



Notification Number: 2004/67/F

Draft Decree on prohibitions concerning firm jelly confectionery presented in soft capsules, and which is consumed in one mouthful

Date received : 01/03/2004
End of Standstill : 26/03/2004
Invocation of the Emergency Procedure : Yes

Message

Message 002

Communication from the Commission - SG(2004) D/50461
Directive 98/34/EC
Translation of the message 001
Notification: 2004/0067/F

Fristerne indledes ikke - Kein Fristbeginn - Καμμία έναρξη προθεσμίας - Does not open the delays - No abre el plazo - N'ouvre pas de délais - Non fa decorrere la mora - Geen termijnbegin - Nao inicia o prazo - Määräaika ei ala tästä - Inleder ingen frist.

(MSG: 200400461.EN)

1. Structured Information Line

MSG 002 IND 2004 0067 F EN 01-03-2004 F NOTIF

2. Member State

France

3. Department Responsible

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4. Notification Number

2004/0067/F - C50A

5. Title

Draft Decree on prohibitions concerning firm jelly confectionery presented in soft capsules, and which is consumed in one mouthful

6. Products Concerned

Confectionery

7. Notification Under Another Act

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8. Main Content

The draft Decree, drawn up on the basis of Article L. 221-3 of the Consumer Code, aims to prohibit the manufacture, import, export, supply, possession with a view to sale or free distribution, the placing on sale, sale and free distribution of firm jelly confectionery presented in soft capsules, which is consumed in one mouthful. It continues the 1 year suspension laid down by the Order of 3 April 2003 (Official Gazette of the French Republic of 9 April 2003), which aimed to expand the scope of the Commission Decision of 27 March 2002 suspending the placing on the market and import of jelly confectionery containing the food additive E 425 (konjac) to all jelly confectionery with a shape, size, consistency and mode of consumption similar to the confectionery affected by this Decision.

9. Brief Statement of Grounds

Fatal accidents involving the suffocation of several children after eating jelly confectionery containing konjac have been reported in third countries. These accidents have been linked to both the form and the presentation of these products, as well as the chemical and physical properties of this additive. Furthermore, the presence of jelly confectionery presented in mouthful-sized soft capsules containing seaweed extracts has been noted on the French market. Laboratory tests carried out on these foodstuffs that have the same characteristics of shape (cone, truncated cone, half-egg), consistency (jelly, set) and size (mouthful), as well as the same mode of consumption (projecting the foodstuff into the mouth by squeezing the capsule with the fingers) as konjac-based confectionery, have revealed a risk of suffocation similar to that reported for products containing this additive. In its opinion of 12 January 2004 the AFSSA [French Food Safety Association] recommended extending the scope of the Commission Decision of 27 March 2003 to all products with a similar texture.

10. Reference Documents - Basic Texts

- Directive 2003/52/EC of the European Parliament and of the Council of 18 June 2003 amending Directive 95/2/EC as regards the conditions of use for a food additive E 425 konjac.
- 2002/247/EC: Commission Decision of 27 March 2002 suspending the placing on the market and import of jelly confectionery containing the food additive E 425 konjac.
- Articles L. 221-3 and L. 221-5 of the Consumer Code.
- Order of 3 April 2003 suspending the import, export and placing on the market of firm jelly confectionery presented in capsules, and ordering their destruction.
- Order of 19 December 2003 amending the Order of 2 October 1997, amended, on additives which may be



used in the manufacture of foodstuffs intended for human consumption.

- Opinion of the AFSSA of 12 January 2004

11. Invocation of the Emergency Procedure

YES

12. Grounds for the Emergency

In accordance with Article L. 221-5 of the Consumer Code, the Order of 3 April 2003 is only valid for 1 year. Recent alerts from other Member States indicate the presence of these products on the Community market in spite of the prohibitive measures. So far, these foodstuffs have not been present on the French market. French importers respect these prohibitions. However, there is concern that when the application period of the above-mentioned Order expires, on 9 April 2004, the offending confectionery will be placed back on the market with no change having been made to ensure consumer safety. Also, it is imperative that the draft Decree in the Council of State, the drafting process of which is particularly long at national level (collecting of numerous opinions), enters into force by 8 April 2004 at the latest.

13. Confidentiality

No

14. Fiscal measures

No

15. Impact assessment

No

16. TBT and SPS aspects

TBT - No

The draft does not have any notable impact on international trade.

SPS - No

The draft does not have any notable impact on international trade.

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