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EFTA SURVEILLANCE
AUTHORITY

Ministry of Health and Care Services
Department of Public Health
P.O. Box 8011 Dep,
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Norway

Cc: Ministry of Trade, Industry and Fisheries, tbt.notifications@nfd.dep.no

Dear Sir/Madam,

Subject: Request for information concerning labelling requirements on caffeine in certain products in the draft regulation on the addition of other substances than vitamins and minerals to foods

On 28 June 2018, the EFTA Surveillance Authority (“the Authority”) received a notification from Norway (Doc No 1043295, Notification 2018/9010/N), concerning a draft regulation on the addition of certain other substances than vitamins and minerals to foods, amending the Norwegian Regulation No 247 of 26 February 2010 on the addition of vitamins, minerals and certain other substances to foods (“the draft regulation”).

The notification was made *inter alia* under Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers¹ (“Regulation (EU) No 1169/2011”).

The draft regulation contains in particular warning labelling requirements concerning caffeine in certain foodstuffs. The Authority’s Internal Market Affairs Directorate notes that the European Commission delivered comments with respect to these requirements, which were forwarded to the Norwegian Government on 9 October 2018.

We would like to draw the attention of the Norwegian Government to an aspect concerning the warning labelling foreseen in Annex 3 of the draft regulation for sports drinks Category I and II, intended for people over the age of 18, with caffeine added in a proportion up to 10 mg/100ml (which is not subject to the specific labelling foreseen in Regulation (EU) No 1169/2011 for beverages containing caffeine in a proportion in excess of 150 mg/l).

The warning labelling for these products states that “A daily intake of 400 mg of caffeine from all sources should not be exceeded”.

¹ Act referred to at points 54zzzt, 54zzzu and 86 in Chapter XII of Annex II to the EEA Agreement.

The European Food Safety Authority (EFSA), in its scientific opinion on the safety of caffeine, made different conclusions on daily caffeine intakes from all sources for specific groups of the population, including for pregnant and lactating women². It is noted that the above-mentioned warning labelling does not seem to reflect these conclusions by EFSA.

The Norwegian Government is invited to provide clarifications and its observations in this regard, if possible by *28 January 2019*.

Yours faithfully,

Karl Karlsson
Deputy Director
Internal Market Affairs Directorate

This document has been electronically authenticated by Karl Karlsson.

² Scientific opinion of the European Food Safety Authority on the safety of caffeine, 2015, <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2015.4102>, see general conclusions p.74-76. EFSA concluded in particular that:

- “Caffeine intakes from all sources up to 400 mg per day (about 5.7 mg/kg bw per day for a 70-kg adult) consumed throughout the day do not give rise to safety concerns for healthy adults in the general population, except pregnant women (see below)”.
- “Caffeine intakes from all sources up to 200 mg per day consumed throughout the day by pregnant women in the general population do not give rise to safety concerns for the fetus” and “data to characterise the risk of habitual caffeine consumption in this population subgroup are scarce”.
- “[...] habitual caffeine consumption at doses of 200 mg per day consumed by lactating women in the general population do not give rise to safety concerns for the breastfed infant” and “data on habitual caffeine consumption in this population subgroup are scarce”.