

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(87) 74 final

Brussels, 27 February 1987

Proposal for a  
COUNCIL DIRECTIVE  
amending for the fourth time Directive 76/768/EEC on the approximation  
of the laws of the Member States relating to cosmetic products

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(Presented by the Commission)

COM(87) 74 final

EXPLANATORY MEMORANDUM

The purpose of the proposal is :

- to update Directive 76/768/EEC following the adaptation to technical progress of Annexes II to VI since the Directive was adopted,
- to amend some of the Articles of the Directive in the light of experience gained since 1976.

1. Since 1982, Annexes II to VI have been adapted to technical progress seven times<sup>1,2,3,4,5,6,7</sup>. It is therefore proposed that the wording of Articles 4 and 5 referring to these Annexes be amended to allow for the changes. The list of colouring agents becomes an exhaustive Community list (list of permitted substances) and it is specified that colouring agents intended solely to colour hair are excluded from the list as they are to have a list of their own (Article 11 and penultimate recital of Directive 76/768/EEC).
  
2. In the course of its proceedings leading to the adoption of Directive 82/368/EEC<sup>8</sup>, the Council's Working Party on Economic Questions several times drew the Commission's attention to the difficulties caused by the wording of Article 6 of Directive 76/768/EEC and asked that it be reviewed.  
On 22 June 1986 the Commission asked the Member States to explain their difficulties and to make any appropriate proposals. Following the comments received, it is proposed that Article 6 be amended to make it more precise, in particular by indicating where the mandatory particulars on the label should appear and adopting certain provisions for cosmetic products sold in bulk.
  
3. Article 12 of Directive 76/768/EEC (safeguard clause) requires the Commission to consult the Member States concerned within six weeks. Experience gained since 1976 shows that it is often impossible to adhere

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- 1 OJ No L 109, 26.4.83, p. 25
  - 2 OJ No L 188, 13.7.83, p. 15
  - 3 OJ No L 275, 8.10.83, p. 20
  - 4 OJ No L 228, 25.8.84, p. 31
  - 5 OJ No L 224, 22.8.85, p. 40
  - 6 OJ No L 138, 24.5.86, p. 40
  - 7 OJ No L 149, 3.6.86, p. 38
  - 8 OJ No L 167, 15.6.82, p. 1

to this deadline in view of the complexity of the scientific and technical problems to be solved. It is therefore proposed that the phrase "within six weeks" in Article 12 be replaced by "as soon as possible".

4. In drafting this proposal, the Commission has obtained the opinion of national experts and consulted the industry and representatives of the Consumers' Consultative Committee.
5. The proposal is based on Article 100 and therefore Parliament and the Economic and Social Committee have to be consulted.

## II

(Preparatory Acts)

## COMMISSION

Proposal for a Council Directive amending for the fourth time Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products

COM(87) 74 final

(Submitted by the Commission to the Council on 6 March 1987)

(87/C 86/05)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the successive amendments made to the Annexes to Council Directive 76/768/EEC (<sup>(1)</sup>), as last amended by Directive 137/87/EEC (<sup>(2)</sup>), require the provisions of the Directive to be adopted;

Whereas experience gained since the adoption of Directive 76/768/EEC has shown that the provisions on labelling should be improved and that the period laid down in Article 12 (2) is inadequate,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 76/768/EEC is hereby amended as follows:

1. In Article 1, paragraph 3 is replaced by:

'3. Cosmetic products containing one of the substances listed in Annex V are excluded from the scope of this Directive. Member States may take such measures as they deem necessary with regard to those products';

2. In Article 4 (c) and (d) are replaced by the following:

'(c) colouring agents other than those listed in Annex IV, Part 1, with the exception of cosmetic

products containing colouring agents intended solely to colour hair;

(d) colouring agents listed in Annex IV, Part 1, used outside the conditions laid down, with the exception of cosmetic products containing colouring agents intended solely to colour hair;'

3. Article 5 is amended as follows:

(a) in the first paragraph:

(i) (a) und (b) are replaced by:

'(a) the substances listed in Annex III, Part 2, within the limits and under the conditions laid down, up to the dates in column (g) of that Annex;

(b) the colouring agents listed in Annex IV, Part 2, within the limits and under the conditions laid down, until the dates given in that Annex;'

(ii) (c) is deleted;

(iii) (d) is replaced by:

'(d) the preservatives listed in Annex VI, Part 2, within the limits and under the conditions laid down, until the dates given in column (f) of that Annex; however, some of these substances may be used in other concentrations for specific purposes apparent from the presentation of the product;'

(b) the second paragraph is deleted.

4. Article 6 is replaced by the following:

*Article 6*

1. Member States shall take all measures necessary to ensure that cosmetic products may be marketed

(<sup>(1)</sup>) OJ No L 262, 27. 9. 1976, p. 169.

(<sup>(2)</sup>) OJ No L 56, 26. 2. 1987.

only if the container and packaging bear the following information in indelible, easily legible and visible lettering:

- (a) the name or style and the address or registered office of the manufacturer or the person responsible for marketing the cosmetic product who is established within the Community. Such information may be abbreviated in so far as the abbreviation makes it generally possible to identify the undertaking. Member States may require that the country of origin be specified for goods manufactured outside the Community;
- (b) the nominal content at the time of packaging, except in the case of packaging containing not more than 5 grams or 5 millilitres, free samples, single-application packs and products normally sold separately, for which details of weight or volume are not significant, the nominal content need appear only on the packaging;
- (c) the date of minimum durability. The date of minimum durability of a cosmetic product shall be the date until which this product, under appropriate conditions of storage, continues to fulfil its initial function and, in particular, remains in conformity with Article 2.

The date of minimum durability shall be indicated by the words: 'best used before the end of ...' followed by either:

- the date itself, or
- details of where the date appears on the packaging.

If necessary, this information shall be supplemented by an indication of the conditions which must be satisfied to guarantee the specified durability.

The date shall be uncoded and shall consist of the month and the year in that order. Indication of the date of durability shall not be mandatory for cosmetic products whose minimum durability exceeds 30 months;

- (d) the conditions of use and warnings which must be printed on the label listed in Annexes III, IV, VI and VII, where this is impossible for practical reasons, this information must appear on an enclosed leaflet, with abbreviated information on the container and the packaging referring the consumer to the information specified;
- (e) the batch number of manufacture or the reference for identifying the goods; where this is impossible for practical reasons because the cosmetic articles are too small, such information need appear only

on the packaging. However, any other means allowing simple identification of manufacture shall also be permitted (e.g. coding using notches, marking with ink visible in UV light, etc.).

- 2. For cosmetic products that are not prepackaged, are packaged at the point of sale at the purchaser's request, or are prepackaged for immediate sale, the Member States shall adopt provisions for indication of the particulars referred to in paragraph 1.
- 3. Member States shall take all measures necessary to ensure that, in the labelling, putting up for sale and advertising of cosmetic products, text, names, marks, pictures and figurative or other signs are not used to imply that these products have characteristics which they do not have.
- 5. Article 12 (2) is replaced by:
  - '2. The Commission shall as soon as possible consult the Member States concerned, following which it shall deliver its opinion without delay and take the appropriate steps.'
- 6. Annex III, Part 2, becomes Annex IV, Part 1.
- 7. Annex IV, Part 1, becomes Annex III, Part 2.

*Article 2*

- 1. Member States shall take all necessary measures to ensure that as from 1 January 1992 neither manufacturers nor importers established in the Community place on the market products whose labelling does not satisfy the requirements of this Directive.
- 2. Member States shall take all necessary measures to ensure that the products referred to in paragraph 1 can no longer be sold or disposed of to the final consumer after 31 December 1993.

*Article 3*

- 1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 1989 and shall forthwith inform the Commission thereof.
- 2. Member States shall communicate the text of the provisions of national law which they adopt in the field governed by this Directive to the Commission.

*Article 4*

This Directive is addressed to the Member States.

fiche d'impact de certains actes législatifs sur les PME et l'emploi

1. OBLIGATIONS ADMINISTRATIVES DECOULANT DE L'APPLICATION DE LA LEGISLATION POUR LES ENTREPRISES

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2. AVANTAGES POUR L'ENTREPRISE

- OUI/~~NON~~

- LESQUELLES

Mise à jour du texte de la directive 76/768/CEE : modification de certains articles

3. INCONVENIENTS POUR L'ENTREPRISE (coût supplémentaires)

- ~~OUI~~ /NON

- CONSEQUENCES

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4. EFFETS SUR L'EMPLOI

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5. Y A-T-IL EU CONCERTATION PREALABLE AVEC LES PARTENAIRES SOCIAUX ?

- OUI/~~NON~~

- AVIS DES PARTENAIRES SOCIAUX : Accord

6. Y A-T-IL UNE APPROCHE ALTERNATIVE MOINS CONTRAIGNANTE ?

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