

FOOD GROUP

NEWSLETTER

Rollits
SOLICITORS

Welcome to the March edition of Rollits' Food Group Newsletter. We hope you find it interesting and informative. Feedback is always appreciated.

Following Rollits' successful dinner to launch its new Food Group last month, a programme of further events is being planned. These will include seminars and round table discussions for leading players in the food industry.

Rollits intends to stay as close as possible to the key decision makers and policy

formers in the sector. If you wish to participate in future Food Group meetings, do let us know.



FOOD GROUP DIRECTOR

Celebrity Chef Launches New Food Initiative



Celebrity chef Celia Brooks Brown from BBC2's Saturday Kitchen

Rollits celebrated its new Food Group with a dinner at The Deep, Hull's major visitor attraction, on 1 February 2006. Celebrity chef Celia Brooks Brown from BBC2's Saturday Kitchen took time out from her popular Gastrotours of London's culinary hotspots to make a special guest appearance at the event.

Julian Wild, Food Group Director at Rollits, said: "We were delighted to work in partnership with The Deep to host this dinner and to bring such a leading chef as Celia to Hull. It was a special occasion, bringing together leading members of the food industry and the local business community to celebrate Rollits' exciting new Food Group."



IN THIS ISSUE

Celebrity Chef Launches
New Food Initiative

Food M&A Momentum Continues

Food Law and Technical

Food News

a taste of the news . . .

M & A Food Momentum Continues

Christmas and the New Year can be a quiet time in the world of mergers & acquisitions, with food companies heavily involved in the frantic seasonal surge or planning for the usual post-festivities lull as new diets kick in. But this year the spate of deals in the Autumn carried on into December and January with no discernible slackening of pace.

Early in December Tate & Lyle, the international manufacturer of renewable food and industrial ingredients, announced agreements to acquire US specialty food ingredients company Continental Custom Ingredients, a leader in dairy stabilisers and emulsifier systems, based in Illinois, and the Italian based Cesalpinia Foods, a producer of natural flavours, natural gums and stabilisers, for £74m.

Britvic, the soft drinks business, floated on the Stock Exchange later in December at 230p a share, valuing the company at £494m.

On a rather smaller scale Glisten Plc, the fast-growing confectionery and snack foods group, acquired Lyme Regis Fine Foods, a manufacturer of organic cereal and fruit bars and organic fruited snacks with sales of £3.6m from two sites in Hampshire.

The Christmas rush also saw Nestle acquire Greek-based ice cream maker Delta Ice Cream, with four production sites and several well-known brands, for €240m. Among the other food multinationals Unilever announced its sale of the Mora brand, with factories in Maastricht and Mol (Belgium), to snack producer Ad van Geloven, which owns the Van Lieshout snack brand acquired from Unilever in 2002.

On the domestic front Christmas closed out with the sale of leading freshly squeezed juice, fresh fruit and smoothies manufacturer Orchard House Foods to Wellness Foods, a new buy-in company headed by Philip O'Connor, formerly a senior executive with Kerry Foods in the UK.

Moving into January, Cadbury Schweppes sold its Holland House cooking wines business to condiments supplier Mizkan Americas for \$37m, which followed its sale the previous month of Grandma's Molasses to B&G Foods for \$30m. With Cadbury Schweppes also completing the £1.3bn sale of its European



Beverages business to Blackstone and Lion Capital, it is rapidly paying off debt and concentrating on its core business. However, takeover rumours continue to circulate around Cadbury Schweppes, with Nestle and Hershey most often mentioned. With an enterprise value of £16 billion and obvious regulatory issues, a bid seems unlikely in the short term.

January also saw the death throes of Canterbury Foods, which had already sold its meat products business to Tranfield Foods, then went into administration and finally sold three of its remaining pastry businesses to an MBO vehicle, Medway Foods, led by former Chief Executive Paul Ainsworth.

Another business which went into administration in January was snacks company Golden Wonder, which promptly sold its Corby factory to Tayto. The ambitious Northern Irish snack manufacturer has subsequently bought Golden Wonder's Scunthorpe factory, together with the Golden Wonder brands, although it has sold Nik Naks and Wheat Crunchies to United Biscuits.

Following the purchase by Thresher Group of most of the Unwins off-licence chain from the administrators shortly before Christmas, Bargain Booze has been sold by BWG to ECI Partners for £63.5m in a secondary buy-out.

Marks & Spencer has bought 28 Iceland stores for £38m on a sale and leaseback basis to convert them to its successful Simply Food format. After fitting out, the stores should open in the Summer.

French cheese and dairy company Lactalis, rumoured in December to be interested in major UK dairy company Dairy Crest, has acquired Italian cheesemaker Galbani from private equity owners BC Partners for €2 billion. Lactalis and Nestle have also announced a joint venture in yoghurts and chilled desserts in Europe.



In confectionery Close Brothers Growth Capital backed a management buy-in by Steven Joseph and Chris Marshall of the £40m Toms Confectionery business from Toms Gruppen of Denmark, but not long afterwards Thorntons announced that they had terminated sale discussions with Christopher Burnett, who stepped down as chairman and left the company. The revised indicative offer of 130p per share fell well short of the 185p per share proposed last August. Separately, rumours of a takeover of Thorntons by Icelandic group Baugur have been discounted. Thorntons' half year sales to January were down 6.2%.

Early in February United Biscuits appointed Goldman Sachs to conduct a strategic review which is likely to lead its sale or floatation for £2bn or more. Cinven and PAI Partners each own 30%.

Heinz pulled off the first of a number of potential deals, confirming the sale of its European seafood business to Lehman Brothers Merchant Banking for €425 million, equating to about 1x sales. The Heinz seafood activities include the well-known John West brand.

Continuing the fishy theme, February also saw the sale by EQT of the Findus frozen products business in Scandinavia and France to FoodVest, controlled by Capvest Equity Partners. FoodVest is the holding company of Young's Seafood. The sale price of Findus,

which does not include the UK Findus brand, is believed to be in the region of £375 million.

Other acquirors with strong seafood connections are Bill Hazeldean and Pat Pocock, who sold their Macrae Food Group to Young's in 2004. Now Messrs Hazeldean and Pocock have formed Food Investment Group and made their first two acquisitions through a new Pastry Group, Thomas Foods in Sheffield and Giles Foods in Milton Keynes, with a combined turnover of £25m. Thomas Food Group has subsequently passed to Duke Street Capital to add to its other recent acquisition Buckingham Foods.

Major Irish fruit company Fyffes has acquired a 60% stake in Nolem, the largest melon producer and exporter in Brazil.

It was no surprise when, on 9 February, Unilever announced the sale of most of its European frozen food division, rumoured to be worth in the region of £1 billion. Many of the large private equity players, who had been circling the Heinz and Findus frozen businesses, will be lining up to look at the Unilever frozen brands such as Birds Eye and Iglo.

And, finally, the Competition Commission has cleared Heinz's £470m acquisition of HP Foods, including sauce brands such as Lea & Perrins and HP Sauce.



Food News • Food News • Food News

AarhusKarlshamn UK, based in Hull, won three awards at the recent Food From Britain Export Awards, including Food and Drink Exporter of the Year 2005.

The remorseless advance of the H5N1 bird virus is causing a significant decline in poultry sales on the Continent, resulting in surplus chicken entering the UK market at depressed prices.

One area where sales are growing is in value-added milk with some retailers seeing sales increasing by over 50% in 2005 and consumer demand for organic and functional milk particularly strong. Meanwhile Arla has announced its UK launch of Lactofree, a lactose free dairy drink.

The Office of Fair Trading has recommended that the grocery market should be the subject of a major Competition Commission investigation.

The leading UK grocery multiples reported strong Christmas trading: M&S recorded a 7.9% increase in third quarter food sales (like-for-like sales up 5.1%); Tesco reported UK like-for-like

Christmas/New Year sales (excluding petrol) up 5.7%, with seasonal foods and Tesco Finest performing particularly well; Sainsbury sales for the third quarter increased by 5.2% like-for-like, with record customer transactions during Christmas week.

A new report from Datamonitor indicates that obesity is the number one health trend affecting the food and drink industry. As many as 66% of US adults and half of Europeans were overweight in 2004, 46.5% of consumers consider health more important than taste.

The Grocer's Top Products survey confirmed that the UK food industry has responded to the growing focus on health with lower fat, salt and sugar versions of the leading brands.

Marks & Spencer is likely to step up the pace of its highly successful Simply Food roll-out, with the pilot on BP forecourts set for major expansion.

Food Law and Technical

The controversial traffic light labelling scheme has been adopted by the Food Standards Agency, despite being opposed by six food industry multinationals, Danone, Kellogg, Kraft, Nestle, Pepsico and Unilever. They have opted to display Guideline Daily Amounts on the front of packs, a scheme pioneered by Tesco. Heinz and Campbell have recently followed suit. The Food and Drink Federation has rejected traffic light labelling as "simplistic and potentially misleading to consumers."

Cadbury and Mars have joined the BCCCA 'BeTreatwise' initiative and will display GDA information on chocolate and sweets "as part of a healthy balanced diet."

Leading crisp manufacturer Walkers is cutting the amount of saturated fats in its products by 70% by cooking the crisps in Sunseed oil, whilst also reducing the salt content.

A recent FSA survey of informative labelling to help consumers has found that manufacturers are generally meeting best practice recommendations with over 80% of the products sampled following the key guidance.

The FSA is seeking to simplify food regulation to aid compliance and reduce the administrative burden. The FSA is a keen advocate of better regulation and is currently consulting on its draft simplification plan.

Meanwhile, the UK government is considering legislation on unhealthy food promotion to children and has set a 2007 deadline.

United Biscuits has lost its appeal before the VAT Tribunal to get McCoy's Dips treated as a food exempt from VAT, rather than a snack on which tax is payable. *Rollits' Tax team led by Nasim Sharf offers advice on a wide range of tax matters.*



The Court of Appeal has referred to the European Court of Justice the decision to allow Melton Mowbray pork pies to gain Protected Geographical Indication (PGI) status. The PGI application, instigated by the Melton Mowbray Pork Pie Association and supported by Defra, is being considered by the European Commission, but will now depend on the ECJ ruling. The PGI would restrict production of Melton Mowbray pork pies to a defined geographical area, albeit one which stretches from Nottingham to Northampton.

Samworth Brothers, who have been major supporters of the MMPPA, are preparing for the next PGI battle in which they have a major interest, Cornish pasties. Lincolnshire sausages and Yorkshire puddings could follow a similar path.

Rollits' Commercial department headed by Keith Benton has extensive experience of intellectual property matters and regularly advises food companies on brand issues. Rollits' Food Group Director, Julian Wild, has previously worked on the Melton Mowbray pork pie case and has considerable knowledge of PGIs.

A reminder that new food hygiene laws came in on 1 January 2006. They affect all food businesses, including caterers, primary producers (such as farmers), manufacturers, distributors and retailers. More information can be obtained from the FSA website or by consulting Rollits' Food Group.



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The media is playing an ever-increasing role in food nutrition and eating trends. The media regulator Ofcom, supported by a nutrient profiling model from the FSA, is seeking to reduce junk food advertising aimed at children. But the model has been "comprehensively rejected" by the FDF as "being subjective and having no rational scientific basis."

New European Commission guidelines would allow product placement on popular TV programmes on condition that viewers are made aware of the placement at the beginning of the broadcast.

The Gangmasters (Licensing) Act 2004 provides that all labour providers have to be licensed. Consultation on regulations establishing due diligence checks labour users must make will be conducted this year. Concerns have been expressed that the new legislation could result in a shortage of available workers.

INFORMATION

If you have any queries on any articles in this newsletter or other

food law matters generally please contact:

Julian Wild on 01482 337304 or julian.wild@rollits.com

This newsletter is for the use of clients and will be supplied to others on request.

It is for general guidance only. It provides useful information in a concise form.

Action should not be taken without obtaining specific advice.

We hope you have found this newsletter useful. If, however, you do not wish to receive further mailings from us, please write to Mrs. Pat Coyle, Rollits,

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The law is stated as at 15 March 2006
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