DIRECTIVE 97/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 27 January 1997

amending Directive 79/112/EEC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs

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 Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs [1], and in particular Article 6 (2) (c) and (3) and Article 7,

Having regard to the proposal from the Commission [2],

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

Acting in accordance with the procedure laid down in Article 189b of the Treaty [4] in the light of the join text approved on 16 October 1996 by the Conciliation Committee,

Whereas, in the context of achieving the objectives of the internal market, the use of the name customary in the Member State in which a product is manufactured should also be allowed in the case of products to be sold in another Member State;

Whereas, with the twofold aim of providing the consumer with better information and ensuring fair trade, the labelling rules as regards the exact nature and characteristics of products need to be further improved;

Whereas, in accordance with the rules of the Treaty, the provisions applicable to sales names remain subject to the general rules on labelling in Article 2 and more particularly the principle that they must not be such as to mislead the consumer about the characteristics of the foodstuff;

Whereas the Court of Justice of the European Communities has delivered several judgments in which it recommends detailed labelling, in particular the compulsory affixing of suitable labels giving the nature of the product sold; whereas this course of action, which enables the consumer to make his choice in full knowledge of the facts, is the most appropriate since it creates fewest obstacles to free trade;

Whereas it is for the Community legislature to adopt measures deriving from that case law,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 79/112/EEC is hereby amended as follows:

1. the following recital shall be inserted after the sixth recital:

   'Whereas that need means that Member States may, in compliance with the rules of the Treaty, impose language requirements;'

2. the following shall be added to Article 3 (1):

   '2a. the quantity of certain ingredients or categories of ingredients as provided for in Article 7;'

3. Article 5 (1) shall be replaced by the following:

   '1. The name under which a foodstuff is sold shall be the name provided for in the European Community provisions applicable to it.

   (a) In the absence of European Community provisions, the name under which a product is sold shall be the name provided for in the laws, regulations and administrative provisions applicable in the Member State in which the product is sold to the final consumer or to mass caterers.

   Failing this, the name under which a product is sold shall be the name customary in the Member State in which it is sold to the final consumer or to

[1] OJ No L 33, 8. 2. 1979, p. 1. Directive as last amended by Commission Directive 93/102/EC (OJ No L 291, 25. 11. 1993, p. 14).
[2] OJ No C 122, 14. 5. 1992, p. 12, and OJ No C 118, 29. 4. 1994, p. 6.
[3] OJ No C 332, 16. 12. 1992, p. 3.
[4] Opinion of the European Parliament of 27 October 1993 (OJ No C 315, 22. 11. 1993, p. 102), Council Common Position of 15 June 1995 (OJ No C 182, 15. 7. 1995, p. 1) and Decision of the European Parliament of 25 October 1995 (OJ No C 308, 20. 11. 1995, p. 30). Decision of the European Parliament of 10 December 1996 and Decision of the Council of 10 January 1997.