EUROOPAN YHTEISÖJEN KOMISSIO

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EUROOPAN PARLAMENTIN JA NEUVOSTON DIREKTIIVIKSI

KULUTTAJANSUOJASTA KULUTTAJILLE TARJOTTAVIEN TUOTTEIDEN HINTOJEN ILMOITTAMISESSA

(komission esittämä)

PROPOSAL FOR A EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE ON CONSUMER PROTECTION IN THE INDICATION OF THE PRICES OF PRODUCTS OFFERED TO CONSUMERS

EXPLANATORY MEMORANDUM

A. INTRODUCTION

1 The Community programmes for a consumer protection and information policy[1] have defined the general objectives and principles of consumer policy. Hence the preliminary 1975 programme proposed a number of priority measures, including the elaboration of common principles concerning the indication of prices and, possibly, indication of the price per unit of weight or volume. The second 1981 programme also emphasised the importance of informing consumers about prices through improving the rules relating to the indication of prices, including price per unit of measurement.

2 In this domain the Council has adopted:

- Directive 79/581/EEC of 19 June 1979 as amended by Directive 88/315/EEC of 7 June 1988 concerning the indication of the prices of foodstuffs[2] and

- Directive 88/314/EEC of 7 June 1988 on consumer protection in the indication of the prices of non-food products[3].

B. THE CURRENT MECHANISM FOR INDICATING PRICES

3 The above-mentioned Directives lay down a general obligation to indicate the selling price and the price per unit of measurement of foodstuffs and non-food products sold in bulk, as well as products pre-packaged in variable quantities.

The obligations deriving from the two 1988 Directives entered into effect in the Member States on 7 June 1990.

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1 OJ No C 92, 25.4.1975, p. 2 and OJ No C 133, 3.6.1981, p. 2

2 OJ No L 158, 26.6.1979, p. 19 and OJ No L 142, 7.6.1988, p. 23.

3 OJ No L 142, 7.6.1988, p. 19

4 As regards products pre-packaged in pre-established quantities, the mechanism established by these Directives has proven very complex:

Firstly, there is in principle a general obligation to indicate the unit price for products pre-packaged in pre-established quantities listed in the Annexes to the Directives.

Secondly, there are exceptions which seriously compromise this principle.

If these products are sold to the final consumer in standardised Community ranges, the Member States have to exempt certain categories from the obligation to indicate the unit price.

For certain other categories Member States may grant exemptions if they so wish.

In applying this mechanism, the Directives stipulate a transitional period which expires on 7 June 1995.

Finally, in the case of categories of products pre-packaged in pre-established quantities which are not listed in the Annexes to the Directives, the Member States are free to decide whether the unit price must be indicated or not.

5 In addition to the specific exemptions to indicating the unit price set out in the Directives, Member States may grant exemptions in two other cases:

- when indication of the unit price would be meaningless and

- in the case of products sold by small retail businesses and handed directly by the seller to the purchaser, when the obligation is considered to constitute an excessive burden for such businesses or appears to be impracticable owing to the conditions peculiar to certain forms of trading.

6 A brief historical overview should give a better picture of how the current mechanism developed.

- In 1979 the principle of mandatory indication of the selling price and unit price was introduced for foodstuffs.

  Member States could in certain cases waive the obligation to indicate the unit price, when the products are prepackaged in certain pre-established quantities, or sold in bulk or per item.

  At any rate, the most important part of the mechanism was suspended pending a decision to be taken by the Council in 1983 in regard to the ranges.

  Pending this decision, the national measures were allowed to remain in force.

- In 1981 the obligation to indicate the selling price entered into force for foodstuffs.

- In 1988 the obligation to indicate the selling price was extended to non-food products and at the same time the link between the unit price and ranges was spelled out more clearly. Ranges for certain products were annexed, in respect of which the right to exemption from indication of the unit price is established on expiry of a new transitional period, ending 7 June 1995.

- In 1990, indication of the selling price became mandatory for foodstuffs and non-food products sold in bulk, unless the Member States prefer indication of the price per item, and for pre-packaged products sold in variable quantities (such as fresh foodstuffs).

7 The evaluation we can make today of the measure's effectiveness is not all that positive:
For one thing, because the stratification of the relevant texts has worked to the detriment of the objectives: sixteen years after the appearance of the first text, price information availability is still not satisfactory.
For another, because the situation in the Member States, now that the transitional period is coming to an end, suggests that the mechanism initiated in 1979 and extended in 1988 is no longer adapted to current circumstances.
Although all Member States have communicated the texts transposing the Directives and have established a mechanism concerning the indication of prices for foodstuffs and non-food products, some have been awaiting the expiry of the transitional period to implement the mandatory indications or exemptions.
While all Member States have satisfactorily transposed the obligation to indicate the selling price, it seems that the situation as regards the unit price is less rosy, because of the importance certain Member States attach to the standardization of packages.

The current mechanism presupposed that a policy in favour of ranges might be an alternative to indicating the unit price, provided comparison of the prices of products is also facilitated.

This view is no longer tenable, because of the profound changes which have taken place in the meantime both in production methods and in distribution channels, and because making such a connection would constitute an unreasonable brake on innovation.

8 Several countries have indicated potential difficulties in implementing the mechanism as of 7 June 1995. Basically, these difficulties concern the application of exemptions from indicating the unit price, because economic circumstances have changed considerably in the past 15 years.

C. THE NEED FOR A NEW MECHANISM

9 The current rules have to be revised for two reasons: to improve consumer information and to ensure that they are consonant with the principle of subsidiarity. This revision should make it possible to simplify the mechanism and make the relevant law more effective.

I. Consumer information

10 The right to information has long been recognised as being a basic consumer right, as the Court of Justice held in the "GB-INNO-BM" judgment (Case 362/88) of 7 March 1990.

Hence the great importance of the Community's chosen instrument, in (a) guaranteeing the necessary degree of market transparency and (b) giving consumers the means and information to make a genuine choice between different products.

It is unlikely that the simplification exercise will have the effect of watering down consumers' rights, given that consumers' right to information was reaffirmed by the introduction in the Treaty on European Union of a new Article 129a, which spells out this fundamental right.

At its meeting of 5 April 1993, the Consumer Affairs Council invited the Commission to study a certain number of questions and to present its conclusions to the Council. It noted that the Commission should bear in mind that labelling had to be transparent, i.e. allow consumers to compare the quality and price of different products belonging to the same product family.

11 Because of the complexity of the current mechanism, consumers lack this transparent information on prices. In particular, the effect of exempting indication of the unit price for products marketed in pre-packaged quantities in Community ranges is that consumers find it impossible to compare the prices of similar products easily, because the unit price may be indicated in some cases but not in others. For example:

- in the case of ice-cream, the price per litre must be indicated if the quantity is 250 g but not if it is 300 g;

- in the case of preserved fruit or vegetables in cans or glass jars the price per kg or litre must be indicated for quantities of 250 g, 500 g or 0.5 l, but not if the can or jar has a capacity of 156, 212, 314, 370, 425, 580... ml;

Such situations result from the law in force, which provides for a close link between the standardisation of packaging and price indication.

In its resolution of 7 June 1988[4], the Council called for a review of the ranges.

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[4] Council Resolution of 7 June 1988 on consumer protection in the indication of the prices of

The objective of this resolution, viz. to lay down simple and easily comparable ranges in the context of standardising pre-packaging ranges, so as to make it easier for the consumer to compare prices, and then to replace the obligation to display the unit price by such standardization, has not been achieved.

The fact that the ranges already existed prior to the above-mentioned resolution motivated producers and distributors to invest in rationalising their supply chains. The upshot was that is now more difficult to simplify existing ranges as desired by the Council, and as the work done in recent years to this end has also shown.

While one may argue that the ranges still have a useful function, for example with an eye to fair trade or environmental protection, nonetheless, in the context of this exercise, the Commission considers that, in view of the complexity of the existing mechanism and seeing that there is no way of achieving the objectives established by the Council in 1988, the only way to simplify the existing system is to sever the link that has been created between indication of the unit price and the ranges of pre-packaged quantities.

12 Price transparency is also crucial with an eye to the Economic and Monetary Union envisaged in the Treaty. In the light of Phase III and the introduction of the ECU as the single currency, it is absolutely essential for consumers to have simple yardsticks for comparing prices, both between products and also when switching from the old to the new reference currency. Hence transparency rules must be significantly improved and enforced in good time for the transition to the single currency.

II. Subsidiarity

13 In the context of monitoring the implementation of the mechanism adopted in 1988, the Commission observed that several Member States were at odds as to how transpose Directives 88/314/EEC and 88/315/EEC into their domestic legal order. The questions raised at the time mainly concerned the part of the mechanism concerning the unit price, because of their freedom to choose between Community and national ranges in the case of pre-packaged products.

Nonetheless, and taking account of the relatively long transitional period (seven years), Member States tended to await the end of this transitional period before laying down the detailed rules.

Thus, as the deadline approached the difficulties became more obvious. These difficulties have grown because of intervening changes in marketing methods.

The Commission drew attention to this situation in its first report to the Council in November 1993 on the adaptation of Community legislation to the subsidiarity principle (COM(93) 545 final of 24.11.93).

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foodstuffs and non-food products (OJ No C 153, 11.6.1988, p. 1).

In this report the Commission mentioned the case of the three Directives on consumer protection in the indication of the prices of foodstuffs and non-food products and drew attention to the difficulties that had cropped up. The report mentions that experience in applying these price indication Directives shows that the mechanism as it stands is very complex and deficient and at all events goes into too much detail. Consequently, the Commission proposed revising the three above-mentioned texts, with a view to simplifying them.

14 The analysis also showed the need to take into account the situation in the Member States in regard to consumption patterns, commercial usage, purchasing power and the commercial distribution system, which are quite heterogenous. Moreover, the Member States have considerable grass-roots experience with the indication of prices, partly as a result of implementing Community rules in this domain, and this experience should be put to good use if the law is to be applied effectively.

15 Hence simplified rules are imperative for a number of distinct reasons:

- production and marketing methods have developed apace, something that to be taken into account;
- since Member States may experience difficulties in identifying the product or product lines for which the unit price must be indicated, the mechanism must be made a lot simpler if it is to be really effective;
- the host of exemptions concerning prepackaged ranges, both at Community or national level, has made the mechanism superfluous, while its application at national level has become very confusing for the economic operators;
- the freedom to exempt certain businesses has been a bone of contention; hence it was necessary to clarify the objectives;
- all Member States are very keen on optimal price information, and so the utility of easy price comparisons in all circumstances has to be reaffirmed.

16 Since the simplification exercise cannot mean lowering the level of consumer protection, it is necessary to reaffirm the importance of indicating the selling price and the unit price, which in the vast majority of cases remains indispensable.

Furthermore, experience gained in the Member States which have already opted for a high level of consumer protection with regard to product price information shows that introducing the obligation to indicate both the selling price and the unit price – where the latter is meaningful – is the simplest and most effective way of enabling consumers to compare prices.

Hence we have opted for this solution so that the Community will be able to propose an equally high level of consumer protection in all Member States,

ensuring a homogenous level of consumer information; this justifies a Community initiative.

For their part the Member States will still be fully entitled to waive the obligation to indicate the unit price when this does not provide useful information to consumers. Likewise they will be free to take into account the difficulties small retail businesses may have in adapting.

D. ECONOMIC IMPACT

17 Simplification is impossible without reviewing the overall picture. The proposals have to accommodate all the interests concerned. Simplification is a good thing for everyone – both for consumers and for business, who want the easiest possible regime.

There is no gainsaying that improving transparency and consumer information will impose certain costs on business, but on the other hand there are benefits in the long haul. While consumers will reap the fruits straight away, or at least in the medium term, the business community also stands to gain considerably from the proposed simplification, partly in regard to the management of price marking.

18 In order to pinpoint the exact scope of the simplification exercise, very wide-ranging consultations were organized during the past year, involving experts from the Member States and the economic operators concerned.

From these consultations it emerges that consumer representatives are the only group unreservedly in favour of a blanket obligation to indicate the unit price.

Some of those consulted had certain reservations regarding the more systematic obligation to indicate the unit price in order to facilitate comparisons.

Some sectors of industry emphasise the large investments made in rationalising the presentation of products, while others are very keen on greater freedom in this domain.

The distributive trades are equally divided. Aware that the big distributors are increasingly opting for unit prices, some fear excessive burdens on certain businesses that cannot yet afford it.

19 The reservations expressed by certain sectors of industry might seem groundless, in so far as the cost of indicating prices falls on the distributor.

But what really worries the business community is the perpetuation of standardised ranges in their current shape both at Community and national level. The current mechanism provides for a close link between ranges and unit prices. And indeed most parties involved agree that the ranges have an independent *raison d'etre* in terms of lower production costs and the free movement of products - and indeed with an eye to protecting the environment.

20 Other objections relate to the supplementary costs which the new mechanism will impose on the distributive trades.

Most European distributors equipped with optical scanners normally indicate their prices by shelf labelling. Stores that have not yet introduced scanners label their products individually.

Dispensing with individual price tags on each product can result in savings of an estimated 0.5% – 1% in terms of turnover. However some stores label items individually for marketing reasons, despite using bar codes.

A study sponsored by the Commission indicates that in recent years a very large percentage of large and medium-sized European retail businesses have introduced bar code scanners of varying degrees of sophistication.

Although this new technology is designed to improve management in the distributive trades (by enhancing productivity, knowledge of the market and trade relations), it may also benefit the consumer (less time wasted at the checkout counter, more detailed vouchers, fewer coding errors, etc.).

At any rate, this system makes price indication easier, since it is possible to identify and indicate the unit price in addition to the selling price (currently only the latter is mandatory). The associated costs are trivial, especially if the labels are affixed to the gondolas. Indeed, introduction of the unit price should not impose significant costs because as a rule it is enough to make minor adjustments to the software used for marking the selling price.

On the other hand, the labour costs of affixing and checking labels on gondolas are much the same, whether the labels bear the selling price alone or also include the unit price.

Finally, the sector is highly innovative and new generations of high-performance scanners will very likely soon be on the market.

21 Moreover, recent surveys indicate that:

1. Except for Greece (where bar code scanning is still in its infancy) and Germany, most large and medium-sized distributors already indicate unit prices or intend to do so.

2. The remainder are currently investigating this possibility, mainly for commercial reasons.

Certainly the potential indirect savings resulting from applying unit prices across the board should be borne in mind. It goes without saying that the current difficulties in determining the products to which the obligation applies makes indication more costly than applying a uniform rule for an entire shelf or product line.

Nonetheless some Member States may consider that certain small retail businesses might find it hard to adjust in time. The possibility of granting them up to four years' grace should help them overcome problems of this nature.

It is also with a view to facilitating adaptation, notably through the exchange of information on methods, that an evaluation report on the situation of small retail businesses will be presented by the Commission two years before the expiry of the extension period.

E. THE NEW MECHANISM PROPOSED

22 Hence the twin objective of the new mechanism is improvement of consumer protection and simplification. Very wide-ranging consultations have been organised, from which certain strands have emerged:

- The existing law must be made more effective by simplifying it:
  Nobody is happy with a mechanism which is so complicated that the vast majority of consumers and economic operators cannot understand or apply it. A certain number of Member States have emphasised this point and stressed the need for simplification.

- The simplification exercise allows the Community to propose a homogenous level of consumer price information, hence supporting national policies. Thus the proposal provides a common denominator in relation to the objective to be achieved.

- The link between consumer information and the policy of promoting the standardisation of product packages should be severed:
  Consumers' rights to information pursuant to Article 129a of the Treaty must no longer be compromised by the complexity of the existing system, and price transparency must be recognised as a priority objective

- There is an urgent need for a comprehensive solution:
  The approaching expiry of the transitional period envisaged in the current mechanism has often been invoked. Hence the need to propose a modified mechanism to ensure legal certainty for all parties, without interfering with the Community decision-making process.

23 To accommodate these concerns, the Commission on 5 December 1994 presented a proposal for a European Parliament and Council Directive amending Council Directive 79/581/EEC on consumer protection in the indication of the prices of products offered to consumers, as amended by Council Directive 88/315/EEC and Council Directive 88/314/EEC on consumer protection in the indication of the prices of non-food products – COM(94)431 final.

The new proposal, amended after the first reading under Article 189b of the Treaty, provides for extending the transitional period under the current regime by two years, after which the new simplified mechanism should enter into force.

The point is to ensure the existing mechanism's legal certainty and to provide a reasonable time for establishing the new, simplified mechanism.

This "carry-over" proposal is currently being examined by the European Parliament and the Council.

24 The legal basis for the proposed simplified system is Article 129a(2). By severing the existing link between the Directives on the indication of unit prices and the Community mechanism governing ranges of pre-packaged products – whose main purpose is to ensure the free movement of the goods concerned within the internal market – the policy on indication of the unit price will henceforth belong in the context of "specific action which supports and supplements the policy pursued by the Member States to protect the health, safety and economic interests of consumers and to provide adequate information to consumers" as provided for in paragraph 1(b) of Article 129a.

25 In order to comply with the desired objective, namely to improve consumer information on product prices, the Commission envisages the preparation of a report which will be submitted to the institutions not later than four years after the entry into effect of the provisions adopted under this Directive.

This report will survey the measures adopted by the Member States in implementing the Directive, notably those provided for in Article 6. Hence the objective is to identify the respective contributions of the Member States and the Community in improving consumer price information.

26 Two years before this global report an intermediate report will be presented which will focus more specifically on the measures adopted by the Member States in adapting the mechanism to small retail businesses, which will have benefited from an extension in regard to the obligation to indicate the unit price.

Pursuing its aim of improving consumer information, the Commission will present this initial interim report with a view to analysing the opportunities available to small retailers in the light of technological change and to evaluating in what way the sector will be associated with the introduction of the single currency.

F. CONTENT OF THE PROPOSAL SUBMITTED

27 *The content of the simplified mechanism.*

Article 1

Article 1 sets out the scope of the Directive and enshrines the general principle of indicating the selling price and unit price with a view to informing consumers, both in regard to foodstuffs and non-food products. The scope is intentionally restricted to cases where price comparison is relevant, so that the measure will not go beyond what is necessary. There are in fact a number of situations in which

price comparison does not provide any relevant information to the consumer, notably where products have very different characteristics or where they relate to differentiated consumer needs.

This is for example the case with custom products, garments, motor cars, furniture and all products where indication of measurement, be it weight, length or any other quantity, does not provide useful information for price comparison purposes.

The obligation to display prices is incumbent on sellers offering wares to the public, in other words the final consumer, a natural person who is not purchasing in the course of business. Thus the rules on price indication do not apply to dealings between suppliers and retailers.

Article 2

Article 2 contains the definitions relevant to the Directive. They are partly based on existing Directives on the indication of prices. The wording has been altered to take into account certain products which are normally sold in different quantities than the values of the base quantity. Member States may decide that the unit price be indicated by reference to such a quantity. Such choices obviously have to be justified.

Article 3

Article 3 sets out the principles, viz. the obligation to indicate both the unit price and the selling price.

For bulk products, only the unit price must be indicated, since the selling price cannot be established until the final consumer says how much he wants.

Article 4

Article 4 deals with the requirements which must be complied with in regard to price indications. The objective here is to ensure that the information is really communicated.

Article 5

Article 5 provides that it is for the Member States to lay down the specific rules concerning labelling and marking, because this has to be done taking commercial practices into account. Hence Member States may specify the cases in which it is necessary to label the price of each product individually and those in which it is enough to put a price label on the shelf.

Similarly it is with an eye to effectiveness that the Member States will be required to specify the cases in which choice of the unit of measurement must relate to a different quantity than the weights or measures enumerated in Article 2(b).

Article 6

Article 6 sets out the role of the Member States in selecting exemptions for a certain number of products for which indication of the unit price would not be useful in terms of consumer information. The wording is such as not to restrict the broad scope of the mechanism and also to provide the Member States with the general criteria for determining the reach of the exemptions.

In the case of non-food products, there is clearly a large variety of articles in respect of which the unit price is not significant. Member States are therefore free to lay down a positive list of products covered instead of a negative list of exemptions, which would take longer to finalise, with a view to managing the mechanism more readily.

Article 7

Article 7 allows Member States to extend, if necessary, the period of exemption from the obligation to indicate the unit price by a maximum of four years in the case of certain small retail businesses. A total period of six years should be enough to allow all retailers to comply with the general objective of informing consumers.

Article 8

Article 8 concerns enforcement of the rules by the Member States, particularly in the form of sanctions.

Article 9

Article 9 provides for the repeal of the existing mechanism on the expiry of the transitional period on 7 June 1997 and the implementation of the new mechanism mentioned in the following article.

Article 10

Article 10 specifies the relevant dates for the implementation of the new mechanism. It specifies that Member States shall notify any exemptions they have introduced.

Article 11

Article 11 provides that the Commission will monitor implementation of the mechanism and present a report to Parliament and Council not later than four years after the deadline for transposition.

This report will be preceded two years earlier by an interim report concerning the adaptation conditions for small retail businesses, depending on the options taken up by the Member States pursuant to Article 7 and the notifications received pursuant to Article 10(3).

Article 12

Article 12 is the traditional reference for instruments adopted by the European Parliament and the Council of the European Union.

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EUROOPAN PARLAMENTTI JA EUROOPAN UNIONIN NEUVOSTO, jotka

ottavat huomioon Euroopan yhteisön perustamissopimuksen ja erityisesti sen 129 a artiklan 2 kohdan,

ottavat huomioon komission ehdotuksen[1],

ottavat huomioon talous- ja sosiaalikomitean lausunnon[2],

noudattavat Euroopan yhteisön perustamissopimuksen 189 b artiklassa määrättyä menettelyä,

sekä katsovat, että

1. on tärkeää taata kuluttajansuojan korkea taso, ja yhteisön olisi osallistuttava siihen erityisillä toimilla, joilla säädetään riittävistä hintatiedoista kuluttajille tarjottavissa tuotteissa,

2. yhteisön toimintaohjelmissa kuluttajansuojaa ja kuluttajavalistusta koskevaksi politiikaksi[3] edellytetään hintojen ilmoittamista koskevien yhteisten periaatteiden luomista,

3. nämä periaatteet on vahvistettu elintarvikkeiden osalta 19 päivänä kesäkuuta 1979 annetulla neuvoston direktiivillä 79/581/ETY[4], sellaisena kuin se on muutettuna 7 päivänä kesäkuuta 1988 annetulla neuvoston direktiivillä 88/315/ETY[5], ja muiden tuotteiden kuin elintarvikkeiden osalta 7 päivänä kesäkuuta 1988 annetulla neuvoston direktiivillä 88/314/ETY[6],

4. myyntihinnan ja yksikköhinnan ilmoittamisvelvollisuus parantaa merkittävästi kuluttajavalistusta antamalla kuluttajille olennaista tietoa järkevän päätöksenteon mahdollistamiseksi,

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1 EYVL N:o
2 EYVL N:o
3 EYVL N:o C 92, 25.4.1975, s. 2 ja EYVL N:o C 133, 3.6.1981, s. 2
4 EYVL N:o L 158, 26.6.1979, s. 19
5 EYVL N:o L 142, 9.6.1988, s. 23
6 EYVL N:o L 142, 9.6.1988, s. 19

[redacted]

5. säädetty järjestelmä sisältää kuitenkin tietyn määrän poikkeuksia yleisestä myyntihinnan ja yksikköhinnan ilmoittamisvelvollisuudesta erityisesti silloin, kun myytyjen tuotteiden määrä- tai tilavuusvalikoima vastaa yhteisön tasolla hyväksyttyjä arvoja,

6. tämä tuotteiden yksikköhinnan ilmoittamisen ja pakkauskoon standardisoinnin välinen yhteys on vaikeuttanut säädetyn järjestelmän täytäntöönpanoa, joka on osoittautunut erittäin monimutkaisiksi soveltaa, ja tämän vuoksi olisi hylättävä tämä yhteys tarvittavan yksinkertaistamisen aikaansaamiseksi, sanotun kuitenkaan vaikuttamatta pakkauskoon standardisointiin liittyvään järjestelmään,

7. olisi otettava huomioon kaikki edellä mainituissa direktiiveissä säädetyn järjestelmän täytäntöönpanoa koskevat ongelmat ja ehdotettava uutta yksinkertaistettua järjestelmää, jolla mahdollistetaan paremmin halutun ensisijaisen tavoitteen saavuttaminen eli riittävän tiedon takaaminen kuluttajille,

8. myyntihinnan ja yksikköhinnan ilmoittamisella tarjotaan yksinkertaisimmalla tavalla kuluttajille parhaimmat mahdollisuudet tuotteiden luonteen ja laadun arvioimiseen ja vertailuun, sekä tarjotaan heille mahdollisuus tehdä arvostelukykyisiä valintoja yksinkertaisen vertailun perusteella,

9. tämän vuoksi olisi säilytettävä yleinen sekä myyntihinnan että yksikköhinnan ilmoittamisvelvollisuus kaikkien tuotteiden osalta lukuun ottamatta pakkaamattomina myytäviä tuotteita, joiden myyntihintaa ei voida vahvistaa ennen kuin kuluttaja on ilmoittanut haluamansa määrän,

10. ainoastaan yhteisön tasolla mukautetuilla säännöksillä voidaan taata yhtenäinen ja selkeä tiedotus kaikille kuluttajille osana sisämarkkinoita; uusi yksinkertaistettu lähestymistapa on sekä riittävä että tarpeen tämän tavoitteen saavuttamiseksi,

11. hintamerkintöjen selkeys on lisäksi ensisijaisen tärkeää talous- ja rahaliiton toteuttamisessa, ja selkeyttä on siis merkittävästi parannettava sekä voimaansaattamista suunnitella hyvissä ajoin yhteiseen rahaan siirtymisen yhteyteen,

12. yhteisen rahan käyttöönotto helpottuu huomattavasti, kun kuluttajat saavat käyttöönsä yksinkertaisia viitetietoja tuotteiden hintavertailuun,

13. lisäksi on syytä ottaa huomioon, että tiettyjen tuotteiden myynnissä käytetään yleisesti ja tavanomaisesti määriä, jotka eroavat direktiivissä mainituista perusmääräarvoista, ja tämän vuoksi on suotavaa, että jäsenvaltiot voivat tietyissä tapauksissa sallia yksikköhinnan ilmoittamisen suhteessa yleisesti käytettyyn määräarvoon,

14. jäsenvaltioilla on oltava mahdollisuus mukautua yksikköhinnan ilmoittamisvelvollisuuteen tietyn kaupankäynnin tai tiettyjen kaupankäyntimuotojen osalta ja myös mahdollisuus määritellä,että tällainen

ilmoittaminen ei ole tarpeen tietyn tuotemäärän osalta, silloin kun siitä ei käy ilmi kuluttajille hyödyllistä tietoa,

15. jäsenvaltioilla olisi myös oltava mahdollisuus poiketa yksikköhinnan ilmoittamisvelvollisuudesta silloin kun tuotteen hinnan ilmoittamisella ei ole merkitystä tai silloin kun se aiheuttaisi sekaannusta; tämä koskee erityisesti tapauksia, jolloin määrän ilmoittaminen ei ole oleellista hintojen vertailun kannalta tai eri tuotteita pidetään kaupan samassa pakkauksessa,

16. täytäntöönpannun järjestelmän soveltamisen helpottamiseksi jäsenvaltiot voivat muiden tuotteiden kuin elintarvikkeiden osalta laatia luettelon niistä tuotteista tai tuoteluokista, joihin edelleen sovelletaan yksikköhinnan ilmoittamisvelvollisuutta.

17. on otettava huomioon jakelumuotojen kehittyminen, ja olisi löydettävä ratkaisu, jolla saavutettaisiin paras mahdollinen tuotteiden hintoja koskeva kuluttajavalistus mahdollisimman alhaisilla kustannuksilla,

18. olisi säädettävä vaihtelevasta mukautumiskaudesta asianomaisten taloudellisten toimijoiden mukaan sen mahdollistamiseksi, että nämä voivat toteuttaa yksikköhinnan ilmoittamista koskevat yksityiskohtaiset säännöt, ja

19. erityistä huomiota on kiinnitettävä pienissä vähittäisliikkeissä tehtäviin sopeutustoimiin, sekä etenkin on otettava huomioon teknologian kehittyminen sekä laadittu yhteisen rahan käyttöönottoaikataulu, ja siksi komissio esittää tilanteesta arviointikertomuksen kaksi vuotta ennen järjestelmän yleisen käyttöönoton viimeistä määräpäivää,

OVAT ANTANEET TÄMÄN DIREKTIIVIN:

1 artikla

Tämän direktiivin tavoitteena on säätää sekä myyntihinnan että yksikköhinnan ilmoittamisesta kauppiaiden kuluttajille tarjoamissa tuotteissa hintavertailun helpottamiseksi silloin, kun se osoittautuu aiheelliseksi.

2 artikla

Tässä direktiivissä tarkoitetaan:

a) 'myyntihinnalla' tuotteen tietyn määrän hintaa;

b) 'yksikköhinnalla' tuotteen kilo-, litra-, metri-, neliömetri- tai kuutiometrihintaa tai muuta määrää, jos sitä käytetään jäsenvaltioissa yleisesti ja tavanomaisesti erityisten tuotteiden myynnissä;

c) 'pakkaamattomina myytävillä tuotteilla' tuotteita, joita ei ole pakattu valmiiksi ja/tai joita ei mitata tai punnita muutoin kuin kuluttajan ollessa läsnä.

3 artikla

1. Myyntihinta ja yksikköhinta on ilmoitettava kaikkien 1 artiklassa mainittujen tuotteiden osalta, jollei 6 artiklan säännöksistä muuta johdu.

2. Jos tuotteet myydään pakkaamattomina, yksikköhinta on ilmoitettava kaikkien 1 artiklassa mainittujen tuotteiden osalta, koska myyntihintaa ei voida vahvistaa, ennen kuin kuluttaja on ilmoittanut haluamansa määrän.

4 artikla

1. Myyntihinnan ja yksikköhinnan on oltava yksiselitteisiä, helposti tunnistettavia ja selvästi luettavia.

2. Myyntihinnan ja yksikköhinnan on jäsenvaltioiden säätämien edellytysten mukaisesti liityttävä tuotteen lopulliseen hintaan.

3. Yksikköhinnan on kansallisten ja yhteisön säännösten mukaisesti viitattava pakkauksessa ilmoitettuun määrään. Tässä tarkoitetaan erityisesti tuotteiden nettomääriä.

5 artikla

Jäsenvaltioiden on määriteltävä hinnan ilmoittamisen soveltamista koskevat yksityiskohtaiset säännöt erityisesti 2 artiklan b kohdassa tarkoitettuihin yleisesti ja tavanomaisesti käytettyihin määriin sovellettavien hintojen osalta.

6 artikla

1. Jäsenvaltiot voivat olla soveltamatta yksikköhinnan ilmoittamisvelvollisuutta kun on kyse tuotteista, joihin sovellettuna tällaisella ilmoittamisella ei olisi merkitystä tuotteiden luonteen tai tarkoituksen vuoksi tai jos tällaisen ilmoituksen tiedot ovat kuluttajalle merkityksettömiä tai ovat omiaan aiheuttamaan sekaannusta.

2. Jäsenvaltiot voivat olla soveltamatta yksikköhinnan ilmoittamisvelvollisuutta kun on kyse tuotteista, joissa pituuden, painon tai tilavuuden ilmoittamista ei vaadita kansallisella tai yhteisön tasolla annetuissa säännöksissä. Tätä voidaan soveltaa erityisesti yksittäin tai yksiköittäin myytäviin tuotteisiin.

3. Edellä 1 ja 2 kohdassa annettujen säännösten soveltamiseksi jäsenvaltiot voivat muiden tuotteiden kuin elintarvikkeiden osalta laatia luettelon niistä tuotteista tai tuoteluokista, joihin edelleen sovelletaan yksikköhinnan ilmoittamisvelvollisuutta.

7 artikla

Jäsenvaltiot voivat säätää, että muiden kuin tietyissä pienissä vähittäismyyntipaikoissa pakkaamattomina myytävien tuotteiden yksikköhinnan ilmoittamisvelvollisuutta sovelletaan viimeistään 6 päivänä kesäkuuta 2001, mikäli yksikköhinnan ilmoittamisvelvollisuus 7 päivästä kesäkuuta 1997 alkaen

-aiheuttaisi todennäköisesti kohtuutonta vaivaa tällaisille myyntipaikoille,

tai

-olisi ilmeisen epäkäytännöllistä myytäväksi tarjottujen tuotteiden lukumäärän, myyntialueen ja sen ominaisuuksien tai tiettyihin kaupankäyntimuotoihin kuten eräisiin liikkuvan kaupan muotoihin liittyvien erityisolosuhteiden vuoksi.

8 artikla

Jäsenvaltioiden on säädettävä tämän direktiivin mukaisesti annettujen kansallisten säännösten rikkomiseen sovellettavasta seuraamusjärjestelmästä ja toteutettava kaikki tarvittavat toimenpiteet sen täytäntöönpanon varmistamiseksi. Säädettyjen seuraamusten on oltava tehokkaita ja oikeassa suhteessa rikkomukseen, ja niillä on oltava ennalta ehkäisevä vaikutus.

9 artikla

Kumotaan 19 päivänä kesäkuuta 1979 annettu neuvoston direktiivi 79/581/ETY, sellaisena kuin se on muutettuna 7 päivänä kesäkuuta 1988 annetulla neuvoston direktiivillä 88/315/ETY, sekä 7 päivänä kesäkuuta 1988 annettu neuvoston direktiivi 88/314/ETY 7 päivästä kesäkuuta 1997 alkaen.

10 artikla

1. Jäsenvaltioiden on saatettava voimaan tämän direktiivin noudattamisen edellyttämät lait, asetukset ja hallinnolliset määräykset viimeistään 6 päivänä kesäkuuta 1997. Niiden on ilmoitettava tästä komissiolle viipymättä. Annettuja säännöksiä sovelletaan 7 päivästä kesäkuuta 1997.

2. Näissä jäsenvaltioiden antamissa säädöksissä on viitattava tähän direktiiviin tai niitä virallisesti julkaistaessa niihin on liitettävä viittaus tähän direktiiviin. Jäsenvaltioiden on säädettävä siitä, miten viittaukset tehdään.

3. Jäsenvaltioiden on ilmoitettava tämän direktiivin alaan liittyvistä kysymyksistä antamansa kansalliset säännökset kirjallisina komissiolle. Niiden on ilmoitettava erityisesti 5, 6 ja 7 artiklan nojalla annetuista säännöksistä sekä kaikista myöhemmistä muutoksista niihin.

4. Jäsenvaltioiden on ilmoitettava 8 artiklassa säädetystä seuraamusjärjestelmästä sekä kaikista myöhemmistä muutoksista siihen.

11 artikla

1. Komissio jättää Euroopan parlamentille ja neuvostolle viimeistään kaksi vuotta 10 artiklan 1 kohdassa tarkoitetun päivämäärän jälkeen 7 artiklassa annettujen säännösten soveltamista koskevan ensimmäisen kertomuksen.

2. Komissio jättää Euroopan parlamentille ja neuvostolle viimeistään neljä vuotta 10 artiklan 1 kohdassa tarkoitetun päivämäärän jälkeen tämän direktiivin soveltamista koskevan kokonaiskertomuksen.

12 artikla

Tämä direktiivi on osoitettu kaikille jäsenvaltioille.

Tehty ... päivänä ... kuuta

Euroopan parlamentin puolesta	Neuvoston puolesta
Puhemies	Puheenjohtaja

IMPACT ASSESSMENT FORM

THE IMPACT OF THE PROPOSAL ON BUSINESS,
notably small and medium-sized enterprises (SMEs)

TITLE OF PROPOSAL:

Proposal for a European Parliament and Council Directive on consumer protection in the indication of the prices of products offered to consumers

Reference No:

COM (95) 276

THE PROPOSAL:

1. As announced by the Commission in its report to the European Council on the adaptation of Community legislation to the subsidiarity principle (COM 93/545 final of 24 November 1993), the texts which make up the existing mechanism have given rise to a number of difficulties which may be summarised as follows:

- the provisions are extremely detailed and complex to implement;
- industry and the distributive trades, notably in the foodstuffs sector, have difficulties in applying the mechanism;
- several Member States have indicated to the Commission that they would like to see the mechanism revised before the end of the transitional period (June 1995);
- the mechanisms selected tend in practice to encourage standardised ranges, which in turn engenders certain other problems.

In practice, it is extremely complex to determine the situations in which the unit price has to be indicated, because of the difficulty in identifying exemption regimes which are mandatory or optional, both at Community level and under domestic law.

This concerns both products whose prices have to be indicated and the traders who have to apply the mechanism.

More generally, the mechanism, which takes up an idea dating from the 70s, virtually ignores trends in the distributive trades and in consumption patterns over the past 20 years.

Hence it was necessary to present a draft satisfying a twin objective:

- to simplify the mechanism on the basis of experience gained, both as regards implementing the indication of unit prices and in the light of the fact that the link between pre-packaged ranges and product prices is not appropriate

- to recall the roles of the Community, the Member States and the economic operators respectively in contributing to the improvement of consumer information

Very wide-ranging consultations

2. On the basis of the guidelines already advanced, DG XXIV organised a large number of consultations with all concerned - trade, industry, consumer representatives and Member State officials and experts.

Several preliminary drafts of the text were circulated informally to the relevant parties as far back as July 1994. All the organisations that attended the expert meetings had the opportunity to submit their observations and suggestions. DG XXIV has replied to all involved in the debates and invitations organised on this topic both by trade and industry.

A request for an opinion was also submitted to the Consumers' Consultative Council in July 1994. The CCC came out in favour of the proposed approach.

Individual consultations have also been held with enterprises and firms that were keen to express personal viewpoints. Hence several dozen consultations have already taken place both with manufacturers and distributors, as well as specialists in commercial equipment.

Finally, the discussions which took place in the first half of 1995 during the interinstitutional examination of the proposal for a Directive (COM(94)431 final) on the extension of the current transitional system made possible an in-depth debate. It emerges that the views expressed by the economic operators are far from fixed and unchanging.

The great majority of those consulted are in favour of simplification. Similarly, it seems that indication of the unit price is the most appropriate way of informing the consumer whenever price comparisons can usefully be made.

Reservations have been expressed as regards the excessive burden on certain traders, mainly on the part of those who fear that interest in the pre-packaged ranges that industry developed in the 70s and 80s may wane.

However it should be noted that the approaches have not been uniform. Frequently different and even contrasting opinions were heard even from within the same sector from organisations representing kindred interests or at least considered to be such.

Impact on business

3. Since indication of unit prices is a task for the distributors, only they are liable to be affected.

Industry cannot reasonably claim that it will incur any supplementary costs.

One argument occasionally invoked is that the new mechanism undermines the investments made by industry in quantity ranges. This argument is unfounded since the new mechanism in no way vitiates or otherwise affects work on ranges or their scope. On the contrary, by abolishing the subordination relationship between unit prices and ranges, the new mechanism opens the way to a more flexible policy on ranges.

More generally, the new mechanism is not only unlikely to impose significant new burdens for business but will more probably lead to substantial savings - paradoxical though this may seem.

As things stand indication of unit prices is mandatory only for certain products which are often hard to identify for those unfamiliar with Community or national ranges concerning prepackaged products.

A large proportion of the distributive trades using modern management methods have already introduced unit prices or are about to do so. The technologies used involve bar codes and scanners.

Currently it is probably more costly to indicate unit prices for certain products in a product line than for the product line it its entirety.

More and more experience is also being gained in evaluating new and low-cost methods of on-shelf electronic labelling.

Existing and forthcoming technologies suggest that indication of unit prices will become the rule for a large part of the distributive trades, and this at a moderate price.

The main reason is the progressive introduction throughout the retail trade of bar codes and the scanning procedure.

Today, with the exception of fresh agricultural produce and fish sold in bulk, a very large proportion of products are already bar-coded.

Moreover bar codes are generally under-used because they were designed to "carry" information on prices and this part of the code is used as a rule only by large and medium-sized distributors. Thus the question boils down to the cost of the "loading" and reading prices using bar code technology.

Looking at what equipment of this kind costs today and at its current or foreseeable performance, the additional costs invoked by those who are wary of a new mechanism call for far more nuanced approach.
However, delays in the diffusion of advanced technology and its introduction by the retail trade have to be taken into account in fleshing out the new mechanism.

Adaptation of small retail businesses

Very close attention has to be paid to the features of small retail businesses notably because of the important role small local shops play in the social fabric.

Several considerations have been taken into account:

- the mechanism has to be a stable one, so as to make it easier for Member States and the economic operators to make it work. Hence we opted for a flexible solution responsive to the needs of small retail businesses.

- to ensure consonance with the subsidiarity principle, there was no question of the Community intervening to lay down limits for sales areas or turnover;

- so as not to fall foul of the objective of improving price information, the Commission had to contribute to realising a high level of consumer protection;

- the provision of technical solutions still under development and the need for adjustment on the part of certain particular types of business had to be considered, not only in terms of additional costs - which might be less than expected - but also in terms of the relevant timescale.

In the light of the above, the question was to estimate the time necessary to realise the objective in the best possible conditions. The consultations indicated that a period of four years would be quite sufficient for the necessary adaptations. This period must be consonant with the procedures laid down for transition to the single currency, and all are agreed that trade and consumers will be the main actors, and that awareness-raising measures will be called for.

In order to monitor these adaptations as closely as possible, the Commission intends to allow the Community and the operators concerned to participate in the evaluations; this is why an interim report is foreseen, to be presented two years after the entry into force of the Directive, and relating specifically to these issues.

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