

PRIMARY AUTHORITY ASSURED ADVICE

CCC/830242/F

Responsibility for consumer information when producing under licence

If you require further information and the full version of this advice and guidance, please contact the Primary Authority via the Primary Authority Register. Alternatively email deniserion@bfff.co.uk or hollyjones@bfff.co.uk

Notes:

1. This document includes best practice advice and a brief summary of the requirements of the [Primary Authority Statutory Guidance](#). It should be read alongside the Primary Authority Statutory Guidance.
2. Primary Authority Advice is assured. This means that when a business is following the advice the primary authority can direct against any proposed enforcement action which is inconsistent with the advice

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Introduction

This Primary Authority Advice has been produced by Cambridgeshire County Council in partnership with British Frozen Food Federation for use by members of British Frozen Food Federation to help your business comply with the law. If you follow this advice correctly your local trading standards officer should respect this and not ask you to comply with the law in a different way.

The Cambridgeshire County Council contact;

Trading Standards Administration Team

01954 284619

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Primary Authority Advice

Relevant Legislation:	<p>REGULATION (EU) No 1169/2011 on the provision of food information to consumers (FIC)</p> <p>Note 1: European Regulation on the provision of food information to consumers (EU) No. 1169/2011 (the EU FIC) will continue to apply in the UK as “retained EU law” after EU Exit. The Food Information Regulations 2014 (FIR) as amended, and equivalent regulations in Wales, Northern Ireland and Scotland provide for the execution and enforcement of the EU FIC in the UK.</p>
Geographic Applicability:	This has the status of Primary Authority Advice in England.
Scope:	This advice is addressed to businesses in the regulated group which are food business operators responsible for labelling of prepacked food.
Details of request:	FAQ: Where you have a prepacked branded product, it is clear that the responsibility for the consumer information lies with that brand owner. However, who is responsible when the brand owner is not a food business operator and the FBO is producing under licence – an example would be “Disney®” biscuits or even “Bisto®” yorkshire puddings?
Advice provided:	Article 8(1) makes it clear that the business under whose name the food is marketed (the brand owner) is responsible for the information provided to consumers. Article 9(1)(h) requires that the



	<p>name and address of said business shall appear on the packaging or label.</p> <p>The business that is responsible for the food information will be the food business operator who has control of specifying the mandatory food information. This will also be the business who verifies that the food information provided is correct.</p> <p>In almost all situations this will be the same as the name of the brand owner under whose name the foodstuff is marketed, regardless of the manufacturing business. Examples would include retail own label, or products produced under contract for large food business such as national/international food brands with registered trademarks. In this instance strict guidelines are given by the brand owner, and they will take steps to verify that their standards have been met, and their name and address will be on the food label in accordance with article 8(1).</p> <p>However, in a situation where a food is marketed under a brand that may not be a food business, or in any case has no input into the food information – either specification or verification, the responsibility for the food information rests elsewhere.</p> <p>For example, “X® Yorkshire puddings” when X® is the brand but the brand owner of X® has no input into the food information that appears on the packaging. The brand owner is merely licensing use of its brand and possibly providing a key ingredient or component of the food.</p> <p>The responsibility for the food information would be documented through a contract between the “brand owner” and the food business that is taking responsibility for the presence and accuracy of food information – who could be a producer, wholesale business or retailer: In this circumstance the business that is specifying and verifying the food information is the responsible business whose name and business address must appear on the label. Wording is typically “Manufactured under licence by Xx Foods”.</p> <p>Enforcement will be guided by the name and business address appearing on the packaging or label. The name and address appearing on the pack is that of the Food Business Operator taking legal responsibility for the food composition and information.</p>
Document references:	This guidance was previously issued under code CCC/031760/5
Communication with businesses	<p>This advice will be published in electronic format and located in the Technical Guidance area of the BFFF website:</p> <p>http://bfff.co.uk/technical/guidance/.</p>



<p>Communication with enforcing authorities:</p>	<p>An enforcing authority, proposing to take enforcement action against a business, is only required to notify the primary authority, where they are aware that the business is a member of a regulated group. While guidance states that the enforcing authority should ask you whether you are relying on Primary Authority advice, we recommend that you ensure you communicate this as soon as possible, and do not wait to be asked. (para 21.5 of the Statutory Guidance refers). The scheme does not allow for a business to make a notification to the primary authority where an enforcing authority has already taken action in respect of which it [the enforcing authority] failed to make the required notification to the primary authority (para 21.20 of the Statutory Guidance refers).</p> <p>Additionally, the rules allow for you (or the Co-ordinator) to notify the primary authority (para 21.19 of the Statutory Guidance refers).</p> <p>Once a primary authority receives notification, statutory time limits apply (usually 5 days) in which time they must respond to the notification. (Paras 21.9 & 21.10 of the Statutory Guidance refer).</p>
<p>Issued by:</p>	<p>Paul Maylunn, Senior Trading Standards Officer</p>



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