COUNCIL DIRECTIVE

of 7 June 1988

amending Directive 79/581/EEC on consumer protection in the indication of the prices of foodstuffs

(88/315/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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 the programmes of the Community for a consumer protection and information policy (4) provide for the estsablishment of common principles for indicating prices;

Whereas Council Directive 79/581/EEC of 19 June 1979 on consumer protection in the indication of the prices of foodstuffs (5) requires the Council to take a decision on conditions for applying the obligation to indicate the unit price of foodstuffs pre-packaged in pre-established quantities and at the same time it lays down the categories of foodstuffs whcih may be exempted from this requirement;

Whereas it is important to adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992 at the latest;

Whereas the Council resolution of 19 June 1979 on the indication of prices of foodstuffs and non-food household products pre-packaged in pre-established quantities (6) lists the criteria that ranges of quantities must satisfy to qualify for exemption from unit-pricing;

Whereas, by establishing simple and easily comparable quantity ranges, the standardization of quantities of pre-packaged foodstuffs is likely to make it easier for the consumer to compare prices at the place of sale; whereas the obligation to display the unit price should, wherever possible, be replaced by such standardization;

Whereas ranges of quantities for pre-packaged products are laid down by Directive 80/232/EEC of 15 January 1980 on the approximation of the laws of the Member States relating to the ranges of nominal quantities and nominal capacities permitted for certain pre-packaged products (7), as amended by Directive 86/96/EEC (8), Council Directive 75/106/EEC of 19 December 1974 on the approximation of the laws of the Member States relating to the making-up by volume of certain pre-packaged liquids (9), as last amended by Directive 85/10/EEC (10), Council Directive 73/241/EEC of 24 July 1973 on the apporximation of the laws of the Member States relating to cocoa and chocolate products intended for human consumption (11), as last amended by Directive 85/7/EEC (12), Council Directive 73/437/EEC of 11 December 1973 on the approximation of the laws of the Member States concerning certain sugars intended for human consumption (13), as last amended by the Act of Accession of Spain and Portugal (14), and Council Directive 77/436/EEC of 27 June 1977 on the approximation of the laws of the Member States relating to coffee extracts and chicory extracts (15), as last amended by Directive 85/573/EEC (16);

Whereas the standardization achieved at Community level to eliminate technical barriers to trade helps to simplify the ranges of quantities of foodstuffs offered to the consumer; whereas provision should be made for the exemption of ranges of quantities established at Community level;

Whereas, for certain categories of foodstuffs, standardization at Community level is not appropriate; whereas, in the case of such foodstuffs, provision should be made for the exemption of ranges of quantities established at national level;

Whereas the obligation to indicate the unit price may be waived by Member States for products in respect of which such indication would be meaningless;

Wherea the rules laid down in this Directive are aimed at informing and protecting consumers,

(1) OJ No C 53, 24. 2. 1984, p. 7 and OJ No C 121, 7. 5. 1987, p. 7.
(2) OJ No C 122, 20. 5. 1985, p. 148 and Decision of 18 May 1988 (not yet published in the Official Journal).
(3) OJ No C 343, 24. 12. 1984, p. 34.
(4) OJ No C 92, 25. 4. 1975, p. 2 and OJ No C 133, 3. 6. 1981, p. 2.
(5) OJ No L 158, 26. 6. 1979, p. 19.
(6) OJ No C 163, 30. 6. 1979, p. 1.
(7) OJ No L 51, 25. 2. 1980, p. 1.
(8) OJ No L 80, 25. 3. 1986, p. 55.
(9) OJ No L 42, 15. 2. 1975, p. 1.
(10) OJ No L 4, 5. 1. 1985, p. 20.
(11) OJ No L 228, 16. 8. 1973, p. 23.
(12) OJ No L 2, 3. 1. 1985, p. 22.
(13) OJ No L 356, 27. 12. 1973, p. 71.
(14) OJ No L 302, 15. 11. 1985, p. 23.
(15) OJ No L 172, 12. 7. 1977, p. 20.
(16) OJ No L 372, 31. 12. 1985, p. 22.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 79/581/EEC is hereby amended as follows:

1. Article 1 (2) and (3) are replaced by the following:

'2. This Directive shall not apply to foodstuffs sold in hotels, restaurants, cafés, public houses, hospitals, canteens and similar establishments and consumed on the premises, to foodstuffs bought for the purpose of a trade or commercial activity, nor to foodstuffs supplied in the course of the provision of a service,

3. Member States may provide that this Directive shall not apply to foodstuffs sold on the farm or to private sales.';

2. In Article 2, (b) and (f) are replaced by the following:

'(b) "pre-packaged foodstuffs" means foodstuffs packaged other than in the consumers' presence, whether such packaging encloses the foodstuffs completely or only partially;

(f) "unit price" means the price for a quantity of one kilogram or one litre of the foodstuffs, subject to Article 6 (2) and the second subparagraph of Article 10.';

3. Article 3 is amended as follows:

(a) paragraph 1 is be replaced by the following:

'1. The foodstuffs referred to in Article 1 shall bear an indication of the selling price under the conditions laid down in Article 4.

2. The foodstuffs pre-packaged in pre-established quantities listed in the Annex and the foodstuffs pre-packaged in variable quantities shall also bear an indication of the unit price, subject to Articles 7 to 10.';

(b) paragraphs 2 and 3 become paragraphs 3 and 4;

4. Articles 4 and 5 are replaced by the following:

'Article 4

The selling price and the unit price must be unambiguous, easily identifiable and clearly legible. Each Member State may lay down the specific rules for such indication of prices, e.g. by means of posters, labels on shelves or on packaging.

Article 5

Any written or printed advertisement or catalogue which mentions the selling price of foodstuffs referred to in Article 1 shall indicate the unit price, subject to Article 3 (2).';

5. Article 7 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. The foodstuffs referred to in paragraph 1 include in particular:

(a) foodstuffs exempt from the obligation to indicate weight or volume (in particular foodstuffs sold by the piece);

(b) different foodstuffs sold in a single package;

(c) foodstuffs sold from automatic dispensers;

(d) prepared dishes or dishes for preparation contained in a single package;

(e) fancy products;

(f) multipacks referred to in the first subparagraph of Article 4 of Directive 80/232/EEC, where they are made up of individual items corresponding to one of the values appearing in a Community quantity range.';

(b) in paragraph 4, 'five grams or five millilitres' is replaced by '50 grams or 50 millilitres';

6. Articles 8 and 9 are replaced by the following:

'Article 8

1. The obligation to indicate the unit price shall not apply to:

— foodstuffs pre-packaged in pre-established quantities referred to in Article 6 (1) of Directive 73/241/EEC,

— foodstuffs pre-packaged in pre-established quantities referred to in Article 6 (2) of Directive 73/241/EEC,

— foodstuffs pre-packaged in pre-established quantities referred to in Article 1 (points 1, 2 and 3) of Directive 73/437/EEC,

— foodstuffs pre-packaged in pre-established quantities referred to in Article 4 of Directive 77/436/EEC,

— foodstuffs pre-packaged in pre-established quantities listed in Annex III points 1, 2, 4, 5 and 6 to Directive 75/106/EEC, where they are sold in the ranges of nominal volumes given in columns I and II of the said Annex,

— foodstuffs pre-packaged in pre-established quantities referred to in Annex I (exept for points 1.2, 1.5.4, 1.8, 2 and 3) to Directive 80/232/EEC, where they are sold in the ranges of nominal quantities of contents given in the said Annex.