



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.04.1999
COM(1999)113 final

99/0090 (COD)

Proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs

(codified version)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In the context of people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a consolidation of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided to instruct its staff that all legislative measures should be consolidated after no more than ten amendments, stressing that this was a minimum requirement and that departments should endeavour to consolidate at even shorter intervals the texts for which they were responsible, to ensure that the Community rules were clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this, stressing the importance of legislative consolidation as it offers certainty as to the law applicable to a given matter at a given time.

It must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by legislative consolidation, Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal ⁽¹⁾ for legislative consolidation of European Parliament and Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, is to undertake official codification of this type. The new directive will supersede the various directives incorporated in it ⁽²⁾, their content is fully preserved, and they are brought together with only such formal amendments as are required by the codification exercise itself.
5. This legislative consolidation proposal was drawn up on the basis of a preliminary consolidation, in all the official languages, of Directive 79/112/EEC, and the instruments amending it, carried out by the Office for Official Publications of the European Communities, by means of the data-processing system referred to in the conclusions of the European Council meeting at Edinburgh. Although the articles have been given new numbers, the old numbering has been retained in the margin for ease of reference; the correlation between the old and new numbers is shown in a table set out in Annex V to the consolidated Directive.

⁽¹⁾ Entered in the legislative programme for 1998. This proposal replaces that adapted by the Commission on 20 December 1989 (SEC (89) 2151 final - SYN 235).

⁽²⁾ See Annex IV, Part A of this Proposal.

PROPOSAL FOR A

DIRECTIVE .../.../EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of

on the approximation of the laws of the Member States relating
to the labelling, presentation and advertising of foodstuffs

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF
THE EUROPEAN UNION,

89/395/EEC
Art. 1 (1)

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

Having regard to the proposal of the Commission,

Having regard to the opinion of the Economic and So-
cial Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in
Article 189b of the Treaty ⁽²⁾,

- | | | |
|--|----|-------------------------|
| (1) Whereas Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs ⁽³⁾ has been frequently and substantially amended ⁽⁴⁾ ; whereas, therefore, for reasons of clarity and rationality, the said Directive should be consolidated in a single text; | 1. | 79/112/EEC |
| (2) Whereas differences between the laws, regulations and administrative provisions of the Member States on the labelling of foodstuffs may impede the free circulation of these products and can lead to unequal conditions of competition; | + | |
| (3) Whereas, therefore, approximation of these laws would contribute to the smooth functioning of the internal market; | 1. | 91/72/EEC
(adapted) |
| (4) Whereas the purpose of this Directive should be to enact Community rules of a general nature applicable horizontally to all foodstuffs put on the market; | 2. | 79/112/EEC
(adapted) |
| (5) Whereas rules of a specific nature which apply vertically only to particular foodstuffs should be laid down in provisions dealing with those products; | 3. | 79/112/EEC |
| | 4. | |

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⁽³⁾ OJ L 33, 8. 2. 1979, p. 1. Directive as last amended by Directive 97/4/EC of the European Parliament and of the Council (OJ L 43, 14. 2. 1997, p. 21).

⁽⁴⁾ See Annex IV, Part B.

(6)	Whereas the prime consideration for any rules on the labelling of foodstuffs should be the need to inform and protect the consumer;	6.	
(7)	Whereas that need means that Member States may, in compliance with the rules of the Treaty, impose language requirements;	7.	79/112/EEC 97/4/EC - Art 1 (1)
(8)	Whereas detailed labelling, in particular giving the exact nature and characteristics of the product which enables the consumer to make his choice in full knowledge of the facts, is the most appropriate since it creates fewest obstacles to free trade;	4.	97/4/EC (adapted)
(9)	Whereas, therefore, a list should be drawn up of all information which should in principle be included in the labelling of all foodstuffs;	8.	79/112/EEC
(10)	Whereas, however, the horizontal nature of this Directive does not allow, at the initial stage, the inclusion in the compulsory indications of all the indications which must be added to the list applying in principle to the whole range of foodstuffs; whereas, during a later stage, Community provisions should be adopted, aimed at supplementing the existing rules;	9.	79/112/EEC (adapted)
(11)	Whereas, furthermore, if in the absence of Community rules of a specific nature Member States should retain the right to lay down certain national provisions which may be added to the general provisions of this Directive, nevertheless these provisions should be subject to a Community procedure;	10.	
(12)	Whereas the said Community procedure must be that of a Community decision when a Member State wishes to enact new legislation;	11.	(adapted)
(13)	Whereas provision should also be made for the Community legislator to derogate, in exceptional cases, from certain obligations that have been fixed generally;	12.	
(14)	Whereas the rules on labelling should also prohibit the use of information that would mislead the purchaser or attribute medicinal properties to foodstuffs; whereas, to be effective, this prohibition should also apply to the presentation and advertising of foodstuffs;	13.	
(15)	Whereas with a view to facilitating trade between Member States, it may be provided that, at stages prior to sale to the ultimate consumer, only information on the essential elements should appear on the outer packaging and certain mandatory particulars that must appear on a prepackaged foodstuff need appear only on commercial documents referring thereto;	7.	89/395/EEC

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|---|-----|-------------------------|
| (16) Whereas Member States should retain the right, depending on local practical conditions and circumstances, to lay down rules in respect of the labelling of foodstuffs sold in bulk; whereas, in such cases, information should nevertheless be provided for the consumer; | 14. | 79/112/EEC
(adapted) |
| (17) Whereas, with the aim of simplifying and accelerating the procedure, the Commission should be entrusted with the task of adopting implementing measures of a technical nature; | 15. | |
| (18) Whereas in all cases where the Council makes the Commission responsible for implementing rules laid down in respect of foodstuffs, provision should be made for a procedure instituting close cooperation between Member States and the Commission within the Standing Committee on Foodstuffs, set up by Council Decision 69/414/EEC ⁽¹⁾ ; | 16. | |
| (19) Whereas this Directive should be without prejudice to the obligations of the Member States concerning the time limits for transposition of the Directives set out in Annex IV, Part B, | | |

HAVE ADOPTED THIS DIRECTIVE:

⁽¹⁾ OJ L 291, 29. 11. 1969, p. 9.

Article 1

1. This Directive concerns the labelling of foodstuffs to be delivered as such to the ultimate consumer and certain aspects relating to the presentation and advertising thereof.

79/112/EEC

2. This Directive shall apply also to foodstuffs intended for supply to restaurants, hospitals, canteens and other similar mass caterers (hereinafter referred to as "mass caterers")

89/395/EEC - Art. 1 (2)

3. For the purpose of this Directive,

79/112/EEC

(a) 'labelling' shall mean any words, particulars, trade marks, brand name, pictorial matter or symbol relating to a foodstuff and placed on any packaging, document, notice, label, ring or collar accompanying or referring to such foodstuff;

(b) 'pre-packaged foodstuff' shall mean any single item for presentation as such to the ultimate consumer and to mass caterers, consisting of a foodstuff and the packaging into which it was put before being offered for sale, whether such packaging encloses the foodstuff completely or only partially, but in any case in such a way that the contents cannot be altered without opening or changing the packaging.

89/395/EEC - Art. 1 (3)

Article 2

1. The labelling and methods used must not:

(a) be such as could mislead the purchaser to a material degree, particularly:

(i) as to the characteristics of the foodstuff and, in particular, as to its nature, identity, properties, composition, quantity, durability, origin or provenance, method of manufacture or production,

(ii) by attributing to the foodstuff effects or properties which it does not possess,

(iii) by suggesting that the foodstuff possesses special characteristics when in fact all similar foodstuffs possess such characteristics;

(b) subject to Community provisions applicable to natural mineral waters and foodstuffs for particular nutritional uses, attribute to any foodstuff the property of preventing, treating or curing a human disease, or refer to such properties.

89/395/EEC - Art. 1 (4)

2. The Council, in accordance with the procedure laid down in Article 100a of the Treaty, shall draw up a non-exhaustive list of the claims within the meaning of paragraph 1, the use of which must at all events be prohibited or restricted.

79/112/EEC
(adapted)

3. The prohibitions or restrictions referred to in paragraphs 1 and 2 shall also apply to:

- (a) the presentation of foodstuffs, in particular their shape, appearance or packaging, the packaging materials used, the way in which they are arranged and the setting in which they are displayed;
- (b) advertising.

Article 3

1. In accordance with Articles 4 to 17 and subject to the exceptions contained therein, indication of the following particulars alone shall be compulsory on the labelling of foodstuffs:

- (1) the name under which the product is sold;
- (2) the list of ingredients;
- (3) the quantity of certain ingredients or categories of ingredients as provided for in Article 7;
- (4) in the case of prepackaged foodstuffs, the net quantity;
- (5) the date of minimum durability or, in the case of foodstuffs which, from the microbiological point of view, are highly perishable, the "use by" date;
- (6) any special storage conditions or conditions of use;
- (7) the name or business name and address of the manufacturer or packager, or of a seller established within the Community.

97/4/EC - Art. 1 (2)

79/112/EEC

89/395/EEC - Art. 1 (5)

79/112/EEC

However, the Member States shall be authorized, in respect of butter produced in their territory, to require only an indication of the manufacturer, packager or seller.

Without prejudice to the notification provided for in Article 24, Member States shall inform the Commission and the other Member States of any measure taken pursuant to the second paragraph;

(adapted)

- (8) particulars of the place of origin or provenance in the cases where failure to give such particulars might mislead the consumer to a material degree as to the true origin or provenance of the foodstuff;
- (9) instructions for use when it would be impossible to make appropriate use of the foodstuff in the absence of such instructions;

(10) with respect to beverages containing more than 1,2 % by volume of alcohol, the actual alcoholic strength by volume.

86/197/EEC - Art. 1 (1)

2. Notwithstanding the previous paragraph, Member States may retain national provisions which require indication of the factory or packaging centre, in respect of home production.

79/112/EEC

3. The provisions of this Article shall be without prejudice to more precise or more extensive provisions regarding weights and measures.

Article 4

1. Community provisions applicable to specified foodstuffs and not to foodstuffs in general may provide for derogations, in exceptional cases, from the requirements laid down in Article 3 (1), points 2 and 5, provided that this does not result in the purchaser being inadequately informed.

2. Community provisions applicable to specified foodstuffs and not to foodstuffs in general may provide that other particulars in addition to those listed in Article 3 must appear on the labelling.

Where there are no Community provisions, Member States may make provision for such particulars in accordance with the procedure laid down in Article 19.

3. The Community provisions referred to in paragraphs 1 and 2 shall be adopted in accordance with the procedure laid down in Article 20.

89/395/EEC - Art. 1 (6)

Article 5

79/112/EEC

1. The name under which a foodstuff is sold shall be the name provided for in the Community provisions applicable to it.

97/4/EC - Art. 1 (3)
(adapted)

(a) In the absence of Community provisions, the name under which a product is sold shall be the name provided for in the laws, regulations and administrative provisions applicable in the Member State in which the product is sold to the final consumer or to mass caterers.

Failing this, the name under which a product is sold shall be the name customary in the Member State in which it is sold to the final consumer or to mass caterers, or a description of the foodstuff, and if necessary of its use, which is clear enough to let the purchaser know its true nature and distinguish it from other products with which it might be confused.

(b) The use in the Member State of marketing of the sales name under which the product is legally manufactured and marketed in the Member State of production shall also be allowed.

However, where the application of the other provisions of this Directive, in particular those set out in Article 3, would not enable consumers in the Member State of marketing to know the true nature of the foodstuff and to distinguish it from foodstuffs with which they could confuse it, the sales name shall be accompanied by other descriptive information which shall appear in proximity to the sales name.

97/4/EC - Art. 1 (3)

- (c) In exceptional cases, the sales name of the Member State of production shall not be used in the Member State of marketing when the foodstuff which it designates is so different, as regards its composition or manufacture, from the foodstuff known under that name that the provisions of point (b) are not sufficient to ensure, in the Member State of marketing, correct information for consumers.

2. No trade mark, brand name or fancy name may be substituted for the name under which the product is sold.

79/112/EEC

3. The name under which the product is sold shall include or be accompanied by particulars as to the physical condition of the foodstuff or the specific treatment which it has undergone (e.g. powdered, freeze-dried, deep-frozen, concentrated, smoked) in all cases where omission of such information could create confusion in the mind of the purchaser.

Any foodstuff which has been treated with ionizing radiation must bear one of the following indications:

89/395/EEC - Art. 1 (8)

- in Spanish
“irradiado” or “tratado con radiación ionizante”
- in Danish:
“bestrålet/ . . .” or “strålekonserven” or “behandlet med ioniserende stråling” or “konserven med ioniserende stråling”
- in German:
“bestrahlt” or “mit ionisierenden Strahlen behandelt”
- in Greek:
“επεξεργασμένο με ιονίζουσα ακτινοβολία” or “ακτινοβολημένο”
- in English:
“irradiated” or “treated with ionizing radiation”
- in French:
“traité par rayonnements ionisants” or “traité par ionisation”
- in Italian:
“irradiato” or “trattato con radiazioni ionizzanti”
- in Dutch:
“doorstraald” or “door bestraling behandeld” or “met ioniserende stralen behandeld”

- in Portuguese:
"irradiado" or "tratado por irradiação" or "tratado por radiação ionizante" | 89/395/EEC - Art. 1 (8)
- in Finnish:
"säteilytetty" or "käsitelty ionisoivalla säteilyllä" | 95/1/EC, Euratom, ECSC
(adapted)
- in Swedish:
"bestrålad" or "behandlad med joniserande strålning" |

Article 6

1. Ingredients shall be listed in accordance with this Article and Annexes I, II and III.

2. Ingredients need not be listed in the case of:

- (a) — fresh fruit and vegetables, including potatoes, which have not been peeled, cut or similarly treated,
 - carbonated water, the description of which indicates that it has been carbonated,
 - fermentation vinegars derived exclusively from a single basic product, provided that no other ingredient has been added;
- (b) — cheese,
 - butter,
 - fermented milk and cream,

provided that no ingredient has been added other than lactic products, enzymes and micro-organism cultures essential to manufacture, or the salt needed for the manufacture of cheese other than fresh cheese and processed cheese;

- (c) products comprising a single ingredient, where:
 - the trade name is identical with the ingredient name, or
 - the trade name enables the nature of the ingredient to be clearly identified.

3. 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 22 December 1982, determine the rules for labelling ingredients.

4. (a) 'Ingredient' shall mean any substance, including additives, used in the manufacture or preparation of a foodstuff and still present in the finished product, even if in altered form.

79/112/EEC
(adapted)

97/4/EC Art. 1 (4)

79/112/EEC
(adapted)

- (b) Where an ingredient of the foodstuff is itself the product of several ingredients, the latter shall be regarded as ingredients of the foodstuff in question. 79/112/EEC
- (c) The following shall not be regarded as ingredients: (adapted)
- (i) the constituents of an ingredient which have been temporarily separated during the manufacturing process and later reintroduced but not in excess of their original proportions;
 - (ii) additives:
 - whose presence in a given foodstuff is solely due to the fact that they were contained in one or more ingredients of that foodstuff, provided that they serve no technological function in the finished product,
 - which are used as processing aids;
 - (iii) substances used in the quantities strictly necessary as solvents or media for additives or flavouring.
- (d) In certain cases Decisions may be taken in accordance with the procedure laid down in Article 20 as to whether the conditions described in (c) (ii) and (iii) are satisfied. (adapted)

5. The list of ingredients shall include all the ingredients of the foodstuff, in descending order of weight, as recorded at the time of their use in the manufacture of the foodstuff. It shall appear preceded by a suitable heading which includes the word 'ingredients'.

However:

- added water and volatile products shall be listed in order of their weight in the finished product; the amount of water added as an ingredient in a foodstuff shall be calculated by deducting from the total amount of the finished product the total amount of the other ingredients used. This amount need not be taken into consideration if it does not exceed 5 % by weight of the finished product;
- ingredients used in concentrated or dehydrated form and reconstituted at the time of manufacture may be listed in order of weight as recorded before their concentration or dehydration;
- in the case of concentrated or dehydrated foods which are intended to be reconstituted by the addition of water, the ingredients may be listed in order of proportion in the reconstituted product provided that the list of ingredients is accompanied by an expression such as 'ingredients of the reconstituted product', or 'ingredients of the ready-to-use product';

- in the case of mixtures of fruit or vegetables where no particular fruit or vegetable significantly predominates in proportion by weight, those ingredients may be listed in another order provided that that list of ingredients is accompanied by an expression such as 'in variable proportion';
 - in the case of mixtures of spices or herbs, where none significantly predominates in proportion by weight, those ingredients may be listed in another order provided that that list of ingredients is accompanied by an expression such as 'in variable proportion'.
6. Ingredients shall be designated by their specific name, where applicable, in accordance with the rules laid down in Article 5.
- However:
- ingredients which belong to one of the categories listed in Annex I and are constituents of another foodstuff need only be designated by the name of that category.

Alterations to the list of categories in Annex I may be effected in accordance with the procedure laid down in Article 20.

However, the designation "starch" listed in Annex I must always be complemented by the indication of its specific vegetable origin, when that ingredient may contain gluten;
 - ingredients belonging to one of the categories listed in Annex II must be designated by the name of that category, followed by their specific name or EC number; if an ingredient belongs to more than one of the categories, the category appropriate to the principal function in the case of the foodstuff in question shall be indicated.

Amendments to this Annex based on advances in scientific and technical knowledge shall be adopted in accordance with the procedure laid down in Article 20.

However, the designation "modified starch" listed in Annex II must always be complemented by the indication of its specific vegetable origin, when that ingredient may contain gluten.
 - flavourings shall be designated in accordance with Annex III;
 - the specific Community provisions governing the indication of treatment of an ingredient with ionizing radiation shall be adopted subsequently in accordance with Article 100a of the Treaty.

79/112/EEC

97/4/EC - Art. 1 (5)

97/4/EC - Art. 1 (6)

91/72/EEC - Art. 1 (1)

89/395/EEC - Art. 1 (11)

7. Community provisions or, where there are none, national provisions may lay down that the name under which a specific foodstuff is sold is to be accompanied by mention of a particular ingredient or ingredients.

79/112/EEC

The procedure laid down in Article 19 shall apply to any such national provisions.

The Community provisions referred to in this paragraph shall be adopted in accordance with the procedure laid down in Article 20.

89/395/EEC – Art. 1 (12)

8. In the case referred to in paragraph 4 (b), a compound ingredient may be included in the list of ingredients, under its own designation in so far as this is laid down by law or established by custom, in terms of its overall weight, provided that it is immediately followed by a list of its ingredients.

79/112/EEC

Such a list, however, shall not be compulsory:

- (a) where the compound ingredient constitutes less than 25 % of the finished product; however, this exemption shall not apply in the case of additives, subject to the provisions of paragraph 4 (c),
 - (b) where the compound ingredient is a foodstuff for which a list of ingredients is not required under Community rules.
9. Notwithstanding paragraph 5 the water content need not be specified:
- (a) where the water is used during the manufacturing process solely for the reconstitution of an ingredient used in concentrated or dehydrated form;
 - (b) in the case of a liquid medium which is not normally consumed.

Article 7

97/4/EC – Art. 1 (7)

1. The quantity of an ingredient or category of ingredients used in the manufacture or preparation of a foodstuff shall be stated in accordance with this Article.
2. The indication referred to in paragraph 1 shall be compulsory:
 - (a) where the ingredient or category of ingredients concerned appears in the name under which the foodstuff is sold or is usually associated with that name by the consumer; or
 - (b) where the ingredient or category of ingredients concerned is emphasized on the labelling in words, pictures or graphics; or
 - (c) where the ingredient or category of ingredients concerned is essential to characterize a foodstuff and to distinguish it from products with which it might be confused because of its name or appearance; or

(d) in the cases determined in accordance with the procedure laid down in Article 20.

97/4/EC - Art. 1 (7)

3. Paragraph 2 shall not apply:

(a) to an ingredient or category of ingredients:

- the drained net weight of which is indicated in accordance with Article 8 (4),
- the quantities of which are already required to be given on the labelling under Community provisions,
- which is used in small quantities for the purposes of flavouring,
- which, while appearing in the name under which the food is sold, is not such as to govern the choice of the consumer in the country of marketing because the variation in quantity is not essential to characterize the foodstuff or does not distinguish it from similar foods. In cases of doubt it shall be decided by the procedure laid down in Article 20 whether the conditions laid down in this indent are fulfilled;

(b) where specific Community provisions stipulate precisely the quantity of an ingredient or of a category of ingredients without providing for the indication thereof on the labelling;

(c) in the cases referred to in the fourth and fifth indents of Article 6 (5);

(d) in the cases determined in accordance with the procedure laid down in Article 20.

4. The quantity indicated, expressed as a percentage, shall correspond to the quantity of the ingredient or ingredients at the time of its/their use. However, Community provisions may allow for derogations from this principle for certain foodstuffs. Such provisions shall be adopted in accordance with the procedure laid down in Article 20.

5. The indication referred to in paragraph 1 shall appear either in or immediately next to the name under which the foodstuff is sold or in the list of ingredients in connection with the ingredient or category of ingredients in question.

6. This Article shall apply without prejudice to Community rules on nutrition labelling for foodstuffs.

Article 8

79/112/EEC

1. The net quantity of prepackaged foodstuffs shall be expressed:

- in units of volume in the case of liquids,
 - in units of mass in the case of other products,
- using the litre, centilitre, millilitre, kilogram or gram, as appropriate.

Community provisions or, where there are none, national provisions applicable to certain specified foodstuffs may derogate from this rule.

79/112/EEC

The procedure laid down in Article 19 shall apply to any such national provisions.

2. (a) Where the indication of a certain type of quantity (e.g. nominal quantity, minimum quantity, average quantity) is required by Community provisions or, where there are none, by national provisions, this quantity shall be regarded as the net quantity for the purposes of this Directive.

Without prejudice to the notification provided for in Article 24, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this point.

- (b) Community provisions or, where there are none, national provisions may, for certain specified foodstuffs classified by quantity in categories, require other indications of quantity.

The procedure laid down in Article 19 shall apply to any such national provisions.

- (c) Where a prepackaged item consists of two or more individual packaged items containing the same quantity of the same product, the net quantity shall be indicated by mentioning the net quantity contained in each individual package and the total number of such packages. Indication of these particulars shall not, however, be compulsory where the total number of individual packages can be clearly seen and easily counted from the outside and where at least one indication of the net quantity contained in each individual package can be clearly seen from the outside.

(adapted)

- (d) Where a prepackaged item consists of two or more individual packages which are not regarded as units of sale, the net quantity shall be given by indicating the total net quantity and the total number of individual packages. Community provisions or, where there are none, national provisions need not, in the case of certain foodstuffs, require indication of the total number of individual packages.

Without prejudice to the notification provided for in Article 24, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this point.

3. In the case of foodstuffs normally sold by number, Member States need not require indication of the net quantity provided that the number of items can clearly be seen and easily counted from the outside or, if not, is indicated on the labelling.

79/112/EEC

Without prejudice to the notification provided for in Article 24, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this paragraph.

4. Where a solid foodstuff is presented in a liquid medium, the drained net weight of the foodstuff shall also be indicated on the labelling.

89/395/EEC – Art. 1 (14)

For the purposes of this paragraph, "liquid medium" shall mean the following products, possibly in mixtures and also where frozen or quick-frozen, provided that the liquid is merely an adjunct to the essential elements of that preparation and is thus not a decisive factor for the purchase: water, aqueous solutions of salts, brine, aqueous solutions of food acids, vinegar, aqueous solutions of sugars, aqueous solutions of other sweetening substances, fruit or vegetable juices in the case of fruit or vegetables.

This list may be supplemented in accordance with the procedure laid down in Article 20.

Methods of checking the drained net weight shall be determined in accordance with the procedure laid down in Article 20.

5. It shall not be compulsory to indicate the net quantity in the case of foodstuffs:

79/112/EEC

- (a) which are subject to considerable losses in their volume or mass and which are sold by number or weighed in the presence of the purchaser;
- (b) the net quantity of which is less than 5 g or 5 ml; however, this provision shall not apply to spices and herbs.

Community provisions or, where there are none, national provisions applicable to specified foodstuffs may in exceptional cases lay down thresholds which are higher than 5 g or 5 ml provided that this does not result in the purchaser being inadequately informed.

Without prejudice to the notification provided for in Article 24, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this paragraph.

6. The Community provisions referred to in paragraphs 1, second subparagraph, 2 (b) and (d) and 5, second subparagraph, shall be adopted in accordance with the procedure laid down in Article 20.

89/395/EEC – Art. 1 (15)

Article 9

1. The date of minimum durability of a foodstuff shall be the date until which the foodstuff retains its specific properties when properly stored.

It shall be indicated in accordance with paragraphs 2 to 5.

2. The date shall be preceded by the words:

- 'Best before . . .' when the date includes an indication of the day,
- 'Best before end . . .' in other cases.

3. The words referred to in paragraph 2 shall be accompanied by:

- either the date itself, or
- a reference to where the date is given on the labelling.

If need be, these particulars shall be followed by a description of the storage conditions which must be observed if the product is to keep for the specified period.

4. The date shall consist of the day, month and year in uncoded chronological form.

However, in the case of foodstuffs:

- which will not keep for more than three months, an indication of the day and the month will suffice,
- which will keep for more than three months but not more than 18 months, an indication of the month and year will suffice,
- which will keep for more than 18 months, an indication of the year will suffice.

The manner of indicating the date may be specified according to the procedure laid down in Article 20.

5. Subject to Community provisions imposing other types of date indication, an indication of the durability date shall not be required for:

- fresh fruit and vegetables, including potatoes, which have not been peeled, cut or similarly treated. This derogation shall not apply to sprouting seeds and similar products such as legume sprouts,
- wines, liqueur wines, sparkling wines, aromatized wines and similar products obtained from fruits other than grapes, and beverages falling within CN codes 2206 00 91, 2206 00 93 and 2206 00 99 and manufactured from grapes or grape musts,
- beverages containing 10 % or more by volume of alcohol,

79/112/EEC

(adapted)

89/395/EEC – Art. 1 (18)

- soft drinks, fruit juices, fruit nectars and alcoholic beverages in individual containers of more than five litres, intended for supply to mass caterers,
- bakers' or pastry cooks' wares which, given the nature of their content, are normally consumed within 24 hours of their manufacture,
- vinegar,
- cooking salt,
- solid sugar,
- confectionery products consisting almost solely of flavoured and/or coloured sugars,
- chewing gums and similar chewing products.
- individual portions of ice-cream.

89/395/EEC - Art. 1 (18)

Article 10

1. In the case of foodstuffs which, from the microbiological point of view, are highly perishable and are therefore likely after a short period to constitute an immediate danger to human health, the date of minimum durability shall be replaced by the "use by" date.

2. The date shall be preceded by the words:

- in Spanish: "fecha de caducidad",
- in Danish: "sidste anvendelsesdato",
- in German: "verbrauchen bis",
- in Greek: "ανάλωση μέχρι",
- in English: "use by",
- in French: "à consommer jusqu'au",
- in Italian: "da consumare entro",
- in Dutch: "te gebruiken tot",
- in Portuguese: "a consumir até",
- in Finnish: "viimeinen käyttöajankohta",
- in Swedish: "sista förbrukningsdag".

89/395/EEC - Art. 1 (19)

Article 9a

These words shall be accompanied by:

- either the date itself, or
- a reference to where the date is given on the labelling.

These particulars shall be followed by a description of the storage conditions which must be observed.

3. The date shall consist of the day, the month and, possibly, the year, in that order and in uncoded form.

95/1/EC, Euratom, ECSC

89/395/EEC - Art. 1 (19)

4. In some cases it may be decided by the procedure laid down in Article 20 whether the conditions laid down in paragraph 1 are fulfilled.

89/395/EEC – Art. 1 (19)

Article 11

79/112/EEC

Article 10

1. The instructions for use of a foodstuff shall be indicated in such a way as to enable appropriate use to be made thereof.

2. Community provisions or, where there are none, national provisions may, in the case of certain foodstuffs, specify the way in which the instructions for use should be indicated.

The procedure laid down in Article 19 shall apply to such national provisions.

The Community provisions referred to in this paragraph shall be adopted in accordance with the procedure laid down in Article 20.

89/395/EEC – Art. 1 (20)

Article 12

86/197/EEC – Art. 1 (3)

Article 10a

The rules concerning indication of the alcoholic strength by volume shall, in the case of products covered by tariff heading Nos 22.04 and 22.05, be those laid down in the specific Community provisions applicable to such products.

In the case of other beverages containing more than 1,2% by volume of alcohol, these rules shall be laid down in accordance with the procedure provided for in Article 20.

Article 13

89/395/EEC – Art. 1 (21)

Article 11

1. (a) When the foodstuffs are prepackaged, the particulars provided for in Articles 3 and 4 (2) shall appear on the prepackaging or on a label attached thereto.

(b) Notwithstanding point (a) and without prejudice to Community provisions on nominal quantities, where prepackaged foodstuffs are:

- intended for the ultimate consumer but marketed at a stage prior to sale to the ultimate consumer and where sale to a mass caterer is not involved at that stage,
- intended for supply to mass caterers for preparation, processing, splitting or cutting up,

(adapted)

the particulars required under Articles 3 and 4 (2) need appear only on the commercial documents referring to the foodstuffs where it can be guaranteed that such documents, containing all the labelling information, either accompany the foodstuffs to which they refer or were sent before or at the same time as delivery.

- (c) In the cases referred to in (b), the particulars referred to in Article 3 (1) points (1), (5) and (7) and, where appropriate, that referred to in Article 10, shall also appear on the external packaging in which the foodstuffs are presented for marketing.

2. The particulars mentioned in Article 3 and Article 4 (2) shall be easy to understand and marked in a conspicuous place in such a way as to be easily visible, clearly legible and indelible.

(adapted)

They shall not in any way be hidden, obscured or interrupted by other written or pictorial matter.

3. The particulars listed in Article 3 (1), points 1, 4, 5 and 10 shall appear in the same field of vision.

This requirement may be extended to the particulars provided for in Article 4 (2).

4. In the case of the glass bottles intended for re-use which are indelibly marked and which therefore bear no label, ring or collar and packaging or containers the largest surface of which has an area of less than 10 cm² only the particulars listed in Article 3 (1) points (1), (4) and (5) need be given.

In this case, the first subparagraph of paragraph 3 shall not apply.

5. Ireland, the Netherlands and the United Kingdom may derogate from Article 3 (1) and paragraph 3 of this Article in the case of milk and milk products put up in glass bottles intended for re-use.

They shall inform the Commission of any measure taken pursuant to the first subparagraph.

Article 14

Where foodstuffs are offered for sale to the ultimate consumer or to mass caterers without prepackaging, or where foodstuffs are packaged on the sales premises at the consumer's request or prepackaged for direct sale, the Member States shall adopt detailed rules concerning the manner in which the particulars specified in Article 3 and Article 4 (2) are to be shown.

They may decide not to require the provision of all or some of these particulars, provided that the purchaser still receives sufficient information.

Article 15

This Directive shall not affect the provisions of national laws which, in the absence of Community provisions, impose less stringent requirements for the labelling of foodstuffs presented in fancy packaging such as figurines or souvenirs.

Article 16

1. Member States shall ensure that the sale is prohibited within their own territories of foodstuffs for which the particulars provided for in Article 3 and Article 4 (2) do not appear in a language easily understood by the consumer, unless the consumer is in fact informed by means of other measures determined in accordance with the procedure laid down in Article 20 as regards one or more labelling particulars.

2. Within its own territory, the Member State in which the product is marketed may, in accordance with the rules of the Treaty, stipulate that those labelling particulars shall be given in one or more languages which it shall determine from among the official languages of the Community.

3. Paragraphs 1 and 2 shall not preclude the labelling particulars from being indicated in several languages.

Article 17

Member States shall refrain from laying down requirements more detailed ~~than~~ those already contained in Articles 3 to 13 concerning the manner in which the particulars provided for in Article 3 and Article 4 (2) are to be shown.

Article 18

1. Member States may not forbid trade in foodstuffs which comply with the rules laid down in this Directive by the application of non-harmonized national provisions governing the labelling and presentation of certain foodstuffs or of foodstuffs in general.

79/112/EEC

89/395/EEC - Art. 1 (22)

89/395/EEC - Art. 1 (23)

97/4/EC - Art. 1 (8)

79/112/EEC

Article 12

Article 13

Article 13a

Article 14

Article 15

2. Paragraph 1 shall not apply to non-harmonized national provisions justified on grounds of:

- protection of public health,
- prevention of fraud, unless such provisions are liable to impede the application of the definitions and rules laid down by this Directive,
- protection of industrial and commercial property rights, indications of provenance, registered designations of origin and prevention of unfair competition.

79/112/EEC

Article 19

Where reference is made to this Article, the following procedure shall apply should a Member State deem it necessary to adopt new legislation.

(adapted)

It shall notify the Commission and the other Member States of the measures envisaged and give the reasons justifying them. The Commission shall consult the Member States within the Standing Committee on Foodstuffs if it considers such consultation to be useful or if a Member State so requests.

Member States may take such envisaged measures only three months after such notification and provided that the Commission's opinion is not negative.

In the latter event, and before the expiry of the abovementioned period, the Commission shall initiate the procedure provided for in Article 20 in order to determine whether the envisaged measures may be implemented subject, if necessary, to the appropriate modifications.

Article 16

Article 20

1. Where the procedure laid down in paragraph 2 is to be followed, the matter shall be referred to the Standing Committee on Foodstuffs (hereinafter called "the Committee") by its chairman, either on his own initiative or at the request of a representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of Decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

89/395/EEC – Art. 1 (24)

(adapted)

Article 17

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

89/395/EEC - Art. 1 (24)

Article 21

If temporary measures prove necessary to facilitate the application of this Directive, they shall be adopted in accordance with the procedure provided for in Article 20.

Article 22

This Directive shall not affect Community provisions relating to the labelling and presentation of certain foodstuffs already adopted on 22 December 1978.

Any amendments necessary to harmonize such provisions with the rules laid down in this Directive shall be decided in accordance with the procedure applicable to each of the provisions in question.

Article 23

This Directive shall not apply to products for export outside the Community.

Article 24

Member States shall ensure that the Commission receives the text of any essential provision of national law which they adopt in the field governed by this Directive.

Article 25

This Directive shall also apply to the French overseas departments.

Article 26

1. Directive 79/112/EEC as amended by the Directives referred to in Annex IV, Part A, is repealed, without prejudice to the obligations of the Member States in respect of the deadlines for transposition laid down in Annex IV, Part B.

2. The reference made to the repealed Directive shall be construed as references to this Directive and should be read in accordance with the correlation table set out in Annex V.

79/112/EEC

Article 19

(adapted)

Article 20

Article 21

(adapted)

Article 22

Article 24

Article 27

This Directive enters into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

Article 28

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

For the Council

The President

The President

ANNEX I

93/102/EC - Art. 1

Categories of ingredients which may be designated by the name of the category rather than the specific name

Definition	Designation
Refined oils other than olive oil	'Oil', together with — either the adjective 'vegetable' or 'animal', as appropriate, or — an indication of their specific vegetable or animal origin The adjective 'hydrogenated' must accompany the indication of a hydrogenated oil.
Refined fats	'Fat', together with — either the adjective 'vegetable' or 'animal', as appropriate, or — an indication of their specific vegetable or animal origin The adjective 'hydrogenated' must accompany the indication of a hydrogenated fat
Mixtures of flour obtained from two or more cereal species	'Flour', followed by a list of the cereals from which it has been obtained, in descending order by weight
Starches, and starches modified by physical means or by enzymes	Starch
All species of fish where the fish constitutes an ingredient of another foodstuff and provided that the name and presentation of such foodstuff does not refer to a specific species of fish	Fish
All types of cheese where the cheese or mixture of cheeses constitutes an ingredient of another foodstuff and provided that the name of presentation of such foodstuff does not refer to a specific type of cheese	Cheese
All spices not exceeding 2 % by weight of the foodstuff	Spice(s) or mixed spices
All herbs or parts of herbs not exceeding 2 % by weight of the foodstuff	Herb(s) or mixed herbs
All types of gum preparations used in the manufacture of gum base for chewing gum	Gum base
All types of crumbed baked cereal products	Crumbs or rusks as appropriate
All types of sucrose	Sugar
Anhydrous dextrose or dextrose monohydrate	Dextrose
Glucose syrup and anhydrous glucose syrup	Glucose syrup

All types of milk protein (caseins, Milk proteins
caseinates and whey proteins) and
mixtures thereof

Press, expeller or refined cocoa butter Cocoa butter

All crystallized fruit not exceeding 10 % Crystallized fruit
of the weight of the foodstuff

Mixtures of vegetables not exceeding Vegetables
10 % of the weight of the foodstuff

All types of wine as defined in Council Wine
Regulation (EEC) No 822/87 ⁽¹⁾

93/102/EC - Art. 1

⁽¹⁾ OJ L 84, 27. 3. 1987, p. 1.

ANNEX II

93/102/EEC - Art. 2

Categories of ingredients which must be designated by the name of their category followed by their specific name or EC number

Colour
Preservative
Anti-oxidant
Emulsifier
Thickener
Gelling agent
Stabilizer
Flavour enhancer
Acid
Acidity regulator
Anti-caking agent
Modified starch ⁽¹⁾
Sweetener
Raising agent
Anti-foaming agent
Glazing agent
Emulsifying salts ⁽²⁾
Flour treatment agent
Firming agent
Humectant
Bulking agent
Propellent gas

⁽¹⁾ The specific name or EC number need not be indicated.
⁽²⁾ Only for processed cheeses and products based on processed cheeses.

ANNEX III

91/72/EEC - Art. 1 (2)

Designation of flavourings in the list of ingredients

1. Flavourings shall be designated either by the word "flavouring(s)" or by a more specific name or description of the flavouring.
2. The word "natural" or any other word having substantially the same meaning may be used only for flavourings in which the flavouring component contains exclusively flavouring substances as defined in Article 1 (2) (b) (i) of Council Directive 88/388/EEC ⁽¹⁾ according to the flavours and/or flavouring preparations as defined in Article 1 (2) (c) of the said Directive.
3. If the name of the flavouring contains a reference to the vegetable or animal nature or origin of the incorporated substances, the word "natural" or any other word having substantially the same meaning may not be used unless the flavouring component has been isolated by appropriate physical processes, enzymatic or microbiological processes or traditional food-preparation processes solely or almost solely from the foodstuff or the flavouring source concerned.

⁽¹⁾ OJ L 184, 15. 7. 1988, p. 61.

ANNEX IV

Part A

**Repealed Directive and its successive amendments
(referred to by Article 26)**

Council Directive 79/112/EEC (OJ L 33, 8. 2. 1979, p. 1)

Council Directive 85/7/EEC (OJ L 2, 3. 1. 1985, p. 22)

only Article 1 (9)

Council Directive 86/197/EEC (OJ L 144, 29. 5. 1986, p. 38)

Council Directive 89/395/EEC (OJ L 186, 30. 6. 1989, p. 17)

Commission Directive 91/72/EEC (OJ L 42, 15. 2. 1991, p. 27)

Commission Directive 93/102/EC (OJ L 291, 25. 11. 1993, p. 14)

Commission Directive 95/42/EC (OJ L 182, 2. 8. 1995, p. 20)

European Parliament and Council Directive 97/4/EC (OJ L 43, 14. 2. 1997, p. 21)

Part B

Deadlines for transposition into national law
(referred to by Article 26)

<i>Directive</i>	<i>Deadline for transposition</i>	<i>Admission of Market Products according to this Directive</i>	<i>Prohibition of Market Products not in accordance with this Directive</i>
79/112/EEC		22 December 1980	22 December 1982
85/7/EEC			
86/197/EEC		1 May 1988	1 May 1989
89/395/EEC		20 December 1990	20 June 1992
91/72/EEC		30 June 1992	1 January 1994
93/102/EC	30 December 1994	1 January 1995	30 June 1996
95/42/EC			
97/4/EC		14 August 1998	14 February 2000

ANNEX V

CORRELATION TABLE

Directive 79/112/EEC	This Directive
Article 1	Article 1
Article 2	Article 2
Article 3 (1), point 1	Article 3 (1), point 1
Article 3 (1), point 2	Article 3 (1), point 2
Article 3 (1), point 2a	Article 3 (1), point 3
Article 3 (1), point 3	Article 3 (1), point 4
Article 3 (1), point 4	Article 3 (1), point 5
Article 3 (1), point 5	Article 3 (1), point 6
Article 3 (1), point 6	Article 3 (1), point 7
Article 3 (1), point 7	Article 3 (1), point 8
Article 3 (1), point 8	Article 3 (1), point 9
Article 3 (1), point 9	Article 3 (1), point 10
Article 3 (2) and (3)	Article 3 (2) and (3)
Article 4	Article 4
Article 5	Article 5
Article 6 (1), (2) and (3)	Article 6 (1), (2) and (3)
Article 6 (4) (a) and (b)	Article 6 (4) (a) and (b)
Article 6 (4) (c) (i)	Article 6 (4) (c) (i)
Article 6 (4) (c) (ii), 1st indent	Article 6 (4) (c) (ii)
Article 6 (4) (c) (ii), 2nd indent	Article 6 (4) (c) (iii)
Article 6 (4) (d)	Article 6 (4) (d)
Article 6 (5) (a)	Article 6 (5)
Article 6 (5) (b)	Article 6 (6)
Article 6 (6)	Article 6 (7)
Article 6 (7), first subparagraph	Article 6 (8), first subparagraph
Article 6 (7), second subparagraph, first and second indents	Article 6 (8), second subparagraph, points (a) and (b)
Article 6 (8)	Article 6 (9)
Article 7	Article 7
Article 8 (1) to (5)	Article 8 (1) to (3)
Article 8 (6)	—
Article 8 (7)	Article 8 (6)
Article 9 (1) to (4)	Article 9 (1) to (4)
Article 9 (5)	—
Article 9 (6)	Article 9 (5)
Article 9a	Article 10
Article 10	Article 11
Article 10a	Article 12
Article 11 (1) and (2)	Article 13 (1) and (2)
Article 11 (3) (a)	Article 13 (3)
Article 11 (3) (b)	—
Article 11 (4)	Article 13 (4)

Directive 79/112/EEC	This Directive
Article 11 (5)	—
Article 11 (6)	Article 13 (5), first subparagraph
Article 11 (7)	Article 13 (5), second subparagraph
Article 12 and 13	Article 14 and 15
Article 13a	Article 16
Article 14 and 15	Article 17 and 18
Article 16 (1)	—
Article 16 (2)	Article 19
Article 17, first paragraph	Article 20 (1)
Article 17, second, third, fourth and fifth paragraphs	Article 20 (2)
Article 18	—
Article 19, 20 and 21	Article 21, 22 and 23
Article 22 (1), (2) and (3)	—
Article 22 (4)	Article 24
Article 23	—
Article 24	Article 25
Article 25	—
Article 26	—
—	Article 26
—	Article 27
—	Article 28
Annex I	Annex I
Annex II	Annex II
Annex III	Annex III
—	Annex IV
—	Annex V

ISSN 0254-1475

COM(99) 113 final

DOCUMENTS

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10 06 05 03

Catalogue number : CB-CO-99-116-EN-C

Office for Official Publications of the European Communities

L-2985 Luxembourg