

## Response ID ANON-5DFY-YE5M-R

Submitted to **Consultation on establishing UK Geographical Indications (GI) schemes after exit**  
Submitted on **2018-10-31 07:32:44**

### First of all, please tell us about yourself

Would you like your response to be confidential?

No

If you answered yes to this question, please give your reason:

What is your name?

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What is your organisation?

**Organisation (if applicable) :**  
INTA - International Trademark Association

### Summary of the consultation

#### Amendments to the provisions of existing GI schemes: UK logos and symbols

**1 What should UK logos for the PDO, PGI and TSG schemes represent, and how might this be reflected in their design?**

**Please provide your answer below:**

INTA would request the logos to clearly identify the jurisdiction and level of protection. Moreover, logos must also avoid confusion with registered trade marks. Accordingly, a holder of an existing UK trade mark under current law needs to be able to object to any logo that is incompatible with a pre-existing registered trade mark.

**2 Is three years an appropriate adoption period for existing UK GI holders to update their packaging to reflect the new logo?**

Yes

**Please explain the reason for your answer (e.g. if you don't agree, how long do you think the adoption period should last?) :**

In order to ensure a minimum burden and costs for GI beneficiaries, a transitional period of at least 2 years is essential to help GI producer groups and businesses to adapt to the new rules and plan their strategies. For such reason, three years seems an acceptable period.

#### Amendments to the provisions of existing GI schemes: Appeals

**3 Do you consider that the First-tier Tribunal is an appropriate destination for the handling of appeals against decisions by the Secretary of State?**

No

**Please explain the reason for your answer :**

INTA is of the opinion that the First Tier Tribunal is not a suitable place for resolution of decisions of the Secretary of State. Such matters would be better conducted before the High Court of England & Wales which has access both to judges of the Administrative Court, and the Patent Court which typically hear matters against Secretaries of State, and more broadly in regard to GIs at present. Disputes that typically arise at present that relate to the current GI regime use the High Court of England & Wales, or for small disputes with an intellectual property element such as a dispute involving trademarks potentially the Enterprise Court (Equivalent courts in Scotland and Northern Ireland equating to the High Court would be used outside of England & Wales). Issues that arise in regard to GIs, and associated rights such as passing off and trademarks, raise matters best dealt with by specialist tribunals that enjoy judicial membership that are familiar with these aspects of intellectual property. Such matters could well be the basis of a complaint against a decision of the Secretary of State.

GIs are to the wider world an intellectual property right governed by specialist legislation and requiring effective legal consideration by our Courts, the make-up of the First Tier Tribunal with its mixture of lay members and legal representation without specific GI and IP knowledge therefore does not appear reasonable for

resolution of GI related matters.

We believe that there is value in considering whether the GI scheme should be administered by the Intellectual Property Office instead of DEFRA, so that the UKIPO tribunal structures used for designs, trademarks and patents could be used if there is a belief that a lower first level of resolution is required before the High Court or Enterprise Court.

**4 Do you consider that the General Regulatory Chamber Rules will suit the handling of these appeals?**

No

**Please explain the reason for your answer (e.g. if not, why not?):**

No, see the previous answer. The High Court not the First Tier Tribunal should be used for resolution.

**5 Do you agree that the right to appeal should apply to all decisions listed below?**

Yes

**Please provide your answer below:**

**Are there any others that you think should be added? :**

**6 Do you have any other comments on the new UK GI schemes, or the wines and spirits regulations, as set out in this consultation?**

**Please provide your answer here :**

INTA advocates that any GI scheme needs not only a system to challenge the decision of the Secretary of State, but a mechanism to cancel a GI if it ceases to be required, for example as in the case of NewCastle Brown Ale who sought to remove their own GI when their production in Newcastle ceased. Accordingly, there should be a possibility to cancel a GI after registration, as is the case also for other intellectual property rights. Such applications should include the ability of an intellectual property rights holder to bring such proceedings where their rights conflict with the GI, as INTA considers that cancellation proceedings should be generally available to any party with a legitimate interest. This process would also be in line with the public interest in ensuring that the registered terms are only those that continue to deserve protection. Furthermore, it should always be possible for registrations to be cancelled at the request of the group/entity on behalf of which the GI has been registered

**Consultee Feedback on the Online Survey**

**11 Overall, how satisfied are you with our online consultation tool?**

Satisfied

**Please give us any comments you have on the tool, including suggestions on how we could improve it.:**