



Directorate Food Safety and Quality Assurance, Private Bag X343, PRETORIA, 0001

FAX COVER SHEET

TO: The Poultry Meat Industry

ATTENTION:

FAX:

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Subject

DISPENSATION: PROHIBITED PARTICULARS – POULTRY INDUSTRY TRADE MARKS/BRAND NAMES/LOGOS

1. Background

The regulations for poultry (Government Notice No. R 946 of 27 March 1992) originally indicated the following in regulation 13(2):

The words 'natural', 'natuurlik', 'super', 'ultra', 'extra' or 'ekstra' or any other word or expression that directly or by implication creates or may create the impression that the poultry meat is of a special or particular quality, shall not be marked on the container of such a product unless the word or expression concerned is part of the trade mark appearing on such container.

These regulations of 1992 were amended by Government Notice No. R 988 of 25 July 1997 which removed the last part of the mentioned regulation, namely "unless the word or expression concerned is part of the trade mark appearing on such container".

This means that trade marks are also subject to this restriction in the regulations and may not include quality indications/words such as "Superior", "Supreme", "Sovereign", "Premium", etc. From a legal viewpoint the owner of a trade mark that was registered before 1997 still has the right to make use of the trade mark if he/she provides proof of registration/use of the trade mark before 25 July 1997.

After investigation this office found that various of these prohibited trade marks/brand names/logos have been in use for many years even though not registered before 1997. Stopping the use of these trademarks/brand names will seriously impact on the market competitiveness of the companies using these established trade marks/brand names/logos.

The Executive Officer was approached with a request to grant the dispensation below to allow for the use of trade marks/brand names/logos with prohibited words or statements. The dispensation was granted with various important conditions – please take note of these conditions in (a) – (i) below.

Also take note that this dispensation is still subject to regulation 13(1) preventing the use of genuine misleading indications – the Executive Officer may thus still decide on whether the indication is really misleading or not.

2. Dispensation

Permission is hereby granted by the Executive Officer: Agricultural Product Standards in terms of section 3(1)(c) of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), to The Poultry

Meat Industry to use/indicate trade marks/brand names/logos containing prohibited indications in terms of regulation 13(2) of Government Notice No. R 946 of 27 March 1992 as amended, on poultry meat packaging.

This permission is subject to the following conditions:

- (a) All other conditions of the relevant regulations shall be complied with.
- (b) It may be withdrawn at any time should a valid complaint be received.
- (c) The Poultry Meat Industry indemnifies this Directorate and the Department from any detrimental effect, financially or otherwise, which may emanate as a result of this permission.
- (d) The trade mark/brand name/logo shall be registered under the Trade Marks Act 1993.
- (e) The trade mark/brand name/logo shall be accompanied by the required symbol of registration (such as TM or R or as required).
- (f) Only one such prohibited trade name/brand name/logo shall be allowed and it shall be the name under which the product is sold/presented to the consumer.
- (g) No other indications containing prohibited words shall be allowed – either registered or unregistered.
- (h) Proof of registration shall be supplied to the inspectors of the Department with the use thereof.
- (i) Before printing the labels/packaging using/indicating trade marks/brand names/logos containing prohibited indications it shall be submitted to the inspectors of the Department for approval.
- (j) Termination date: When the amendments of the relevant regulations have been published.



EXECUTIVE OFFICER:
AGRICULTURAL PRODUCT STANDARDS ACT, 1990 (ACT NO 119 OF 1990)

Copies: Inspection Services