Brian McMonagle <Brian@finnebrogue.com>; Owen Paterson [**Section 40**]; Ronan Marlow <Ronan@fordelaw.com>; Mathew Forde <Mathew@fordelaw.com>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Michael Wight <Michael.Wight@food.gov.uk>; David Self <david.self@food.gov.uk>; Chris Elliott <chris.elliott@qub.ac.uk>; JUAN DE DIOS HERNANDEZ CANOVAS <juandedios@prosur.es>

Subject: RE: Finnebrogue - FSA meeting

Dear Carles,

Can you confirm the proposed length of the meeting and we can get our transport booked accordingly?

The attendees will be:

Denis Lynn - Chairman, Lynns Country Foods (t/a Finnebrogue Artisan)
Juan De Dios Hernandez Canovas - CEO, Prosur
Rt Hon Owen Paterson - MP
Professor Chris Elliott, OBE - Pro Vice Chancellor Faculty of Medicine, Health & Life Sciences, Queen's University Belfast
Mathew Forde - Director, Forde Campbell LLC
Declan Ferguson - Technical Director, Finnebrogue Artisan

Thanks

Declan Ferguson
Technical Director
Mobile: [Section 40]
Landline: [Section 40]



Communication 36 – For release

From: Carles Orri [<mailto:Carles.Orri@food.gov.uk>]
Sent: 11 May 2018 11:44
To: Declan Ferguson <declan.ferguson@finnebrogue.com>
Cc: Denis Lynn <Denis@finnebrogue.com>; Brian McMonagle <Brian@finnebrogue.com>; Owen Paterson [Section 40]; Ronan Marlow <Ronan@fordelaw.com>; Mathew Forde <Mathew@fordelaw.com>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Michael Wight <Michael.Wight@food.gov.uk>; David Self <david.self@food.gov.uk>; Chris Elliott <chris.elliott@qub.ac.uk>; JUAN DE DIOS HERNANDEZ CANOVAS <juandedios@prosur.es>
Subject: RE: Finnebrogue - FSA meeting

Thanks, Declan.

I understand the previous meeting lasted around 1.5hrs so we have allocated the same amount of time. As it will take place over lunch, I will arrange for some sandwiches/refreshments to be available during the meeting. Any dietary requirements we should be aware of?

Kind regards,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orra@food.gov.uk (please note both office and email addresses have changed)

Communication 37 – For release

From: Declan Ferguson [<mailto:declan.ferguson@finnebrogue.com>]

Sent: 14 May 2018 15:17

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

Cc: Denis Lynn <Denis@finnebrogue.com>; Brian McMonagle <Brian@finnebrogue.com>; Owen Paterson [**Section 40**]; Ronan Marlow <Ronan@fordelaw.com>; Mathew Forde <Mathew@fordelaw.com>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Michael Wight <Michael.Wight@food.gov.uk>; David Self <david.self@food.gov.uk>; Chris Elliott <chris.elliott@qub.ac.uk>; JUAN DE DIOS HERNANDEZ CANOVAS <juandedios@prosur.es>; [**Officials from Newry, Mourne and Down District Council**];

Subject: RE: Finnebrogue - FSA meeting

Hi Carles,

I have a [**Section 40**], hopefully those copied can also confirm any special dietary requirements they may have.

For our info can you confirm who will be attending the meeting from the FSA?

I have also copied in [**officials from Newry Mourne and Down District Council**] from our Local Authority for information.

Thanks

Declan

Declan Ferguson
[Technical Director](#)

Mobile: [**Section 40**]

Landline: [**Section 40**]

Communication 38 – For release

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

Sent: 18 May 2018 09:43

To: Declan Ferguson <declan.ferguson@finnebrogue.com>
Cc: Denis Lynn <Denis@finnebrogue.com>; Brian McMonagle <Brian@finnebrogue.com>; Owen Paterson [**Section 40**]; Ronan Marlow <Ronan@fordelaw.com>; Mathew Forde <Mathew@fordelaw.com>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Michael Wight <Michael.Wight@food.gov.uk>; David Self <david.self@food.gov.uk>; Chris Elliott <chris.elliott@qub.ac.uk>; JUAN DE DIOS HERNANDEZ CANOVAS <juandedios@prosur.es>; **[officials from Newry, Mourne and Down District Council]**; Colin Clifford <Colin.Clifford@food.gov.uk>; Mark Willis <Mark.Willis@food.gov.uk>
Subject: RE: Finnebrogue - FSA meeting

Hi Declan

Thanks for confirming your dietary requirements.

Stuart Armstrong (Acting Head of Food Policy) and myself will be attending the meeting as well as Colin Clifford and Mark Willis, whom you met at previous meetings. Unfortunately, Michael Wight is unavailable that week will not be able to attend.

Regards,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orri@food.gov.uk (please note both office and email addresses have changed)

Communication 39 – For release

From: Carles Orri [<mailto:Carles.Orri@food.gov.uk>]
Sent: 21 May 2018 15:01
To: Declan Ferguson <declan.ferguson@finnebrogue.com>
Cc: Denis Lynn <Denis@finnebrogue.com>; Brian McMonagle <Brian@finnebrogue.com>; Owen Paterson [**Section 40**]; Ronan Marlow <Ronan@fordelaw.com>; Mathew Forde <Mathew@fordelaw.com>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Michael Wight <Michael.Wight@food.gov.uk>; David Self <david.self@food.gov.uk>; Chris Elliott <chris.elliott@qub.ac.uk>; JUAN DE DIOS HERNANDEZ CANOVAS <juandedios@prosur.es>; **[officials from Newry, Mourne and Down District Council]**; Christopher McGarvey <Chris.McGarvey@food.gov.uk>; Colin Clifford <Colin.Clifford@food.gov.uk>; Mark Willis <Mark.Willis@food.gov.uk>
Subject: RE: Finnebrogue - FSA meeting

Hi Declan

For Thursday, I would like to suggest the following agenda.

1. Introductions
2. Finnebrogue's perspective on the categorisation and use of Prosur *natural flavouring* in its meat products.
3. FSA's questions on the use of Prosur *natural flavouring* in Finnebrogue's meat products.
Discussion to consider the questions sent by the FSA on 2 May 2018.
4. Next steps
5. AOB

Our aim for the meeting is to understand and gather as much information as possible on the composition and use of the extract in order to establish its regulatory status.

If there are any other items you would like to discuss on Thursday, please do let me know.

I look forward to our discussions on Thursday.

Regards,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orri@food.gov.uk (please note both office and email addresses have changed)

Communication 40 – For release

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

Sent: 21 May 2018 16:55

To: Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Mark Willis <Mark.Willis@food.gov.uk>; Colin Clifford <Colin.Clifford@food.gov.uk>; Christopher McGarvey <Chris.McGarvey@food.gov.uk>

Subject: FW: Advice on interpretation of Regulation 1333-2008 regarding Finnebrogue meat products

Dear All

By way of background to Thursday's meeting with Finnebrogue, please find attached the numerous exchanges with them (and their solicitors) on the use of Prosur *natural flavouring*. The FSA position is explained in detail in the emails highlighted in yellow.

[13 attachments removed as not in scope of request].

Many thanks,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orri@food.gov.uk (please note both office and email addresses have changed)

Attachments in scope

An email of 26 Jan 2019 FSA to Finnebrogue (included in earlier release)

From: Declan Ferguson <declan.ferguson@finnebrogue.com>
Sent: 19 April 2018 17:18
To: Carles Orri
Cc: Juan De Dios Hernandez Canovas; Denis Lynn; Mathew Forde
Subject: Meeting Request

Hi Carles,

I've left a few voicemails on your landline.

Would Tuesday work for a meeting next week?

If not it may be mid May before another date can be scheduled.

Thanks

Declan

Declan Ferguson

Technical Director

Mobile: [Section 40]
Landline: [Section 40]



Sent from my iPhone

Communication 41 – For release

From: Declan Ferguson [<mailto:declan.ferguson@finnebrogue.com>]
Sent: 22 May 2018 12:40
To: Carles Orri <Carles.Orri@food.gov.uk>
Cc: Denis Lynn <Denis@finnebrogue.com>; Brian McMonagle <Brian@finnebrogue.com>; Owen Paterson [Section 40]; Ronan Marlow <Ronan@fordelaw.com>; Mathew Forde <Mathew@fordelaw.com>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Michael Wight <Michael.Wight@food.gov.uk>; David Self <david.self@food.gov.uk>; Chris Elliott <chris.elliott@qub.ac.uk>; JUAN DE DIOS HERNANDEZ CANOVAS <juandedios@prosur.es>; **[officials from Newry, Mourne and Down District Council]**; Christopher McGarvey <Chris.McGarvey@food.gov.uk>; Colin Clifford <Colin.Clifford@food.gov.uk>; Mark Willis <Mark.Willis@food.gov.uk>
Subject: RE: Finnebrogue - FSA meeting

Hi Carles,

Thanks for the agenda below. This looks fine.

London Live are working on a documentary covering our Naked Bacon and they have asked to attend a number of meetings as part of the filming / documentary process. One of the meetings they have asked to attend is our meeting with you and your team.

Is this something you can accommodate?

Thanks

Declan

Declan Ferguson
Technical Director
Mobile: [Section 40]
Landline: [Section 40]



Communication 42 – For release

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

Sent: 22 May 2018 16:00

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

Cc: Denis Lynn <Denis@finnebrogue.com>; Brian McMonagle <Brian@finnebrogue.com>; Owen Paterson **[Section 40]**; Ronan Marlow <Ronan@fordelaw.com>; Mathew Forde <Mathew@fordelaw.com>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Michael Wight <Michael.Wight@food.gov.uk>; David Self <david.self@food.gov.uk>; Chris Elliott <chris.elliott@qub.ac.uk>; JUAN DE DIOS HERNANDEZ CANOVAS <juandedios@prosur.es>; **[officials from Newry, Mourne and Down District Council]**; Christopher McGarvey <Chris.McGarvey@food.gov.uk>; Colin Clifford <Colin.Clifford@food.gov.uk>; Mark Willis <Mark.Willis@food.gov.uk>

Subject: RE: Finnebrogue - FSA meeting

Hi Declan

I am afraid your request is not compatible with the purpose of the meeting. It is essential that we discuss in detail the composition and use of the Prosur extract. Having a film crew in the room would impede discussion and exchange of commercially confidential information.

Regards,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orri@food.gov.uk (please note both office and email addresses have changed)

Communication 43 – For release

From: Carles Orri

Sent: 24 May 2018 17:15
To: David Self; **[Section 40]**
Cc: Stuart Armstrong; Christopher McGarvey; **[Section 40]**; Mark Willis; Colin Clifford; Laura Eden
Subject: Finnebrogue meeting - 24 May 2018

David

For information. We met Finnebrogue, Owen Paterson and Chris Elliott today as planned. It was an agitated discussion and no significant progress was made. We could not agree on the interpretation of the legislation nor move on to more complex issues such as 'technical purpose'. However, as a compromise and way forward, the FSA has undertaken to seek an interpretation decision by the EU Commission (our proposal) on whether the product is an additive or not. This should provide for a harmonised understanding across Europe where many other similar products are allegedly sold too. Denis Lynn (Finnebrogue's owner) was positive about this outcome.

The Commission decision will be sought following a procedure set out in the additives legislation. In the meantime, the FSA will produce a letter explaining that the legal status of the extract has yet not been determined and the matter is being referred to the Commission. We will also indicate that the opinion is being sought on the legal definition of the product as a 'food additive' rather its safety.

[Section 40] – Please note that on the way out Finnebrogue mentioned the BBC were interested in discussing nitrates/nitrites. On the back of this meeting, Finnebrogue may want to drum up interest in this. They initially wanted to come to the meeting with a film crew which we did not agree to.

[Section 40] – Coms have our reactive lines but could you please ensure they are up to date?

Many thanks,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orra@food.gov.uk (please note both office and email addresses have changed)

Communication 44 – Note of Meeting 24 May 2018

Attendees

Denis Lynn (Finnebrogue)	Stuart Armstrong (Acting Head of Food Policy)
Declan Ferguson (Finnebrogue)	Carles Orri (Head of FAFCM)
Mathew Forde (Forde Campbell LLC)	Mark Willis (Head of Contaminants & Residues)
Juan De Dios Hernandez (Prosur)	Colin Clifford (Head of Novel Foods & Rad)
Owen Paterson MP (Consultant)	Chris McGarvey (FSA Legal)
Prof. Chris Elliot (Consultant)	[Section 40] (FAFCM)

1. Aim

The FSA explained the aim of the meeting was to better understand the nature of NATPRE T-10 HTS extract, produced by Prosur, and how it was used in Finnebrogue products. This improved understanding would enable the FSA to consider how the product sits within the regulatory framework. The FSA stated that it was aware of growing discussion across the EU about these types of product.

2. Finnebrogue and Prosur Perspectives

Finnebrogue explained it is trying to deliver in a safe and practical manner, products that respond to growing consumer demands in the light of potential concerns about consuming nitrites and nitrates in cured meat products. Finnebrogue highlighted growing innovation in the 'nitrite-free' meat product sector across the world and the European Union (EU), particularly in France.

Prosur described NATPRE T-10 HTS, as a dried fruit extract that is produced using traditional techniques. Prosur gave a very brief explanation of the production method **[Section 43]**. Finnebrogue and Prosur contended this to be a simple dried fruit extract.

Prosur further explained that **[Section 31]**. It subsequently suggested Prosur declare the ascorbic acid content on labels. Prosur believe its product to be a food or foodstuff and not an additive, and have declared this as a natural flavouring with Vitamin C.

Forde Campbell LLC declared it **[Section 43]**. Forde Campbell LLC went on to explain that its client uses NATPRE T-10 HTS as a flavouring because the consumer testing of that product against comparators demonstrated a consumer preference (96%) for bacon with the Prosur product. Finnebrogue explained the studies were undertaken with sensory panels, and that work had focused on flavour and consumer preference.

3. Discussion

The FSA sought to summarise its understanding of the Finnebrogue and Prosur positions so far, and asked whether NATPRE T-10 HTS is considered to fall within the scope of the EU Flavourings legislation¹. Forde Campbell LLC averred that the Prosur product is compliant with that Regulation as it is produced using a traditional method mentioned within Annex II of that legislation.

The FSA explained its difficulty in trying to reconcile the two contentions being put forward that the Prosur product is a food and consequently a food ingredient on the one hand, and a flavouring on the other. If the Prosur product is considered a food ingredient then it would

¹ Regulation (EC) No. 1334/2008

appear to fall outside the scope the EU Flavourings legislation when considered in the light of the definition of a flavouring. The FSA went on to explain that the legislative framework for food is broad, and whilst General Food law provides the definition and foundation for this, it is necessary to consider whether detailed regulatory frameworks that govern defined food products might also apply. The primary responsibility for all operators is to ensure compliance with the relevant legislative requirements therefore it is necessary to clearly understand which regulatory framework applies and goes beyond General Food law. Unlike salt, chilli powder and substances referred to by Finnebrogue, the FSA stressed that it is not immediately apparent that NATPRE T-10 is a food along these lines (i.e. a food ingredient or substance not normally consumed as a food in itself) as it is not readily available in nature, hence the need to consider the product in detail.

The FSA explained the necessity to consider two issues, 1) whether it is a food normally consumed as such; and 2) is what technological purpose if any the product has. Forde Campbell LLC reiterated **[Section 43]** Considerable discussion followed with regard to the appropriate legislative framework applicable to NATPRE T-10 HTS, and the legislative definitions of 'food additives' and 'flavourings.' Reference was also made to the FSA's guidance on food additives, particularly paragraphs 8 and 9. The FSA stated that its intention is to try and identify the appropriate legal framework within which the Prosur product lies and that this would in turn help to clarify the requirements that Finnebrogue need to meet. The FSA clarified that it had not reached a decision and had been seeking information to help inform the decision-making process. Prosur considered that it had already gone through the 'categorisation' process with the Spanish local authority and was unwilling to share information on how the product is made with the FSA.

Finnebrogue also raised concern about it being denied export certificates on the basis that DAERA believed the FSA were investigating Finnebrogue. The FSA clarified that it had not entered into any communications with DAERA on its discussions with Finnebrogue and declared that at no point had it dealt with or termed this matter as an investigation.

4. Conclusion

It had not been possible to agree on the interpretation of the legislation or guidance, nor consider the complex issue of 'technical purpose'. By way of compromise, and given that the issue under discussion relates to an ingredient manufactured in Spain and used in the UK, the FSA proposed to seek an interpretation decision from the European Commission under the procedure set out in Article 19 of the EU Additives legislation, which would yield a view on whether the Prosur product falls within the scope of that legislation. This way forward should provide for a harmonised approach across Europe where many similar products are allegedly also used, and provide both companies with the opportunity to forward the best possible dossier in support of their respective position. The FSA also explained that there is a concern across the EU about the inappropriate use of antioxidants and that the presence of high levels of ascorbic acid in NATPRE T-10 will be examined in detail by the European Commission and Member States, and so it was in the interests of both companies to provide as much detailed information as possible.

The FSA assured Prosur and Finnebrogue that it would undertake an obligation of confidence under the SCoPAFF procedure with regard to information shared with it. Finnebrogue were positive about this outcome.

In the meantime, the FSA agreed to produce a letter explaining that the legal status of the extract remains to be determined and the matter is being referred to the European Commission on the classification of this product in the light of the legal definition of a 'food additive', rather than on safety grounds.

END

[Section 40]

Communication 45 – For release

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

Sent: 12 June 2018 07:12

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

Subject: draft position statement / Prosur

Dear Mr Orri,

During our telcon of 30 May 2018 you confirmed that the FSA was in the process of preparing the draft 'position statement' as per the parties' agreement of 24 May 2018.

Can you please advise when we might be able to see a draft of that 'position statement'?

I look forward to hearing from you.

Yours sincerely

MATHEW FORDE

Director



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Communication 46 – For release

From: Carles Orri
Sent: 13 June 2018 16:55
To: 'Mathew Forde' <Mathew@fordelaw.com>
Cc: 'Declan Ferguson' <declan.ferguson@finnebrogue.com>; 'Denis Lynn' <Denis@finnebrogue.com>; Michael Wight <Michael.Wight@food.gov.uk>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Christopher McGarvey <Chris.McGarvey@food.gov.uk>; David Self <david.self@food.gov.uk>
Subject: RE: draft position statement / Prosur

Dear Mr Forde

Following on from our meeting on 24 May 2018, please find attached our position statement which we intend to circulate to local authorities and other relevant stakeholders. If you have any observations, please do send them to me by 27 June 2018 for consideration.

Kind regards,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orra@food.gov.uk (please note both office and email addresses have changed)

[Attachment removed as content in draft form – final version was not completed].

Communication 47 – For release

From: Mathew Forde [<mailto:Mathew@fordelaw.com>]
Sent: 19 June 2018 13:06
To: Carles Orri <Carles.Orri@food.gov.uk>
Cc: 'Declan Ferguson' <declan.ferguson@finnebrogue.com>; 'Denis Lynn' <Denis@finnebrogue.com>; Michael Wight <Michael.Wight@food.gov.uk>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Christopher McGarvey <Chris.McGarvey@food.gov.uk>; David Self <david.self@food.gov.uk>
Subject: RE: draft position statement / Prosur

Dear Mr Orri,

In our view your proposed position statement does not align with either the content or purpose of the draft position statement document discussed and agreed in principle at the meeting on 24 May

(which was intended to be communicated in the form of a letter from the FSA to our client as opposed to a general communique to local authorities and other stakeholders). I can confirm that we are still in the process of taking instructions from our client and we are also in discussion with Prosur's representatives with regard to the text of any agreed position statement. We will endeavour to revert with our comments and proposed revisions this week, and certainly before 27 June. We would therefore respectfully request in the interim that no position statement should be formally issued by FSA until we have an agreed text.

Kind regards

Mathew

MATHEW FORDE

Director



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Communication 48 – For release

From: Carles Orri

Sent: 22 June 2018 07:50

To: Mathew Forde <Mathew@fordelaw.com>

Cc: 'Declan Ferguson' <declan.ferguson@finnebrogue.com>; 'Denis Lynn' <Denis@finnebrogue.com>; Michael Wight <Michael.Wight@food.gov.uk>; Stuart Armstrong <Stuart.Armstrong@food.gov.uk>; Christopher McGarvey <Chris.McGarvey@food.gov.uk>; David Self <david.self@food.gov.uk>

Subject: RE: draft position statement / Prosur

Dear Mr Forde

At our meeting on 24 May 2018, the FSA agreed to produce a letter explaining that the legal status of the extract remains to be determined and the matter is being referred to the European Commission on the classification of this product in the light of the legal definition of a 'food additive', rather than on safety grounds.

I understand that Declan Ferguson has been in discussions with Newry, Mourne and Down District Council and the Department of Agriculture, Environment and Rural Affairs (DAERA) and informed them of the forthcoming FSA letter regarding the legal status of the extract. In these circumstances where other government organisations are awaiting our advice, it would be inappropriate not to share our position with them.

Regarding sharing our position with other Local Authorities (LAs), this is standard practice for situations where additional clarification is needed which can be helpful to enforcers across the country. Finnebrogue's nitrite-free products are widely commercialised across the UK so this information is relevant to LAs.

We would therefore intend to share the contents of the position statement with relevant stakeholders the day following despatch of the letter to Finnebrogue. Both the company's position and the FSA's position will therefore be clear to those with an interest.

Kind regards,

Carles

Carles Orri

Head of Food Additives, Flavourings and Contact Materials | Food Policy | Food Standards Agency | Clive House | 70 Petty France | London SW1H 9EX | +44 20 7276 8406 | carles.orri@food.gov.uk (please note both office and email addresses have changed)