

EUROPEAN PARLIAMENT

# Working Documents

1982-1983

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7 February 1983

DOCUMENT 1-1207/82

## Report

drawn up on behalf of the Committee on the  
Environment, Public Health and Consumer  
Protection

on the proposal from the Commission of the  
European Communities to the Council (Doc.  
1-224/81, COM(81) 159 fin.) for a directive  
on the approximation of the laws of the  
Member States relating to claims made in the  
labelling, presentation and advertising of  
foodstuffs for sale to the ultimate consumer

Rapporteur: Mrs U. SCHLEICHER

1.2.1

English Edition

PE 79.064/fin.



By letter of 5 May 1981, the President of the Council requested the European Parliament to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a directive on the approximation of the laws of the Member States relating to claims made in the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer.

On 15 June 1981, the President of the European Parliament referred this proposal to the Committee on the Environment, Public health and Consumer Protection as the committee responsible.

On 16 June 1981, the Committee on the Environment, Public Health and Consumer Protection appointed Mrs Schleicher rapporteur.

It considered this proposal at its meetings of 27 January, 5 February, 23 June, 30 September, 18 October and 24 November 1982 and 26 January 1983.

At the latter meeting, it unanimously rejected its own amended version of the Commission proposal.

It consequently decided to recommend that the Commission hold the original draft directive in abeyance until further notice.

The motion for a resolution as a whole was approved by 14 votes to 8.

The following took part in the vote : Mr Collins, chairman; Mr Johnson, vice-chairman; Mrs Schleicher, rapporteur; Mr Alber, Mr Berkhower, Mr Bombard, Ms Clwyd (deputizing for Mrs Weber), Mr Del Duca, Mr Forth, Mr Ghergo, Miss Hooper, Mrs Krouwel-Vlam, Mrs Lentz-Cornette, Mr Muntingh, Mrs Pruvot (deputizing for Mr Nordmann), Mr Remilly, Mr Ryan (deputizing for Mr McCartin), Mrs Scrivener, Mr Sherlock, Mrs Spaak, Mrs Squarcialupi and Mrs Van Hemeldonck.

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

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive on the approximation of the laws of the Member States relating to claims made in the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer

The European Parliament,

- having regard to the proposal from the Commission to the Council (COM(81)159 fin)<sup>1</sup>
  - having been consulted by the Council (Doc. 1-224/81),
  - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection (1-1207/82)
  - having regard to the result of the vote on the Commission proposal,
1. Recommends the Commission to hold this proposal for a directive in abeyance until
    - (a) directive 79/112/EEC<sup>2</sup> on labelling has been implemented in all Member States of the European Community,
    - (b) the draft directive on misleading and unfair advertising which has been before the Council for several years has been adopted;
  2. Calls on the Commission, should there still be a need for special regulations in the food sector following implementation of these two directives,
    - (a) to bring its proposal into line with the draft directive on misleading and unfair advertising before resubmission and
    - (b) not to include clauses couched in very general terms,
  3. Requests the Commission to consider whether it would not in consequence be more expedient to submit a directive on labelling for all consumer goods and products rather than one relating only to the food sector.

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<sup>1</sup>OJ No. C 198 of 6.8.1981, p. 4

<sup>2</sup>OJ No. L 33/79

EXPLANATORY STATEMENT1. BACKGROUND TO THE PROPOSAL FOR A DIRECTIVE

Article 2(2) of the Directive on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer (hereinafter referred to as the 'labelling directive') of 18.12.1978 states:

'The Council, in accordance with the procedure laid down in Article 100 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'.

This provision was intended to facilitate interpretation of the ban on misleading labelling and methods referred to in Article 2(1) of the above directive.

2. CONTENT OF THE PROPOSAL FOR A DIRECTIVE

This then is the aim of the present proposal. Its main purpose is to:

- define what is meant by 'claim'
- establish a non-exhaustive list of the claims to be prohibited
- establish a non-exhaustive list of the claims, the use of which must be restricted
- lay down the procedure for the updating of these lists.

For the main part, the claims which are to be prohibited relate to health and medical effects. The claims which are to be restricted consist of assertions relating to the content or the lack of specific ingredients or residues or to certain properties.

### 3. JUSTIFICATION FOR THE MOTION FOR A RESOLUTION

#### 3.1 : Paragraph 1(a) :

The Member States are still in the process of implementing the 'labelling directive' of 18.12.1978 in national law. As far as can be seen, Article 2(2) of the 'labelling directive' was drafted in its present form during the Council negotiations because even then no agreement was possible on the areas to be covered by the legislation.

Given the long period of time normally required for adoption by the Council of Ministers, the Committee does not see how the present proposal can be of any assistance in implementing the 'labelling directive'.

Article 2(1) of the 'labelling directive' contains a general clause to protect consumers against foodstuff packaging with misleading labelling and advertising claims. Once it has been implemented in national law, this article will provide a legal basis for all those Member States which have hitherto had no satisfactory legislation.

#### 3.2 : Paragraph 1(b):

The proposal for a directive on misleading and unfair advertising has been before the council of Ministers for some time. The Commission sees this proposal for a directive as a means of achieving a basic harmonization of the law on advertising. Apart from the fact that there is no need to legislate for the same issue in different items of legislation, various provisions of the present proposal for a directive cover identical issues as the previous proposal without being formulated in exactly the same terms.

The committee does not share the view that this proposal for a directive could be more rapidly adopted by the Council than the proposal on misleading and unfair advertising which it has had before it for several years.

3.3 : Paragraph\_2(b) :

The committee also rejects the view that the two proposals for directives should only be harmonized once one of them has been adopted by the council of Ministers.

The committee would appreciate it if the Commission would bring new proposals for directives into line with existing proposals for directives from the outset.

3.4 : Paragraph\_2(b) :

The present proposal for a directive goes beyond the aims set out in Article 2(2) of the labelling directive in that it not only incorporates recommendations from the Codex Alimentarius but also contains new general clauses, and attempts to define advertising claims in a way which is just as likely to create problems of interpretation.

The general clause prohibiting misleading practices in Article 2(1) of the 'labelling directive' has not been made any more specific but has been replaced and augmented by general and in part extremely vague and ill-defined terms which will certainly create fresh legal uncertainties.

The committee is unable to judge whether this problem can ever be solved using the systematic approach adopted by the Commission. Given the large number of really pressing problems, the committee decided not to discuss the detailed aspects of this proposal as it was felt that directives of this kind simply exposed the Community to ridicule.

3.5 : Paragraph\_3\_ :

One problem of this proposal for a directive appears to be that it relates only to the labelling and presentation (packaging) of foodstuffs. As, however, information on the



packaging can also be interpreted as advertising, the proposal for a directive necessarily relates to certain aspects of advertising. The committee was well aware of this problem and took the view that one solution might be to deal with advertising generally in the proposal for a directive on misleading and unfair advertising. At all events, the committee does not regard it as expedient to enact a special proposal for a directive for a very restricted sector of advertising. And as the information given, and claims made, on labels is not a problem confined to foodstuffs but also arises in connection with all other products, the committee proposes that if any legislation is necessary at all it should cover the packaging of all products.

4. One argument for the need for legislation to cover the aspects referred to in Article 2(2) might be transfrontier trade where differences in packaging might lead to a distortion of competition or enable individual countries to erect covert obstacles to trade.

But this again would apply not only to foodstuffs but to all packaged marketable goods which is a further reason why the Commission should submit a proposal for a more widely applicable directive.

