
Fairtrade Ireland Fairtrade mark Misuse Monitoring and Control SOP

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 is to be used by Fairtrade Ireland staff dealing with packaging and promotions.

3. Detection - General

Fairtrade Certified Operators and the public can report misuse of the Fairtrade mark by several mechanisms:

- Fairtrade Ireland website
- By email to licensing@fairtrade.ie

Persons who report a potential trademark misuse or trademark infringement to Fairtrade Ireland 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 Ireland personnel must notify that person in advance to obtain that person's consent.

4. Licensee Incorrect Use

4.1 Detection

In the course of their work Fairtrade Ireland Personnel report any Licensee improper or incorrect use to the Licensing Director 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 by the Licensing Manager.

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 in the case product packaging, the Licensing Manager and in the case of Marketing and Communications Materials, the Project Manager 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 to remedy the improper or incorrect use of the Fairtrade mark. This should be preceded by a phone call from the Commercial Relations Manager, the Project 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 a delicensing.

The letter must be reviewed and signed by a person other than the drafter of the letter. 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.

Fairtrade Ireland Fairtrade mark Misuse Monitoring and Control SOP

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 Director of the relevant National Fairtrade Organization.

5. Non-Licensee Misuse

5.1 Misuse Detection

The Licensing Personnel (personnel dealing with licensing operations at Fairtrade Ireland and Project Manager) periodically perform internet searches to detect unauthorised 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.

In the case of other uses of our Fairtrade marks the Project Manager is responsible for all approvals and Corrections processes.

5.2 Warning Email

In the first instance the Licensing Director 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. If there is no response to the email, the company will be contacted by the Commercial Relations Manager by phone.

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 Director sends the company or the misuser a cease-and-desist letter.

In this regard, the Licensing Director uses the template "Fairtrade Ireland Mark Misuse First Letter FO" to draft a letter to the company requesting them to stop using the Fairtrade mark.

The letter must be reviewed and signed by a person other or additional than the drafter of the letter. 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.

Fairtrade Ireland Fairtrade mark Misuse Monitoring and Control SOP

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 Executive Director discusses the legal options with the internal and/or external (trademark) legal counsel.

If agreed a letter based on "Fairtrade mark Misuse Second Letter FO" is sent by legal counsel to the company.

5.5 Legal or Other Action

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

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

The Executive Director, Fairtrade Ireland legal representative 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.

Where necessary Fairtrade Ireland sends Fairtrade International a annual 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 email account.

References:

Fairtrade Ireland License Contract

Fairtrade Ireland Operator Mark Incorrect Use First Letter

Fairtrade Ireland Operator Mark Incorrect Use Second Letter

Fairtrade Ireland Mark Misuse First Letter

Fairtrade Ireland Mark Misuse Second Letter