



Press and Information

Court of Justice of the European Union  
**PRESS RELEASE No 115/10**  
Luxembourg, 25 November 2010

Judgment in Case C-47/09  
European Commission v Italian Republic

## **By authorising the use of the name “pure chocolate” Italy has infringed EU Law**

*A statement on the labelling indicating the absence of substitute vegetable fats will provide consumers with correct information*

EU law concerning the labelling of cocoa and chocolate products <sup>1</sup> harmonises the sales names for such products. Where they contain up to 5% of vegetable fats other than cocoa butter (‘substitute vegetable fats’), their name remains unchanged but their labelling must display, in bold lettering, the specific statement ‘contains vegetable fats in addition to cocoa butter’.

In the case of chocolate products containing only cocoa butter, that information may be given on the labelling, provided the information is correct, neutral, objective, and does not mislead the consumer.

Under the Italian legislation, the phrase ‘pure chocolate’ may be added to or incorporated in the sales names, or indicated elsewhere on the labelling of products not containing substitute vegetable fats, and administrative fines (of €3000 to €8000) are laid down for any infringement of those rules.

The Commission brought infringement proceedings against Italy before the Court of Justice, claiming that Italy has introduced an additional sales name for chocolate products, depending on whether they can be regarded as ‘pure’ or not, which constitutes an infringement of the directive and conflicts with the case-law of the Court. According to the Commission, the consumer must be informed whether or not substitute vegetable fats are present in the chocolate through the labelling and not through the use of a separate sales name.

The Court notes as a preliminary point that the European Union has introduced **full harmonisation of sales names** for cocoa and chocolate products **in order to guarantee the single nature of the internal market**. Those names are both **compulsory and reserved for the products listed in the EU legislation**. That being so, the Court holds that that legislation **makes no provision for the sales name ‘pure chocolate’ and does not permit its introduction by a national legislature**. In those circumstances, the Italian legislation runs counter to the system of sales names created by EU law.

The Court notes also that **the system of double names introduced by the Italian legislature does not comply either with the requirements of EU law concerning the need for the consumer to have information that is correct, neutral and objective, and that does not mislead him**. The Court has held<sup>2</sup> that the addition of substitute vegetable fats to cocoa and chocolate products which satisfy the minimum contents required under EU legislation does not substantially alter their nature to the point where they are transformed into different products and therefore does not justify a difference in their sales names.

<sup>1</sup> Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (OJ 2000 L 109, p. 29) and Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption (OJ 2000 L 197, p. 19).

<sup>2</sup> Case [C-14/00](#) *Commission v Italy* (see Press Release [3/03](#))

The Court holds, however, that, under EU legislation, the inclusion elsewhere in the labelling of a neutral and objective statement informing consumers of the absence from the product of vegetable fats other than cocoa butter would be sufficient to ensure that consumers are given correct information.

**Consequently, the Court concludes that, inasmuch as it enables the coexistence of two categories of sales names essentially designating the same product, the Italian legislation is likely to mislead consumers and thus interfere with their right to obtain correct, neutral and objective information.**

The Court therefore finds that Italy has failed to fulfil its obligations under EU law.

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**NOTE:** An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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