

Legal Alert

23 January 2023 | www.skslegal.pl

Advertising of food supplements – changes

On the website of the Government Legislation Centre on January 2 this year, a **draft act amending the act on food safety and nutrition was published, providing for more detailed requirements on the presentation and advertising of food supplements.**

The draft included the following proposed changes, among others:

- a) A general commitment to ensure that the presentation and advertising of food supplements presents the food supplement fairly, is not misleading, and complies with the requirements of Regulations 1169/2011 (on the provision of food information) and 1924/2006 (on nutrition and health claims).
- b) The obligation to include **the following message in the presentation and advertising of a food supplement:**

A food supplement is a foodstuff intended to supplement a normal diet. The food supplement does not have medicinal properties. (PL: Suplement diety jest środkiem spożywczym, którego celem jest uzupełnienie normalnej diety. Suplement diety nie ma właściwości leczniczych.

with detailed guidelines for its presentation depending on the form of advertising (audio-visual, audio, visual);

- c) **The introduction of advertising bans and restrictions**, among others:
 - targeting advertising to minors under the age of 12;
 - **the use of the image of authorities and experts in the field of medical and health sciences**, including persons performing medical professions (among others, physicians, physiotherapists, dieticians), **objects that may evoke associations with professions**

applicable to health care (including a stethoscope, blood pressure apparatus, a bed, physiotherapy exercise equipment, scales, anthropometric tape), or **presentations of activities that may evoke associations with these professions** (including examinations, writing prescriptions, selling at a pharmacy or pharmaceutical outlet), and other elements that evoke similar associations;

- **misrepresenting the properties of a food supplement by including a shared main element with the proper or common name of a medical device, medicinal product**, or a shared graphic or trademark, graphic shape, or packaging using similarity with the designation of a medical device or medicinal product;
- a ban on advertising in:
 - ✓ units of the educational system, entities performing medical activities, pharmacies and pharmaceutical outlets (with the exception of separate places, separated from the places of the presentation of medicinal products, medical devices and cosmetics, which may not be located in the immediate vicinity of the customer service point); and
 - ✓ in herbal and medical stores, specialty medical supply stores, and general stores selling OTC drugs (except for the presentation of food supplements in separate areas placed in the buyer's field of vision which must not be in the immediate vicinity of the customer service point).

ATTENTION: the advertising of food supplements carried out in the places described above (to the extent permitted by the law) may not violate the general prohibition on advertising pharmacies and pharmaceutical outlets, and the prohibition on advertising of non-pharmacy outlets and their activities relating to medicinal products or medical devices (prohibitions established in the Pharmaceutical Law);

- d) The introduction of the **possibility of using in the labelling, presentation, or advertising of food supplements, a voluntary mark confirming the quality and safety of the product** based on an analysis of its composition. Placement of the mark is possible after laboratory tests and obtaining an opinion of a scientific unit confirming the compliance of the composition of the food supplement with the requirements for food safety and food supplements;
- e) **Exclusion from the notification to the Chief Sanitary Inspector (GIS) of obligatorily enriched foods.** The Regulation of the Minister of Health of 16 September 2010 on enrichment substances added to food (Journal of Laws, item 1184) specifies foodstuffs to which vitamins and minerals are mandatorily added; and;
- f) **A change in the criminal provisions and fines** (conducting advertising in violation of the law would be punishable by a fine of between PLN 10,000 and PLN 1,000,000) and the manner in which they are administered.

The draft act provides time to prepare for the new regulations as it is expected to **enter into force 3 months after the date of promulgation.**

The text of the draft act can be found at the following link: [LINK](#)

If you have any questions about the presentation and advertising of food, including food supplements, please feel free to contact us. We will be happy to answer any questions.

Contact us!



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