

Amended proposal for a Directive of the European Parliament and of the Council amending Directive 2000/13/EC as regards indication of the ingredients present in foodstuffs ⁽¹⁾

(2002/C 331 E/35)

(Text with EEA relevance)

COM(2002) 464 final — 2001/0199(COD)

(Submitted by the Commission pursuant to Article 250(2) of the EC Treaty on 3 September 2002)

(Amendments are indicated by underlining/strikeout in the text)

EXPLANATORY MEMORANDUM

A. Principles

1. In September 2001 the Commission submitted the proposal for a European Parliament and Council Directive amending Directive 2000/13/EC as regards indication of the ingredients present in foodstuffs COM(2001) 433 — 2001/0199(COD) with a view to its adoption under the codecision procedure provided for in Article 251 of the Treaty establishing the European Community.

On 11 June 2002 the European Parliament adopted a number of amendments at first reading. The Commission then indicated its position on each amendment, specifying which amendments it could accept and which it could not.

Subsequently the Commission drafted this amended proposal.

2. The modifications incorporate the amendments accepted as such by the Commission, as well as the new provisions resulting from the amendments which were accepted in principle though worded differently.

B. Presentation of the modifications

1. Amendments accepted as such

— Amendment 2

This amendment adds mixtures of mushrooms to the other mixtures (fruits or vegetables) whose labelling must not necessarily respect the rule of descending order of weight and specifies that this option applies only in the case of mixtures used in proportions which are likely to vary. These details are useful and reduce the risks of uncertainty both for the manufacturer and the consumer.

The Commission accepts this amendment.

— Amendment 6

The main purpose of this amendment is to abolish the labelling derogation provided for in the proposal in respect of ingredients consisting of preparations of sauces or mustards constituting less than 5 % of the finished product in foodstuffs.

The purpose of this provision in the initial proposal was to avoid overly long lists of ingredients.

The amendment removes this advantage but thus reduces the possibilities of ingredients being omitted from the labelling, hence increasing the degree of consumer information. Besides, this amendment improves the wording of the text.

The Commission accepts this amendment.

⁽¹⁾ OJ C 332 E, 27.11.2001, p. 257.

2. *Amendments accepted in principle but not as regards the wording*

— Amendment 7, part two

This amendment makes it incumbent on the European Food Safety Authority to establish criteria for updating the Annex and to review it at regular two-yearly intervals.

In fact, the amendment of the Annex with a view to updating it, which is indeed necessary, is a matter for the legislator, after consulting the Authority at scientific level.

Thus the Commission can accept the principle of regular review of the list annexed to the proposal.

— Amendment 11

This amendment requires the Commission to issue detailed guidelines for the interpretation of the annex to the proposal.

The Commission cannot accept this amendment as it stands but considers it useful that the Directive include a provision requiring that technical details be added to the list of allergenic ingredients, if necessary.

C. Rejected amendments

— Amendment 13

As regards ingredients used in small quantities (less than 5 % of the finished product), this amendment eliminates the possibility of not strictly respecting the descending order of weight when enumerating them in the list of ingredients.

This flexibility as regards presentation in the labelling is however technically justified, in view of the obligation to list all the ingredients, including those used in minute quantities.

Hence this amendment is not acceptable.

— Amendment 14

This amendment eliminates the possibility of not repeating an ingredient used several times in the preparation of a foodstuff, both as a simple ingredient and as an ingredient of a compound ingredient.

Hence the elimination of this flexibility is not acceptable.

— Amendment 5

This amendment eliminates the possibility of not indicating the composition of compound ingredients used in small quantities (less than 5 % of the finished product) when the composition of the compound ingredient is defined in current Community legislation, which indicates the composition in line with the sales name. The products potentially concerned by this derogation are chocolates, fruit juices, fruit jams, jellies, marmalades and chestnut purée.

This derogation does not apply either to additives or to allergenic substances.

The purpose of the derogation is to avoid uselessly lengthening the lists of ingredients while maintaining consistency with the proposal's objectives.

Hence this amendment is not acceptable.

— Amendment 7, part one

This amendment exempts processing aids derived from allergenic ingredients from the labelling requirement on the grounds that these substances are eliminated during the manufacturing process.

However, residues may be present in the finished products and allergic reactions may occur even in the presence of simple residues or traces of allergenic substances.

Hence this part of amendment 7 is not acceptable.

— Amendments 8, 9 and 10

These amendments add the named ingredients to the list in the Annex.

However, the list proposed by the Commission is based on the available scientific data and should be extended only on the basis of objective scientific criteria.

The Commission, with a view to updating the list in the future, has invited the Scientific Committee on Food to prepare a rapid procedure for amending the list (comitology). It will also raise the question as to the necessity of adding these ingredients to the list.

Hence these amendments are not acceptable.

Pursuant to Article 250(2) of the EC Treaty, the Commission amends the proposal as described above.

The amendments to the Commission's initial proposal are shown as follows: deleted passages are struck through and new or amended passages are indicated in bold and underlined characters.

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social
Committee,

Acting in accordance with the procedure laid down in
Article 251 of the Treaty,

Whereas:

- (1) In order to achieve a high level of health protection for consumers and guarantee their right to information, it must be ensured that consumers are appropriately informed about foodstuffs, *inter alia* through the listing of all ingredients on labels.
- (2) By virtue of Article 6 of Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs⁽¹⁾ certain substances need not appear in the list of ingredients.

(3) Certain ingredients contained in foodstuffs are the cause of allergies or intolerances in consumers in the Community, and some of those allergies or intolerances constitute a danger to the health of those concerned.

(4) The Scientific Committee for Food (SCF) has stated that the incidence of food allergy is such as to affect the lives of many people, causing conditions ranging from very mild to potentially fatal.

(5) The SCF has acknowledged that common food allergens include cow's milk, fruits, legumes (especially peanuts and soybeans), eggs, crustaceans, tree nuts, fish, vegetables (celery and other foods of the Umbelliferae family), wheat and other cereals; it has also noted that adverse reactions to food additives may occur and that food additive avoidance is often difficult since not all food additives may be included in labelling.

(6) The most common food allergens are found in a wide variety of processed foods.

(7) Even if labelling, which is intended for consumers in general, must not be regarded as the only means of information, taking over the role of the medical establishment, it is nevertheless advisable to assist consumers who have allergies or intolerances as much as possible by providing them with more comprehensive information about the composition of foodstuffs.

⁽¹⁾ OJ L 109, 6.5.2000, p. 29. Directive amended by Commission Directive 2001/101/EC (OJ L 310, 28.11.2001, p. 19).

- (8) The list of allergenic substances includes those foodstuffs and ingredients recognised as causing hypersensitivity and likely to benefit from an exemption under Directive 2000/13/EC. In order to keep up with the development of scientific knowledge, it is important to be able to revise this list rapidly, when necessary. Such revisions should take the form of implementing measures of a technical nature, and their adoption should be entrusted to the Commission in order to simplify and accelerate the procedure.
- (9) To provide all consumers with better information and to protect the health of certain consumers, it should be made obligatory to include in the list of ingredients all ingredients present in the foodstuff and, in the case of ingredients known to be allergenic, to declare them by their specific name in all cases, including in alcoholic drinks, with no possibility of using the name of the category to which they belong or, in the case of additives, of an exemption from the obligation of their being included in the list of ingredients.
- (10) In order to prevent the risk of labelling becoming too complex and difficult to read, procedures are needed which make it possible to avoid excessively long lists of ingredients while still ensuring that the above-mentioned objectives are achieved. In order to take account of the technical constraints associated with the manufacture of foodstuffs, it is also necessary to authorise greater flexibility with regard to the listing of ingredients used in very small quantities.
- (11) Directive 2000/13/EC should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2000/13/EC is amended as follows:

1. Article 6 is amended as follows:

(a) The following paragraph 3a is inserted:

'3a. Without prejudice to the rules to be established in application of paragraph 3, the presence of one or more of the ingredients listed in Annex IIIa in a drink referred to in paragraph 3 shall be mentioned, unless the ingredient(s) concerned is/are included under its/their specific name(s) in the name under which the drink is sold. This indication shall comprise the term "contains", followed by the name of the ingredient(s) concerned.

Where necessary, detailed rules for applying this paragraph may be adopted:

- (a) as regards the products referred to in Article 1, paragraph 2, of Council Regulation (EC) No 1493/99 (*), under the procedure laid down in Article 75 of the said Regulation;

- (b) as regards the products referred to in Article 2, paragraph 1, of Council Regulation (EEC) No 1601/91 (**), under the procedure laid down in Article 13 of the said Regulation;
- (c) as regards the products referred to in Article 1, paragraph 2, of Council Regulation (EEC) No 1576/89 (***), under the procedure laid down in Article 14 of the said Regulation;
- (d) as regards other products, under the procedure laid down in Article 20, paragraph 2, of this Directive.

(*) OJ L 179, 14.7.1999, p. 1.

(**) OJ L 149, 14.6.1991, p. 1.

(***) OJ L 160, 12.6.1989, p. 1.'

(b) The second sub-paragraph of paragraph 5 is amended as follows:

(i) The fourth indent is replaced by the following text:

'— where fruits, ~~or~~ vegetables or mushrooms, none of which significantly predominates in terms of weight, and which are used in proportions that are likely to vary, are used in a mixture as ingredients of a foodstuff, they may be grouped together in the list of ingredients under the designation "fruits", ~~or~~ "vegetables" or "mushrooms" followed by a phrase such as "in varying proportions", immediately followed by a list of the fruits, ~~or~~ vegetables or mushrooms present and a phrase such as "in varying proportions"; in such cases, the mixture shall be included in the list of ingredients, in accordance with the first sub-paragraph, on the basis of the total weight of the fruits, ~~or~~ vegetables or mushrooms present.'

(ii) The following sixth and seventh indents are added:

- '— ingredients constituting less than 5 % of the finished product may be listed in a different order after the other ingredients,
- where ingredients which are similar or mutually substitutable are likely to be used in the manufacture or preparation of a foodstuff without altering its composition, and in so far as they constitute less than 5 % of the finished product, they may be referred to in the list of ingredients by means of the phrase "contains ... and/or ..." where at least one of no more than two ingredients is present in the finished product, or "contains at least one of the following ingredients: ..., ..., ...:" where at least one of no more than three ingredients is present in the finished product.'

(c) Paragraph 8 is amended as follows:

- (i) The following sentence is added to the first sub-paragraph:

'However, where the ingredients of the compound ingredient are already listed as single ingredients in the list of ingredients, repetition is not compulsory, as long as an explanatory note, placed near the list of ingredients, clearly informs the purchaser that they are present in the foodstuff as single ingredients and as ingredients of the compound ingredient.'

- (ii) The second sub-paragraph is replaced by the following text:

'However, the list referred to under the first sub-paragraph shall not be compulsory:

- (a) where the composition of the compound ingredient is defined in current Community legislation, and in so far as the compound ingredient constitutes less than 5 % of the finished product; however, this provision shall not apply to additives, subject to paragraph 4(c);

- (b) for ~~the compound ingredients consisting of mixtures of spices and/or herbs that constitute less than 2 % of the finished product, listed below,~~ with the exception of additives, subject to paragraph 4(c);

~~(i) preparations of sauces or mustards constituting less than 5 % of the finished product;~~

~~(ii) mixtures of spices and/or herbs constituting less than 2 % of the finished product;~~

- (c) where the compound ingredient is a foodstuff for which a list of ingredients is not required under Community legislation.'

- (d) The following paragraphs 10 and 11 ~~are~~ added:

'(10) The provisions of paragraph 4(c)(ii) and (iii), paragraph 6 (second sub-paragraph, first indent) and paragraph 8 (second sub-paragraph) shall not apply to the ingredients listed in Annex IIIa.

(11) The list in Annex IIIa shall be reexamined and, where necessary, updated, every two years, and for the first time two years after the entry into force of this Directive, on the basis of the most recent scientific knowledge.

To this end Annex IIIa may be amended, in compliance with the procedure referred to in Article 20(2), after obtaining the opinion of the European Food Safety Authority issued on the basis of Article 29 of Regulation (EC) No 178/2002 of the European Parliament and of the Council ⁽¹⁾.

Where necessary, the list in Annex IIIa may be the subject of technical guidelines for its interpretation, ~~Annex IIIa may be amended~~ in compliance with the procedure referred to in Article 20(2).'

2. In Annex I, the designations 'crystallised fruit' and 'vegetables', and the corresponding definitions, are deleted.

3. Annex IIIa, the text of which is appended to this Directive, is inserted.

Article 2

Member States shall bring into force, by 31 December 2003 at the latest, the laws, regulations and administrative provisions necessary to:

- permit, by 1 January 2004 at the latest, the sale of products that comply with this Directive,
- prohibit, as from 1 January 2005, products that do not comply with this Directive; any products that do not comply with this Directive but have been placed on the market or labelled prior to this date may, however, be sold while stocks last.

They shall forthwith inform the Commission thereof.

When these provisions are adopted by the Member States, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 3

This Directive shall enter into force on the twentieth day following its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

ANNEX

'ANNEX IIIa

INGREDIENTS REFERRED TO IN ARTICLE 6, PARAGRAPHS 3a AND 10

Cereals containing gluten and products thereof

Crustaceans and products thereof

Eggs and products thereof

Fish and products thereof

Peanuts and products thereof

Soybeans and products thereof

Milk and dairy products (including lactose)

Nuts and nut products

Sesame seeds and products thereof

Sulphite at concentrations of at least 10 mg/kg'
