

## The Role of Razzies in EU Food Law<sup>1</sup>

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### Golden Raspberries

One day before the distribution of the Academy Awards for excellence of cinematic achievements, the ceremony of Golden Raspberries or “Razzies” takes place. Razzies are awarded in recognition of the worst in film. Obviously, no producer, actor or actress is looking forward to receiving this “prize”. However, Razy ceremonies continue to take place ever since 1980, so there seems to be no escape.

### Razzies in Food Law

Since 2009, the Razzies have their peer in EU food law. Foodwatch, a European consumer protection organization active in Germany, France and the Netherlands, awards the so-called Golden Creampuff. This prize is granted for marketing strategies designed to “cleverly obscure the discrepancy between the alleged positive qualities of the products in question and their actual benefits.” For a number of years, this “prize” has been granted in Germany and the Netherlands under the names *Goldener Windbeutel* and *Gouden Windei* respectively.

### Gouden Windei competition

On 3 October 2013, the *Gouden Windei* was awarded to the Dutch coffee company Douwe Egberts for a sweetener from its Natrena Stevia product line. Douwe Egbert's product competed with four other products consisting of an energy drink, a cake, a salmon dinner product and a pear ice cream. The Natrena Stevia product line offers alternatives for sugar based on steviol glycosides that are extracted from the leaves of the Stevia plant. Douwe Egberts previously only marketed sweeteners based on Aspartame, but some consumers have a preference for the natural ingredient Stevia over the chemical compound Aspartame. You may recall that aspartame was regularly the object of public concern due to anecdotal reports of adverse effects. So far however, EFSA has concluded that it is safe to use this product as a food additive.

### Natrena Stevia is the winner

Douwe Egberts' winning product consisted of a small jar containing 70 grams of “Natrena Stevia crystal powder”. In total, 14.322 consumers had participated in the election of the Gouden Windei 2013, which election featured in total five products. 27 % of those consumers (3.866 persons) considered the Natrena Stevia sweetener to be the most misleading, as it only consists of 3 % Stevia. The other 97% of the product consists of Maltodextrine, which is a carbohydrate produced from potato or corn starch.

### Applicable legal framework

The applicable legal framework, with which products such as Natrena Stevia have to comply, is constituted by the Food Information Regulation inter alia. This Regulation will replace the current labeling Directive 2000/13 on 13 December 2014. However, in order to ensure a smooth transition, many food operators tend to act in compliance with the Food Information Regulation as of today. According to article 22 of this Regulation, the indication of the quantity of an ingredient used in the manufacture or preparation of a food shall be required where the ingredient concerned is emphasised on the labelling in words, pictures or graphics. At a national level, similar provisions apply. The product Natrena Stevia features a list of ingredients indicating that this product contains 3 % Stevia. At this point, this products therefore seem to comply with the applicable legislation.

### And what else?

In as far as food products do not comply with the applicable legal framework, consumer complaints can be justified and one could argue that organisations such as Foodwatch do a good job. However, it is all the more interesting to see that consumer complaints are also mobilised against products that in fact are in compliance. Reference is made to a case recently decided by the Dutch Advertising Code Authority that was previously discussed at [www.foodhealthlegal.com](http://www.foodhealthlegal.com). Should it be concluded that the provisions laid down in the Food Information Regulation only provide a *de minimis* framework that does not pave the way for full consumer information? Or it is justified to expect from consumers of food products that they do some further research in addition to the information perceived at first glance?

### Public perception

One can wonder if the yearly Razzies constitute an isolated momentum or if they have some social or economic impact indeed. Based on the changes applied in the information provided currently provided with the Natrena Stevia product, this latest Razy seem to have had repercussions indeed. Douwe Egberts added an explanatory note on its website regarding the limited quantity of Stevia contained in its product Natrena Stevia crystal powder. In free English translation this reads “*Stevia crystal powder consist of the light filler maltodextrine (97%) and Stevia (steviol glycosides 3 %). Why so little Stevia? That is because Stevia is 300 times sweeter than sugar and in its pure form therefore is difficult to dose. The filler causes 1*

*small spoon of Natrena Stevia to be as sweet as a small spoon of sugar, but it contains far less calories (3kcal per tea spoon)*". Based on all of this, it can be concluded that public perception, in addition to all legal and other product requirements, also plays a role in EU Food Law. Hopefully for the benefit of our healthy appetite!

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<sup>1</sup> This article is a short extract of a publication in EFFL 2013/6, which provides a broader perspective in the framework of misleading advertising, both in the Netherlands and Germany.