



EUROPEAN COMMISSION

HEALTH & CONSUMER PROTECTION DIRECTORATE-GENERAL

Directorate D - Food Safety: production and distribution chain

Director

Brussels, 21 January 2003

ALG/acda/D440688(2002)

Subject: Request for information in view of the revision of Council Directive 90/496/EEC on Nutrition Labelling

Dear Sir/Madam,

In view of submitting to the European Parliament and Council a report on the application of Directive 90/496/EEC on Nutrition Labelling for foodstuffs since its introduction in June 1990, as well as appropriate proposals for its amendment, the European Commission is consulting Member States and stakeholders (a list of the organisations consulted is attached).

We would appreciate the views of your organisation and other interested parties regarding:

- 1) issues arising from implementation of the current Directive;
- 2) considerations and comments for its future revision;
- 3) information regarding the possible impact (positive and negative) associated with future regulatory change.

If necessary, please forward this request to other organisations who may wish to comment.

Background

The White Paper on Food Safety announced the intention of the Commission to put forward a proposal amending Council Directive 90/496/EEC on nutrition labelling for foods in order to bring the provisions on nutrition labelling into line with consumer needs and expectations (Action n°66). The White Paper indeed identifies nutrition labelling as an important tool in helping consumers make informed dietary choices, adapted to their individual needs. Provisions of that Directive are also an important and necessary support for other related Community legislation and regulatory proposals currently under discussion regarding claims and the addition of nutrients to foods.

I. Report on current legislation

The European Commission would like to receive the views, considerations and comments of Member States and stakeholders regarding how the current legislation has worked in practice. It would be particularly relevant for the Commission to be informed of points such as: the extent to which nutrition labelling is made available to consumers on foodstuffs sold in a Member State or in the EU today (e.g. proportion of the market,

type of foods providing nutrition labelling etc...), recognising that nutrition labelling is only required at present where a nutrition claim is made; the views of consumers regarding the usefulness, acceptability and understanding of the current nutrition labelling format (determined where available from consumer research conducted in Member States); any specific considerations and implementation issues encountered by the food industry (eg nutrient declaration, format, timing...) and retailers; comments and considerations relative to enforcement of the current legislation; and finally, the perspective of nutrition and health professionals regarding the usefulness of the current nutrition labelling format as an information tool to support information and educational campaigns regarding healthy diets and lifestyles.

II. Future amendments

Following this review of existing legislation and practices, the European Commission will proceed to prepare a proposal for amending the current Nutrition Labelling Directive. The overall objective will be to improve the existing nutrition labelling rules in order to further facilitate consumer understanding and informed choice, and aid consumers in selecting healthy diets, appropriate for their individual needs.

To date, the Commission has identified ten topical areas to be taken into account in the future revision of the Directive which are indicated hereunder. According to the provisions concerned, amendments would be introduced either through a Directive of the European Parliament and of the Council (points n°1 –5) or through a Commission Directive (points n°6-9, and n° 10 if limited to the definition of dietary fibre).

1. Nature of the declaration: voluntary vs mandatory

Under the current legislation, nutrition labelling is optional unless a claim is made, in which case it becomes compulsory. Given growing consumer interest in food, nutrition and its relation to health, as well as the need to provide consumers with both pertinent and accurate information about the foods they consume, it is timely to reconsider whether nutrition labelling should not be provided on all foodstuffs, and even in the absence of a nutrition claim. The Commission recognises that the introduction of mandatory nutrition labelling would no doubt require certain exceptions and is seeking the comments of Member States and stakeholders both on the point of principle (voluntary vs mandatory declaration) as well as the potential considerations to be taken into account, should mandatory labelling be proposed.

2. Nutritional information to be provided: what key nutritional information do consumers require?

When nutrition labelling is provided, the current legislation provides for two types of mandatory nutrient declaration, including both a simple and more complete declaration (ie Group 1/Group 2), and allows for information to be given optionally for a number of other nutrients. The Commission will reconsider, in the context of a proposed revision of the Directive, the nutrient declaration itself in order to ensure that consistent information is provided which is both meaningful to consumers and feasible for the food industry.

Comments are therefore being sought as to the number and nature of nutrients to be included in nutrition labelling, and whether the current 2-tier declaration (ie simple/expanded) should be maintained. For instance, information is being requested regarding the declaration of the amount and/or type of fat, eg whether trans fatty acid

content should be included and in which manner, whether the declaration of polyunsaturated fatty acids may be replaced with a declaration of n-3 and n-6 polyunsaturated fatty acids etc...If new nutrients are suggested for inclusion in nutrition labelling, the European Commission would also appreciate receiving proposed definitions for these nutrients.

3. Presentation of nutrition information: what format should be utilised?

The Commission has received in the past information from some Member States and stakeholders indicating that the current presentation of nutrition information specified in Directive 90/496/EEC is difficult for consumers to understand and utilise effectively. The Commission is therefore seeking comments on the presentation of nutrition information regarding points such as:

- format to be utilised (eg linear, tabular, graphical presentation...)
- order of nutrients and/or highlighting of certain nutrients
- best language to express nutritional terms (eg salt vs sodium, vitamin B1 instead of thiamine...)
- possible use of symbols to designate nutrients
- accuracy, ie use of rounding for declaration of nutritional values
- legibility, font size etc...
- expression of nutritional content in units and/or as % of a value to be determined (eg RDA, Guideline Daily Amounts, Daily Reference Values, Labelling Reference Values ...)
- .../...

4. Nutrition labelling: link with recommendations regarding healthy diets and lifestyles

Nutrition labelling can be an important tool to help consumers make food choices consistent with their dietary goals. In order to be effective, nutrition labelling must be integrated into an overall educational programme. Indeed education is key in order to help consumers better understand and utilise the information on food labels to meet their specific needs.

The European Commission is therefore seeking comments regarding new and innovative means of presenting nutrition information contained in the label which could facilitate consumers' understanding of the contribution of a particular foodstuff or certain of its constituents to nutrition and health, taking into account generally accepted scientific advice. This could include the potential negative impact of certain food ingredients or constituents.

With regards to the above, the Commission would like to receive information regarding new means of communicating nutritional information which could include: expression of the nutritional content as a percentage of daily recommended intakes (for macro- and micro-nutrients), use of symbols and other graphic presentation, illustrations, suggested wording etc... The Commission is particularly interested in those communications schemes that may have already been tested and validated among consumers.

In addition, the Commission would appreciate receiving information concerning educational programmes on healthy diets and lifestyles conducted by nutrition and health authorities, health promotion organisations, consumer associations, industry groups and other stakeholders, and particularly those initiatives developed to help consumers better understand and utilise the nutrition label.

5. What is the most appropriate reference quantity for nutritional declaration?

Current legislation requires the declaration of nutrient content per 100g/100 ml. In addition, information may be given per serving as quantified on the label, or portion, provided that the number of portions contained in the package are clearly stated. Comments have been received from some interested parties stating that nutrient declaration on a per serving basis is more meaningful to consumers. Others argue however that declaration per 100g/100 ml allows easier comparison of nutritional content between different products or product categories, in particular, as servings may not represent similar quantities for all foods across the Community. The Commission is therefore seeking advice as to the reference quantity judged to be most appropriate for nutritional labelling.

6. Are more specific measures required for non-prepackaged foodstuffs?

Article 8 of the current Directive states that in the case of non-prepackaged foodstuffs (sold to the ultimate consumer or to mass caterers), the extent of nutritional information provided and the manner of its communication may be determined by national provisions until the eventual adoption of specific Community measures. The Commission is therefore seeking information as to whether any such national measures have been implemented since the coming into force of Directive 90/496/EEC and whether the declaration of nutritional information for non-prepackaged foodstuffs should be addressed in more detail in the revision of this Directive.

7. Energy conversion factors: are modifications required?

Article 5 of the current Directive identifies energy conversion factors for a range of nutrients/food components and indicates that amendments to these factors and/or addition to the list of substances/food components will be undertaken by the Standing Committee procedure. The Commission is therefore seeking comments regarding this list in order to take into account new scientific and technological developments.

8. Declaration of vitamin and mineral content: how should the Annex be revised?

The Commission is aware that the current list of vitamin and minerals which may be declared in nutrition labelling (cf Annex of Directive 90/496/EEC) is not up-to-date and should be modified taking into account, among others, the lists of vitamins and minerals included in the recently adopted Directives 2001/15/EC on substances that may be added for specific nutritional purposes in foods for particular nutritional uses and 2002/46/EC on food supplements. The values referred to as Recommended Daily Allowances may also need to be modified in light of scientific developments and may also need to be renamed. Finally, comment is sought regarding the definition of what constitutes a "significant amount", and whether the current value of 15% RDA per 100g/100 ml remains appropriate.

9. Tolerances for declaration of nutritional values

The current Directive stipulates that the definition of tolerable margins between values declared in labelling and those obtained by official controls should be determined following the Standing Committee procedure. The Commission is therefore seeking comments and considerations for the development of acceptable tolerances for macro- and micro-nutrient declarations. The Directive on nutrition labelling does not apply to food supplements, the latter being subject to specific nutrition labelling rules. However, the task of setting tolerable margins for the declaration of nutrient content for food supplements was also identified as a priority during the discussions that led to the adoption of the Directive 2002/46/EC on food supplements. Therefore the comments submitted should take into account that margins of tolerance should be developed for the declaration of nutrients both for foodstuffs in general and for food supplements. The Commission would be particularly interested on the rationale, technical or other, to justify any specific suggestions, depending on the nutrient concerned, and also taking into account, where applicable, the nature of certain foodstuffs.

10. Definitions: are these still appropriate today?

Under the current Directive, the definition and method of analysis for dietary fibre need to be determined according to the Standing Committee procedure. The need to define dietary fibre was raised by certain Member States and stakeholders during preliminary discussion on the regulatory proposal on nutrition and health claims. The European Commission will take into account any relevant discussion on the definition of dietary fibre as well as on any other definition listed in Article 1 of Directive 90/496/EEC in preparing proposals for the revision of this Directive. Any comments and/or considerations on these points would be welcome.

III. Impact Assessment

The Commission would also appreciate hearing your views as to the possible impact (positive and negative) which could be associated with future revision of the Nutrition Labelling Directive (ie possible future amendments outlined in section II). Examples of economic, social, and public health impacts could include:

- Economic:
 - industry: changes in compliance costs; administrative and financial burden in particular for SMEs; structural changes in investment; impacts on the potential for innovation and technological development; market shares and trade patterns; constraints associated with multi-lingual packaging; effects on food distribution channels...
 - authorities: administrative burden and implementation costs for national authorities (eg control and enforcement)...
 - consumers: possible impact on consumer prices
- Social:
 - consumers/public health: changes in consumer awareness, understanding and attitudes to food, nutrition and health; changes in food consumption patterns; effects on particular sections of the population...

- Public health: role/contribution of nutrition labelling to public health nutrition strategies, including nutrition education; role of nutrition labelling as an information tool to facilitate selection of healthy diets; possible future impact on health care costs (for diet-related diseases or conditions)...

Any other information and/or considerations that you think would be useful to consider for the development of a proposal to revise the current Nutrition Labelling Directive would also be appreciated. The Commission Services would be grateful to receive information by **7 March 2003**. Please send your response to Ms Anne-Laure Gassin, Food Law & Biotechnology Unit, Health & Consumer Protection Directorate-General, European Commission, B-1049 Brussels or email Anne-Laure.Gassin@cec.eu.int.

Thank you very much in advance for your contribution regarding the revision of the Nutrition Labelling Directive and for collaborating with the Commission in continuing to establish EU legislation which will facilitate informed consumer choice.

Yours sincerely,

(Signed)

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