

Protocol relating to breeders' rights infringements

Point of view and Position of the Flower
Auction



The auction

- Processes over 12 billion flowers and plants a year
- Offers growers and buyers
 - a network of marketplaces
 - a national intermediary organization (FloraHolland Connect)
 - internationally active import department
- Only a marketplace, FloraHolland auction does not become owner of the flower and plant products



The cooperative

- a primary cooperative, the whole firm is owned by its members
- cooperative partnership gives the growers a solid foundation for a good price forming of their products
- 6000 members in the Netherlands and abroad
- such joint forces are unique in the world











Protocol relating to the breeders' rights infringement

- FloraHolland and Plantum NL (Dutch breeders' association) > agreed on procedure if no royalties have been paid.
- FloraHolland not owner of the products > in principle not responsible> matter between breeder and grower.
- Nevertheless FloraHolland > her responsibility to prevent trading that infringes upon breeders' rights.
- The agreement assist the breeder taking action against infringers, **but:**

Conditions:

- The interests of the growers must at all times be considered.
- A thorough procedure ought to prevent growers from being wrongly accused and harmed.
- The breeders' rights holders must therefore take their own initiative.
- So: the protocol contains very proper procedures:
 - the procedures with which breeders can submit a request for action to FloraHolland
 - the procedures how and in what situations FloraHolland can help.
- Procedures for frequently occurring infringement cases.

The most frequent cases

1. grower supplies **without having a contract** or breaches the agreements of the contract.
2. grower supplies **without a contract from a certain country**.
3. grower > contract with a breeders' right holder > supplies **more than he has reported to the breeder**, or grower supplies **more as a result of having propagated** his purchased material **without permission**.
4. A protected variety is offered at the auction under the code "other", and therefore **without variety name**.
5. A variety is **wrongfully offered** under a variety name of the breeders' right holder.

How can breeder submit request for action to FloraHolland?

- Request by breeder per e-mail to the department of Product and Concept development (PCO) at FloraHolland.
- Request contains the next information:
 - concrete problem and the manner of infringement
 - concrete request to and the actions expected from FloraHolland
- If applicable:
 - copies of the relevant PBR certificates or registration numbers
 - names of the involved growers without license agr.
 - list of growers who have a license agreement

What are FloraHolland's next steps?

- FloraHolland checks the suspicions of the breeders' right holder
- If infringement confirmed > established steps are taken per situation (most frequent cases).

These steps are:

- Grower will be informed and required to correct his behavior
- Official written confirmation by FloraHolland
- Grower asked to provide a reply and given the opportunity to demonstrate that he has not infringed PBR.
- If grower does not respond or fails to provide clear evidence > FloraHolland proceeds sanctions.

What sanctions apply at FloraHolland?

1. first infringement > correction of the variety name > auctioned in last group at the auction clock.
2. second infringement > product will not be auctioned and will be destroyed
3. Third or further sanctions > impose further sanctions, including the imposing of ending membership at FloraHolland.

Who pays for the prosecution?

- FloraHolland pays these costs > as far as actions are within normal scope.
- specific actions that require great effort on the part of FloraHolland
> costs will be charged to the breeders .
- Breeder always be informed of the costs in advance.

Information

For further information about the breeders' rights protocol, please contact the manager Mr. Xander Berents

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Thank you for your attention !