

To eat or..?

Malcolm Horner, Toy Technical Consultant, Bureau Veritas Consumer Products Services, gives us the details on imitation food



Questions around food imitation come up quite often and I am regularly asked if toys and other products that look like food fall under the scope of the Imitation Foodstuffs Directive or not. Let's try to clarify the issue...

The Directive 87/357/EEC on dangerous food imitations regulates the supply of products that look like foodstuffs but which are not edible. To fall within the scope of the Imitation Foodstuffs Directive, products must be those which, although not foodstuffs, possess a form, odour, colour, appearance, packaging, labelling, volume or size, such that it is likely that consumers, especially children, will confuse them with foodstuffs. The risk to children is that they could be tempted to put these in their mouths, suck them or ingest them, with the result that they may suffer death or personal injury, for example by suffocation, poisoning or the perforation or obstruction of the digestive tract.

The UK Food Imitations (Safety) Regulations, SI 1989 N°1291, implement Directive 87/357/EEC although there are certain differences. For example, the UK Regulations specifically exempt marbles and products bona fide intended for use to represent food in a dolls house or other model scene or setting. Also, there exists a UK Guidance Note for suppliers, which was produced by the (old) Department of Trade and Industry in 1989, in an attempt to assist suppliers in interpreting the requirements of the Regulations. However, the specific UK exemptions and Guidance Notes may not be followed by Market Surveillance Authorities in other Member States.

If you are a toy manufacturer, as part of the safety assessment that needs to be carried out for your products, you should ask yourself if your toys fall under the food imitation regulation/Directive.

How can you determine if your toy falls under the imitation foodstuffs legislation?

The Regulation/Directive is subject to interpretation however certain thought processes should help you define if the product could be considered as imitation foodstuff or not:

- **The size of the imitation: is the size of the imitation close to the size of the real food?**
- **The texture, shape and colour: is the appearance close to the real food?**
- **Odour: does the imitation smell like the real food?**

If the answer to any of the above is "Yes", then your product might fall under the food imitation legislation. The main question to ask yourself is "would a child actually think that this product really is food (including confectionery)?"

It is important to remember that a toy will not fail to comply simply because it resembles a foodstuff. Although it may initially fall under within the scope of the Directive/Regulations, the toy will only fail if it also presents a risk. For example, if a food imitation is not a small part and does not release small parts during normal or foreseeable use, it is unlikely to present a risk of choking or blockage of the digestive tract.

What about dough?

Modelling dough sets can sometimes come with food stencils to enable children to create food-shaped creations and I sometimes get asked if dough could be considered as food imitation. On the basis that the dough is not sold in the shape of food items and that the food shapes are then created by the child himself, it is unlikely that the child would mistake the dough for edible food.

More than toys

In addition to toys, there are other product categories where food imitation issues are likely to occur, for instance: candles, soaps, bath products, decorative, cosmetics, fashion jewels etc. I would suggest that you have a look at the recalled products under the RAPEX alerts (the EU rapid alert system for non-food dangerous products) to get a hint of the involved products. From this, it will also give you an idea on how strict other Member States can be on this type of products.

The future of imitation foodstuffs regulation

It is likely that the Imitation Foodstuffs Directive will be withdrawn and assimilated to the GPSD (General Product Safety Directive), - or rather to the new Consumer Product Safety Regulations which is aiming at replacing the GPSD in 2015. It is too early to tell if the forthcoming change will make the assessment of food imitations easier (hopefully) or more difficult.

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