



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE

amending Directive 79/373/EEC on the marketing of compound feedingstuffs

(presented by the Commission)

EXPLANATORY MEMORANDUM

BACKGROUND INFORMATION:

1. Legal framework :

As regards labelling of compound feedingstuffs, the purpose of Council Directive 79/373/EEC *on the marketing of compound feedingstuffs* as amended by Council Directive 90/44/EEC, is to ensure that stock farmers are informed objectively and as accurately as possible as to the composition and use of feedingstuffs. Directive 90/44/EEC emphasises the importance of ensuring that the accuracy of the declarations made can be officially verified.

The declaration of the feed materials in feedingstuffs was (and still is) considered, an important item of information for stock farmers. In 1990 when directive 90/44/EEC was adopted, the quantitative determination of the feed materials raised verification problems, mainly because of the nature of the products used, of the complexity of the mixtures made or the manufacturing methods adopted. Accordingly, at that stage, a flexible declaration arrangement for feedingstuffs for production animals was preferred, confining it to the indication of the feed materials without stating their quantity.

In addition, in order to facilitate the feed materials declaration, it was accepted to provide this information by categories, which group several, feed materials under a single name. Commission Directive 91/357/EEC currently lays down *the categories of ingredients which may be used for the purposes of labelling compound feedingstuffs for animals other than pet animals*. (Categories of ingredients for compound feedingstuffs intended for pets had been already laid down before by Commission Directive 82/475/EEC).

2. The BSE crisis:

The “Temporary Committee” of inquiry into BSE of the European Parliament recommended in February 1997: “the inclusion in labelling of a mandatory explicit declaration for feedingstuffs by their manufacturers, which should facilitate the clear identification of components and of the origin of ingredients, and on user instructions”.

Later, in November 1997, the “Temporary Committee” noted that the Commission, despite agreeing to carry out an investigation by the middle of 1998, had not yet declared its unequivocal commitment to quantitative and qualitative declaration for feedingstuffs in the form of clear indications of the components and the origin of the feed materials and called on the Commission to establish the technical conditions and controls required for that purpose and to submit an appropriate proposal.

The Commission in both, the first and the second bi-annual BSE follow-up reports, stated that any proposal relating to the quantitative and qualitative

labelling of animal feed should permit reliable monitoring of the data and be based on recognised analytical methods. In the second bi-annual report it was also announced that a co-operative study to check the current possibilities for the determination i.e. qualitatively and semi-quantitatively, by microscopical analysis of the feed materials of compound feedingstuffs and in particular to detect the presence, the origin and the quantity of meat and bone meal, had been finished.

The conclusions from the co-operative study were accepted by the Standing Committee for feedings-stuffs during his meeting of 29-30 March 1999, being clear that a qualitative and quantitative identification of all feed materials included in compound feedingstuffs is still not always possible solely by microscopical analysis.

Again the European Parliament, in its resolution of April 1999, on the Commission's second bi-annual BSE report maintained, «its call for a compulsory public declaration of feedingstuffs ingredients and calls once again on the Commission to submit a proposal along these lines; the European Parliament considers that the difficulty of making a quantitative declaration should no longer serve as a pretext to prevent a qualitative declaration».

Furthermore, some Member States had repeatedly shown their dissatisfaction with the current labelling provisions for compound feedingstuffs, demanding the possibility to declare all feed materials in the compound feedingstuffs as well as their respective weights. Almost all Member States are of the opinion that the declaration of feed materials by categories does not provide useful information to the farmers, and should consequently not exist.

OPEN DECLARATION:

The Commission realises the advantages of an “open declaration” in the labelling provisions of compound feedingstuffs for production animals in order to facilitate the traceability of feed materials.

The recent events of oils and additives contaminated by dioxins originated in Belgium and Germany respectively, reinforce the importance of detailed information on the labels of compound feedingstuffs. Actually the contamination level of a compound feedingstuff depends on the quantity of contaminated feed material incorporated to the feed and consequently an exhaustive information of all feed materials included in the compound feedingstuff as well as their different amounts is of great importance.

Currently the qualitative and quantitative determination of the feed materials in feedingstuffs for production animals still raises, as regards analytical verification, difficulties, mainly because of the nature of the products used, of the complexity of the mixtures made or the manufacturing methods adopted. But notwithstanding the technical problems, the Commission admits nonetheless that the official control of the labelling declaration might be based not only on analytical but also on documentary verification provided by the compound feedingstuff manufacturer. In this regard,

Member States of destination of these merchandises will have to rely on the controls done by the official authorities of the countries of origin.

The Commission, in accordance with the legislative program presented to the European Parliament and the Agricultural Council of Ministers as an aftermath of the dioxin crisis originated in Belgium, drafted a proposal amending the labelling provisions of compound feedingstuffs. During the meeting of the Standing Committee for feedingstuffs on July 26th 1999, this Committee examined the draft proposal. At that occasion most Member States showed a preference for a facultative open declaration and limited to compound feedingstuffs for production animals. The feedingstuffs industry is also against an obligatory open declaration, arguing the difficulties to control the labelling declaration, the need to protect intellectual property of the feed formulas and the difficulties to include the always changing feed formulas on the labels.

The Commission on the contrary, is of the opinion that a facultative open declaration is against the farmers' right for information and against the envisaged transparency. Furthermore, the Commission considers that an optional open declaration would inevitably lead to distortions of competition between the feed compounders.

The Commission is of the opinion that the control of the labelling declaration will have to be done independently of a facultative or a compulsory open declaration. With regard to the protection of the intellectual property of the feed formulas, the Commission, in order to seek a maximum of transparency, cannot accept this argument. There is actually no breach of commercial confidentiality, because there are normally no patented feedingstuff formulas. Even if it would be the case, the formula could not be kept as a secret. In fact, the publication of the ingredients would not undermine the intellectual property rights.

On the other hand, the Commission accepts the problem of having to replace the labels in case of changing the feed composition. To avoid this inconvenience the Commission proposes that the open declaration might be provided on a different label or on a specific accompanying document.

Finally the Commission agrees that in the case of pet food, such a detailed information is not strictly needed and therefore accepts to maintain the current *status quo* for these products, this is, either an obligatory semi-open declaration (maintaining also the possibility to declare categories of feed materials instead of the feed materials themselves) or a facultative open declaration.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 152(4) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas

- (1) Council Directive 79/373/EEC of 2 April 1979 *on the marketing of compound feedingstuffs*⁵, as last amended by Directive 98/87/EC⁶, lays down rules for the marketing of compound feedingstuffs within the Community;
- (2) as regards labelling, the purpose of Directive 79/373/EEC is to ensure that stock farmers are informed objectively and as accurately as possible as to the composition and use of feedingstuffs; whereas it is important to ensure that the accuracy of the declarations made can be officially verified at all stages of the circulation of the feedingstuffs;
- (3) the declaration of the feed materials in feedingstuffs constitutes, in certain cases, an important item of information for stock farmers;
- (4) until now, Directive 79/373/EEC provided for a flexible declaration arrangement confined to the indication of the feed materials without stating their quantity for feedingstuffs for production animals and the possibility was

¹ OJ L

² OJ L

³ OJ L

⁴ OJ L

⁵ OJ L 86, 6.4.1979, p. 30.

⁶ OJ L 318, 27.11.1998, p. 43.

retained to declare categories of feed materials instead of declaring the feed materials themselves;

- (5) nonetheless, the BSE crisis and the recent dioxin crisis have demonstrated the inadequacy of the current provisions and the need of detailed qualitative and quantitative information about the composition of compound feedingstuffs for production animals;
- (6) detailed quantitative information on the composition may assist in targeting the tracing of potentially contaminated materials to specific lots, which will be beneficial to public health and avoid wastage of products which do not present a significant risk to public health;
- (7) accordingly, it is appropriate – at this stage – to impose a compulsory declaration of all the feed materials as well as their amount in the compound feedingstuffs for production animals;
- (8) consequently, in the future there will be no possibility to declare categories of feed materials instead of declaring the feed materials themselves in the case of compound feedingstuffs for production animals; whereas, for practical reasons Commission Directive 91/357/EEC of 13 June 1991 *laying down the categories of ingredients which may be used for the purposes of labelling compound feedingstuffs for animals other than pet animals*⁷, shall be repealed;
- (9) for practical reasons, it shall be allowed that the declarations of feed materials included in the compound feedingstuffs for production animals are provided on an *ad hoc* label or accompanying document;
- (10) special provisions are needed for the labelling of feedingstuffs for pets to allow for the special character of this kind of feedingstuffs;

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Council Directive 79/373/EEC is hereby amended as follows:

1. In Article 5(1), point (j) is replaced by the following:
“the batch number”.
2. In Article 5(3), point (c) is deleted.

⁷ OJ L 193, 17.07.1991, p.34

3. In Article 5, the following paragraph is added:

“7. In the case of compound feedingstuffs intended for animals other than pets, the declaration of the feed materials in terms of percentage by weight, in accordance with Article 5c, might be provided on a label different than that referred to in paragraph 1, or on an accompanying document different than that referred to in paragraph 4.”

4. Article 5c shall be replaced by the following:

“Article 5c

1. Where a declaration of the feed materials is provided, all the feed materials must be mentioned.
2. The listing of feed materials shall be subject to the following rules:
 - a) compound feedingstuffs intended for animals other than pets: listing of feed materials in terms of percentage by weight.
 - b) compound feedingstuffs intended for pets: listing of feed materials either indicating the amount contained or naming them in descending order by weight.
5. The feed materials shall be described by their specific names; however in the case of compound feedingstuffs intended for pets, the indication of the specific name of the feed material may be replaced by the name of the category to which the feed material belongs, where the categories grouping several feed materials must have been established in accordance with Article 10(a).

In the case of compound feedingstuffs intended for pets, use of one of these two forms of declaration shall exclude use of the other save where one the feed materials used belongs to none of the categories which have been defined; in that case the feed material, designated by its specific name, shall be mentioned in order of importance by weight in relation to the categories.

6. The labelling of compound feedingstuffs for pets may also draw particular attention by a specific declaration to the presence or low content of one or more feed materials, which are essential aspects of the characteristics of the feedingstuffs. In such a case, the minimum or maximum content, expressed in terms of percentage by weight of the feed material(s) incorporated, must be clearly indicated either opposite the declaration drawing special attention to the feed material(s) or in the list of feed materials or by mentioning the feed material(s) and the percentage(s) by weight concerned opposite the corresponding category of feed materials.

Article 2

Commission Directive 91/357/EEC shall be repealed as from [1 July 2000].

Article 3

1. Member States shall adopt and publish not later than [30 June 2000] the laws, regulations and administrative provisions necessary to comply with this Directive. They shall inform the Commission thereof forthwith. The provisions adopted shall apply from [1 July 2000].

Where the Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by the Member States.

2. Member States shall communicate to the Commission the texts of the provisions of national law, which they adopt in the field covered by this Directive.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President