

Distribution and import of foods including food supplements

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According to the statutory provisions in the Federal Republic of Germany, it is the competent authorities of the federal states, not BfR, that decide on the marketability of food, i.e. on the legality of the distribution and import of food. As, however, BfR is approached again and again by companies about this, this document contains some important information on this topic.

1. Application for an exemption or general order

Food, which is to be distributed in the Federal Republic of Germany, must comply with food legislation, more particularly, the provisions of the Food and Feed Code (LFGB) of 1 September 2005 (BGBl 2005 I p. 2618ff) and ordinances enacted pursuant to that Act.

In the case of food whose ingredients do not comply with the food law provisions of the Federal Republic of Germany, an application for exemption pursuant to § 68 LFGB or an application for a general order pursuant to § 54 LFGB has to be submitted for products that have been properly placed on the market in other EU Member States and are to be imported into the Federal Republic of Germany. The applications are to be submitted to the Federal Office of Consumer Protection and Food Safety (BVL) (<http://www.bvl.bund.de>). BfR is involved in the application procedure.

2 Food supplements

Food supplements are foods and must, therefore, comply with food law provisions. In principle, they may be placed on the market without marketing authorisation. They are governed, amongst other things, by the provisions of LFGB and the Ordinance on Food Supplements (NemV). NemV specifies an obligation for notification to BVL.

Different rules apply to medicinal products. In the case of proprietary medicinal products, they require marketing authorisation pursuant to medicines legislation.

3. Notification procedure for food supplements pursuant to § 5 of the Ordinance on Food Supplements

Every manufacturer or importer who wishes to place a food supplement on the market, must notify this to BVL at the latest in conjunction with the first placing on the market and submit a sample of the label to be used on the product.

4. Notification procedure for dietetic foods pursuant to § 4a Dietetic Food Ordinance (DiätV)

Some dietetic foods must comply with a notification procedure pursuant to § 4a Dietetic Food Ordinance for which BVL is also responsible.

5. Approval procedure pursuant to the Novel Foods Ordinance (NFV)

Approval from BVL is required for the distribution of “novel foods” within the intendment of NFV. Approval applications pursuant to § 4 NFV and applications for the elaboration of an

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expert opinion on essential equivalence pursuant to Article 3 para 4 NFV may be submitted to BVL.

6. Food control of the federal states

Within the federal system of the Federal Republic of Germany, food control is the responsibility of the competent authorities in the federal states. The competent authorities of a federal state in which the product is distributed, more particularly the federal state in which the registered office of the manufacturer, importer, supplier or distribution company is located, decides whether a product is a food or medicinal product requiring marketing authorisation.

Information about which public authority is competent in a concrete case can be obtained from the senior regional authority of the federal state. The list of senior regional authorities can be accessed on <http://www.bfr.bund.de/cd/1095>

7. Advice from CCIs or professional associations

For importers, it often makes sense to seek advice from a Chamber of Commerce and Industry (CCI), an industry association or a food chemist on the spot.

8. Import provisions for food

Specific national and EU-wide provisions apply to the import of foods into Germany. Importers must also comply with them. As the first link in the domestic commercial chain, they are responsible for the marketability of the imported products.

The European Commission has published the following guidance document which contains information about important EU statutory requirements, "Guidance document – Key questions related to import requirements and the new rules on food hygiene and official food controls" under http://ec.europa.eu/food/international/trade/interpretation_imports.pdf (Version of 5 January 2006)