



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Deputy Director-General, in charge of Directorates E, G and H

Brussels,  
AGRI[Art 4.1] Ares (2022) 792604

By e-mail only

Dear [Art 4.1 (b) - privacy]

Thank you for your questions of 19 January 2022 on the implementation of the Directive (EU) 2019/633 on unfair trading practices ('the Directive').

In your email you ask whether drinks, such as water, spring water, soft drinks or flavoured table water would fall within the scope of the Directive.

According to Article 2 (1) of the Directive, the Directive covers products under Annex I TFEU as well as, products not listed in that Annex but processed from them for use as food. Since water is not an Annex I TFEU product, it does not fall under the scope of the Directive. This applies also to bottled water. Whether bottled water is considered food and intended for human consumption e.g under other legal frameworks, is not relevant for the application of the Directive, where the definition of Article 2(1) is applied.

With regard to soft drinks or flavoured table water, an assessment would have to be made if the product is made out of Annex I products. It will be the ingredients additional to water that would determine whether the product falls under the scope of the Directive.

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The present opinion is provided on the basis of the facts as set out in your email of 19 January 2022 and expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Please be advised that we intend to share your questions and our replies with other Member States via the CIRCABC system so as to facilitate the consistent transposition of the Directive. Doing so, we will redact any personal information.

[Art 4.1 (b) - privacy]

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Lithuanian Ministry of Agriculture

E-mail: [Art 4.1 (b) - privacy]

Yours sincerely,

[Art 4.1 (b) - privacy]

Michael SCANNELL