



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.06.1995
COM(95) 259 final

94/0300 (COD)

Amended proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

amending Council Directive 79/581/EEC on consumer protection in the indication of the prices of foodstuffs as amended by Council Directive 88/315/EEC and Council Directive 88/314/EEC on consumer protection in the indication of the prices of non-food products

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

I SUMMARY OF THE PROCEDURE

On 5 December 1994 the European Commission adopted a proposal for a European Parliament and Council Directive amending Council Directive 79/581/EEC on consumer protection in the indication of the prices of foodstuffs as amended by Council Directive 88/315/EEC and Council Directive 88/314/EEC on consumer protection in the indication of the prices of non-food products¹.

This proposal was transmitted to the Council, also on 5 December 1994.

The Economic and Social Committee delivered its opinion at its 325th plenary session on 27 April 1995, acting on the proposal from its rapporteur, Mr Regaldo².

On 19 May 1995 the European Parliament adopted a legislative resolution setting out the opinion of the European Parliament, acting on the proposal from its rapporteur, Mrs Oomen-Ruitjen.

Council working parties met on 13 January and 19 May 1995.

The amended proposal was drawn up taking into account the results of the work of the three institutions.

II COMMENTS ON THE MODIFICATIONS

- Recitals

The Parliament and Economic and Social Committee wanted a mention that the Commission would shortly present a proposal for a simplified future mechanism. The Parliament would like this proposal to be presented this year.

The new recital 8 has been introduced in response.

The amendment to new recital 11 follows from the changes made to Article 1 (1) and (2).

- Definition of small retail businesses

¹ OJ No C 377, 31.12.1994

² OJ No ...

Parliament wants an additional recital stating that the future mechanism will contain a clear and precise definition of the term "small retail businesses" referred to in Article 11 of the two Directives 88/314/EEC and 88/315/EEC. The Commission, which has told Parliament that it is willing to examine the matter carefully, considers however that such issues should be addressed in the context of the proposal for the simplified future mechanism, not in the proposal to extend the transitional period. Hence, the Commission considers it advisable not to anticipate the discussions on the future system by including a recital which has no bearing on the text as such.

Parliament was also keen to avoid anticipating discussions on the future system, rejecting an amendment (No 5) which also dealt with the system applicable to certain small retail businesses.

- Article 1

Parliament wanted the extension to the transitional period to be reduced from four to two years, in order to accelerate the entry into effect of the future simplified system.

To this end Parliament voted an amendment No 2 modifying a recital concerning the duration of the extension, as well as two amendments Nos 3 and 4 modifying the periods laid down in Article 1(1) (in regard to Directive 88/315/EEC on foodstuffs) and Article 1(2) (in regard to Directive 88/314/EEC on non-food products).

Hence these three amendments, which the Commission has endorsed, have been incorporated into the amended proposal.

- Article 2

Given how work is progressing and with an eye to the impending expiry of the transitional period provided for in 1988, it did not seem realistic to maintain the date of 6 June 1995 in paragraph 1 as the final deadline for transposition. This amendment does not affect the continuity of the transitional period provided for in the 1988 Directives, which is extended as provided for in the amended Article 1.

III THE OVERALL PICTURE

- Economic and Social Committee Work

Essential features of the ESC opinion	Commission response
2.1 Agreement on extension by four years as foreseen in the Commission's initial proposal.	Not adopted, since the Commission has agreed to incorporate amendments 2 to 4 voted by Parliament.
2.2 The ESC insists on the fact that this extension should be the final one.	See below.
2.3 The ESC urges the Commission to present a proposal for a future mechanism without delay.	Accepted: new recital No 8

- European Parliament work

Number	Amended text	Accepted by the Commission	Integrated (new numbering)
1	Recital 7a	Yes	Recital 8
6	Recital 4a	No	
2	Recital 10	Yes	Recital 11
3	Article 1 (1)	Yes	Article 1 (1)
4	Article 1 (2)	Yes	Article 1 (2)

The above table shows that the Commission has accepted four of the five amendments voted by the European Parliament.

Amendment No 6 has not been accepted because it clearly concerns the nature of the future system and was out of place in this text, which concerns the extension of the existing system adopted in 1988.

- Council work

During the examination on a first reading and pending the opinion of the European Parliament, the Council working party, having examined the Commission's initial proposal on 13 January 1995, concluded that the proposed extension was necessary, both in order to avoid adverse effects on consumer information and to forestall difficulties in implementation at national level. Hence the working party came out in favour of extending the mechanism for a further four years pending the adoption of the future simplified system.

AMENDED PROPOSAL FOR A EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

amending Council Directive 79/581/EEC on consumer protection in the indication of the prices of foodstuffs as amended by Council Directive 88/315/EEC and Council Directive 88/314/EEC on consumer protection in the indication of the prices of non-food products

(95/C)

COM (95) ...

Submitted by the Commission 1995, under Article 189a (2) of the EEC Treaty

OJ C 377, 31.12.1994

INITIAL PROPOSAL

The European Parliament and the Council of the European Union

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

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Economic and Social Committee²,

Acting in conformity with the procedure provided for in Article 189b of the Treaty,

Whereas the programmes of the Community for a consumer protection and information policy³ have provided for the establishment of common principles for indicating prices;

AMENDED PROPOSAL

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Economic and Social Committee²,

1. Unchanged.

- Whereas these principles have been established by Council Directive 79/581/EEC of 19 June 1979⁴ as amended by Council Directive 88/315/EEC of 7 June 1988⁵ and Council Directive 88/314/EEC of 7 June 1988⁶ concerning the indication of prices of foodstuffs and non-food products;
- Whereas these Directives have provided for the obligation to indicate the selling price of foodstuffs and non-food products;
- Whereas these Directives have also provided for the obligation to indicate the unit price of products marketed in bulk and of certain pre-packaged products as well as a certain number of exemptions to this obligation, when products are marketed in ranges of pre-packaged quantities, when this unit-price indication does not provide meaningful information to the consumer or when it represents an excessive burden for certain small retail businesses;
- Whereas however the provisions currently in force provide for a transitional period for implementing exemptions to the indication of the unit price for certain pre-packaged products; whereas this transitional period expires on 7 June 1995;
- Whereas, however, application of these Directives has proven extremely complex, in the light of trade practices which vary from one Member State to another;
- Whereas account should be taken of all the difficulties encountered in implementing the provisions of these Directives by 7 June 1995; whereas it is appropriate to propose new and simplified provisions;
2. Unchanged.
 3. Unchanged.
 4. Unchanged.
 5. Unchanged.
 6. Unchanged.
 7. Unchanged.

8. Whereas to this end the Commission will, where appropriate, present a proposal for a simplified mechanism, based on the general obligation to indicate the selling price and the unit price of all products.

Whereas, however, these new provisions cannot be adopted before June 1995;

9. Unchanged.

Whereas it is appropriate to bring forward the period for transposition by Member States of the above new provisions;

10. Unchanged.

Whereas it is therefore appropriate to extend by four years the transitional period currently provided for in Articles 10 of Directives 79/581/EEC as amended and 88/314/EEC;

11. Whereas it is therefore appropriate to extend by two years the transitional period currently provided for in Articles 10 of Directives 79/581/EEC as amended and 88/314/EEC.

HAVE ADOPTED THIS DIRECTIVE

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Article 1

Article 1

1. Article 10 of Council Directive 79/581/EEC of 19 June 1979, amended by Council Directive 88/315/EEC on consumer protection in the indication of the prices of foodstuffs is amended as follows:

1. Article 10 of Council Directive 79/581/EEC of 19 June 1979, amended by Council Directive 88/315/EEC on consumer protection in the indication of the prices of foodstuffs is amended as follows:

– in the first sentence, the words "a period of seven years" are replaced by "a period of eleven years".

– in the first sentence, the words "a period of seven years" are replaced by "a period of nine years".

2. Article 10 of Council Directive 88/314/EEC of 7 June 1988 on consumer protection in the indication of the prices of non-food products is amended as follows:

– in the first sentence, the words "a period of seven years" are replaced by "a period of eleven years".

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 6 June 1995 at the latest. They shall forthwith inform the Commission thereof. The provisions adopted shall be applicable as of 7 June 1995.
2. When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such a reference at the time of their official publication. The procedure for such reference shall be adopted by the Member States.
3. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field governed by this Directive.

Article 3

This Directive is addressed to the Member States.

2. Article 10 of Council Directive 88/314/EEC of 7 June 1988 on consumer protection in the indication of the prices of non-food products is amended as follows:

– in the first sentence, the words "a period of seven years" are replaced by "a period of nine years".

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof. The provisions adopted shall be applicable as of 7 June 1995.
2. Unchanged.
3. Unchanged.

Article 3

Unchanged

1. OJ No C377, 31.12.1994
2. OJ No
3. OJ No C 92, 25.04.1975, p. 2 and OJ No C 133 of 03.06.1981, p. 2
4. OJ No L 158, 26.06.1979, p. 19
5. OJ No L 142, 09.06.1988, p. 23
6. OJ No L 142, 09.06.1988, p. 19

ISSN 0254-1475

COM(95) 259 final

DOCUMENTS

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Catalogue number : CB-CO-95-277-EN-C

ISBN 92-77-90283-3

Office for Official Publications of the European Communities

L-2985 Luxembourg