COUNCIL DIRECTIVE

of 14 June 1989

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

(89/395/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

In cooperation with the European Parliament (2),

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

Whereas Council Directive 79/112/EEC (4), as last amended by Directive 86/197/EEC (5), makes provision for national derogations in a number of cases;

Whereas, with the dual aim of completing the internal market and providing improved information for all consumers in the Community, those derogations should be eliminated;

Whereas, in particular, experience acquired since the adoption of Directive 79/112/EEC enables it to be made applicable to restaurants, hospitals, canteens and other similar mass caterers throughout the Community;

Whereas the date of minimum durability has proved its worth; whereas, however, in the interests of a better protection of public health a stricter system of dating should be used in preference thereto in the case of foodstuffs which, from the microbiological point of view, are highly perishable and whereas in doubtful cases a Community procedure should be laid down;

Whereas this Directive is concerned only with labelling, presentation and advertising and not with the question of allowing or banning irradiation of foodstuffs or ingredients thereof;

Whereas, however, without prejudice to a decision on substance at Community level, the consumer's right to be informed of any irradiation treatment undergone by a foodstuff, where such treatment is allowed, must already be acknowledged; whereas to that end it should be specified that any foodstuff which has undergone such treatment must bear a corresponding indication; whereas, however, specific provisions concerning compound foodstuffs containing an ingredient previously treated with ionizing radiation will not be adopted until rules are adopted on irradiation treatment itself;

Whereas with a view to facilitating trade between Member States, it may be provided that, at stages prior to sale to the ultimate consumer, only information on the essential elements should appear on the outer packaging and whereas certain mandatory particulars that must appear on a prepackaged foodstuff need appear only on commercial documents referring thereto;

Whereas in all cases where the Council empowers the Commission to implement rules relating to foodstuffs intended for human consumption, provision should be made for a procedure establishing close cooperation between the Member States and the Commission within the Standing Committee for Foodstuffs, set up by Decision 69/414/EEC (6),

HAS ADOPTED THIS DIRECTIVE:

Article 1

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

1. The title of the Directive shall be replaced by the following:

   'Council Directive of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs'.

2. Article 1 (2) shall be replaced by the following:

   '2. This Directive shall apply also to foodstuffs intended for supply to restaurants, hospitals, canteens and other similar mass caterers (hereinafter referred to as "mass caterers").'

3. In Article 1 (3) (b), 'to the ultimate consumer' shall be replaced by 'to the ultimate consumer and to mass caterers'.

(1) OJ No C 124, 28. 5. 1986, p. 5, and OJ No C 154, 12. 6. 1987, p. 10.
(2) OJ No C 99, 13. 4. 1987, p. 65, and OJ No C 120, 16. 5. 1989.
(3) OJ No C 328, 22. 12. 1986, p. 27.
(4) OJ No L 33, 8. 2. 1979, p. 1.
(5) OJ No L 144, 29. 5. 1986, p. 38.
(6) OJ No L 291, 19. 11. 1969, p. 9.

4. Article 2 (1) (b) shall be replaced by the following:

   (b) subject to Community provisions applicable to natural mineral waters and foodstuffs for particular nutritional uses, attribute to any foodstuff the property of preventing, treating or curing a human disease, or refer to such properties'.

5. Article 3 (1) (4) shall be replaced by the following:

   '4. The date of minimum durability or, in the case of foodstuffs which, from the microbiological point of view, are highly perishable, the "use by" date.'

6. The following paragraph shall be added to Article 4:

   '3. The Community provisions referred to in paragraphs 1 and 2 shall be adopted in accordance with the procedure laid down in Article 17.'

7. In Article 5 (1), 'to the ultimate consumer' shall be replaced by 'to the ultimate consumer and to mass caterers'.

8. In Article 5 (3) the following text shall be added:

   'Any foodstuff which has been treated with ionizing radiation must bear one of the following indications:

   — in Spanish

     "irradiado" or "tratado con radiacíon ionizante"

   — in Danish:

     "bestrålet/ . . ." or "strålekonserveret" or "behandlet med ioniserende stråling" or "konserveret met ioniserende stråling"

   — in German:

     "bestrahlt" or "mit ionisierenden Strahlen behandelt"

   — in Greek:

     "επεξεργασμένο με ιονίζουσα ακτινοβολία" or "ακτινοβολημένο"

   — in English:

     "irradiated" or "treated with ionizing radiation"

   — in French:

     "traité par rayonnements ionisants" or "traité par ionisation"

   — in Italian:

     "irradiato" or "trattato con radiazioni ionizzanti"

   — in Dutch:

     "doorstraald" or "door bestraling behandeld" or "met ioniserende stralen behandeld"

   — in Portuguese:

     "irradiado" or "tratado por irradiaçào" or "tratado por radiaçào ionizante"'

9. The first indent of Article 6 (5) (b) shall be replaced by the following:

   '— ingredients which belong to one of the categories listed in Annex I and are constituents of another foodstuff may be designated by the name of that category only. Alterations to the list of categories in Annex I may be effected in accordance with the procedure laid down in Article 17,',

10. The following shall be added to the third indent of Article 6 (5) (b):

    'These provisions shall be adopted in accordance with the procedure laid down in Article 17,'.

11. The fourth indent of Article 6 (5) (b) shall be replaced by the following:

    '— the specific Community provisions governing the indication of treatment of an ingredient with ionizing radiation shall be adopted subsequently in accordance with Article 100a of the Treaty.'

12. The following subparagraph shall be added to Article 6 (6):

    'The Community provisions referred to in this paragraph shall be adopted in accordance with the procedure laid down in Article 17.'

13. The following subparagraph shall be added to Article 7 (3):

    'The Community provisions referred to in this paragraph shall be adopted in accordance with the procedure laid down in Article 17.'

14. Article 8 (4) shall be replaced by the following:

    '4. Where a solid foodstuff is presented in a liquid medium, the drained net weight of the foodstuff shall also be indicated on the labelling.

    For the purposes of this paragraph, "liquid medium" shall mean the following products, possibly in mixtures and also where frozen or quick-frozen, provided that the liquid is merely an adjunct to the essential elements of that preparation and is thus not a decisive factor for the purchase: water, aqueous solutions of salts, brine; aqueous solutions of food acids, vinegar; aqueous solutions of sugars, aqueous solutions of other sweetening substances; fruit or vegetable juices in the case of fruit or vegetables.

    This list may be supplemented in accordance with the procedure laid down in Article 17.

    Methods of checking the drained net weight shall be determined in accordance with the procedure laid down in Article 17.'

15. The following paragraph shall be added to Article 8:

    '7. The Community provisions referred to in paragraphs 1, 2 (b) and (d) and 5 shall be adopted in accordance with the procedure laid down in Article 17.'