

NOW & NEXT

Food, Beverage & Agribusiness Newsletter

JANUARY 4, 2022

Food & Beverage Crystal Ball: Trends we're following



In the 2022 first-quarter edition of Nixon Peabody's *Crystal Ball* newsletter, our Food, Beverage & Agribusiness (FBA) team wishes you a Happy New Year and shares insights into various industry trends, including:

- / The intersection of cannabis and wine buds environmental complication
- / Climate change and the quality of coffee
- / Artificial intelligence is spicing things up in the kitchen
- / Selling groceries in a digital age
- / 2021 Food & Beverage Forum recap
- / Nixon Peabody LLP and WSP USA Virtual Series (including insights regarding OSHA, sustainability disclosures, indoor food growing, and EH&S liability)

We will continue to watch closely as these issues and others unfold as we transition into and wish you the best in 2022.

The intersection of cannabis and wine buds environmental complication

While some wineries remain bothered about competing with the cannabis farmers for land, water, labor, and market share, others in California and beyond are considering and even now cultivating cannabis adjacent to or as a substitute for grapes. Starting in 2019, as commercial cultivation gained acceptance and regulatory approvals, ripping out vines for weed gained traction. However, those farmers must wade through a myriad of regulations, including environmental ones. For

example, many vineyards are permitted under the statewide general waste discharge requirements for wineries, which allows using winery wastewater to irrigate grapes. There is also a statewide cannabis general order from the Water Board. Through informal inquiries, we've learned whichever requirements are stricter will likely be applicable and enforced. Each permit and requirement must be carefully reviewed prior to ripping out those vines. [Alison B. Torbitt and Stratton Constantinides](#)

[The brewing battle between climate change and the quality of coffee](#)

As with many agricultural industries, coffee growers are not immune to the effects of climate change on the quality of consumer products. Characterized chemically by the impact of acidity on body and flavor, coffee crops have been significantly impacted by the stresses of changes in climate (i.e., temperature, water quality, and carbon dioxide in the environment). According to a recent study by The Climate Institute of Australia, half of the world's coffee-growing regions will be lost by 2050 if the current pace of climate change remains unchecked.

To battle these adverse impacts, many farmers and distributors have implemented offset measures that include changes in water use, shade management, selecting more resilient species, and increased use of pesticides. What remains to be seen is the potential effects of these mitigation efforts on environmental regulations and sustainability of practices as the world's coffee intake continues to grow—specifically as related to major global coffee wholesalers and distributors. In fact, some major distributors have already taken steps to enhance the sustainability of their coffee-growing operations.

As the shift in long-standing growing practices evolves, **it will be crucial for industry regulators to oversee potentially diverging strategies in order to sustain quality and monitor the environmental impact of global coffee production.** [Stratton Constantinides](#)

[Artificial Intelligence is spicing things up in the kitchen](#)

In 2018, [Miso Robotics](#) launched its first AI-enhanced robotic arm, Flippy. Flippy, originally designed to help cook burgers on a flat-top grill, has evolved into three AI options—[Flippy 2 and Flippy 2 Wings](#), which manage high-volume fry stations; [CookRight](#), an AI-powered grill; and [Sippy](#), a beverage dispenser. The AI sous-chefs are meant to increase cooking speed, uniformity, efficiency, and safety and, with ever-increasing labor shortages, might ultimately serve as a [viable solution to an imminent problem](#). Companies like [Buffalo Wild Wings](#) and [White Castle](#), among others, are testing these AI helpers in their kitchens, and Miso Robotics is entering the general public market with its [new TV commercial](#). While AI gadgets in the kitchen are [not new](#), AI-enhanced technology like Miso's Flippy may offer a glimpse into the future of restaurant operations. Although AI robots will likely never fully replace humans in the kitchen—[although AI-inspired gastronomy may be in our future](#)—**by allowing AI-enhanced robots to take over monotonous and repetitive jobs, such as frying, on-site workers can focus more of their attention on cooking and the front of the house.**

Beyond the kitchen, AI is impacting the food industry in many ways. [From recipes and food storage to food delivery and menu optimization](#), AI is slowly transforming how we interact with food. AI can help restaurants improve their business models and increase profits. However, AI technology can be costly and potentially out of reach for smaller companies. Others could benefit from the research and development that franchises and larger players can afford. Nevertheless, those companies may opt for trade secret protection over their AI and keep their inventions and developments out of the public domain. **As AI in the food industry becomes more prevalent, we**

will continue to monitor these developments to understand the impact on the industry. [Paulina Starostka](#)

Add to cart: Selling groceries in a digital age

The global pandemic has changed much about our lives, including how we shop for food. One of the biggest changes, and one that is likely here to stay, is the sharp increase in online grocery shopping. In fact, the number of shoppers buying groceries online (at least occasionally) has nearly doubled since February 2020—from 34% to 62%.

How are food brands dealing with this change in consumer behavior? How are food marketers reaching their audiences in this era of e-commerce? Digging deeper into the ample data that e-commerce affords, brands are evolving their marketing strategies along with their audiences.

For example, the days of luring new customers via appetizing in-store samples are gone. Instead, companies are creating sample packs for online customers that bundle several complimentary products. In addition, marketers are finding ways to simulate the experience of perusing the store shelves by building digital shelves. Food brands are also partnering with popular e-commerce meal kits. Brands are including samples and coupons in shipments, which allow them to increase exposure to customers who have already demonstrated an openness to the specific cuisine.

As shoppers continue to navigate apps instead of aisles, food brands will have to lean into innovative ways to publicize their products. Focusing on strategies that attract both in-person and virtual shoppers will require creativity, but those who adapt, listen, and react to their customers will be well rewarded. [Marissa Wiley](#)

2021 Food & Beverage Forum recap

For the eighth straight year, **Nixon Peabody**, [Plante Moran](#), and [BMO Harris](#) co-hosted the annual Food & Beverage Forum. This year, our panel discussions offered forward-looking insights to help manufacturers and food and beverage companies prepare for what's next.

In addition to our annual economic outlook, we featured two expert panels that discussed proactive strategies for supply chain management and staying ahead of retail innovation.

Michael Gregory, Deputy Chief Economist and Head of U.S. Economics, BMO Capital Markets, examined the forecast for the North American economy and financial markets. **Geoff Goetz**, Executive Vice President Supply Chain, KeHE; **Mitch Rader**, Chief Executive Officer, Market Fresh Produce; and **Rashid Ali**, Co-founder & Chief Operating Officer, Chomps, discussed their supply chain strategy and how to quickly react to the disruptions that we all face today.

I had the pleasure of speaking with **Marta Gerdes**, Vice President of Marketing, Tampico Beverages, and **Kirk Stoa**, Executive Vice President & Chief Financial Officer, Festival Foods, about how evolving consumer preferences are driving innovation for Food & Beverage companies.

In case you missed it, all three sessions have been recorded and can be viewed [here](#). We look forward to hosting another fantastic session with industry leaders in 2022! [Janet Garetto](#)

Nixon Peabody LLP and WSP USA Virtual Series

Nixon Peabody LLP and WSP USA teamed up in a four-part webinar series to address important Food & Beverage industry trends and share useful insights on how best to navigate the issues affecting businesses.

/ [OSHA in a post-COVID world](#)

In the first program, we discuss topics employers should consider as businesses reopen and the COVID-19 situation evolves. It is critical that companies stay informed about new occupational safety and health regulations, guidance, trends, and enforcement. [Rachel Conn](#)

/ [Sustainability disclosure and reporting trends](#)

In the second program, we discuss various topics related to sustainability disclosure and reporting trends that food and beverage companies should consider. While sustainability disclosure is currently voluntary, now more than ever, companies are increasingly recognizing its importance. [Tyler Savage](#)

/ [Leasing to indoor food growing and cannabis companies](#)

In the third program, we discuss the legal and environmental frameworks that impact indoor farming companies and the landlords leasing to them. [Ian O'Banion](#)

/ [How to buy a Food & Beverage business without buying EH&S liability](#)

In the fourth program, we discuss best practices for navigating environmental health and safety (EH&S) compliance risks when buying a Food & Beverage business. [Alison Torbitt](#)

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