

7 KEY TAKEAWAYS

Where's the Beef? Food Supply Chain Innovation and Revolution in the Wake of COVID-19

[Kilpatrick Townsend](#) recently hosted a discussion on the tangible ways the food & beverage industry can not only survive but thrive during the time of COVID-19. Ensuring a healthy food industry supply chain is vital as we cope with the effects of the current pandemic. With shortages in some areas and massive waste in others, the industry must consider ways to pivot their thinking and innovate.

Below are 7 key takeaways from the event:

1

Motivations For Moving to Alternative Proteins – Before The Pandemic

- Health benefits from reducing animal protein intake and consuming more plant-based proteins:
 - Bolster interest from investors
 - Drive further R&D in the field
- Humane arguments
 - Environmental damage
 - Destruction of animal species
- Environmental arguments
 - Calorie for calorie, raising livestock is far more environmentally taxing than growing plants
- Plant-based calories are more efficient to feed 7 billion people

COVID-19 Supply Chain Issues

- Post Pandemic - Meat Supply Chain – “Unprecedented Time in the Industry”
- Motivations for moving to alternative protein are even more compelling
- Companies that thrive are those that pivot and are flexible
- Challenges to meat/challenges to beef/dairy/some outdated?
- Is meat sustainable? Is dairy sustainable?
- Existing efficient supply chains are adversely impacted by shut downs at centralized processing facilities, leading to both food waste upstream and shortages downstream
- Silver linings are the growth opportunities for smaller and more responsive suppliers and processors
- Factors that drove the growth in the alternative protein sector are amplified due to COVID

2

3

Innovation

- Restaurants shift to delivery
- Grocery stores are being shelved with items not sold before
- Supply chain shift from sourcing to restaurants to delivering to consumers
- Shift to more packaging
- Shift away from meat?
- The food and beverage industry needs to innovate/reimagine a different model/a different supply system:
 - Need to innovate about how to stock shelves/how to buy food/how to prepare food/package/deliver/sell/eat food/monitor safety
- Global Plan: the need to think globally, and the need to think about sustainability and the need to scale drive an international plan

Innovation Economics

- Cost of safely producing food is likely to go up
- Cash flow is a concern/profit margins are going down/money is tight/more affordable food products are favored
- Forecasts for less margins/options are to either accept and adapt or innovate
- “Fake-Meat Startups Rake in Cash Amid Food Supply Worries,” quote from Larissa Zimberoff at Bloomberg May 1, 2020
- Plant-based/vegetarian is a growth opportunity
 - 2019 retail food market growth: 2.2%; plant-based at 11%

4

5

Meat and Dairy Labeling Laws

- Political economy is at play
- Cattle, poultry and farming states are passing laws to prevent the easy sale of plant based meats and clean meat products (Missouri, Arkansas, Mississippi)
- The labeling laws are being challenged on constitutional violations of 1st amendment free speech, commerce clause and due process
- If the speech is not unlawful activity or inherently misleading, government may only regulate the speech if its restriction satisfies intermediate scrutiny under Central Hudson's three-prong test
- Plant-Based Yogurt Labeling Standards released on May 13, 2020 by the Plant Based Foods Association
 - Promoting a labeling standard that suggests clear labeling terms that consumers understand

Factors to Consider for Strong Brand Protection

- More than selecting, registering, and enforcing one or more trademarks
- Word marks, slogans, logos, product design, packaging design, graphics, sounds, colors, etc.
- Possible overlapping protection for robust brand protection:
 - Trademarks
 - Copyrights
 - Design patents
 - Utility patents
 - Trade secret

6

7

10 Reasons to Patent Your Innovations

1. Stopping competitors
2. Counter-attack against competitors
3. Protect prior art by documenting your work (e.g., to protect against competitor who steals your earlier work)
4. License it
5. Create a trade chip for cross-licensing
6. Create a sellable asset (even for inventions outside of core business)
7. Fence against competition – avoidance of infringement spurs innovation in a different space
8. Passive defense:
 - Novelty search
 - Landscape or FTO search to rebut willfulness
 - Your patents as cited art
9. Timely filing – save your spot/plant your flag
10. Establish company value – it's a sellable asset