



**The Chartered Trading Standards Institute (CTSI) response to:
Consultation on local authority and district council guidance on Grey Market goods in the
United Kingdom.**

Response sent to: food.intelligence@food.gov.uk

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This response is being sent on behalf of The Chartered Trading Standards Institute and has been compiled by the expertise of CTSI members.

ABOUT CTSI

Founded in 1881 (as the 'Incorporated Society of Inspectors of Weights and Measures'), today's Chartered Trading Standards Institute (CTSI) is one of the world's longest-established organisations dedicated to the field of Trading Standards and Consumer Protection.

At CTSI, and through the Trading Standards profession, we aim to promote good trading practices and to protect consumers. We strive to foster a strong vibrant economy by safeguarding the health, safety and wellbeing of citizens through empowering consumers, encouraging honest business, and targeting rogue practices. We provide information, guidance and develop evidence-based policies and campaigns to support local and national stakeholders including central and devolved governments.

CTSI also provides the secretariat to the All-Party Parliamentary Group on Consumer Protection and campaigns on range of topics including product safety issues. CTSI is responsible for business advice and education in Trading Standards and consumer protection legislation, including running the Business Companion service to provide clear guidance to businesses on how to meet their legal and regulatory obligations.

CTSI is also contracted to provide administrative support to the Approved Codes Scheme which was established to give consumers greater confidence when they buy from members of the approved scheme and raises the standards of trading of all businesses that operate under the relevant Approved Code for that sector. CTSI run training and development events for both the Trading Standards profession and a growing number of external organisations. We also provide accredited courses on regulations and enforcement.

Response:

Does the guidance clearly set out how authorities can use food law to enforce instances of non-compliant Grey Market goods?

CTSI can see that the guidance sets out different pieces of legislation clearly, for the enforcement of this work. For example, if Trading Standards officers and professionals are dealing with incorrect allergen labelling/declaration, (e.g. non-English labelling) then there is a clearer justification for treating the product as being 'unsafe'. We would like to highlight that if a product contains a banned additive, excess additives or non-permitted additive, this **may** not be a safety issue but could be one of non-compliant composition and/or labelling matter.

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For Food Standards issues with these types of food, CTSI feel it would be useful to have more enforcement options to take, instead of only relying on foods being deemed unsafe. Paragraph 11.3 of the drafted guidance says that food labelling breaches should be addressed by service of an improvement notice. CTSI would recommend that the word 'should' should be changed to 'can', as Improvement Notices are one enforcement option available to the enforcement officer and not a 'must'; CTSI recognise that there are various ways of achieving compliance before getting to the stage of serving an Improvement Notice. This is reflected in Paragraph 13.1, which refers to a 'graduated approach to enforcement'.

CTSI note that Paragraph 11.4 specifies the timescale for compliance for a FIRIN to not be less than 14 days. CTSI is not clear where this 14-day period stipulation has come from, as this is not specified in relation to Food Information Improvement Notices. It is for the enforcement officer to discuss and decide with the business on appropriate time scales.

Is there anything missing from the guidance or that the guidance does not adequately cover?

In the list of legislation, in Paragraph 8.1, the guidance mentions Regulation (EC) No.1333/2008 for rules on food additives. CTSI would like to raise that there is no mention of:

- Assimilated Regulation (EC) 1129/2011 – contains the revised Annex from EC1333/2008
- Assimilated Regulation (EC) 1130/2011 – deals with food enzymes/nutrient preparations
- Assimilated Regulation (EC) 232/2012 - removes E104, E110, E124 from Group III colours

There is also no mention of the UK Bread & Flour Regulations 1998 (as amended in 2022) to ban flour bleaching agents. Also, Paragraph 15.3 lists areas of intelligence that should go on IDB (The Intelligence Database used by Trading Standards professionals and others to record and share intelligence). CTSI is concerned that listing areas of intelligence may lead to intelligence only being recorded for those areas, rather than being recorded for all areas of intelligence.

Do you feel the enforcement options outlined (e.g., seizure, improvement notices, prosecution) are sufficient and proportionate? If not, what additional options should be considered?

CTSI feel it is important to note that such problems of composition and labelling are non-compliant Food Standards contraventions. CTSI would recommend that further work should be undertaken to understand and establish how and where these products are being placed onto the UK market. By dealing with any issues at the earliest opportunity, it can resolve issues before they become widespread.

CTSI is aware that many retailers buy from wholesalers or distributors, in good faith, believing the products to be legally compliant. To take enforcement action at individual retailer is unlikely be the most effective and long-term solution to use the enforcement options available and does not tackle with the issue(s) at source level. CTSI feel there needs to be more emphasis on and support with the traceability of products back to those bringing them into the UK to ensure the right legal person(s) are held to account.

Is the guidance on over-stickering and labelling breaches clear?

CTSI feel that the Paragraph 13 guidance on over-stickering is clear; that the maintenance of compliant labelling is essential for imported food.

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Paragraph 16.4 states that the responsibility for over-stickering lies with the importer. CTSI members tell us that this does not happen, as these importers are not usually supplying directly to the final consumer. If importers are supplying to distributors and retailers, they only must provide 'accompanying documentation'. This can be given in the form of sheets of adhesive labels, for the retailers to stick on, but not always. Placing the emphasis solely onto the local retailer, who is unlikely to have the time or resources to do this, seems unfair and unreasonable.

CTSI would suggest and support a change to the legal obligations of importers to make it compulsory for them to apply UK compliant over-stickers to their actual products prior to releasing them onto the UK market.

Also, Paragraph 11.1 discusses 'a UK **or** EU address of the importer is not sufficient'; however, an EU address alone is not sufficient, if not accompanied by a UK address. Even if importing directly into Northern Ireland, there should be a UK **and** an EU address present. CTSI would also favour the use of 'geographical address' when discussing addresses. In Paragraph 14.3.d, it is not clear why inaccurate over stickering could also amount to an offence under non-food legislation as may be applicable. E.g.: Digital Markets, Competition and Consumers Act 2024 or under the Fraud Act 2006.

Are the provided specimen notices and example letters useful for your enforcement work?

CTSI feel that the specimen letters are useful templates, for providing information to retailers. It is worth noting also, that some business owners have English as an additional language. CTSI would welcome a more accessible version of this advice; possibly provided with pictures or/and infographics, so that enforcement officers can supply the information to a greater number of food businesses.

In relation to the 3rd page of the example letter, 3rd paragraph, it is not known why the sentence 'Important Information for your food business,' appears at the end of the paragraph.

Would any other examples be useful?

CTSI would like to raise that there are a lot of technical terms and information provided in the specimen letters to retailers. As mentioned previously, a simplified version of this correspondence would be a useful option, to communicate the message(s) out to more food business owners. Something to educate consumers about imported food would also be of value and CTSI may be able to offer help in constructing such information for consumers.

Also, CTSI's Lead Officers for Food and Nutrition have created a useful Guidance Note on non-compliant products for enforcement officers. This note contains several examples of non-compliant products and notes guiding the officer what to look for. CTSI would be happy to share this with FSA Colleagues, to assist further, if required.

Does the guidance give you greater confidence to take enforcement action when noncompliant Grey Market goods are found?

CTSI think the guidance is useful, to provide prompts for possible enforcement action and welcome having this guide available to enable a more consistent approach to this problem.

Are there any gaps in the guidance regarding cross-border enforcement or coordination with port health authorities?

CTSI feel that there is a need to educate those in port health work on what to look out for – an Appendix to this guidance, with examples on what to look for, would be helpful (Paragraph 14.4).

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CTSI are aware that some importers partake in 'Port Shopping', whereby they choose to land the food at the ports with likelihood of the least number of checks or detail of checks. CTSI would urge action to coordinate and support all the ports to do the same checks on a regular basis. This would help to eliminate much of the non-compliant food even entering the UK market

For future consideration, what additional training or resources would be helpful to support in connection with this guidance?

CTSI would welcome assistance and resources, from government organisations, to support Port Authorities. If more is done to monitor these products at their entry points, it will reduce the work that has to be done by inland authorities, giving the greatest benefit to the consumer and the local business. This would help ensure a level playing field for businesses and would boost economic growth.

CTSI recognise that there is a need to educate consumers on what these products are so they can make informed decisions on whether to purchase them or not. (e.g. "If no UK address present, do not buy the product."). In turn, this may help encourage market forces to work towards cleaning up this market sector. Resources to publicise these messages to purchasers and consumers, would be very helpful and welcomed.

Do you have any other feedback?

CTSI have already provided a helpful guidance note in this area, containing common non-compliant products. This could be useful for training port authorities, local authorities and other stakeholder agencies on what to look for on the UK market.

CTSI would also support the establishment of a notification portal for imported food; where importers need to register what they are bringing into the country – which could work in a similar way to how the Cosmetic Products Notification Portal (CPNP) works for product safety.