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# Licensing

## Mark control SOP

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### 1. Purpose of this document

The purpose of this document is to describe measures to control the misuse of the FAIRTRADE Marks.

### 2. Application

This document applies to the personnel of Fairtrade Labelling Organizations International e.V. ("Fairtrade International Personnel") and the National Fairtrade Organizations worldwide ("NFO Personnel" – "Fairtrade International Personnel" and "NFO Personnel" together "Fairtrade Personnel").

### 3. Detection – General

Fairtrade Certified Operators and the public can report misuse of the Fairtrade Mark by email to [licensing@fairtrade.lu](mailto:licensing@fairtrade.lu).

Persons who report a potential trademark misuse or trademark infringement to Fairtrade Personnel will be treated confidentially at the request of the reporting party. If, in the course of investigating and enforcing the corresponding notified trademark misuse or infringement with respect to the FAIRTRADE Marks, disclosure of the identity (name, address etc.) of the reporting party becomes appropriate or necessary (e.g., in a trademark infringement case in court regarding the time of discovery, witness testimony, etc.), the competent Fairtrade Personnel must notify that person in advance to obtain that person's consent.

In addition to proactive reporting by Fairtrade Certified Operators and the public, the Licensing manager must ensure that the internet is scanned for incorrect Fairtrade Mark use once in a quarter (at least every three months).

### 4. Licensee incorrect use

#### 4.1. Detection

In the course of their work Fairtrade Personnel report any Licensee improper or incorrect use to the Licensing unit and the Licensing Manager. Licensing personnel may also receive information regarding incorrect use from consumers, companies and FLOCERT. Incorrect use on Licensee product packaging is handled through Fairtrade Connect.

#### 4.2. Warning email

If there is improper or incorrect use of a FAIRTRADE Mark not captured in Fairtrade Connect, or if a Licensee continues to use a FAIRTRADE Mark on a product that has been declined in Fairtrade Connect, then the Licensing manager or his delegate must ensure to send an email to the Licensee outlining the improper and/or incorrect use of the FAIRTRADE Mark and asking them to correct the use by a certain reasonable deadline which should normally not be longer than two (2) weeks to remedy the improper or incorrect use of the FAIRTRADE Mark. This should be preceded by a phone call from the Account Manager or the Licensing Manager.

#### 4.3. Incorrect use letter

If the Licensee does not remedy and correct the improper and/or incorrect use within the deadline in the email, then a more formal Incorrect Use letter must be sent to the Licensee.

The letter must clearly indicate the specific nature of the improper and/or incorrect use, the correction required, the date by which the correction must be completed, the method by which conformance will be confirmed and the possible consequences if the

deadline is not met. In the event of serious and intentional incorrect use the consequence and result is delicensing.

The letter must be reviewed and signed by a person other than the drafter of the letter. The Licensing manager and the Executive Director may sign such incorrect use letters.

Deadlines should be realistic for the Licensee and it is prudent to let the Fairtrade Operator suggest a date, provided that it is not unreasonable. If the deadline is approaching and licensing personnel have not heard anything from the Fairtrade Operator, it is prudent to contact the Operator before the deadline passes.

For incorrect use other than on product packaging, reasonable requests to extend the deadline *before* the deadline passes may be granted if the incorrect use is not serious.

If the deadline passes without fixing the incorrect use, then the Operator is sent a letter of delicensing. These letters are reviewed and signed by the Executive Director. If a licensee is delicensed, FLOCERT and Fairtrade International are informed. The Head of Brand, Trademark and Licensing at Fairtrade International follows up with Fairtrade International Legal Department. The Head of the Licensing units of the relevant National Fairtrade Organization are available to answer questions from Fairtrade International. Fairtrade International, as owner of all FAIRTRADE Marks, may at any time take over the further action from the relevant National Fairtrade Organization in this regard or coordinate the further proceedings together with the Licensing manager of the relevant National Fairtrade Organization.

## 5. Non-Licensee misuse

### 5.1. Misuse detection

Fairtrade Personnel (personnel dealing with licensing operations at the respective Licensing Body (National Fairtrade Organization or Fairtrade International), (“Licensing Personnel”), periodically performs internet searches to detect unauthorized use of the FAIRTRADE Marks in their relevant Home Countries, which in relation to the internet means that the trademark infringements of the FAIRTRADE Marks by language, delivery conditions etc. are addressed and focused particularly to the relevant Home Country, but not limited to such infringements. Licensing personnel also receives allegations of unauthorised use from consumers and companies.

Allegations or misuses that do not apply to the respective Licensing Body (National Fairtrade Organization or Fairtrade International) but were detected by or reported to that Licensing Body, shall be forwarded to the relevant National Fairtrade Organisation or Fairtrade International by the respective Licensing Body.

### 5.2. Warning email

In the first instance the Licensing manager or his delegate must ensure to send an email to the company outlining the misuse of the FAIRTRADE Marks and asking them

to correct the misuse within a certain reasonable deadline which should normally not be longer than two (2) weeks to remedy the misuse of the FAIRTRADE Mark.

### 5.3. Cease and desist letter

If the company fails to respond to the warning email or if the company cannot be contacted, then the Licensing manager sends the company or the misuser a cease and desist letter.

The letter must be reviewed and signed by a person other or additional than the drafter of the letter. The Licensing manager or the Executive Director may sign the letter. The letter is delivered by registered/certified mail, as the date of the receipt/delivery of the cease and desist letter needs to be demonstrated/verified.

### 5.4. Failure to correct

If the company fails to remove all unauthorised use of the FAIRTRADE Marks, then the Executive Director is informed. After reviewing the case, the Licensing manager or Executive Director discusses the legal options with the internal and/or external (trademark) legal counsel.

### 5.5. Legal or other action

If after the letter from Fairtrade Lëtzebuerg legal counsel the company fails to remove all unauthorised use of the FAIRTRADE Marks before the deadline, then the Executive Director is informed.

Fairtrade Lëtzebuerg will then discuss the case with Fairtrade International. Fairtrade International has the sole right to take legal actions, however, Fairtrade Lëtzebuerg ensures to support Fairtrade International at any time.

The Executive Director, Fairtrade Lëtzebuerg legal counsel and Head of Brand, Trademark and Licensing at Fairtrade International follow up on any legal action that must be taken with Fairtrade International Legal Department.

## 6. Records and reports to Fairtrade International

Licensing Personnel ensures that the evidence of FAIRTRADE Mark misuse is recorded and that such evidence is dated.

Records of all warning emails, Cease and Desist letters and any subsequent actions as described in this document are kept for ten (10) years to be able to trace repeated trademark misuse and infringements in a documented way.

Fairtrade Lëtzebuerg sends Fairtrade International a quarterly report which summarizes all FAIRTRADE Mark Misuse cases by licensees and non-licensees.

All reports must be sent to Fairtrade International through the [trademark@fairtrade.net](mailto:trademark@fairtrade.net) email account.