

## COMMISSION DECISION

of 13 April 2004

**suspending the placing on the market and import of jelly mini-cups containing the food additives E 400, E 401, E 402, E 403, E 404, E 405, E 406, E 407, E 407a, E 410, E 412, E 413, E 414, E 415, E 417 and/or E 418**

(notified under document number C(2004) 1401)

(Text with EEA relevance)

(2004/374/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety <sup>(1)</sup>, as amended by Regulation (EC) No 1642/2003 <sup>(2)</sup>, and in particular Article 53(1) thereof,

Whereas:

- (1) Under Article 53(1) of Regulation (EC) No 178/2002 the Commission can suspend the placing on the market or use of a food that is likely to constitute a serious risk to human health, when such risk cannot be contained satisfactorily by means of measures taken by the Member States concerned.
- (2) Directive 95/2/EC of the European Parliament and of the Council of 20 February 1995 on food additives other than colours and sweeteners <sup>(3)</sup>, as last amended by Regulation (EC) No 1882/2003 <sup>(4)</sup>, authorises the use of the food additives E 400 alginic acid, E 401 sodium alginate, E 402 potassium alginate, E 403 ammonium alginate, E 404 calcium alginate, E 405 propane 1,2-diol alginate, E 406 agar, E 407 carrageenan, E 407a processed eucheama seaweed, E 410 locust bean gum, E 412 guar gum, E 413 tragacanth, E 414 acacia gum, E 415 xanthan gum, E 417 tara gum and/or E 418 gellan gum in foodstuffs under certain conditions.
- (3) Several Member States have taken measures to temporarily prohibit the placing on the market or import of jelly confectionery of a firm consistence, contained in semi-rigid mini-cups or mini-capsules, intended to be ingested in a single bite by exerting pressure on the mini-cup or mini-capsule to project the confectionery into the mouth and containing additives derived from seaweed and/or certain gums, hereafter designated as jelly mini-cups. The concerned Member States have taken these measures as these jelly mini-cups combine several risk factors due

to their consistence, shape, size and manner of ingestion, giving rise to a risk that they remain blocked in the throat and provoke choking. The Commission has been informed of these measures.

- (4) The Commission has examined the information given by the Member States together with the Standing Committee on the Food Chain and Animal Health.
- (5) On the basis of the information provided by the Member States who adopted measures at national level, it can be concluded that jelly mini-cups containing additives derived from seaweed and/or certain gums constitute a life-threatening risk. Even if the shape, size and manner of ingestion are the main cause, the risk also originates from the chemical and physical properties of these additives which contribute to the cause for jelly mini-cups to constitute a serious risk to human health.
- (6) In the present case, warning through labelling would not be sufficient to protect human health, especially with regard to children.
- (7) Community-wide measures are necessary to provide adequate protection of human health, due to the disparity of the measures taken by some Member States and the fact that other Member States have not taken any measures at all.
- (8) It is necessary to suspend the placing on the market of jelly mini-cups containing one or more of the food additives E 400, E 401, E 402, E 403, E 404, E 405, E 406, E 407, E 407a, E 410, E 412, E 413, E 414, E 415, E 417 and/or E 418 and the use of these additives in jelly mini-cups and imports of jelly mini-cups containing these additives in order to protect human health.
- (9) The Commission will consult the European Food Safety Authority on this matter as it is of public health relevance and, on the basis of the scientific opinion of the Authority, it will review the present decision and examine whether there is a need to propose to the European Parliament and to the Council an amendment to Directive 95/2/EC.

<sup>(1)</sup> OJ L 31, 1.2.2002, p. 1.

<sup>(2)</sup> OJ L 245, 29.9.2003, p. 4.

<sup>(3)</sup> OJ L 61, 18.3.1995, p. 1.

<sup>(4)</sup> OJ L 284, 31.10.2003, p. 1.

- (10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

*Article 1*

For the purposes of this Decision, jelly mini-cups means jelly confectionery of a firm consistence, contained in semi-rigid mini-cups or mini-capsules, intended to be ingested in a single bite by exerting pressure on the mini-cup or mini-capsule to project the confectionery into the mouth and containing food additives derived from seaweed and/or certain gums.

*Article 2*

1. The placing on the market of jelly mini-cups containing E 400 alginic acid, E 401 sodium alginate, E 402 potassium alginate, E 403 ammonium alginate, E 404 calcium alginate, E 405 propane 1,2-diol alginate, E 406 agar, E 407 carrageenan, E 407a processed euchema seaweed, E 410 locust bean gum, E 412 guar gum, E 413 tragacanth, E 414 acacia gum, E 415 xanthan gum, E 417 tara gum and/or E 418 gellan gum is suspended.

2. The use of E 400 alginic acid, E 401 sodium alginate, E 402 potassium alginate, E 403 ammonium alginate, E 404 calcium alginate, E 405 propane 1,2-diol alginate, E 406 agar, E 407 carrageenan, E 407a processed euchema seaweed, E 410 locust bean gum, E 412 guar gum, E 413 tragacanth, E 414 acacia gum, E 415 xanthan gum, E 417 tara gum and/or E 418 gellan gum in jelly mini-cups is suspended.

3. The import of jelly mini-cups containing E 400 alginic acid, E 401 sodium alginate, E 402 potassium alginate, E 403 ammonium alginate, E 404 calcium alginate, E 405 propane 1,2-diol alginate, E 406 agar, E 407 carrageenan, E 407a processed euchema seaweed, E 410 locust bean gum, E 412 guar gum, E 413 tragacanth, E 414 acacia gum, E 415 xanthan gum, E 417 tara gum and/or E 418 gellan gum is suspended.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 13 April 2004.

*For the Commission*

David BYRNE

*Member of the Commission*