

The Netherlands

More Publications of Inspection Results by NVWA

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I. More Online Publications of Inspections and Enforcement Actions by NVWA to Come

Various food safety crises over the past decennia have led to an increased European focus on ensuring food safety. In this respect, the General Food Law Regulation (Regulation No. 178/2002) plays an important role in laying the foundation for ensuring that all food placed on the European Union market is safe. In the beginning of 2018, the Regulatory Fitness and Performance Programme (REFIT) of this Regulation was completed, and some shortcomings have been identified by the Commission. An important part of ensuring food safety is communication of relevant information, between authorities of different Member States and – no less important – to the public.

II. Call for Information by Consumer Organizations

Foodwatch, the well-known non-profit organization representing the interest of consumers, published its criticism of the Regulation by putting forward eight 'demands'¹ in its position paper dated July 2018. Two of these demands also concern information on food related topics. According to Foodwatch, public authorities should be obliged to inform the public immediately and comprehensively (full transparency), not only in case of potential health risks but also in case of fraud. Furthermore, individual consumers should be able to access all information held by public authorities regarding food. We explicitly chose not

to get into details on the lawfulness and usefulness of these demands. However, these two points show the concern of this organization regarding the availability of information on food (safety) to consumers.

III. Amendments to National Law

Exactly this point is also addressed in discussions regarding Dutch laws and regulations. The Food and Consumer Product Safety Authority (*Nederlandse Voedsel- en Warenautoriteit: NVWA*) is the Dutch governmental body responsible for enforcement of food laws. Like every other (food) authority, NVWA has the power to inspect companies (unannounced). The results of some of these inspections are sometimes published on its website (<<https://www.nvwa.nl>>). The legal basis for this publication was the Government Information (Public Access) Act (*Wet Openbaarheid Bestuur*). This Act requires NVWA to weigh the interests of the parties involved before making a decision to publish information.

A relatively new form of active publication was inspection results in the form of colour codes (traffic light system) for several (high risk) industries, such as the hotel and restaurant industries and fish auctions. By searching for the name of a specific company, everyone could find its score (red, green, yellow or not yet inspected). After assessing this method, the Minister of Public Health, Welfare and Sport concluded that this system is open to multiple interpretations and does not give an objective view of the actual situation at that specific company at a specific moment.

Therefore, the Minister opted for a clearer and more detailed publication of the results of the inspections in the form of a summary of each inspection report as well as warnings and administrative sanctions. This summer, a legislative proposal was published in

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1 <https://www.foodwatch.org/fileadmin/foodwatch.nl/Onze_campagnes/Beleidsstukken/Position_Paper_GFL_July_2018_English_2.pdf> (last accessed on 07 July 2018).

which the existing Health Act (*Gezondheidswet*) will be amended on the point of publication of information. The amended legislation describes the different types of information that can be published: results of controls and investigations, administrative fines and warnings that have not been executed (properly), including data of the company, the date of the investigation and its subjects. NVWA therefore will have the power to inform interested parties in a quite detailed label. The company in question will be given the opportunity to respond (in 50 words) before publication.

IV. Watch the Website of NVWA

As the scope of work of NVWA is very wide, this amendment of the law automatically results in an enormous amount of information that can be published on the website of the NVWA. In the explana-

tion to the amendments of the law it was estimated that NVWA may have up to two-hundred thousand documents per year that could be published. To control this stream of information and the workload of NVWA, a pilot will be started for hotels and restaurants, fish auctions and non-food products falling under the scope of the Commodities Act (*Warenwet*). The upcoming changes in the law will most likely come into effect at the end of this year or at the beginning of 2019. The amendment should first be approved by the Upper and Lower Houses as well as the Council of State. For companies active in food, especially the ones in the three aforementioned categories, it is advisable to thoroughly check all information that is about to be published by NVWA. This information can be used by competitors, consumers and consumer organizations. On the other hand, could it be possible that a 'clean slate' on NVWA's website results in a positive PR effect?