

Choosing and Using a Copacker

DR. LUKE HOWARD
Extension Food
Processing
Specialist

WHAT IS A COPACKER?

Copackers manufacture and package foods for other companies to sell. These products range from nationally known brands to private labels.

Entrepreneurs choose to use the services of copackers for many reasons. Copackers can provide entrepreneurs with a variety of services in addition to manufacturing and packaging products. They can often help in the formulation of the product.

The copacker may function only as a packer of other people's products or may be in business with his own product line. He may, in fact, be manufacturing several competing products. The range of services available from a copacker will vary depending on the size and experience of the copacker, the type of facilities and the capacity of the plant.

WHAT ARE THE ADVANTAGES OF USING A COPACKER?

There are many advantages to using a copacker. The most obvious is to reduce startup costs for the food entrepreneur. Capital costs of equipment and facilities can be enormous. Using a copacker allows a more accurate prediction of overhead costs due to manufacturing. Using a copacker can also reduce lead-time in getting a product to market. Choosing a copacker who already has processing lines in place almost makes manufacturing, packaging and labeling a food product a

matter of placing an order. The copacker may have experience with similar products which is transferable to the product you wish him to copack.

With established business, copackers will usually have the proper regulatory certifications, lines of credit for purchasing supplies and ingredients, insurance, food industry contacts and sources to get the job done efficiently. They should be familiar with quality parameters, food safety requirements and shipping needs. They will have the proper facilities for receiving and storing ingredients and can arrange storage of finished product.

Some copackers will offer other services for entrepreneurs, such as product stability testing, nutritional labeling, formulation assistance, ingredient substitution and other product development services. In addition, they can offer suggestions on packaging and labeling the product, usually based on the types of filling, capping and labeling equipment in their facilities. They can direct you to professionals who can assist in the design and marketing of your product. They usually offer the advantage of buying supplies and ingredients in bulk. They can arrange palleting and shipping to meet the needs of the buyer.

WHAT OBSTACLES MIGHT AN ENTREPRENEUR FACE?

In addition to the above advantages for using a copacker, food entrepreneurs may face a variety of obstacles to manufacturing their own product. They may not possess the experience and expertise



necessary to manufacture a food product. There may be zoning laws which restrict certain business activities on the entrepreneur's property. Loss of economies of scale for the entrepreneur may be such that the cost of the ingredients and packaging may be prohibitive.

WHAT ARE SOME DISADVANTAGES TO USING A COPACKER?

An obvious disadvantage to using a copacker is a loss of control over the product and its manufacture. Many copackers will request that the entrepreneur be available in the plant the first time the product is run to ensure the product is made to the customer's satisfaction. However, the presence of the customer is usually not requested for subsequent runs.

An entrepreneur is at the mercy of the copacker's production schedule, fixed costs and method of doing business. The product must conform to the copacker's equipment and facility limitations. In some cases, the copacker may be producing a competing product.

Confidentiality may be a problem as formulations, ingredients and product specifications must be shared with the copacker. It is often necessary to share customer and sales information. Copackers have access to other information such as sales, volume and price. This information can be protected to some degree with agreements, but confidentiality can never be assured.

Disagreements between customers and copackers are not easily resolved. Disputes and litigation may tie up ingredients, supplies and finished product for extended periods of time. Finding an alternative copacker who can produce the same product may prove difficult.

Using a copacker can be expensive. A copacker must recover direct and indirect overhead and costs. Additionally, a copacker must also make a profit. Consequently, the costs associated with copacked product may be high.

WHAT SHOULD BE DONE BEFORE YOU VISIT THE COPACKER?

Before choosing a copacker, do your homework. You should have business and marketing plans in place which outline your product needs in terms of size and type of container, number of units per given period, price to the buyer and sales price. Small Business Technology and Development Centers can be of assistance. Get technical help from a university, a consultant or a testing laboratory to determine needs for product stability and safety.

Once you have established the product information, write preparation and process instructions. Write specifications for ingredients, packaging materials, regulatory compliance and finished product.

WHAT NEEDS ARE TO BE MET BY THE COPACKER?

- Will you require product development assistance such as safety determinations, coloring, stabilizers and emulsifiers or preservatives?
- What are special product concerns, such as acidity, thermal process, refrigerated ingredients, refrigerated product storage?
- Are there special ingredient concerns?
- Will the product require specialized ingredients in terms of variety, function or piece size?
- Will ingredient preparation, such as onsite chopping, peeling, coring or sugaring, be necessary?
- Can ingredients be purchased ready-to-use?
- Are there alternative sources for specialized ingredients?

Consult with your attorney and insurance carrier. What do they feel you should require of your copacker? Will they need to visit the site?

Remember, scale-up of production from the home kitchen to the first plant trial may produce unsaleable or unusable product. Factors such as rate of heating, agitation during incorporation of ingredients, holding at high temperatures and pumping can affect ingredient functionality and product appearance. Adequate product development prior to the pilot run will minimize this, but unforeseen factors may still cause differences in product quality.

How will the final product be distributed? If it is to be shipped to a central warehouse, what requirements will you have for the copacker? Many companies are under mandatory solid waste reduction. Will the product be shipped in boxes or overwrapped trays? On which kind of pallet will they be furnished? Should the boxes be overwrapped or glued to keep them on the pallet?

Will you need storage of ingredients, supplies or finished products? Will you need the copacker to order or ship these materials? How much inventory will you need to have on hand?

Will the potential buyers of your product require that the food be manufactured under particular quality, safety or certification systems such as HACCP, ISO 9000, Kosher or Halal? Do regulations require USDA compliance or certification for low-acid canned foods or acidified foods? Is there mandatory HACCP compliance required? Is a third party audit required?

HOW DO I FIND THE RIGHT COPACKER?

For the entrepreneur, the best source of information about copackers, their abilities and how they work with entrepreneurs is often other entrepreneurs. Meet other entrepreneurs at state association meetings, food shows and trade shows. More specialized copackers often advertise in food industry trade periodicals and directories. State directories of manufacturers provide information about manufacturing companies. Those who list private-label products are usually copackers. University extension services and state food and drug or agricultural marketing agencies can also help.

Bring your specifications and checklist to your first meeting with the copacker. You may wish to consult your attorney for instructions on protecting the confidentiality of your documents and conversation. Some copackers will restrict confidentiality agreements only to written specifications, formulations, pricing and customer information. Most will not agree to non-compete arrangements, as that would restrict their livelihood and their business interests. You may be able to use a model confidentiality contract furnished by the copacker.

The costs of all services at a copacker must be recovered. Be sure to have an agreed-upon price for each of these. Once an agreement is reached, be sure you will need a contract for services. Be sure to get a guaranteed price for at least a year.

Some copackers have an in-house research and development department. This can produce considerable savings in time and development costs.

Ask to tour the copacker's facilities. Note the state of cleanliness and order. Look at the most recent inspection report. Is the copacker operating under a quality control or food safety system such as HACCP? Is the equipment needed to process, label and package your product correctly available?

Request from the copacker the names of other clients. It is a good idea to speak with them about what it's like to work with the copacker. Ask about his commitment to schedules and to quality. Ask about concerns they might have.

Share both your present and future needs with the copacker. Early in the relationship, you may need small production runs, later you may wish to have more volume. Can the copacker deliver on production? What about peak seasons? In the specialty foods business, there are often seasonal needs, such as the Christmas holidays, when turn-around time for resupply of stores may be short. Can the copacker accommodate this?

Early in the process, it will usually be necessary to produce product for storage/stability testing. You may wish to produce samples in alternate sizes or different containers. Check to make sure these can be processed.

WHAT ITEMS SHOULD BE ADDRESSED IN THE CONTRACT?

Obviously, written orders should be placed with the copacker. Specifications should be furnished for supplies, ingredients, processing and finished products. A written contract can help you avoid a lot of problems later. Be sure you understand what you're contracting for. Check with your attorney.

Below are items which should, at a minimum, be addressed in the contract:

- What are the services you are contracting? Who will handle raw product testing? Where are records to be kept? How will final product quality be checked?
- What ingredients and supplies are you responsible for purchasing or providing? What is the disposal method for excess ingredients or supplies you purchase or furnish? Where will they be stored between processing runs?
- What processing manipulations will be required for ingredients such as slicing, dicing or blanching? Are piece sizes specified?
- Will there be samples furnished for your approval prior to the first production run? Will there be storage/stability or finished product tests?
- Are you to be present and consulted during processing plant runs? If so, are you covered under insurance or Workmen's Compensation?
- Will you have any coverage under the manufacturer's product liability insurance? If so, what will it be? Note that it will be necessary for you to furnish your own liability insurance to sell your product to stores.
- What are the critical factors that must be met in processing, such as pH, packing temperatures or heat processing? Require documentation that these have been measured and met.
- Are ingredient substitutions accepted? What are the limits? Are these covered in your ingredient specifications? Note that manipulation of ingredients may render your ingredient statement or nutritional information on your label inadequate.

- The contract should note scheduled processes that must be filed and certifications which must be obtained. What is the delivery date of the finished product? Must it be immediately removed from the premises?
- What are the payment terms? The usual terms are 10 percent down and the remainder on delivery.
- What will render the product unacceptable? What are the appearance factors such as color, separation, piece size and texture? Who will judge adequacy of flavor and taste?
- What are the appearance factors for the container, such as label placement, closure gasket materials and closure color, or neckband placement, size and color? How tight is the closure to be?
- Who is responsible for disposal and disposal costs or rework of unacceptable product?
- The entrepreneur should furnish labels. What size are they to be, what style and orientation and how are they to be wound? (It is recommended you have the copacker specify the labels in writing to be sure they will run on his equipment.)
- How much lead-time is necessary for the next and subsequent production runs to be delivered?
- Will the copacker be required to furnish grade certifications, third party audits or other certifications of lots and batches? The copacker should certify that label statements are accurate.
- What lot or batch coding is to be used? Where will it be placed on the container, and how will ingredient processing and testing records be filed to correlate with the code?
- What is the manufacturer's recall plan? Be sure you have a copy. How are you to be notified?
- Is there a noncompete agreement with the copacker? Are confidentiality and privacy issues covered?
- What finished product testing will be provided?

While there may be many other points to be covered in the contract, the above represent those points for which many disagreements occur. While we recommend an attorney's advice on contracts, the small entrepreneur may find the cost prohibitive.

HOW DO I MAKE THE RELATIONSHIP WORK?

A good working relationship with your copacker and an agreement which covers what he is expected to provide will make your venture more pleasant and hopefully more profitable.

Get the copacker on your team. Give him a chance to be properly reimbursed for his services, then concentrate on selling your product!

For additional information, contact your county Extension agent or:

Institute of Food Science and Engineering
2650 North Young Avenue, Fayetteville, AR 72704
501-575-4040 Fax 501-575-2165

University of Arkansas Division of Agriculture
Dale Bumpers College of Agricultural, Food and Life Sciences
Arkansas Agricultural Experiment Station
Arkansas Cooperative Extension Service

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DR. LUKE HOWARD is Extension food processing specialist, University of Arkansas, Fayetteville.

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