Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers

DIRECTIVE 98/6/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 February 1998

on consumer protection in the indication of the prices of products offered to consumers

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 129a(2) thereof,

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

Having regard to the opinion of the Economic and Social Committee[(2)],

Acting in accordance with the procedure laid down in Article 189b of the Treaty[(3)], in the light of the joint text approved by the Conciliation Committee on 9 December 1997,

(1) Whereas transparent operation of the market and correct information is of benefit to consumer protection and healthy competition between enterprises and products;

(2) Whereas consumers must be guaranteed a high level of protection; whereas the Community should contribute thereto by specific action which supports and supplements the policy pursued by the Member States regarding precise, transparent and unambiguous information for consumers on the prices of products offered to them;

(3) Whereas the Council Resolution of 14 April 1975 on a preliminary programme of the European Economic Community for a consumer protection and information policy[(4)] and the Council Resolution of 19 May 1981 on a second programme of the European Economic Community for a consumer protection and information policy[(5)] provide for the establishment of common principles for indicating prices;

(4) Whereas these principles have been established by Directive 79/581/EEC concerning the indication of prices of certain foodstuffs[(6)] and Directive 88/314/EEC concerning the indication of prices of non-food products[(7)];

(5) Whereas the link between indication of the unit price of products and their pre-packaging in pre-established quantities or capacities corresponding to the values of the ranges adopted at Community level has proved overly complex to apply, whereas it is thus necessary to abandon this link in favour of a new simplified mechanism and in the interest of the consumer, without prejudice to the rules governing packaging standardisation;

(6) Whereas the obligation to indicate the selling price and the unit price contributes substantially to improving consumer information, as this is the easiest way to enable

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consumers to evaluate and compare the price of products in an optimum manner and hence to make informed choices on the basis of simple comparisons;

(7) Whereas, therefore, there should be a general obligation to indicate both the selling price and the unit price for all products except for products sold in bulk, where the selling price cannot be determined until the consumer indicates how much of the product is required;

(8) Whereas it is necessary to take into account the fact that certain products are customarily sold in quantities different from one kilogramme, one litre, one metre, one square metre or one cubic metre; whereas it is thus appropriate to allow Member States to authorise that the unit price refer to a different single unit of quantity, taking into account the nature of the product and the quantities in which it is customarily sold in the Member State concerned;

(9) Whereas the obligation to indicate the unit price may entail an excessive burden for certain small retail businesses under certain circumstances; whereas Member States should therefore be allowed to refrain from applying this obligation during an appropriate transitional period;

(10) Whereas Member States should also remain free to waive the obligation to indicate the unit price in the case of products for which such price indication would not be useful or would be liable to cause confusion for instance when indication of the quantity is not relevant for price comparison purposes, or when different products are marketed in the same packaging;

(11) Whereas in the case of non-food products, Member States, with a view to facilitating application of the mechanism implemented, are free to draw up a list of products or categories of products for which the obligation to indicate the unit price remains applicable;

(12) Whereas Community-level rules can ensure homogenous and transparent information that will benefit all consumers in the context of the internal market; whereas the new, simplified approach is both necessary and sufficient to achieve this objective;

(13) Whereas Member States must make sure that the system is effective; whereas the transparency of the system should also be maintained when the euro is introduced; whereas, to that end, the maximum number of prices to be indicated should be limited;

(14) Whereas particular attention should be paid to small retail businesses; whereas, to this end, the Commission should, in its report on the application of this Directive to be presented no later than three years after the date referred to in Article 11(1), take particular account of the experience gleaned in the application of the Directive by small retail businesses, *inter alia,* regarding technological developments and the introduction of the single currency, whereas this report, having regard to the transitional period referred to in Article 6, should be accompanied by a proposal,

HAVE ADOPTED THIS DIRECTIVE:

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Article 1

The purpose of this Directive is to stipulate indication of the selling price and the price per unit of measurement of products offered by traders to consumers in order to improve consumer information and to facilitate comparison of prices.

Article 2

For the purposes of this Directive:

(a) *selling price* shall mean the final price for a unit of the product, or a given quantity of the product, including VAT and all other taxes;

(b) *unit price* shall mean the final price, including VAT and all other taxes, for one kilogramme, one litre, one metre, one square metre or one cubic metre of the product or a different single unit of quantity which is widely and customarily used in the Member State concerned in the marketing of specific products;

(c) *products sold in bulk* shall mean products which are not pre-packaged and are measured in the presence of the consumer,

(d) *trader* shall mean any natural or legal person who sells or offers for sale products which fall within his commercial or professional activity,

(e) *consumer* shall mean any natural person who buys a product for purposes that do not fall within the sphere of his commercial or professional activity.

Article 3

1 The selling price and the unit price shall be indicated for all products referred to in Article 1, the indication of the unit price being subject to the provisions of Article 5. The unit price need not be indicated if it is identical to the sales price.

2 Member States may decide not to apply paragraph 1 to:

— products supplied in the course of the provision of a service,

— sales by auction and sales of works of art and antiques.

3 For products sold in bulk, only the unit price must be indicated.

4 Any advertisement which mentions the selling price of products referred to in Article 1 shall also indicate the unit price subject to Article 5.

Article 4

1 The selling price and the unit price must be unambiguous, easily identifiable and clearly legible. Member States may provide that the maximum number of prices to be indicated be limited.

2 The unit price shall refer to a quantity declared in accordance with national and Community provisions.

Where national or Community provisions require the indication of the net weight and the net drained weight for certain pre-packed products, it shall be sufficient to indicate the unit price of the net drained weight.