



Notification Number: 2005/652/F

Draft Order on products composed of confectionery and inedible elements that are immovably attached to the confectionery at the moment of consumption

Date received : 24/11/2005
End of Standstill : 08/12/2005
Issue of comments by : Italy
Invocation of the Emergency Procedure : Yes

Message

Message 002

Communication from the Commission - SG(2005) D/52805
Directive 98/34/EC
Translation of the message 001
Notification: 2005/0652/F

No abre el plazo - Nezaahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist.

(MSG: 200502805.EN)

1. Structured Information Line

MSG 002 IND 2005 0652 F EN 24-11-2005 F NOTIF

2. Member State

France

3. Department Responsible

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4. Notification Number

2005/0652/F - C50A

5. Title

Draft Order on products composed of confectionery and inedible elements that are immovably attached to the confectionery at the moment of consumption

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 distribution free of charge, the placing on sale, sale and distribution free of charge of products composed of confectionery and inedible elements that are immovably attached to the confectionery at the moment of consumption.

It fulfils two objectives: on the one hand, to perpetuate the prohibition on the marketing of "luminous confectionery" which does not comply with certain safety requirements, laid down for a duration of one year by an Order of 24 February 2005 (RASSF Notification No 2004/109) and, on the other hand, to regulate confectionery tightly joined to inedible elements at the moment of consumption, which pose a risk of suffocation or asphyxiation by accidental inhalation or ingestion of small objects by children.

9. Brief Statement of Grounds

The draft Decree follows the proliferation on the market of confectionery joined to objects (gadgets) which have already caused accidents and which necessitate market recalls according to prohibitions laid down by the controlling authorities.

Among all the confectionery covered by the draft Decree "luminous confectionery" poses specific risks. In its design, it has the specific feature of joining an edible element (the lollipop) to a lighting device comprising a light source (diode, bulb) powered by "button"-type batteries. The inedible part cannot therefore be separated from the edible part and forms a whole with it. The danger is that a child, during or after consumption of the edible part, is tempted to place all or part of the inedible part in their mouth, especially the batteries since they are contained in a detachable compartment and, therefore, easily accessible. This leads to two possible scenarios: either the foreign body "goes down the wrong way" and ends up in the respiratory tracts (inhalation), or it follows the normal digestive route (ingestion).

The scope of the Decree is not limited to just "luminous confectionery". The following products are covered, although this list is not exhaustive considering the variety of present and future products: edible and inedible elements that form a whole such as a lollipop stick, the cord of a necklace of dextrose beads and a lozenge dispenser.

On the contrary, surprise eggs containing a toy in a shell are not affected by this Decree since the inedible object



is not immovably attached to the confectionery.

Since inedible elements that are immovably attached to the confectionery do not conform to standard NF EN 71-1 of 1998 and amendment A8 thereto, the confectionery in question is prohibited and may not be marketed. It should be pointed out that conformity with the aforementioned standard, often declared on products comprising confectionery and inedible elements, only concerns the toy present in the product. Other inedible elements, such as confectionery supports or plugs that are intended, by their nature, to be brought to the mouth and, therefore, may be ingested or inhaled are not subject to any test of conformity with the aforementioned standard.

It must be added that the choice to prohibit this type of products by the French authorities also takes account of the fact that indicating the restrictive warning "Not suitable for children under 3 years" does not remove the danger in any way.

10. Reference Documents - Basic Texts

- Standard NF EN 71-1 of 1998 "physical and mechanical safety of toys" and amendment A8 thereto.
- Standard NF EN 50 088 "safety of electric toys".
- Articles L. 221-3 and L. 221-5 of the Consumer Code.
- Order of 24 February 2005 suspending the import, export and placing on the market of luminous confectionery and ordering the destruction thereof.

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 24 February 2005 is only valid for 1 year. However, there is concern that when the application period of the above-mentioned Order expires, on 4 March 2006, "luminous confectionery" will be placed back on the market with no change having been made to ensure consumer safety. Furthermore, certain confectionery currently on the market may pose a risk insofar as persons responsible for placing these products on the market have not checked that they satisfy the safety requirements laid down by French and European standards. 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 3 March 2006 at the latest.

13. Confidentiality

NO

14. Fiscal measures

NO

15. Impact assessment

NO

16. TBT and SPS aspects

TBT aspect (Agreement on technical barriers to trade)

a) No



SPS Aspect (Agreement on sanitary and phytosanitary measures)

a) No

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Prevention of Technical Barriers

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