COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 26 January 1990

Proposal for a
COUNCIL DIRECTIVE
- SYN 229
on the wholesale distribution of medicinal products for human use

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Proposal for a
COUNCIL DIRECTIVE
- SYN 230
concerning the legal status for the supply of medicinal products for human use

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Proposal for a
COUNCIL DIRECTIVE
- SYN 231
on the labelling of medicinal products for human use and on package leaflets

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(presented by the Commission)

EXPLANATORY MEMORANDUM AND REPORT TO THE COUNCIL

I GENERAL CONSIDERATIONS

1 Commission proposals for three of the legislative measures identified in the 1985 White Paper as being necessary for the completion of the internal Market in the pharmaceutical sector remain outstanding. The first of these three proposals, "the completion of work eliminating obstacles to the free circulation of pharmaceutical products", relates to the wholesale distribution of medicinal products.

In addition, the White Paper refers to two further measures which were initially scheduled for presentation to the Council in 1990, namely:

- harmonization of conditions of distribution to patients;
- information of doctors and patients.

2 Following the entry into force of the Single European Act, and in particular the introduction of the Cooperation Procedure with the European Parliament, it has become apparant that the presentation of these proposals in 1990 will allow very little time for their discussion by the European Parliament and the Council and their implementation by Member States before 1 January 1993. For this reason the Commission has decided that all outstanding White Paper proposals should be submitted to the Council.

3 The references to the three proposals on the rational use of medicines were deliberately included at the end of the White Paper programme in order to enable the services of the Commission to take into account the progress achieved during the earlier stages of the implementation of the White Paper programme. This includes not only the removal of technical barriers to the free movement of medicinal products resulting from different national requirements on the provision of information on or in the packaging of medicinal products, but also the removal of physical barriers to the free movement of persons who may wish to take their medication with them or obtain certain medication from other Member States and other aspects connected with the realization of a "Citizens' Europe".

II CONTROLS ON THE WHOLESALE DISTRIBUTION

4 Traditionally, the distribution systems for pharmaceuticals within Member States have been organised along national lines with relatively simple structures; manufacturers, wholesalers, retailers. Cross frontier distribution systems have been rare. As the Community further progresses towards the realization of the internal market, this situation is likely to change; indeed it is already beginning to do so. First there is the phenomen of parallel imports. Secondly, it is possible that after 1992, transfrontier distribution systems will emerge. In cases 87 and 88/85, Legia et al. v; Luxembourg, Judgement of 27 May 1986, the Court of Justice ruled that a Member State may not prevent a wholesaler established in another Member State from directly supplying pharmacies in its territory.

5 The development of such arrangements may present several problems for the Member States. First, they will inevitably make the operation of the traditional supervision of the distribution system and the operation of the batch recall system more difficult. Second, it may be difficult for the authorities, or customers, to check on the status of suppliers from other Member States. Third, such new arrangements may threaten security of supply and the capacity of the distribution system to supply medicinal products rapidly to patients.

6 Following the Commission's recent proposals to introduce certain controls on distribution into the directives relating to veterinary medicinal products (COM (88) 779), it is therefore necessary to introduce further controls in relation to the distribution of medicinal products for human use.

7 In principle, there should be only three types of person involved in the distribution of medicinal products; manufacturers, wholesalers, and retailers. Any person who deals in a medicinal product within the territory of the Community, but does not manufacture it and who is not permitted to sell it to the public should be assimilated to a wholesaler. This would cover parallel importers, and other intermediate dealers, including persons holding medicinal products in stock for export. In addition, of course, wholesalers who undertake any manufacturing operation, including re-packaging, require a manufacturing authorization in accordance with Directive 75/319/EEC.

8 A specific authorization for wholesalers should be introduced into the legislation, to be required in each Member State in which the wholesaler has storage facilities. The granting of such an authorization should be dependant upon the wholesaler having suitable premises, to be verified by inspection, having available the services of a qualified person and maintaining adequate distribution records. The record-keeping requirement may also be necessary for manufacturers, and to the extent necessary, for retail pharmacists.

III "HARMONIZATION OF CONDITIONS OF DISTRIBUTION TO PATIENTS"

9 Medicines for self-medication are sold primarily with the intention that they be used by consumers on their own responsibility when they consider such use appropriate. The package size, labelling and leaflet will generally be chosen with this purpose in view, and in many countries these medicines, which are also often referred to as over the counter medicines (OTCs), may also be promoted to the general public. Nevertheless, there is a large group of products which can only be obtained on prescription from a health professional.

10 In the opinion of the Commission, persons moving within the Community have a right to bring with them reasonable quantities of medicinal products lawfully obtained for their own personal use. A recent judgement of the Court of Justice suggests that this right may exist not only in the case of medicinal products which are carried with a person, but also that in certain circumstances a person may be able to import by post reasonable quantities of a medicinal product which is obtained lawfully in another Member State for his personal use (Case 215/87, Schumacher, judgement of 7 March 1989).

11 In order to facilitate the exercise of these rights and to provide member States with a guarantee against any abuse, the Commission considers that urgent consideration should be given to the harmonization of the criteria to be used in future in order to classify medicines as prescription only (legal status for the supply of medicinal products).

Reference should be made, in this aspect, to the United Nations Conventions on narcotic and psychotropic drugs.

In addition, medicines which should only be available on prescription are the subject of a Council of Europe Resolution AP (88) 2, which is already accepted by 10 Member States; Belgium, Denmark, Spain, Germany, France, Ireland, Italy, Luxembourg, the Netherlands and the United Kingdom.

12 The following criteria, whoch would appear to cover those most commonly used by the Member States when they authorize the marketing of products, are proposed for consideration:

- the nature of the product, including its toxicity, the indications for which it is presented, precautions, warnings and contra-indications, tolerance and dependancy, inter-actions and potentialization.
- the need for clinical diagnosis
- the need for special instruction for the patient
- parenteral use
- the novelty of the product.

IV INFORMATION FOR PATIENTS

13 Before discussing in detail the various measures proposed under this heading, it is maybe useful to consider briefly the role of the Community in respect of the regulation of the provision of information about medicinal products. It is clear that differences in the requirements on the information included with a medicinal product (labels, package inserts) may create a barrier to the free movement of the medicinal products concerned. As a result of the consultations which have been held so far, the Commission has come to the conclusion that, as a general principle, the information provided on or in the packaging of a medicinal product in its final sales presentation should be exclusively addressed to the user of the product. The inclusion of information intended exclusively for the doctor no longer appears appropriate.

14 However, the role of the Community on the information about medicines is not limited to information which is actually included with the medicinal product. Since the adoption of the misleading advertising directive (Directive 84/450/EEC, O.J. N° L 250, 19.9.84, p. 17) it has been recognised that the Community has a role in ensuring that the deceptive advertising of products does affect the economic behaviour of the persons to whom it is addressed in a manner which may be harmful to the economic interests of a competitor.

In an area as complex as the control of the provision of information about medicinal products, it is difficult to draw rigid distinctions between economic and public health considerations. The question of pharmaceutical advertising is under consideration in the services of the Commission.

15 As far as factual information about medicinal products is concerned, a special working party on patient information, comprising representatives from the industry, consumer groups, the pharmacist and medicial professions, has been considering the complex issue of the provision of package inserts. Four meetings of the group took place several suggestions for the amendement of Articles 6 and 7 of Directive 75/319/EEC resulting from the conclusions of that group, slightly amended to take account of further discussions with Member States, are set out in the proposal.

In addition, it appears also necessary to amend the detailed requirements for the labelling of medicinal products.

It is envisaged that the requirements for patient package contained in the directive should remain general in scope, and that the Commission will issue further notes for guidance on the detailed preparation of such leaflets, possibly distinguishing between prescription only medicines and over-the-counter products (OTC).

V CONCLUSIONS

16 These three proposals have been the subject of several successive rounds of consultations, since July 1989, with the national directors for pharmacy within the pharmaceutical Committee (July and October 1989), with European associations representing the interest of pharmaceutical industry, consumer organizations and the medical and pharmaceutical profession. The objectives and content of these proposals relating to the national use of medicinal products seen globaly acceptable to the interested parties.

17 In accordance with the provisions of Articles 8A and 8C of the Treaty establishing the European Economic Community, the Commission requests the Member States to take the measures necessary to comply with this package of proposals by 1 January 1992.

The Commission has taken into account the requirements of Article 8C of the Treaty and has concluded that no special provision seems to be justified at this stage.

The Commission has also studied the question of the high levels of health, safety, environmental and consumer protection equired by the terms of Article 100 A, paragraph 3. It has done so following consultation of the industrial and social partners concerned, and in the light of an analysis of the current technical capabilities of the European industry. The proposals take full account of these considerations in the light of the overall objectives of this provision of the Treaty.

Proposal for a

COUNCIL DIRECTIVE

on the wholesale distribution of medicinal products for human use

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission(1),

In cooperation with the European Parliament(2),

Having regard to the opinion of the Economic and Social Committee(3),

Whereas it is important to adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992; whereas the internal market is to comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas the wholesale distribution of medicinal products for human use is at present subject to different provisions in the various Member States; whereas many operations involving the wholesale distribution of medicinal products may cover simultaneously several Member States;

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Whereas it is necessary to exercise control over the entire chain of distribution of medicinal products, from their manufacture or import into the Community through to supply to the public, so as to guarantee that such products are stored, transported and handled in suitable conditions; Whereas the requirements which must be adopted for this purpose will considerably facilite the withdrawal of defective products from the market and allow more effective efforts against counterfeit products;

Whereas any person involved in the wholesale distribution of medicinal products should be in possession of a special authorization; whereas pharmacists and persons authorized to supply medicinal products directly to the public, and who confine themselves to this activity, should be exempt from obtaining this authorization; Whereas it is always necessary in order to control the complete chain of distribution of medicinal products, that pharmacists and persons authorized to deliver medicinal products to the public keep records showing entry transactions.

Whereas authorization must be subject to certain essential conditions and it is the responsibility of the Member State concerned to ensure that such conditions are met; whereas all Member States must recognize authorizations granted by other Member States,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive covers the wholesale distribution of medicinal products for human use in the Community.

2. For the purposes of this Directive, the definition of "medicinal product" set out in Article 1 of Council Directive 65/65/EEC(1) shall apply. In addition "wholesale distribution of medicinal products" shall mean all activities consisting of procuring, holding, supplying, importing or exporting medicinal products.

Article 2

Member States shall take all appropriate action to ensure that only medicinal products in respect of which a marketing authorization has been granted in accordance with Community law shall be distributed on their territory.

Article 3

1. Member States shall take all appropriate measures to ensure that the distribution of medicinal products is subject to the possession of an authorization to engage in activity as a wholesaler in medicinal products.

2. Pharmacists and persons expressly authorized to supply medicinal products to the public shall be exempt from obtaining the authorisation referred to in paragraph 1, provided that they do not engage, principally or secondarily, in any activity as wholesaler of medicinal products.

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(1) OJ No 22, 9.2.1965, p. 369/65.

3. The possession of an authorisation to carry out the activity of a wholesaler of medicinal products shall not dispense from the obligation to possess a manufacturing authorisation or an authorisation for importation from third countries in accordance with Article 16 of Council Directive 75/319/EEC[4], and to comply with the conditions set out in that respect, even when the manufacturing activity is secondary.

4. All Member States shall draw up a list of the persons which it has authorized to engage in the activity of wholesaler in medicinal products. It shall send this list, and details of any changes to it, to the other Member States and to the Commission.

5. Checks on the persons and establishments authorized to engage in the activity of wholesaler in medicinal products and the inspection of their premises shall be carried out under the responsibility of the Member State which granted the authorization.

6. The Member State which granted the authorization referred to in paragraph 1 shall suspend or revoke this authorization if the conditions of authorization cease to be met. It shall forthwith inform the other Member States and the Commission thereof.

7. If a Member State considers that, in respect of a person holding an authorization granted by another Member State under the terms of paragraph 1, the conditions of authorization are not or are no longer met, it shall immediately inform the Commission and the other Member State involved. The latter shall take the measures necessary and inform the Commission and the first Member State of the decisions taken and the reasons for these decisions.

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(4) OJ No L 147, 9.6.1975, p. 13.

Article 4

1. Member States shall ensure that the time taken for the procedure for granting the authorization referred to in Article 3(1) does not exceed 90 days from the day on which the competent authority of the Member State concerned receives the application.

2. All decisions to refuse, suspend or revoke the authorization referred to in Article 3(1) shall state in detail the reasons on which they are based. A decision shall be notified to the party concerned who shall at the same time be informed of the remedies available to him under the laws in force and of the time limit allowed for the exercise of such remedies.

Article 5

In order to obtain the authorization referred to in Article 3(1), applicants must fulfil the following minimum requirements:

(a) they must have suitable and adequate premises, such as to ensure good conservation of the medicinal products warehoused;

(b) they must have a qualified personnel meeting the conditions provided for by the legislation of the Member State concerned;

(c) they must undertake to fulfil the obligations incumbent on them under the terms of Article 6.

Article 6

Holders of the authorization referred to in Article 3(1) shall be required:

(a) to make the premises referred to in Article 5(a) accessible at all times to the persons responsible for inspecting them;

(b) to obtain medicinal products only from persons who are themselves in possession of the authorization referred to in Article 3(1) or who are exempt from obtaining this authorization under the terms of Article 3(2);

(c) to supply medicinal products only to persons who are themselves in possession of the authorization referred to in Article 3(1) or who are exempt from obtaining this authorization under the terms of Article 3(2);

(d) to have an emergency plan which allows participation in any action of withdrawal from the market ordered by the competent authorities or initiated by the manufacturer of the medicinal product concerned;

(e) to keep detailed records, possibly computerised, stating for each transaction in medicinal products received or dispatched, the following information:
- date,
- name of the medicinal product,
- production batch number,
- quantity received or supplied,
- name and address of the supplier or consignee;

when the delivery is destined for a retailer, the production batch number is not required;

(f) to carry out, at least once a year, an exact check on the records referred to under (e), comparing the list of products received and dispatched with the products in stock and indicating any discrepancies in a report;

(g) to keep the records referred to under (e) and the reports referred to under (f) available to the competent authorities, for inspection purposes, for a period of three years;

Article 7

With regard to the supply of medicinal products to pharmacists and persons authorized to supply medicinal products to the public, Member States shall not impose upon the holder of an authorization referred to in Article 3(1), which has been granted by another Member State, any obligation stricter than those they impose on persons which they have themselves authorized to carry out equivalent activities.

Article 8

1. All pharmacists, as well as all persons authorized to supply medicinal products to the public, shall be required to keep accurate records, possibly computerised, giving the following details at least for each transaction of medicinal products received:
   - date
   - name and pharmaceutical form of the medicinal product,
   - quantity received,
   - name and address of the supplier.

2. The records referred to in paragraph 1 shall be kept available to the competent authorities, for inspection purposes, for a period of three years.

Article 9

This Directive shall not prevent the application of stricter requirements laid down by Member States in respect of the supply of medicinal products to the public on their territory.

Article 10

If appropriate, the Commission shall publish guidelines on good distribution practices. In that case the pharmaceutical committee instituted by Council Decision 75/320/EEC[5] shall be consulted.

Article 11

Member States shall take the measures necessary to comply with this Directive before 1 January 1992. They shall forthwith inform the Commission thereof.

The provisions adopted pursuant to the first paragraph shall make express reference to this Directive.

Article 12

This Directive is addressed to the Member States.

Done at Brussels

For the Council

(5) OJ No L 147, 9.6.1975, p. 23.

Proposal for a

COUNCIL DIRECTIVE

concerning the legal status for the supply
of medicinal products for human use

THE COUNCIL OF THE EUROPEAN COMMUNITIES

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

Having regard to the proposal from the Commission(1),

In cooperation with the European Parliament(2),

Having regard to the opinion of the Economic and Social Committee(3),

Whereas measures aimed at progressively establishing the internal market during the period up to 31 December 1992 need to be taken; whereas the internal market is to comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas the conditions for supply of medicines for human use to the public vary appreciably from one Member State to the another; whereas medicines on free sale in certain Member States can only be obtained only on medical prescription in other Member States;

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Whereas under the terms of Council Directive [4], the advertising and promotion to the general public of medicinal products which are only available on prescription is prohibited; whereas, in view of the development of means of communication, the conditions of delivery of medicinal products to the public should be harmonized;

Whereas, moreover, persons moving around within the Community have the right to carry a reasonable quantity of medicinal products legitimately obtained for their personal use; whereas it must also be possible for a person established in one Member State to receive from another Member State a reasonable quantity of medicinal products intended for his personal use; whereas it is important therefore to harmonize the conditions of delivery of medicinal products to the public;

Whereas, in addition, under the new system of registration of medicinal products in the Community, certain medicinal products will be the subject of a Community marketing authorization; in this context, the legal status for the supply of medicinal products covered by a Community marketing authorization needs to be fixed; whereas, it is important to fix the criteria on basis of which Community decisions will be taken;

Whereas it is therefore appropriate, in a first stage, to harmonize the basic principles applicable to the legal status for the supply of medicinal products in the Community or in the Member State concerned, while taking as a starting point the the principles already established on this subject by the Council of Europe as well as the work of harmonisation completed within the framework of the United Nations, concerning narcotics and psychotropics,

HAS ADOPTED THIS DIRECTIVE:

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(4)

Article 1

1. This Directive concerns the legal status for the supply of medicinal products for human use in the Community.

2. For the purpose of this Council Directive, the definition of "medicinal product" in Article 1 of Council Directive 65/65/EEC(1) shall apply.

   In addition,
   - "legal status for supply" shall mean : the conditions under which a medicinal product may be supplied to the public,
   - "medical prescription" shall mean : any prescription emanating from a doctor qualified to prescribe medicinal products in the Community or from a health professional qualified to prescribe medicinal products under the terms of the legislation of the Member State where the medicinal product is delivered.

Article 2

Medicinal products which may only be available on medical prescription shall be classified, at the time of granting the authorization for marketing, in one of the following categories :

a) medicinal products on prescription, which may be renewed during a period of six months from the date of the prescription, unless otherwise specified;
b) medicinal products on prescription, which may not be renewed without the prescriber's express consent;
c) medicinal products on special prescription, containing a substance classified as a psychotropic or a narcotic substance within the meaning of the international conventions in force (conventions of the United Nations of 1961 and 1971);
d) medicinal products on restricted prescription, reserved
   - for use in hospitals,
   - to certain specialists.

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(1) OJ No 22, 9.2.1965, p. 369/65.

Article 3

1. When a marketing authorization is granted, the competent authority shall specify the legal status for the supply of the medicinal product:
   - medicinal product not subject to medical prescription,
   - medicinal product subject to medical prescription, mentioning one of the categories referred to in Article 2.

   To this end, the criteria laid down in Article 4 shall apply.

2. All medical products containing a new chemical entity shall be subject to medical prescription, and classed in one of the categories referred to in Article 2.

3. The competent authority shall publish at least annually the list of medicinal products subject to medical prescription, specifying the category of classification.

4. On the occasion of the 5-yearly renewal of the marketing authorisation or when new scientific elements are communicated to them, the competent authorities shall examine and, as appropriate, may amend the legal status for the supply of a medicinal products, by applying the criteria listed in Article 4.

Article 4

1. Medicinal products which contain substances which are likely to present a direct or indirect danger to human health, even under normal conditions of use, shall not be supplied to the public without medical prescription. The following criteria shall be taken into consideration in this respect :

a) potential risks appearing during the preclinical and clinical tests and trials,

b) novelty of the active principle, as stated in Article 3, paragraph 2,

c) possibility of serious side effects in normal conditions of use

d) serious risks associated with contra-indications and precautions for use

e) indications requiring a medical diagnosis or special medical supervision

f) harmfulness of constituents under normal conditions of use, taking into account posology, pack size or possible excessively extended treatment;

g) parenteral administration, except when very long term illness requires an active participation by the patient in the treatment (for example: diabetes)

h) important risk of abuse, addiction or misuse for criminal purposes,

2. Moreover, medical products which may be available without prescription shall show a substantial safety in use in the treatment of minor ailments or symptoms, usually capable of rapid and spontaneous relief, which are easily identifiable by users and do not justify a medical consultation.

Article 5

1. Within two years of adoption of this Directive, the Member States shall communicate to the Commission and to the other Member States, the list of medicines which are available only on medical prescription on their territory, mentioning the category of classification.

2. Each year, Member States shall communicate to the Commission and to the other Member States the changes that have been made to the list referred to in paragraph 1.

3. Within four years of adoption of this Directive, the Commission shall submit a report to the Council on the application of this Directive. This report will be accompanied, if necessary, by appropriate proposals.

Article 6

Member States shall take the measures necessary to comply with this Directive before 1 January 1992. They shall forthwith inform the Commission thereof.

The provisions adopted pursuant to the first paragraph shall make express reference to this Directive.

Article 7

This Directive is adressed to the Member States.

Done at Brussels For the Council

Proposal for a

COUNCIL DIRECTIVE

on the labelling of medicinal products for human use and on package leaflets

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission(1),

In cooperation with the European Parliament(2),

Having regard to the opinion of the Economic and Social Committee(3),

Whereas measures aimed at progressively establishing the internal market during the period up to 31 December 1992 need to be taken; whereas the internal market is to comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation or administrative action relating to medicinal products(4), as last amended by Directive 89/341/EEC(5), establishes a list of

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(4) OJ No 22, 9.2.1965, p. 369/65.

(5) OJ No L 142, 25.5.1989, p. 11.

particulars to be given on the immediate packaging and the outer packaging of medicinal products for human use; whereas this list should be supplemented and details given of how labelling is to be presented;

Whereas the Second Council Directive 75/319/EEC of 20 May 1975 on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products(6), as last amended by Directive 89/341/EEC, establishes a non-inclusive list of particulars to be included in package insert leaflets; whereas this list should be supplemented and details given of how such leaflets are to be presented;

Whereas the provisions on labelling and on package insert leaflets should be united in a single legislative text;

Whereas the provisions governing the information supplied to users should provide a high degree of consumer protection, in order that medicinal products be used correctly on the basis of complete and comprehensive information;

Whereas the marketing of medicinal products whose labelling and package leaflets comply with the provisions of this Directive should not be prohibited or impeded on grounds connected with the labelling or package leaflet,

HAS ADOPTED THIS DIRECTIVE:

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(6) OJ No L 147, 9.6.1975, p. 13.

Chapter I

Scope and definitions

Article 1

1. This Directive deals with the labelling of medicinal products for human use and leaflets inserted in packages of such products.

2. For the purposes of this Directive, the definition of "medicinal product" laid down in Article 1 of Directive 65/65/EEC shall apply. In addition to this,
   - **"name of the medicinal product"** shall mean the name given to a medicinal product, which may be an invented name, a common name together with a trademark or the name of the manufacturer, or a scientific name together with a trade mark or the name of the manufacturer;
   - **"common name"** shall mean the international non-proprietary name recommended by the World Health Organization, or, if one does not exist, the usual common name;
   - **"immediate packaging"** shall mean the container or other form of packaging immediately in contact with the medicinal product;
   - **"outer packaging"** shall mean the packaging into which is placed the immediate packaging;
   - **"package leaflet"** shall mean a leaflet containing information for the user which accompanies the medicinal product to which it refers.

Article 2

No part of this Directive shall be taken to authorize the marketing of a medicinal product for which an authorization in accordance with Community legislation has not been issued.

Chapter II
Labelling of medicinal products

Article 3

The following particulars shall appear on the outer packaging of medicinal products or, where there is no outer packaging, on the immediate packaging.

a) the name of the medicinal product, including or followed by the common name if the product contains only one active ingredient;

b) a statement of the active ingredients expressed qualitatively and quantitatively per dosage unit or according to the form of administration for a given volume or weight, using their common names;

c) the pharmaceutical form and the contents by weight, by volume or number of doses of the product;

d) a list of the excipients,

e) the route and method of administration;

f) a special warning that the product must be stored out of reach of children;

g) the expiry date in clear terms (month/year),

h) special storage precautions, if any;

i) special precautions for disposal of unused medicinal products or waste materials derived from such products, if appropriate;

j) the name and address of the person responsible for placing the medicinal product on the market and, where different, of the manufacturer;

k) the number of the authorization to put the medicinal product on the market;

l) the manufacturer's batch number.

Article 4

1. The following particulars shall appear on immediate packagings placed in an outer packaging which complies with the requirements laid down in Article 3:
   - name of the medicinal product;
   - quantity of active constituents, using common names;
   - route and method of administration;
   - expiry date;
   - batch number.

2. Paragraph 1 shall not apply to immediate packagings containing a single dose which are too small to carry all the particulars listed in paragraph 1.

Article 5

1. The particulars referred to in Articles 3 and 4 shall be easily visible, clearly comprehensible and indelible.

2. The particulars listed in Article 3(a) to (f) on the one hand, and (g) to (l) on the other hand, shall as far as possible appear in the same field of vision.

3. The particulars listed in Article 3 shall appear in the official language or languages of the Member State where the product is put on the market. This provision shall not prevent these particulars from being indicated in various languages, provided the information given is the same in all languages used.

Article 6

1. Member States shall not prohibit or impede the placing on the market of medicinal products within their territory on the grounds that the labelling is incorrect, if such labelling complies with this Chapter.

2. Notwithstanding paragraph 1, Member States may require the following information to be provided on the outer packaging or, in the absence of such, on the immediate packaging:
   - price of the medicinal product,
   - reimbursement conditions by social security organisations,
   - the legal status for supply to the patient, particularly where a new medicinal product is concerned.

Chapter III
User leaflet

Article 7

The inclusion in the packaging of medicinal products of a package leaflet for the information of users shall be obligatory unless all the information required by Article 8 is directly conveyed on the outer packaging or on the immediate packaging.

Article 8

1. The leaflet shall include, usually in the following order:

   a) for the identification of the medicinal product:
      - name of the medicinal product,
      - quantitative and qualitative composition in terms of active ingredients, using the common names,
      - pharmaco-therapeutic group, if there exists a term easily comprehensible for the patient,
      - name and address of the holder of the marketing authorization, and, where different, of the manufacturer;

   b) the therapeutic indications;

   c) a list of information which is useful before taking a medicinal product:
      - contra-indications,
      - appropriate precautions for use,
      - interactions with other medicinal products and other forms of interaction (for example, alcohol, tobacco) which may affect the use of the medicine,
      - special warnings,

this list must :

- take into account the particular condition of certain categories of users (e.g. children, pregnant or breastfeeding women, the elderly, persons with specific pathological conditions),
- mention, if appropriate, potential effects on the ability to drive vehicles or to operate machinery;
- refer to the excipients knowledge of which is important for a safe and effective use of the medicinal product;

d) the necessary instructions for proper use, in particular :

- the usual dose and the maximum dose,
- the method and route of administration,
- the frequency of administration, specifying if necessary the appropriate time at which the medicinal product should or must be administered;

and, as appropriate, depending on the nature of the product

- the duration of treatment, when it should be limited,
- the action to undertake in the case of overdose (symptoms, emergency procedures, antidotes),
- the course of action to take when a dose has not been taken,
- the way the treatment should stopped, if stopping the treatment may lead to withdrawal effects;

e) a description of

the undesirable effects which can occur under normal use of the medicinal product, with indication if possible of their importance, and if necessary the action to be taken in such case; when the medicinal product is new, the patient should be expressly invited to communicate any undesirable effect which is not mentionned in the leaflet to his doctor or to his pharmacist;

f) a reference to the expiry date indicated on the label, with :

- a warning against using the product after this date,
- where appropriate, special storage precautions,
- if necessary a warning against visible signs of deterioration,

g) all other information compatible with the summary of product characteristics of the product, useful for health education, and on condition that it is not of a promotional nature.

2. Notwithstanding point 1 b), the competent authorities may decide that certain therapeutic indications will not be mentionned in the package leaflet, when the dissemination of such information might have serious disadvantages for the patient.

3. The leaflet may include symbols or pictograms designed to elaborate certain information mentionned in paragraph 1,

Article 9

The package leaflet must be written in clear and understandable terms for the patient, in the official language or languages of the Member State where the medicinal product is put on the market. This provision does not prevent the leaflet being printed in several languages, provided that the same information is given in all the languages used.

Article 10

Member States shall not prohibit or impede the placing on the market of medicinal products within their territory on the grounds that the package leaflet is not correct, if the package leaflet complies with this Chapter.

Chapter IV
General and final provisions

Article 11

1. One or more specimens or mock-ups of the outer packaging and the immediate packaging of a medicinal product, together with the draft package leaflet, shall be submitted to the competent authorities of the Member State concerned.

2. All proposed modifications to the outer packaging, to the immediate packaging or to the package leaflet shall be submitted to the competent authorities of the Member State concerned. If the competent authorities have not opposed a draft modification within 90 days following the introduction of the request, the applicant may proceed to put the modification into effect.

3. The competent authorities shall not allow a medicinal product to be placed on the market, if the packaging or the package leaflet do not comply with the provisions of this Directive or if they are not compatible with the particulars listed in the summary of the product characteristics referred to in Article 4b of Directive 65/65/EEC.

4. The fact that the competent authorities do not refuse a marketing authorization for a reason associated with the labelling or the package insert, does not alter the general legal liability of the manufacturer or as appropiate the marketing authorization holder.

Article 12

1. When the provisions of this Directive are not observed, and an order addressed to the person concerned has remained without effect, the competent authorities of a Member State may suspend or revoke the authorization to place the medicinal product on the market, until the labelling and leaflet of the medicinal product in question has complied with the requirements of this Directive.

2. All decisions taken pursuant to paragraph 1 shall state in detail the reasons on which they are based. They shall be notified to the party concerned, who shall at the same time be informed of the remedies available to him under the laws in force and of the time limit allowed for the exercise of such remedies.

Article 13

As necessary, the Commission shall publish guidelines concerning:

- the formulation of certain warnings for certain categories of medicinal products;
- the particular information needs relative to self-medication;
- the readability of particulars on the labelling and leaflet;
- utilization of bar codes for the identification of medicinal products.

For this purpose, the Commission shall consult the Committee for Proprietary Medicinal Products instituted by Directive 75/319/EEC.

Article 14

1. Articles 13 to 20 of Directive 65/65/EEC and Articles 6 and 7 of Directive 75/319/EEC are hereby repealed.

2. References made to provisions which have been repealed shall be understood to refer to the present Directive, in accordance with the table of concordance given in the Annex.

Article 15

1. Member States shall take the measures necessary to comply with this Directive before 1 January 1992. They shall forthwith inform the Commission thereof.

The provisions adopted pursuant to the first subparagraph shall make express reference to this Directive.

2. From 1 January 1993, Member States shall refuse an application for marketing authorisation or for the renewal of an existing authorisation, when the labelling and the leaflet do not conform to the requirements of this Directive.

Article 16

This Directive is addressed to the Member States.

Done at Brussels

For the Council

Annex

TABLE OF CONCORDANCE

Directive 65/65/CEE	Present Directive
Article 13	Article 3
Article 14	Article 4, paragraph 1
Article 15	Article 4, paragraph 2
Article 16	-
Article 17	-
Article 18	Article 5, paragraph 3
Article 19	-
Article 20 first indent	Article 12, paragraph 1
Article 20 second indent	Article 12, paragraph 2

Directive 75/319/CEE	Present Directive
Article 6 first indent	-
Article 6 second indent	Article 11 paragraph 3
Article 6 third indent	Article 8 paragraph 1
Article 6 fourth indent	-
Article 6 fifth indent	Article 7
Article 7	-

FINANCIAL STATEMENT

in respect of the proposals for Directives
on the rational use of medicinal products for human use

1. Budget headings

No A 1100 Salaries of officials and temporary staff

No A 1300 Mission expenses

No A 2500 Meetings in general

No A 2510 Expenditure on meetings of committees whose consultation is compulsory in the procedure for drafting Community legislation

No A 2551 Cost of the institution's participation in conferences, congresses and meetings

2. Legal basis

Article 100a of the EEC Treaty

3. Description of the action

3.1. General objectives

Completion of the internal market in medicinal products for human use

3.2. Specific objectives

a) introduction of a system of controls in relation to the wholesale distribution of medicinal products for human use;

b) harmonization of the criteria for determining the legal status for the supply of medicinal products for human use;

c) improving Community provisions on labelling and package leaflets of medicinal products for human use, so as to ensure that such medicines are properly used on the basis of full and readily understandable information;

4. Reasons for the action

4.1. Reasons for the type of action proposed

The completion of the internal market in the pharmaceutical sector must be accompanied by measures designed to promote the rational use of medicines. Since the internal market will entail transfrontier operations involving marketing, distribution and communication, it is necessary to ensure compliance with the essential requirements in respect of the provision of information to consumers and the control of the distribution of medicinal products for human use.

4.2. Value of the action for the Community

The implementation of the proposed directives will encourage the free movement of medicines for human use in the Community, while at the same time guaranteeing a high level of protection as regards public health and consumer information. Furthermore, this Community legislation, which will take as a base a high level of protection in matters of health and consumer protection, as stated

in Article 100a(3) of the EEC Treaty, will serve as a reference internationally and be a valuable asset for Community firms seeking to export.

5. Financial impact

5.1. General

The main financial impact of these proposals will fall in the following areas:

- collation and circulation of information supplied by the Member States (particular of authorized wholesalers and the list of medicines for which a prescription is required)
- drawing up of guidelines (on labelling and package inserts and on good distribution practice) and of a reportto the Council on the implementation of the Directive on the legal status for the supply of medicinal products for human use.

5.2. Specific financial impact

a) Staff

The staffing requirement for carrying out the specific tasks described above are calculated as follows:

- from 1991 : 1 assistant (B5)

- 1992-1993 : 1 administrator (A7)
  1 secretary (C5)

The staffing requirements shown above must be met either by internal redeployment or under the budgetary procedure for the relevant years.

The specific tasks to be performed include:

- collation, circulation and management of the information supplied by the Member States in relation to:
  * the persons and establishments authorized to carry on the activity of a wholesaler of medicinal products;
  * the list of medicines that can only be obtained on medical prescription;

- drawing up of guidelines with regard to
  * the labelling and package leaflets of medicinal products
  * good distribution practice;

- drawing up of a report to the Council on the implementation of the Directive on the legal status for the supply of medicinal products and drafting of appropriate proposals;

b) Allowance for additional meetings:

- A 2500
  Four meetings per year of the Ad Hoc Working Party on Consumer Information (representatives of industry, health professions and consumers), held jointly by DG III and the Consumer Policy Department:

1990	ECU 24 000
1991	ECU 24 000
1992	ECU 24 000
Total	ECU 72 000

- A 2510:
  Three additional meetings a year of working groups of the Committee on Proprietary Medicinal Products (one delegate per Member State). (The current cost of a meeting of one of these groups is ECU 5 400):

1990	ECU 16 200
1991	ECU 16 200
1992	ECU 16 200
1993	ECU 16 200
Total	ECU 64 800

c) Allowance for:

- Missions (A 1300):

1990	ECU 8 500
1991	ECU 8 500
1992	ECU 8 500
1993	ECU 8 500
Total	ECU 34 000

- Participation in conferences, congresses and meetings (A 2851)

1990	ECU 2 500
1991	ECU 2 500
1992	ECU 2 500
1993	ECU 2 500
Total	ECU 10 000

COMPETITIVENESS AND EMPLOYMENT IMPACT STATEMENT

relating to the proposals
for a rational use of medicines

I. **What is the main reason for introducing the measures ?**

Completion of the internal market; improvement of the protection of public health; promotion of a rational use of medicinal products; consumer information.

II. **Features of the businesses in question :**

The measures involve pharmaceutical manufacturers as well as wholesalers in medicinal products.

Because of the high costs of developing new products, pharmaceutical enterprises are often large companies (multinational or national). There are, however, some smaller and medium sized manufacturers geared at the national market.

Distribution companies (wholesalers) are generally large sized companies, following restructuration operations and mergers in the past ten years.

III. **What direct obligations does this measure impose on businesses ?**

Manufacturers of medicinal products :

- obligation to conform with new regulations on labelling and package leaflets : many companies are already adapting their labelling

and package leaflets to the principles proposed (no additional costs for businesses - economies of scales stemming from the harmonisation of rules on labelling and package leaflets).

Wholesalers in medicinal products :

- obligation to have appropriate premises and a qualified personnel : this obligation is already laid down in most Member States and is necessary in order to guarantee the safety and identity of medicinal products distributed;

- obligation to maintain distribution records and to verify them every year : this provision should allow to trace batches of medicinal products through the distribution chain and facilitate recall operations in the case of accidents, as well as the struggle against counterfeiting.

IV. What indirect obligations are local authorities likely to impose on businesses ?

None foreseen.

V. Are there any special measures in respect of SMEs ?

No.

VI. **What is the likely effect on :**

a) **the competitiveness of business ?**

The proposed measures will facilitate marketing, communication and distribution through the internal frontiers of the Community. Some companies will thus have to make efforts in order to maintain their competitiveness vis-à-vis companies established elsewhere in the Community.

b) **employment ?**

No significant effect is anticipated.

VII. **Have both sides of industry been consulted on these proposals ?**

Following interested parties were consulted :

- associations of the pharmaceutical industry,
- associations of wholesalers in medicinal products,
- associations of consumers,
- associations of pharmacists,
- associations of doctors and other health professionals.

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