



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 01.07.1999

COM(1999)339 final

97/0027 (COD)

Amended proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 79/112/EEC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs

(presented by the Commission pursuant to
Article 250(2) of the EC Treaty)

EXPLANATORY MEMORANDUM

1. INTRODUCTION

The European Parliament has examined at first reading the proposal to amend Council Directive 79/112/EEC on the labelling and presentation of foodstuffs in respect of the rules for labelling the ingredients of alcoholic beverages (COM(97) 20 final).

The rapporteur, Mr Schnellhardt, backed the Commission initiative, adding 13 amendments (*cf PE 223.804*). Eleven further amendments were tabled before the plenary session. Ten amendments were adopted by a very slight majority and two amendments were taken up only in part.

2. AIMS OF THE COMMISSION PROPOSAL

Article 6(3) of Directive 79/112/EEC originally stipulated that:

"In the case of beverages containing more than 1.2% by volume of alcohol, the Council, acting on a proposal from the Commission, shall, before the expiry of a period of four years following notification of this Directive, determine the rules for labelling ingredients and, possibly, indicating the alcoholic strength."

In October 1982, in accordance with this provision, the Commission proposed an amendment to the Directive requiring the labelling of alcoholic beverages to indicate the alcoholic strength and the list of ingredients. However, this proposal was adopted only in part by Directive 86/197/EEC relating to alcoholic content.

The second part of the proposal was resurrected as part of the proposal for an amendment of Directive 79/112/EEC sent to the Council in April 1992. The aim here was to act upon the judgment of 12.3.1987 in Case 178/84 "Beer Purity Law". For lack of a qualified majority, the part of the proposal which dealt with the list of ingredients of alcoholic beverages was split off when the common position was adopted in June 1995.

Given the lack of progress in this area, some Member States have adopted national provisions making the list of ingredients compulsory for certain alcoholic beverages, including beer. Since application of these provisions is likely to create new barriers to trade, and in view of the need for consumer information, the Commission has decided to adopt a new proposal.

This proposal in fact constitutes a first step. The aim is to determine the procedure for adopting labelling rules for the ingredients of alcoholic beverages, as the principles of Directive 79/112/EEC cannot be applied to such products given their specific nature.

3. WORK IN THE EUROPEAN PARLIAMENT

The proposal the Commission sent in February 1997 prompted much debate in the Parliamentary Committee responsible for the dossier, centring mainly on procedural issues. The report adopted on 4.1.1999 approved the proposal subject to 13 amendments. Eleven further amendments were tabled before the debate in plenary session.

On 24.2.1999 Parliament examined at first reading the proposal amending Directive 79/112/EEC on the labelling of foodstuffs.

Amendments 1, 2, 3, 4, 5, 6, 7, 8, 22 and 13 were adopted in full, and amendments 14 and 15 only in part.

4. CONCLUSIONS

The Commission has accepted the amendments concerning:

- reference in a recital to the proposal's objectives, viz. a high level of protection of consumer health and the preservation of the internal market, since this clarifies the scope of the proposal (Amendment 3);
- extension of the deadline for adopting ingredient labelling rules from 3 to 5 years. This is justified by the specific nature of the products concerned and the length of the procedures (part of Amendment 14). The date of 1 July 1998 also needs to be adapted;
- the indication that several categories of other products are subject to the Article 17 procedure (part of Amendment 14). This clarifies the text without affecting its substance;
- the more specific reference to aromatised beverages, since this makes the text clearer (part of Amendment 15).

The Commission has accepted the principle, but not the wording, of the amendments concerning:

- consultation of the Scientific Committee for Food. The Commission considers that consultation of the Committee is justified where issues relating to human health are raised, and proposes the wording already used in other directives for this type of provision (Amendments 4 and 13).

The Commission has rejected the amendments concerning:

- the addition of Article 153 (ex article 129A) as a second legal basis. Article 95 (ex article 100A) already covers consumer protection; this addition is unnecessary (Amendment 1);
- the emergence of "alcopops" which could harm the position of, and be in unfair competition with, traditional beverages, and the need for a code of

conduct. Such an amendment is out of place in Directive 79/112/EEC (Amendment 2);

- recourse to the procedure in Article 251 (ex article 189B) of the Treaty (codecision) to adopt the rules under Directive 79/112/EEC. This procedure does not take account of existing Community legislation on certain products (wines, spirituous beverages, aromatised wines, etc.) (Amendments 5, 6 and 7). Moreover, Parliament voted for the amendments introducing new recitals, but rejected the Article those recitals referred to;
- the fact that Member States may not invoke lack of harmonisation in order to restrict the free movement of these products (Amendment 8). This principle is governed by the Treaty and the case-law which derives from it, and need not be repeated in this Directive;
- the addition of beer, and cider and perry to point (a) of Article 1 (part of Amendment 15). Since there is no specific Community legislation for these two types of beverage, they do not belong in this list;
- the words introducing the list of ingredients (Amendment 22). (This amendment does not concern the English language version.)

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,¹

Having regard to the opinion of the Economic and Social Committee,²

Acting in accordance with the procedure referred to in Article 251 of the Treaty,

- (1) Whereas Article 6(3) of Directive 79/112/EEC lays down that "in the case of beverages containing more than 1.2% by volume of alcohol, the Council, acting on a proposal from the Commission, shall, before the expiry of a period of four years following notification of this Directive, determine the rules for labelling ingredients";
- (2) Whereas, in order to contribute to the achievement of a high level of health and to the protection of the health of consumers, it must be ensured that consumers are appropriately informed about foodstuffs, and especially alcoholic beverages, inter alia through the listing of the ingredients on labels; whereas the need for this is all the more urgent since more and more alcoholic beverages whose composition and presentation are obviously geared to sales to young people have come onto the market in recent years; whereas common legislation on the labelling of alcoholic beverages is essential for the expansion and preservation of the internal market in these products;
- (3) Whereas the Commission's earlier proposals in response to this mandate³ failed to win the agreement of the Member States;

¹ OJ C 106, 4.4.1997, p. 5.

² OJ C 287, 22.9.1997, p. 59.

³ OJ C 281, 26.10.1982, p. 3; OJ C 122, 14.5.1992, p. 12.

- (4) Whereas account should be taken of the case-law of the Court of Justice of the European Communities concerning the labelling of alcoholic beverages;⁴
- (5) Whereas it is for the Community legislator to adopt the measures deriving from that case-law;
- (6) Whereas, furthermore, the Scientific Committee for Food set up by Commission Decision 97/579/EC⁵ should be consulted on any issue relating to Directive 79/112/EEC likely to have an effect on public health,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

(1) Article 6(3) of Directive 79/112/EEC is hereby replaced by the following:

"3. The rules for labelling the ingredients of beverages containing more than 1.2% alcohol by volume shall be adopted within a period of five years starting on 1 July 2000

a) in the case of:

- wines,⁶ including sparkling wines,⁷ liqueur wines and semi-sparkling wines⁸ offered for sale to the consumer;
- partially fermented grape must⁶;
- spirituous beverages⁹;
- aromatised wines, aromatised wine-based beverages and aromatised wine-product cocktails,¹⁰

within the framework of the specific Community provisions applicable to them;

b) in the case of each category of other products, in accordance with the procedure laid down in Article 17.

The rules adopted in accordance with these procedures shall enter into force simultaneously for the beverages covered by points (a) and (b) of this paragraph.

⁴ Judgment of 12. 3. 1987 in Case 178/84 (Beer Purity Law), and in particular grounds 35 and 36.

⁵ OJ L 237 28.8.1997, p. 18

⁶ Council Regulation (EEC) No 2392/89, OJ L 232, 9.8.1989, p. 13.

⁷ Council Regulation (EEC) No 2333/92, OJ L 231, 13.8.1992, p. 9.

⁸ Council Regulation (EEC) No 3895/91, OJ L 368, 31.12.1991, p. 1.

⁹ Council Regulation (EEC) No 1576/89, OJ L 160, 12.6.1989, p. 1.

¹⁰ Council Regulation (EEC) No 1601/91, OJ L 149, 14.6.1991, p. 1.

For all these products the list of ingredients shall be preceded by the words 'prepared with'."

2) **The following article is inserted:**

"Article 14a

The Scientific Committee for Food shall be consulted on all issues relating to this Directive which may have an effect upon public health."

Article 2

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament
The President*

*For the Council
The President*

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DOCUMENTS

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