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Italy taken to court over chocolate

By Barbara Balfour

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Italy's insistence on the purity of its chocolate lands it in court for a second time

BRUSSELS - Consumers know it best for its sensual pleasures, alleged aphrodisiac effects and potential health benefits. But as a result of a legal battle launched by the European Commission on 26 June, lovers of the "pure" chocolate that Italian confectioners produce may soon be forced to question just how potent its effects are.

As a third step in an infringement procedure, the Commission has decided to refer Italy to the EU's highest court, the European Court of Justice (ECJ), for failing to comply with EU legislation by labelling chocolate made with no fats other than cocoa butter as "cioccolato puro," or pure chocolate.

In EU regulations, there is no such thing as "pure chocolate" - just chocolate with a "maximum of 5% of vegetable fat in addition to cocoa butter". Whether the percentage of vegetable fat is zero or five, it is - in EU eyes, at least - simply chocolate.

The European Commission has now decided that Italy's attempt to distinguish between chocolates violates EU Directive 2000/36/EC and misleads consumers into believing that chocolate products labelled as "pure" are of superior quality.

"Italy has failed to respect the directive, and labelling chocolate as 'pure' is discriminatory," said Michael Mann, EC spokesman for agriculture and development. "This is also discriminatory to other countries who have followed the labelling rules, and detrimental to internal market competition and fair trade. We need to allow trade to happen fairly by ensuring there is one single set of rules."

Italy's rules on chocolate have already put it in a sticky position with the ECJ. In 2003, the court ruled that Italy's rule that the only chocolate worthy of the name contains cocoa butter was an infringement of the free movement of goods. The addition of vegetable fats does not substantially alter the nature of chocolate, it ruled.

Mann said it would take at least a year to obtain a court ruling in the case, so in the meantime, it will be business as usual for the Italian chocolate industry.

And in Italy, chocolate is big business. Figures released by CAOBISCO, an EU association

of chocolate, biscuit and confectionary producers, show that Italy has produced around 260,000 tonnes of chocolate products a year over the past three years, with the latest sales figures showing that revenues exceeded €350 million in 2006.