Council Directive 2001/114/EC of 20 December 2001 relating to certain partly or wholly dehydrated preserved milk for human consumption

COUNCIL DIRECTIVE 2001/114/EC

of 20 December 2001

relating to certain partly or wholly dehydrated preserved milk for human consumption

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission[(1)],

Having regard to the opinion of the European Parliament[(2)],

Having regard to the opinion of the Economic and Social Committee[(3)],

Whereas:

(1) Certain vertical Directives relating to foodstuffs should be simplified to take account only of the essential requirements to be met by the products they cover so as to allow those products to move freely within the internal market, in accordance with the conclusions of the European Council held in Edinburgh on 11 and 12 December 1992, as confirmed by those of the European Council in Brussels on 10 and 11 December 1993.

(2) Council Directive 76/118/EEC of 18 December 1975 on the approximation of the laws of the Member States relating to certain partly or wholly dehydrated preserved milk for human consumption[(4)] was justified by the fact that differences between national laws concerning preserved milk could result in conditions of unfair competition likely to mislead consumers, and thereby have a direct effect on the establishment and functioning of the common market.

(3) Directive 76/118/EEC was consequently designed to lay down definitions and common rules governing the composition, manufacturing specifications and labelling of certain preserved milk, so as to ensure its free movement within the Community.

(4) Directive 76/118/EEC should be brought into line with general Community legislation on foodstuffs, particularly legislation on labelling, authorised additives, hygiene and the health rules laid down in Council Directive 92/46/EEC[(5)].

(5) For the sake of clarity, Directive 76/118/EEC should be recast in order to make the rules on the conditions for the production and marketing of certain partly or wholly dehydrated preserved milk for human consumption more accessible.

(6) The general food-labelling rules laid down in Directive 2000/13/EC of the European Parliament and of the Council[(6)] should apply subject to certain conditions.

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(7) Subject to Council Directive 90/496/EEC of 24 September 1990 on nutrition labelling for foodstuffs[7], the addition of vitamins to the products defined in this Directive is authorised in certain Member States. However, no decision can be taken to extend such authorisation to the Community as a whole. Member States are therefore free to authorise or prohibit the addition of vitamins to their national products although the free movement of goods within the Community is, in any case, to be guaranteed in accordance with the rules and principles deriving from the Treaty.

(8) For products intended for infants, Commission Directive 91/321/EEC of 14 May 1991 on infant formulae and follow-on formulae[8] applies.

(9) In accordance with the principles of subsidiarity and proportionality established by Article 5 of the Treaty, the objective of laying down common definitions and rules for the products concerned and bringing the provisions into line with general Community legislation on foodstuffs cannot be sufficiently achieved by the Member States and can therefore, by reason of the nature of this Directive, be better achieved by the Community. This Directive does not go beyond what is necessary in order to achieve the said objective.

(10) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[9].

(11) To avoid creating new barriers to free movement, Member States should refrain from adopting, for the products in question, national provisions not provided for by this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive shall apply to partly or wholly dehydrated preserved milk defined in Annex I.

F1 Article 2

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Textual Amendments

F1 Deleted by Council Directive 2007/61/EC of 26 September 2007 amending Directive 2001/114/EC relating to certain partly or wholly dehydrated preserved milk for human consumption.

Article 3

Directive 2000/13/EC shall apply to the products defined in Annex I, subject to the following conditions.

1. (a) The product names listed in Annex I shall apply only to the products referred to therein and shall, without prejudice to subparagraph (b), be used in trade to designate them;

(b) as an alternative to the product names referred to in subparagraph (a), Annex II provides a list of particular designations. These designations may be used in the language and under the conditions laid down in Annex II.

2. The labelling must state the percentage of milk fat, expressed by weight in relation to the finished product, except in the case of the products defined in Annex I(1)(d) and (g) and Annex I(2)(d), and the percentage of fat-free dried milk extract in the case of the products defined in Annex I(1). These particulars shall appear near the trade name.

3. In the case of the products defined in Annex I(2), the label must state the recommendations as to the method of dilution or reconstitution, including details of the fat content of the product thus diluted or reconstituted.

4. Where products weighing less than 20 g per unit are packed in an outer packaging, the particulars required by this Article need appear on the outer packaging only, except for the designation required by point 1(a).

5. The labelling of the products defined in Annex I(2) shall state that the product is 'not intended as a food for infants under 12 months'.

Article 4

For the products defined in Annexes I and II, Member States shall not adopt national provisions not provided for by this Directive.

[F2]Article 5

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Textual Amendments

F2 Deleted by Regulation (EU) No 1021/2013 of the European Parliament and of the Council of 9 October 2013 amending Directives 1999/4/EC and 2000/36/EC of the European Parliament and of the Council and Council Directives 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission (Text with EEA relevance).

[F2]Article 6

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Textual Amendments

F2 Deleted by Regulation (EU) No 1021/2013 of the European Parliament and of the Council of 9 October 2013 amending Directives 1999/4/EC and 2000/36/EC of the European Parliament and of the Council and Council Directives 2001/111/EC, 2001/113/EC and 2001/114/EC as regards the powers to be conferred on the Commission (Text with EEA relevance).

Article 7

Directive 76/118/EEC is hereby repealed with effect from 17 July 2003.

References to the repealed Directive shall be construed as references to this Directive.

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Article 8

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 17 July 2003. They shall forthwith inform the Commission thereof.

The measures shall be applied so as to:

— authorise the marketing of the products defined in Annex I if they conform to the definitions and rules laid down in this Directive, with effect from 17 July 2003,

— prohibit the marketing of products which fail to conform to this Directive, with effect from 17 July 2004.

However, the marketing of products which fail to conform to this Directive but which were labelled before 17 July 2004 in accordance with Directive 76/118/EEC shall be permitted until stocks run out.

When Member States adopt these measures these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

Article 9

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 10

This Directive is addressed to the Member States.