II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 7 June 1988

on consumer protection in the indication of the prices of non-food products

(88/314/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a 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 establishment 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) makes it compulsory to indicate the prices of foodstuffs; whereas the Council resolution of 19 June 1979 on the indication of the prices of foodstuffs and non-food household products pre-packaged in pre-established quantities (6) invites the Commission to submit a proposal concerning the indication of the selling price and the unit price for non-food household products;

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 indication of the selling price and the unit price of non-food products makes it easier for consumers to compare prices at places of sale; whereas it accordingly increases market transparency and ensures greater protection for consumers;

Whereas the obligation to indicate these prices must apply in principle to all non-food products offered to the final consumer; whereas this obligation must also apply to written or printed advertising and catalogues wherever these give the selling prices of the products;

Whereas the selling price and the unit price must be indicated in accordance with specific procedures for each category of products so as not to place an undue burden on the retailer as regards labelling;

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

Whereas, in the case of pre-packaged products, the obligation to indicate the unit price should, wherever possible, be replaced by standardization of quantities; whereas account should be taken of the progress made as regards the standardization at Community level of quantity ranges for products pre-packaged in pre-established quantities and provision should therefore be made for the exemption of ranges of quantities so standardized;

Whereas Council Directive 80/232/EEC (7), as last amended by Directive 87/356/EEC (8), lays down the ranges of nominal quantities and nominal capacities permitted for certain pre-packaged products;

(1) OJ No C 8, 13. 1. 1984, p. 2 and OJ No C 121, 7. 5. 1987, p. 9.
(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 192, 11. 7. 1987, p. 48.

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

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive relates to the indication of the selling price and the price per unit of measurement of non-food products offered to the final consumer or advertised indicating the price, whether they are sold in bulk or pre-packaged in pre-established or variable quantities

2. This Directive shall not apply to:

— products bought for the purpose of a trade or commercial activity,

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

— private sales,

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

Article 2

For the purposes of this Directive:

(a) 'products sold in bulk' means products which are not pre-packaged and/or are not measured or weighed except in the presence of the final consumer;

(b) 'products sold by individual item' means products which cannot be broken down without changing their nature or properties;

(c) 'pre-packaged products' means products packaged other than in the consumer's presence, whether the packaging encloses the product completely or only partially;

(d) 'products pre-packaged in pre-established quantities' means products pre-packaged in such a way that the quantity in the package corresponds to a previously selected value;

(e) 'products pre-packaged in variable quantities' means products pre-packaged in such a way that the quantity in the package does not correspond to a previously selected value;

(f) 'selling price' means the price for a given quantity of the product;

(g) 'unit price' means the price for one kilogram, one litre, one metre or one square metre of the product, subject to Article 6 (2) and the second subparagraph of Article 10.

Article 3

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

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

3. The unit price of products sold in bulk must be indicated. However, Member States may specify the conditions under which the selling price per piece may be indicated for certain categories of these products.

4. The selling price and the unit price shall relate to the final price of the product under the conditions laid down by the Member States.

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 and any catalogue which mentions the selling price of products referred to in Article 1 shall indicate the unit price, subject to Article 3 (2).

Article 6

1. The unit price shall be expressed as a price per litre or per cubic metre for products sold by volume, as a price per kilogram or per tonne for products sold by weight, as a price per metre for products sold by length and as a price per square metre for products sold by area.

2. Member States may, however, allow the unit price to be expressed in relation to decimal multiples or fractions of the units referred to in paragraph 1, in order to take account of the quantities in which certaiun products are normally sold.

3. The unit price of pre-packaged products shall refer to the quantity declared, in accordance with national and Community provisions.

Article 7

1. Member States may waive the obligation to indicate the unit price of products sold in bulk or pre-packaged for which such indication would be meaningless.

2. The products referred to in paragraph 1 include in particular:

(a) products exempted from the obligation to indicate weight or volume (in particular products sold by individual item);

(b) different products sold in a single package;

(c) products sold from automatic dispensers;

(d) products contained in a single package from which a mixture is to be prepared;