

### 36 Branded dynamism

The category may be in regulatory stasis – but the top brands have found ways to grow

### 38 A long time coming

The regulatory road for CBD products has been long and winding. Here's a timeline

### 39 Beyond CBD

How brands like Trip, Medahuman, Intune and One Living are diversifying



# Can CBD finally take off?

The FSA's positive safety assessment is a welcome boost to CBD. Will shelves soon be flooded with legally compliant products?

James Beeson

**L**ast October, CBD suppliers received news that was likely to leave even the coolest cats reaching for something to steady their nerves. After receiving new evidence from its independent scientific committee, the Food Standards Agency slashed its daily intake guidance for CBD to just 10mg a day.

The move meant single serves of products from leading brands like Trip and Goodrays exceeded what the FSA deemed a safe daily intake over a prolonged period.

Fortunately, the guidance was just that – there was no legal requirement to reformulate lines or remove stronger strengths from the shelves. And the advice – which only relates to consistent, long-term use – doesn't appear to have deterred shoppers.

Across leading CBD brands stocked in

grocery multiples and discounters, sales have climbed 60% to £18.3m [NIQ 52 w/e 15 June 2024]. Trip's CBD drinks and supplements are up 87.4% to £13.3m, while Goodrays' sales have surged by 181.6% to £2.2m.

"We've only experienced increased demand since the FSA's October update," says Goodrays founder Eoin Keenan. "We've secured three retail launches in the UK, a major international launch in France, and our distribution points have grown to over 10,000 sites."

**"We've only experienced increased demand since the FSA's October guidance update"**

Since then, fortunes have only improved. The FSA has progressed novel foods applications further, suggesting an end is in sight to an agonising four-year wait on innovation.

So who is leading the race to have their wares green-lighted for sale? Will the FSA's progress prompt more retailers to support the category? And when will CBD brands finally be able to bring new lines to market?

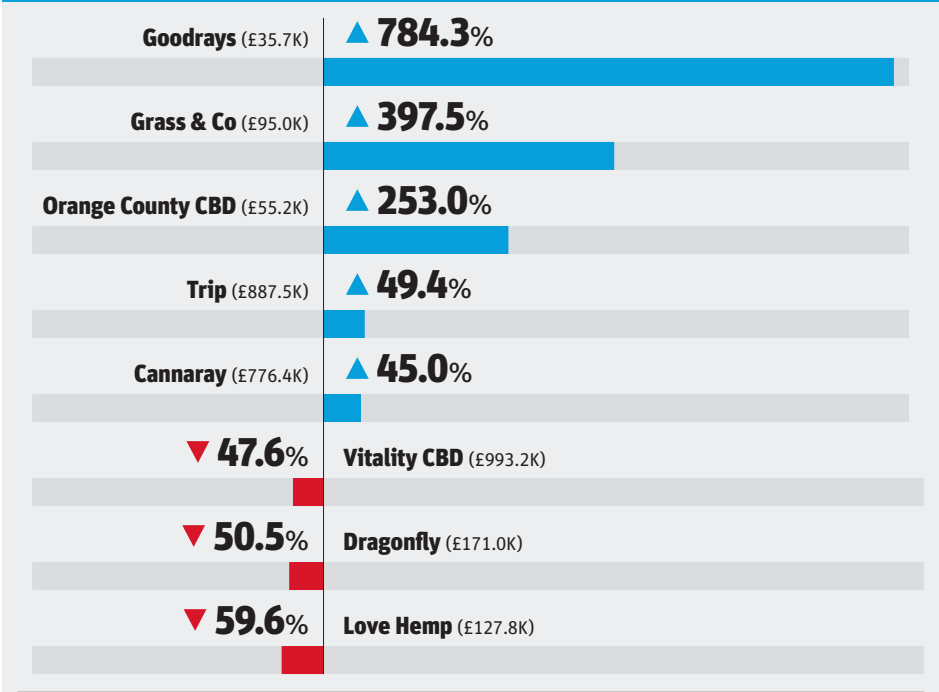
The good news for the category came in May, when the FSA gave a positive safety assessment to novel food applications from Pureis and Cannaray. They became the first to progress from the 'risk assessment' to 'risk management' stage of the process.

A further application progressed in July, bringing the total number of products to reach risk management to around 3,000 – around a quarter of the FSA's public list of products tolerated for sale.

After several years of slow progress that ➔



Top CBD brands by value change



Source: NIQ 52 w/e 15 June 2024

- CBD remains a relatively small, restricted market, but brands can't be faulted for their dynamism. Many have managed to grow despite regulatory stasis and changes in safe-level guidance from the FSA.
- Across leading CBD brands stocked in grocery multiples and discounters, sales have climbed 60% to £18.3m. Trip saw the biggest absolute value gain, adding £6.2m across its CBD drinks and supplement ranges.
- With innovation restricted, listings and

promotional mechanics have been key to unlocking category growth, according to NIQ's Jack Davies. "Retailers are starting to focus on bringing functional products to stores," he says. There's been "huge growth", boosted by inclusion in meals deals for soft drinks, Davies adds.

- Goodrays has been one beneficiary, having launched in the Tesco meal deal and added distribution for its drinks, oils and gummies. Its sales have

climbed 181.6% to £2.2m.

- Not every brand is on the up, however. Dragonfly, Love Hemp and Vitality CBD have all posted double-digit declines, some fuelled by delistings. Love Hemp has seen several of its SKUs delisted by the likes of Tesco, Ocado and Boots, while Vitality has been dropped by Asda.

NIQ

NIQ monitors weekly data from a national network of EPoS scanners to represent sales in grocery multiples, co-ops, multiple off-licences, independents, forecourts, convenience multiples, symbols and online grocery retailers.

**“Retailers have never had a healthy relaxation drink before... they’re backing the category”**

have left brands frustrated, the development has raised hopes the FSA can meet its (revised) target to issue full authorisations to CBD products by spring 2025.

The regulator has confirmed it is “broadly in line” with that timetable. And for Goodrays’ Keenan, the latest move is “perhaps the clearest indicator yet that we’re set to see full market authorisation in the first half of 2025”. He points out the risk management phase of novel foods approval “typically takes nine months”, putting the FSA on track to meet its latest target.

Goodrays’ own CBD novel foods application has yet not progressed beyond risk assessment, but Keenan isn’t worried. “No issues have been identified so we’re expecting an announcement towards the end of September,” he says.

And even without that positive assessment, Goodrays is making strong progress. Over the past year, it has launched in the Tesco meal deal “to great effect” and been allocated “in-shelf activations, checkout displays and secondary space opportunities” based on its strong sales, says Keenan. Many retailers – including Tesco and Waitrose – are already supporting the category with the rollout of functional drinks bays, he adds.

“Retailers have never had a healthy relaxation drink before,” Keenan explains. “Now that CBD drinks are tackling that need state, they’re backing the category with proper investment.” For him, authorisation will simply “supercharge the brand” even further.

Market leader Trip is similarly buoyant, despite its application also facing a wait to reach the risk management stage.

The brand is already stocked across specialist health stores, the on-trade and grocery multiples, and it does “not foresee any change” to its rapid growth trajectory, says MD James Edmunds. The order in which products progress towards full authorisation “is not indicative of the quality of the application”, he insists.

**First to the finish line**

Still, the first clutch of brands to progress to the risk management stage will undoubtedly be feeling celebratory.

A positive assessment means, following rigorous safety tests, the FSA “sees no reason why the application can’t move to authorisation”, explains the regulator’s director of



SPECIAL FEATURE COMING SOON

**Editorial feature**

# The Green Issue



## **The Grocer** miss it, miss out

89%<sup>1</sup> of retail buyers find The Grocer's Focus On, Special and ranking reports useful and informative. No wonder, 90%<sup>2</sup> of Britain's top 20 biggest grocery brands advertise with The Grocer.

Sources: <sup>1</sup>The Grocer Reader Survey 2021. <sup>2</sup>Britain's Biggest Brands 2023 (NiQ 52 w/e 31 December 2022) who have advertised with The Grocer during Jan 2022 – Sept 2023.

### To advertise in this feature

Please scan the QR code or visit [thegrocer.co.uk/advertise](https://thegrocer.co.uk/advertise) and fill in our form



### Publication Date:

Saturday, 5 October 2024

### Copy Deadline:

Monday, 23 September 2024

**WilliamReed.**



## CBD's legal limbo:

## the timeline of events

### February 2020 .....

FSA reveals plans to create a legal market for CBD in the UK. Brands have until 31 March 2021 to apply for novel foods authorisation and only goods that have submitted a valid application by this date will be allowed to remain on sale.

### December 2021 .....

The FSA admits the approvals process for CBD novel foods applications is taking longer than expected due to the lower-than-anticipated quality of applications.

### June 2022 .....

FSA closes public list to new applications, as the number of products swells to over 12,000. New products will not be eligible for the public list, and should not be put on sale until authorised, it advises.

### October 2023 .....

FSA cuts its acceptable daily intake guidance of CBD from 70mg to 10mg per day. Holland & Barrett temporarily removes some products that exceed this level from sale.

### March 2021 .....

The body says it will take a “pragmatic and proportionate” approach and allow products not yet validated to remain on sale, after just three brands submit sufficient evidence ahead of its deadline.

### April 2022 .....

Number of products on the FSA's list grows to 6,000.

### July 2023 .....

Government source suggests the FSA will not move products to full authorisation until at least 2024 due to an amendment to the Misuse of Drugs Act needed to account for trace levels of THC in CBD products.

### May 2024 .....

First applications move to ‘risk management’ stage of novel foods process. FSA says it is aiming to fully authorise the first CBD products for sale by spring 2025.

policy Rebecca Sudworth. “It’s positive progress. It’s essentially our official view about the safety of the application.”

Sudworth warns it’s not a foregone conclusion. These applications will now face further scrutiny of other “legitimate factors”, including whether consumption risks are appropriately communicated on pack.

“The committee may have some thoughts about whether there should be some conditions applied to the way the product is used,” she explains.

Still, there’s no doubt a positive safety assessment is a step in the right direction. Pureis owner Chanelle McCoy Health believes its progress will help garner more support from retailers, and prompt more investment in the category at large.

“Retailers are understandably cautious about stocking products that may not be approved,” says co-founder Caroline Glynn Coen. “The FSA’s endorsement of brands that

meet its stringent safety standards will provide much-needed reassurance.”

That reassurance certainly seems to have buoyed Holland & Barrett, which sells over 50 CBD lines across its stores. It is “working on rolling out a more optimised range” as brands progress through the novel foods process.

“This is good news,” says Jessica Pasco, category director for vitamins, herbal and mineral supplements at Holland & Barrett. “We’re pleased that some of the brands we stock have successfully completed [this stage of] the regulatory process, and we’re excited

**“Retailers are cautious about stocking products that may not ultimately be approved”**

to see some exciting innovation and refreshed product solution soon.”

Looking ahead, full authorisation from the FSA – which no brand is yet to achieve – remains the holy grail. Once secured, brands can feel confident in their ability remain on the shelves. And the likelihood of another curveball like October’s dosage guidance becomes far slimmer.

“The journey to this point has been challenging, but we are optimistic full authorisation will clarify the category and eliminate any uncertainties,” says Pureis’ Glynn Coen. Creating a “clear regulatory framework” will “instil consumer confidence, creating more growth opportunities”, she adds.

Not all of that will be down to the FSA. Sudworth points out “the final decision is one that’s made by ministers”, who are pondering CBD’s legal status.

Owing to trace amounts of controlled cannabinoids like THC, it’s possible an

amendment to the Misuse of Drugs Act may be required before ministers can approve any CBD products for sale.

“We do need clarity about the status of any THC that may be present in a CBD product, because it’s a known contaminant,” says Sudworth. She says the FSA is working “very closely” with the Home Office to understand if the law needs to be updated.

### NPD uncertainty

If it does, this could mean further agonising delays for brands, which have been unable to launch new products in the cautious regulatory landscape.

When the FSA announced plans to regulate CBD back in 2020, it allowed existing products to remain on sale on the condition they engaged with the novel foods process.

But its public list of products tolerated for sale – closed since June 2022 – has effectively barred brands from bringing new propositions to market.

“We decided it wasn’t the right step to remove everything from the market based on what we knew about the risk,” Sudworth says. “But we didn’t want a big growth in unauthorised products. We wanted to draw a line and say ‘work with us’, we want you to go through the authorisation process.”

Brands remain free to develop new propositions and make novel foods applications to the FSA, Sudworth insists. However, they won’t be allowed to be sold until authorised. As such, many have had to think outside of the box with their innovation (see right).

What’s more, it isn’t yet clear exactly what the threshold will be for a new formulation to require a fresh novel foods application. Brands remain optimistic over the chances of a light-touch approach.

Edmunds says Trip does not expect its NPD “will have to go to the start of a novel foods process once CBD applications are authorised”, while Chanelle McCoy Health is “poised and ready to expand our Pureis product portfolio”, according to Coen.

However, they may want to check in with the FSA first. “Generally speaking, a new type of product does need a new application,” says Sudworth.

Equally, new product flavours – ones that use a CBD ingredient and dosage that has already been approved – are unlikely to require a new fresh application.

“Some of this will be closer to common sense,” says Sudworth. “But it depends on the uses an applicant has requested in their original application, and the terms of authorisation. For example, if an applicant only requested CBD as food supplements, then they cannot use it as an ingredient to go in other foods, such as soft drinks.”

So for the meantime, brands will need to keep their cool. ●



## Brands get creative with new streams of revenue

Now stocked in 30,000 distribution points, Trip has established itself as a clear market leader in CBD.

But in April, it ventured outside the market with a range of soft drinks using different functional ingredients. The Mindful Blend lineup – which contains mushrooms and adaptogens lion’s mane, magnesium, ashwagandha and L-theanine – offered consumers “a new way to find calm”, Trip said.

The move came just months after the FSA’s revised safe level guidance led Holland & Barrett to remove some Trip CBD products from sale – before reinstating them. Trip, however, insisted that the two events weren’t related,

and the development of its Mindful Blend range predated the FSA’s move.

Since launching, Trip’s Mindful Blends range has matched its CBD lineup in rate of sale. The success reflects the brand’s view that extending beyond CBD will help it “drive long-term value creation for the functional category and wider soft drinks set”.

Trip isn’t the only brand thinking outside the box to generate new revenue streams in a highly regulated environment.

Medahuman has come up with an innovative way to launch CBD products. With the FSA’s permission, the brand is effectively borrowing existing goods on the public list but rebranding them as Medahuman products.

Two CBD oils and one CBD gummy SKU will launch in Morrisons this autumn.

“Whilst this gives us a method of getting new

products into our range, it is still restrictive,” says managing director Ben Weeks. “We are confined to products on the FSA list and are not permitted to change the ingredients.”

Drinks brand Intune, meanwhile, is using events to create new serves, having appeared at festivals including Wilderness, On The Beach and Camp Bestival this summer. “In the on-trade and live events channels, we can diversify our offering through the low & no serves we create with our drinks,” says founder Hannah Glasson.

Finally, Jonny Wilkinson’s functional drinks brand One Living, and the new-to-market brand Skip, have launched cold-pressed CBD drinks made using hemp seed oil. The NPD takes advantage of a loophole in FSA rules, which exempts some hemp-based CBD products from novel foods regulation.