
The Netherlands

Food and Product Watchdogs

Merger Food and Safety Authority

From 1 January 2012 the Food and Safety authority in the Netherlands (VWA) has combined its powers with the General Inspection Service (AID) and the Plant Protection Service (PD). The reason for this merger is to renew the supervision and at the same time be a more efficient and effective enforcement agency. The authority will act under the name Dutch Food and Safety authority (Nederlandse Voedsel en Warenautoriteit: NVWA). The mission of the NVWA is to monitor the health of animals and plants, animal welfare and the safety of food and consumer products, and it enforces the laws on nature.

The enforcement strategy of the new NVWA is based on 'compliance', meaning voluntary compliance with rules and regulations by companies, institutions and consumers. The attitude of the NVWA with regard to companies and consumers is characterized by the principle of 'trust, unless ...'. The NVWA will cooperate with international and European authorities such as the DG SANCO (responsible for food and product safety), the Food and Veterinary Office, the EFSA and Prosafe (the Product safety forum in Europe).

Foodwatch

Besides the Food and Safety authority, another 'watchdog' has been more and more active in 2011: Foodwatch. Foodwatch is an independent initiative

which discloses unhealthy and harmful practices of food producers. It started in Germany in 2002 and has been active in the Netherlands since 2010. The annual “*Gouden Windei*” contest is probably the most famous initiative of Foodwatch. It is a voting contest for the most misleading marketing and probably the most famous initiative of the organization. In 2011 around 10,000 consumers took part and voted which marketing campaign they found most misleading. Foodwatch involves the consumers and tries to draw attention to misleading and harmful food producers and products. But the fact that consumers find certain products misleading, does not necessarily and automatically mean that these products are also misleading from a legal point of view. Foodwatch filed some complaints with regard to the alleged misleading products with the Dutch Advertising Code Committee. The Code Committee had a different view. Take the Nestlé FruitFlesje (“FruitBottle”). This product ended in second place for the *Gouden Windei* contest. According to Foodwatch, the name and depictions of strawberries on the packaging are misleading because the product only contains 7 percent strawberry puree. The Advertising Code Committee (RCC) holds that the packaging should be viewed in its entirety. In combination with the other statements on the product, there is no doubt about the product’s composition: it is a follow-on milk with fruit flavoring. Not misleading; the RCC dismisses the complaint.

A similar view by the Code Committee was shared for the holder of third place in the *Gouden Windei* contest 2011: Crystal Clear Shine. The packaging does say “Cranberry Elderberry Blossom” but, unlike Foodwatch, the RCC does not believe that the name creates the impression that the product consists for a large part of cranberry and elderberry blossom. It is clear that the product tastes of cranberry and elderberry blossom. The consumer can read the exact quantities of these ingredients on the list of ingredients. The RCC settles the admissibility of the claims in relation to water and aloe vera on the transitional arrangement of the Claims Regulation. Moreover, Vrumona has adequately disputed that health claims should not be made for products containing artificial sweeteners.

Also the Limburg Cream of Asparagus soup made by Honig (number 4 in the *Gouden Windei* contest 2011) and the Liga Fruitkick bar (number 5 in the contest) should not be regarded as misleading products, according to the RCC. Asparagus is actually used in the soup and the minor amount of 0.5 percent is evidenced by the statement of ingredients. The name of the product simply refers to the specific flavour and characteristic ingredients of which the product consists. And although a Liga Fruitkick bar only contains 6.7 percent fruit and further mainly sugar and glucose fructose syrup, the RCC is of the opinion that the consumer is not being misled by the texts “46 % Fruit filling” and “With lots of extra fruit filling”. The list of ingredients is clear.

Hence, the RCC rejects all of Foodwatch’s complaints against numbers 2 to 5 of the *Gouden Windei* contest 2011. In all these cases, the RCC has assumed that the “average careful observant consumer” is not easily misled. This consumer sees the entire packaging and reads the ingredients on the label to see what the product contains exactly. This appears to be a different consumer from the people who voted in Foodwatch’s *Gouden Windei* contest. Being placed in the top 5 of the *Gouden Windei* therefore does not equate with being defined as misleading by the Advertising Code Committee! Despite the view of the RCC, Foodwatch can be a helpful watchdog for consumers in the jungle of food products.

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