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DOCUMENT 186/75

SECOND SUPPLEMENTARY REPORT

drawn up on behalf of the Committee on Public
Health and the Environment

on the amended proposal from the Commission of the
European Communities to the Council for a Council
Directive on the approximation of the laws of Member
States relating to cosmetic products

Rapporteur Mrs E. ORTH

PE 40.995/fin.

Following the instructions given by the European Parliament in paragraph 12 of its Resolution of 6 July 1973 on the proposal for a directive on the approximation of Member States' legislation on cosmetic products, the Committee on Public Health and the Environment at its meeting of 10 June 1975 examined the alteration to the proposal for a directive (COM(75) 147 final) submitted by the Commission to the Council on 10 April 1975 pursuant to Article 149, second paragraph, of the EEC Treaty.

At the suggestion of Mrs Orth, the committee decided to submit to Parliament a second supplementary report and a motion for a resolution.

The motion for a resolution and explanatory statement drawn up by Mrs Orth were adopted unanimously with one abstention at the meeting of 30 June 1975.

Present: Mr JAKOBSEN, vice-chairman; Mrs ORTH, rapporteur; Mr ADAMS, Mr ALBERTSEN, Mr BREGEGERE, Mr D'ANGELOSANTE (deputizing for Mr MARRAS), Mr DE KEERSMAEKER (deputizing for Mr MARTENS), Mr Willi MULLER, Mr NOÈ, Mr PETERSEN, Mr PREMOLI, Mr ROSATI, Mr SCHWABE, Mr SCOTT-HOPKINS (deputizing for Mr SPICER), Mr SPRINGORUM, Mr WALKHOFF (deputizing for Mr DIDIER).

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The Committee on Public Health and the Environment hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

on the amended proposal from the Commission of the European Communities to the Council for a Council Directive on the approximation of the laws of Member States relating to cosmetic products.

The European Parliament,

- having regard to the alteration of the proposal from the Commission for a Council directive on the approximation of the laws of Member States relating to cosmetic products (COM(75) 147 final),
 - having regard to the second supplementary report of the Committee on Public Health and the Environment (Doc. 186 /75),
1. Refers to its resolutions of 6 July 1973¹ on the Commission's original proposal and of 15 March 1974² on the first amended proposal from the Commission;
 2. Firmly insists once again that the Commission should now at last take account of its demands as regards the compulsory requirement that information given on containers and labels of cosmetic products be printed in the language of the country of destination;
 3. Considers that the Commission's intention to send the Council within 18 months appropriate proposals establishing lists of permitted substances, on the basis of results of the latest scientific and technical research, is a welcome step towards the implementation of its demand for the introduction of the system of positive lists for cosmetic products, and urges the Commission to take further action in this direction;
 4. Requests the Commission to submit to the Council, pursuant to Article 149, second paragraph, of the EEC Treaty, a further amended proposal taking into account the point made by the European Parliament in paragraph 2 of this resolution in the interests of public health and the consumer.

¹OJ No. C 62, 31 July 1973, p.43

²OJ No. C 40, 8 April 1974, p.71

EXPLANATORY STATEMENT

1. On 6 July 1973 the European Parliament adopted the resolution¹ drawn up by Mrs ORTH on behalf of the Committee on Public Health and the Environment on the proposal from the Commission for a directive on the approximation of Member States' legislation on cosmetic products, together with the explanatory statement (Doc. 35/73).
2. On the basis of the requests made by the European Parliament in that resolution, on 17 October 1973 the Commission, pursuant to Article 149, second paragraph, of the EEC Treaty, submitted an amended proposal on cosmetic products (COM(73) 1733 final) which partly met the European Parliament's requirements.
3. Mr WALKHOFF drew up a supplementary report (Doc. 383/73) on this amended proposal, which Parliament adopted in March 1974².

On the basis of this supplementary report and other considerations the Commission submitted further proposed amendments (COM(75) 147 final) to its original proposal on 10 April 1975, i.e. 13 months later, which the committee now has to consider.

4. The four amendments are as follows:

- (a) Article 2 is reworded as follows: 'Cosmetic products put on the market within the Community must not be liable to cause damage to human health when they are applied under normal conditions of use.'

The original proposal referred to 'used as directed'. This amendment meets the wishes of the majority of the committee, which on 10 April 1973, had voted by 5 votes to 4 with 2 abstentions for the above version, thus rejecting the wording 'as directed or for foreseeable purposes' which had been proposed by Mrs ORTH.

- (b) Paragraph 3 as follows is added to Article 7: 'Furthermore, a Member State may require that in order that prompt and appropriate treatment is available for cases of poisoning, adequate and sufficient information regarding harmful substances contained in cosmetic products is made available to the competent authority who shall ensure that this information shall only be used for the purposes of treatment.'

¹OJ No. C 62, 31 July 1973, p.43

²OJ No. C 40, 8 April 1974, p.71

This amendment was not expressly proposed by the European Parliament, but your committee approves it, having regard to its importance for health, since it would allow rapid and effective treatment of any poisoning by cosmetic products. However, if this welcome provision is to make its full impact, it must be made compulsory, i.e. it must begin as follows: 'Furthermore, Member States must require that....'

- (c) A new article 11(a) is added to the directive: 'One year at the latest after the expiry of the period provided for in Article 14, paragraph 1, (18 months), for the implementation by the Member States of the present directive, the Commission, on the basis of results of the latest scientific and technical research, will send to the Council appropriate propositions establishing lists of permitted substances.'

This addition is designed to bring about the gradual introduction of the positive list for cosmetic products. It can be seen as an initial stage in the fulfilment of the request made by the European Parliament, as follows:

- in paragraph 6 of the resolution in Mrs ORTH's report: 'Strongly supports, in the interests of more effective protection of consumers' health, the system of compulsory positive lists hitherto adopted at Community level, and consequently calls upon the Commission to apply this system in the field of cosmetic products within the next five years';
- in paragraph 3(b) of the resolution in Mr WALKHOFF's report: 'The European Parliament.....firmly insists that the Commission take into account its demands as regards...the implementation of the system of compulsory positive lists of cosmetic products within the next five years'.

- (d) Article 12 is amended as follows:

- '1. Where a Member State finds that a cosmetic product, although satisfying the requirements of this Directive, presents a health or safety risk, it may, temporarily, prohibit within its territory the placing on the market of that cosmetic product. It shall immediately inform the Commission and the other Member States of this action and give reasons therefor.
- 2. The Commission shall within six weeks consult with the Member State concerned, then express without delay its opinion and take the appropriate steps.

3. According to the procedure laid down in Article 11 of the Directive of 27 June 1967 it shall be immediately decided if technical amendments to the Annex(es) of the Directive are necessary. The Member State can maintain its interdiction until a decision has been taken, either by the Council or by the Commission according to the aforementioned procedure.'

- For comparison, the original text was as follows:

1. Where a Member State finds that a cosmetic product presents a hazard to health, although satisfying the requirements of this directive and its annexes and is used as directed, this State may, on request and in accordance with the procedure provided for in Article 11, be authorized provisionally to restrict or prohibit in its territory the sale, distribution or use of this cosmetic product. For this purpose it shall immediately notify the intended measures to the other Member States and to the Commission, giving the reasons.

2. If, neither the Commission nor the Council has acted within a period of 30 days from the time when the Commission representative submits a draft of the measures to be taken to the Committee, the Member State which has made the request may take the proposed measures and implement them until a decision has been taken in accordance with the procedure in Article 11'.

- It will be recalled that in Mrs ORTH's report the European Parliament had asked for Article 12 to be amended as follows:

1. If a Member State establishes that a cosmetic product is a health hazard although it complies with the provisions of this directive and is used as directed, the said Member State may prohibit the sale, distribution or use of the product for a period of not more than one year. The Member State shall forthwith notify the other Member States and the Commission of this measure and of the grounds on which it was taken.

2. Within a period of ~~six weeks~~ the Commission shall consult the Member States concerned. It shall give its opinion forthwith and take the requisite measures. On the Commission's initiative a decision shall be taken, in accordance with Article 100 of the EEC Treaty or Article 11 of this directive, whether the directive must be changed. If necessary, the requisite changes shall be laid down in new directives. The period laid down in paragraph 1 shall be prolonged until the completion of this procedure, but the prolongation may not exceed one year.'

The reasons for the amendment proposed by your committee and adopted by Parliament were given in paragraph 15 of Mrs ORTH's report as follows:

'Article 12 lays down a procedure enabling Member States to temporarily prohibit the marketing or use of a cosmetic product on their territory if it is found to constitute a risk to human health. This formulation limits the rights enjoyed by Member States under Article 36 of the EEC Treaty to the extent that the Member State is no longer able to act independently in such cases. The required limitation or prohibition of cosmetic products recognized dangerous to health is only possible 30 days after a corresponding application has been made and then only for the territory of the Member State lodging such application. In the other Member States the dangerous substance will remain on the market as before.'

A comparison shows that the Commission's proposed amendment certainly improves the original proposal, but falls well short of the wishes of the European Parliament.

5. In the four amendments above, the Commission has not taken into account a major and fundamental request made by Parliament, namely the obligation to label products in the language of the country of destination, which is very important for the health of the consumer, particularly in regard to this directive.

The problems were stated as follows in Mr WALKHOFF's supplementary report:

- (a) Paragraph 3(a) of the resolution: 'The European Parliament... firmly insists that the Commission take into account its demands as regards the compulsory requirement that information given on containers and labels of cosmetic products be printed in the language of the country of destination';
- (b) Second and third sub-paragraphs of paragraph 3 of the explanatory statement: 'The first point is the compulsory indication of directions for use and warnings, which must be printed in the language or languages of the country of destination. The Commission had proposed to leave it to the Member States to decide on the importance of clear labels comprehensible to the consumer.'

In the past few years, particularly in examining the Commission's numerous proposals for the harmonization of food standards, your committee has constantly taken the view - supported by the European Parliament - that the consumer cannot be expected to properly understand information given in a language other than his own. There is a risk of error and misunderstandings likely to be detrimental to the consumer. In the case of the present directive there is a further consideration, and that is that it deals with cosmetic products with labels setting out

- directions for use and warnings,
- expiry dates for products which cannot be stored indefinitely.'

6. The Committee on Public Health and the Environment therefore insists that, in the interests of the consumer (protection against health hazards resulting from misunderstandings), the directive should make it obligatory in the Member States for information given on containers and labels of cosmetic products to be printed in the language of the country of destination. This requirement must outweigh any economic or commercial objections that might be raised.

The Commission is urged to propose an amendment to this effect to the Council.

It should also be recalled that in the past your committee and the European Parliament, in a whole series of opinions on Commission proposals for the harmonization of legislation on foodstuffs, have asked for labelling in the language of the country of destination to be made obligatory - so far unfortunately without success.

Luxembourg
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