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SANCO/2902/01

Draft

COMMISSION DIRECTIVE ../.../EC

of [...]

on the labelling of foodstuffs containing quinine, and of foodstuffs containing caffeine

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs¹, and in particular Article 4(2) and (3) thereof,

Whereas:

- (1) Quinine and caffeine are used in the production or preparation of certain foodstuffs, either as a flavouring or, in the case of caffeine, as an ingredient.
- (2) For most consumers, the consumption of these substances in moderation is unlikely to present any health risks. As regards quinine, for instance, the Scientific Committee for Food concluded that it saw no objection from the point of view of toxicology to the continued use of quinine at a maximum dose of 100 mg/l in bitter drinks. However, consumption of quinine may be counter-indicated for certain people for medical reasons, or because they are hypersensitive to the substance.
- (3) As far as caffeine is concerned, the Scientific Committee for Food, in its opinion of 21 January 1999 on caffeine and other substances used as ingredients in “energy drinks”, concluded that, for adults, apart from pregnant women, the contribution of “energy drinks” to the total consumption of caffeine did not appear to be a cause for concern, assuming that “energy drinks” replace other sources of caffeine. However, for children, an increase in the daily intake of caffeine to, say, 160 mg caffeine per day may bring about temporary changes in behaviour, such as increased excitability, irritability, nervousness or anxiety. In addition, for pregnant women, the Committee’s view is that reduced caffeine consumption is advisable.
- (4) These findings make a case for labelling which provides clear information to the consumer on the presence or not of quinine or caffeine in a foodstuff and, in the case of caffeine, for a warning message and an indication of the amount of caffeine where this is in excess of 150 mg/litre or/kg.

¹ OJ L [...].~~of~~ [...], p. [...].

- (5) However, Directive 2000/13/EC does not provide, for flavourings, for compulsory and specific mention in the list of ingredients; quinine or caffeine, used as a flavouring, might as a result not be listed by name in the ingredients; moreover, even where caffeine is mentioned as such in the list of ingredients, there is no requirement to indicate whether the level is high.
- (6) This situation has led certain Member States to enact national legislation making it compulsory to mention the presence of quinine and/or caffeine on the labels of foodstuffs which contain these substances, in certain cases also stating the amount of caffeine, with a warning. It follows that this situation is likely to cause technical problems for intra-Community trade in the foodstuffs concerned.
- (7) It is therefore expedient, with a view to providing information for all consumers throughout the Community, and with a view to facilitating the free movement of the products in question within the Community, to introduce harmonised provisions to apply to foodstuffs containing quinine and foodstuffs containing caffeine, and requiring compulsory details on the label in addition to those set out in Article 3 of Directive 2000/13/EC.
- (8) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Foodstuffs,

HAS ADOPTED THIS DIRECTIVE:

Article 1

By derogation from Article 6(6), second subparagraph, third indent, of Directive 2000/13/EC, where quinine or caffeine are used as a flavouring in the production or preparation of a foodstuff, these substances must always be mentioned by name in the list of ingredients, immediately after the term “flavouring”.

Article 2

1. Where caffeine is used as an ingredient in a proportion in excess of 150 mg/l or 150 mg/kg, the words “high caffeine content” must feature on the label of the product concerned, having regard to the conditions set out in Article 13(2) of Directive 2000/13/EC.

2. In the case referred to in paragraph (1) above, the effective caffeine content of the foodstuff shall be indicated in the list of ingredients immediately after the word “caffeine”.

Article 3

Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive before [30 June 2002] such as to

- permit, with effect from [1 July 2002], the sale of products which comply with this Directive ;

- prohibit, from [1 July 2003], products that do not comply with this Directive, although products which have been placed on the market or labelled before that date may still be sold while stocks last.

They shall immediately inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The arrangements for such reference shall be adopted by the Member States.

Article 4

This Directive enters into force on the twentieth day following its publications in the *Official Journal of the European Communities*.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, [...]

For the Commission

[...]

Member of the Commission