

COMMISSION

COMMISSION DECISION

of 30 June 2000

on a draft Regulation of the Kingdom of the Netherlands relating to the naming and labelling of lemonades and soft drinks

(notified under document number C(2000) 1700)

(Only the Dutch text is authentic)

(Text with EEA relevance)

(2000/440/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer ⁽¹⁾, as last amended by Directive 97/4/EC of the European Parliament and of the Council ⁽²⁾, and in particular Articles 16(2) and 17 thereof,

Whereas:

- (1) In accordance with the procedure laid down in Article 16(2) of Directive 79/112/EEC, the Netherlands authorities have notified the Commission of a draft Regulation which includes specific labelling provisions for soft drinks.
- (2) Pursuant to Article II.B of the aforementioned draft Regulation, the labelling of soft drinks containing at least 150 mg/l of caffeine, and no more than 350 mg/l, should include the following information: 'contains 150 to 350 mg/l of caffeine, corresponding to 2 to 4 cups of coffee'.
- (3) In accordance with Article 16(2) of Directive 79/112/EEC, the Commission has consulted the other Member States through the Standing Committee on Foodstuffs.
- (4) The Member States and the Commission have recognised that it is important for consumers to be informed, through a specific warning on the labelling, that a food-

stuff contains certain substances, where it is known that excessive consumption of those substances can produce undesirable health effects in certain individuals. Caffeine is one such substance.

- (5) It would therefore be useful to make it compulsory for the labelling of the products concerned to emphasise the presence of certain substances by means of an explicit warning which consumers could not overlook.
- (6) However, such a measure applied unilaterally by the Netherlands in respect of caffeine would be sure to hinder intra-Community trade. In addition, the reference to an equivalent number of cups of coffee appears imprecise and ambiguous, indeed liable to be misinterpreted by consumers.
- (7) This finding has prompted the Commission to deliver a negative opinion in accordance with the second subparagraph of Article 16(2) of Directive 79/112/EEC.
- (8) The most satisfactory solution to the problem posed by the draft Netherlands Regulation will be to draw up a Community labelling provision. The Commission will do all it can to reach a satisfactory solution such as this within the time period laid down in Article 1 of this Decision.
- (9) It is therefore necessary to suspend any national initiative in this field for an appropriate period of time.
- (10) The measures laid down in this Decision are in conformity with the opinion of the Standing Committee on Foodstuffs,

⁽¹⁾ OJ L 33, 8.2.1979, p. 1.

⁽²⁾ OJ L 43, 14.2.1997, p. 21.

HAS ADOPTED THIS DECISION:

Article 1

The Kingdom of the Netherlands is hereby required to suspend, for a period of 12 months from the date of notification of this Decision, the adoption of that part of its draft Regulation which concerns labelling provisions making it compulsory to indicate 'contains 150 to 350 mg/l of caffeine, corresponding to 2 to 4 cups of coffee' on soft drinks containing caffeine.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 30 June 2000.

For the Commission

David BYRNE

Member of the Commission
