The Netherlands

Foodstuffs versus Food Supplements: Two Health Claims Systems?

Friday 14 December 2012: D-day for health claims in Europe. On that day the distinction between foodstuffs and food supplements became clearer than ever. Earlier, we discussed the Dutch database, which included alternative wordings that could be used instead of those that appear in the Claim List.[1] As of 14 December 2012, however, the Dutch food supplement industry adopted a database corresponding to the Claim List, but the foodstuffs industry is still contemplating the usefulness of alternative wordings in their daily practice. The marketing strategies of the two industries differ considerably. Foodstuff marketers think the Dutch indicative list might impede their creativity too much and they worry about the discussions with their departments in the rest of Europe. Therefore, it now looks like

1 See our country report in *EFFL* issue 5/2012. The Dutch database is supported by the Dutch government. The database (only in Dutch) is available on the Internet at <http://www.npninfo.nl/library/projects/Indicatieve normenset 2012.10.09.xlsx> (last accessed on 26 January 2013).

foodstuff marketers themselves will attempt to use flexible wordings within the limits of the Claim List.

In the meantime, most of the food supplements industry submits itself voluntarily to the new monitoring system on the basis of the alternative wordings database. Next to the database, a Dutch guidance document sheds some more light on the matter. This guidance document provides an explanation of health claims in general and clarifies the connection between the alternative wordings and the EFSA opinions.[2] The committee that composed the Dutch database looked at the EFSA opinions to formulate alternative wordings. On the basis of the database and guidance document the Dutch KOAG/KAG[3] monitors the industry's compliance with the Health Claim Regulation. The KOAG/KAG can, upon request, issue non-committal pre-copy advice and copy-clearance for texts on packaging or other forms of advertising. When approved by the KOAG/KAG, the food business operator will not be addressed in case of subsequent doubt by the Dutch Food Safety Authority (NVWA). If the NVWA is not sure whether the claim would be permitted, it will contact the KOAG/KAG instead of the food business operator. Thus, the industry can seek domestic review by committing to the KOAG/KAG monitoring system. In this way, the industry in the Netherlands has regulated itself since 14 December 2012.

Ebba Hoogenraad & Christine Fontaine

2 The guidance document (only in Dutch) is available on the Internet at <http://www.npninfo.nl/library/documents/zelfregulering/Richtsnoerdocument_Claims.pdf> (last accessed on 26 January 2013).

3 KOAG/KAG is the Inspection Board for the Advertising of Medicinal Products to the General Public and for the Promotion of Health Products.