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*****I**

REPORT

on the proposal for a regulation of the European Parliament and of the Council
on the placing on the market and use of feed
(COM(2008)0124 – C6-0128/2008 – 2008/0050(COD))

Committee on Agriculture and Rural Development

Rapporteur: Friedrich-Wilhelm Graefe zu Baringdorf

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on the placing on the market and use of feed
(COM(2008)0124 – C6-0128/2008 – 2008/0050(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0124),
 - having regard to Article 251(2) Article 37 and Article 152(4)(b) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0128/2008),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Agriculture and Rural Development (A6-0407/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Amendment 1

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) As a consequence of the BSE- and dioxin crisis, the obligation to indicate the weight percentage of all feed materials incorporated in compound feed had been introduced in 2002. In parallel, the level of food and feed safety has been *meanwhile* significantly improved due to Regulations (EC) No 178/2002 and No 183/2005 and their implementing measures, explicitly the focus on the responsibility of the feed and food business operators, the improved traceability system, the introduction of the

Amendment

(17) As a consequence of the BSE- and dioxin crisis, the obligation to indicate the weight percentage of all feed materials incorporated in compound feed had been introduced in 2002 *at the initiative of the European Parliament*. In parallel, the level of food and feed safety has been significantly improved due to Regulations (EC) No 178/2002 and No 183/2005 and their implementing measures, explicitly the focus on the responsibility of the feed and food business operators, the improved

HACCP principle in feed businesses and the guides to good hygiene practice in feed businesses. These positive achievements, mirrored in the notifications to the Rapid Alert System for Food and Feed, justify that the obligation to indicate the weight percentage of all feed materials incorporated in compound feed should be abandoned. The exact percentages *could* be provided for on a voluntary basis.

traceability system, the introduction of the HACCP principle in feed businesses and the guides to good hygiene practice in feed businesses. These positive achievements, mirrored in the notifications to the Rapid Alert System for Food and Feed, justify that the obligation to indicate the weight percentage of all feed materials incorporated in compound feed should be abandoned. The exact percentages *may* be provided for on a voluntary basis, ***but must be notified to the authorities and should be made available to interested consumers upon demand.***

Justification

Measures must be taken to ensure that the open declaration of feed materials continues to be provided by ensuring access to this information, although the information on the label is only provided on a voluntary basis.

Amendment 2

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) In certain areas where the producer is not obliged to label particulars, the customer should have the possibility to request additional information. Nonetheless, the indication of the feed materials incorporated in compound feed in descending order of weight, already provides important information on compositional data. ***Taking into account the recent developments in Community legislation which give higher guarantees as regards in particular HACCP, traceability, strict hygiene rules and the development of Community guides to good practice for hygiene, the manufacturer should be allowed to reject the request if he considers the requested disclosure to infringe his intellectual property rights. This would not affect the***

Amendment

(19) In certain areas where the producer is not obliged to label particulars, the customer should have the possibility to request additional information. ***Intellectual property rights of the producer should be protected; thus a margin of +/- 15% of the declared value should be permitted.*** Nonetheless, the indication of the feed materials incorporated in compound feed in descending order of weight, already provides important information on compositional data.

food and feed safety, since the competent authorities always have the right to get the exact percentages of all feed materials.

Justification

The +/-15 % tolerance allowed in connection with the composition of compound feeds is consistent with the CJEC judgment on the labelling of compound feeds and takes sufficient account of manufacturers' interests. An additional right to refuse disclosure, as provided for in the proposal for a regulation, by invoking the 'commercially sensitive' nature of information or 'intellectual property rights', would ultimately render this provision meaningless, however.

Amendment 3

**Proposal for a regulation
Recital 19 a (new)**

Text proposed by the Commission

Amendment

(19a) In the event that animal meal of Category 3 within the meaning of Regulation (EC) No 1774/2002 derived from parts of slaughtered animals which are fit for human consumption may be used, under certain conditions as specified in Regulation (EC) No 1774/2002 and Regulation (EC) No 999/2001, as feed for animals other than ruminants, that animal meal must be clearly labelled on compound feed.

Justification

The Commission has announced an amendment to Regulation (EC) No 999/2001 which could lead to the authorisation of animal meal of Category 3 in certain feedingstuffs for animals other than ruminants. In this case, measures would have to be taken to ensure that the presence of animal meal in compound feed is clearly labelled, thereby going beyond the listing of feed materials used in accordance with Article 17.

Amendment 4

Proposal for a regulation Recital 20

Text proposed by the Commission

(20) Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed does not rule the labelling of feed with excessive levels of undesirable substances. Therefore, adequate provisions should be laid down.

Amendment

(20) Directive 2002/32/EC of the European Parliament and of the Council of 7 May 2002 on undesirable substances in animal feed does not rule the labelling of feed with excessive levels of undesirable substances. Therefore, adequate provisions should be laid down ***in order to ensure that the dilution ban pursuant to Article 5 of Directive 2002/32/EC is respected and to prevent batches being placed on the market for detoxification or disposal.***

Justification

Contaminated feedingstuffs must not enter the food chain.

Amendment 5

Proposal for a regulation Recital 25

Text proposed by the Commission

(25) Modern labelling facilitates a competitive market environment in which dynamic, efficient, innovative operators can make full use of labelling to sell their products. Having regard to both the business to business relation in the marketing of livestock feed and the relationship between the manufacturer and purchaser of pet food, Codes of good labelling for these two areas could be useful means of achieving the objectives of modern labelling. These Codes ***may interpret the framework given for voluntary*** labelling.

Amendment

(25) Modern labelling facilitates a competitive market environment in which dynamic, efficient, innovative operators can make full use of labelling to sell their products. Having regard to both the business to business relation in the marketing of livestock feed and the relationship between the manufacturer and purchaser of pet food, Codes of good labelling for these two areas could be useful means of achieving the objectives of modern labelling. These Codes ***are a useful instrument which assists undertakings in implementing the provisions on feedingstuff*** labelling.

Justification

It should be emphasised that guidelines and codes of behaviour contribute to the practical implementation of legal provisions. They may facilitate interpretation of the leeway provided by legislation, but are not an instrument for flexibilisation.

Amendment 6

Proposal for a regulation

Article 2 – paragraph 2 – letter a

Text proposed by the Commission

Amendment

(a) Directive 90/167/EEC;

(a) Directive 90/167/EEC ***laying down the conditions governing the preparation, placing on the market and use of medicated feedingstuffs in the Community;***

Justification

Clarification.

Amendment 7

Proposal for a regulation

Article 2 – paragraph 2 – letter b

Text proposed by the Commission

Amendment

(b) Directive 2002/32/EC;

(b) Directive 2002/32/EC ***on undesirable substances in animal feed;***

Justification

Clarification

Amendment 8

Proposal for a regulation

Article 2 – paragraph 2 – point f a (new)

Text proposed by the Commission

Amendment

(fa) Regulation (EC) No 1831/2003 of the European Parliament and of the Council

***of 22 September 2003 on additives for use
in animal nutrition;***

Justification

This regulation should apply without prejudice to the provisions of Regulation (EC) No 1831/2003 on additives for use in animal nutrition. In particular, the requirements laid down in this regulation governing placing on the market should not undermine the specific requirements governing the placing on the market of additives laid down by the regulations referred to or create legal uncertainty.

Amendment 9

Proposal for a regulation

Article 2 – paragraph 2 – point f b (new)

Text proposed by the Commission

Amendment

***(fb) Council Regulation (EC)
No 834/2007 of 28 June 2007 on organic
production and labelling of organic
products¹.***

¹ OJ L 189, 20.7.2007, p. 1.

Justification

The requirements laid down in this regulation for the placing on the market of feed should not undermine the provisions in other legislative texts governing the placing on the market of additives and feed and/or create legal uncertainty.

Amendment 10

Proposal for a regulation

Article 2 – paragraph 3

Text proposed by the Commission

Amendment

3. This Regulation shall not apply to water, either taken in directly by the animals or intentionally incorporated into feed.

3. This Regulation shall not apply to water, either taken in directly by the animals or intentionally incorporated into feed. ***It shall, however, apply to feed designed to be administered in water.***

Justification

Although this regulation does not contain provisions dealing with water, many kinds of feed are administered in water, a relevant use of feed which should certainly be covered by the regulation under consideration here.

Amendment 11

Proposal for a regulation

Article 3 – paragraph 2 – point -a (new)

Text proposed by the Commission

Amendment

(-a) ‘Oral animal feeding’: the introduction of feedingstuffs into an animal’s gastrointestinal tract through the mouth with the aim of meeting the animal’s nutritional needs and/or maintaining the productivity of normally healthy animals.

Justification

Modern feeding practice is not confined to making traditional forms of feed available, but also covers the active or passive provision of a wide range of nutrients which help to keep animals physically and psychologically healthy. Oral animal feeding encompasses all these practices and should therefore be covered by this regulation.

Amendment 12

Proposal for a regulation

Article 3 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) ‘Compound feed’: mixture of feed materials, whether or not containing feed additives, for oral animal feeding in the form of complete or complementary feed;

(f) ‘Compound feed’: mixture of ***at least two*** feed materials, whether or not containing feed additives, for oral animal feeding in the form of complete or complementary feed;

Amendment 13

Proposal for a regulation

Article 3 – paragraph 2 – point g

Text proposed by the Commission

(g) ‘Complete feed’: compound feed which, by reason of its composition, is sufficient for a daily ration;

Amendment

(g) ‘Complete feed’: compound feed which, by reason of its composition, is sufficient for a daily ration, **as defined in Article 2(2)(f) of Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition¹**;

¹ OJ L 268, 18.10.2003, p. 29.

Justification

The definition ought to be amended to ensure that all components related to the nutritional value of the feed are mentioned. This can be done by referring to the existing definition of 'daily ration' provided for by Article 2(2)(f) of Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition: 'daily ration' means the average total quantity of feedingstuffs, calculated on a moisture content of 12 %, required daily by an animal of a given species, age category and yield, to satisfy all its needs.

Amendment 14

Proposal for a regulation

Article 3 – paragraph 2 – point h

Text proposed by the Commission

(h) ‘Complementary feed’: compound feed **with at least one feed material** which has a high content of certain substances but which, by reason of its composition, is sufficient for a daily ration only if used in combination with other feed;

Amendment

(h) ‘Complementary feed’: compound feed which has a high content of certain substances but which, by reason of its composition, is sufficient for a daily ration only if used in combination with other feed;

Justification

Given that compound feed is defined as a mixture of feed materials, complementary feed, which is considered as compound feed, cannot comprise only one material.

Amendment 15

Proposal for a regulation

Article 3 – paragraph 2 – point h a (new)

Text proposed by the Commission

Amendment

(ha) ‘Feed supplement’: feed consisting of a mixture of additives of all categories, with the exception of those listed in Chapter 3 of Annex IV to Regulation (EC) No 183/2005. In addition, it may be mixed with feed materials but, by reason of its composition, it is not sufficient for a daily ration. Its purpose is to meet animals' temporary increased and/or special nutritional requirements. It is administered either with or separately from the daily ration or in water;

Amendment 16

Proposal for a regulation

Article 3 – paragraph 2 – point k

Text proposed by the Commission

Amendment

(k) ‘Carrier’: substance used to dissolve, dilute, disperse or otherwise physically modify a feed additive in order to facilitate its handling, application or use ***without altering its technological function and without exerting any technological effect themselves;***

(k) ‘Carrier’: substance used to dissolve, dilute, disperse or otherwise physically modify a feed additive in order to facilitate its handling, application or use;

Justification

The purpose of the amendment is to simplify the text and to avoid misinterpretation.

Amendment 17

Proposal for a regulation

Article 3 – paragraph 2 – point o

Text proposed by the Commission

(o) ‘Batch’ or ‘lot’: ***unit of production from a single plant using uniform production parameters or a number of such units, when produced in continuous order and stored together. It consists of*** an identifiable quantity of feed ***and is determined to have*** common characteristics, such as origin, variety, type of packing, packer, consignor or labelling;

Amendment

(o) ‘Batch’ or ‘lot’: an identifiable quantity of feed ***having*** common characteristics, such as origin, variety, type of packing, packer, consignor or labelling;

Amendment 18

Proposal for a regulation

Article 3 – paragraph 2 – point p

Text proposed by the Commission

(p) ‘Labelling’: ***attribution of*** any words, particulars, trade marks, brand name, pictorial matter or symbol to a feed ***by placing this information*** on any ***medium like*** packaging, container, notice, label, ***document***, ring, collar or the internet ***referring to or*** accompanying such feed;

Amendment

(p) ‘Labelling’: any words, particulars, trade marks, brand name, pictorial matter or symbol ***relating*** to a feed ***and placed*** on any packaging, ***document***, container, notice, label, ring, collar ***or the internet*** accompanying such feed;

Justification

Referring to 'any medium' in the definition of labelling could inadvertently trigger requirements to give mandatory labelling information which would be too broad in scope and no longer serve the basic purpose of labelling, which is to give customers product information enabling them to make a choice.

Amendment 19

Proposal for a regulation

Article 3 – paragraph 2 – point q

Text proposed by the Commission

(q) ‘Label’: any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed, impressed on, or attached to a container of feed;

Amendment

(q) ‘Label’: any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed, impressed on, or attached to a container of feed **or any medium referring to or accompanying such feed;**

Justification

The labelling concept employed in this regulation reflects the fact that the label affixed to a container of feed represents only part of the information furnished by the supplier to the customer. With a view to improving the flow of information and ensuring that labels contain the information that feed users really want, a range of additional methods need to be employed. The definition of 'label' should be brought into line with the definition of 'labelling'.

Amendment 20

Proposal for a regulation

Article 3 – paragraph 2 – point r a (new)

Text proposed by the Commission

Amendment

(ra) 'First placing on the market': the first placing on the market of a feed after its manufacture or introduction.

Justification

First placing on the market: this principle, first employed in the additives regulation (Regulation (EC) No 1831/2003), has proved to be an effective means of reconciling the sometimes conflicting responsibilities and legal obligations of feed producers and livestock farmers. It is important that this definition should be incorporated into the regulation so that the various feed businesses have clearly defined responsibilities.

Amendment 21

Proposal for a regulation

Article 4 – paragraph 2 – point a

Text proposed by the Commission

(a) it is sound, ***genuine***, fit for purpose and of merchantable quality;

Amendment

(a) it is sound, ***unadulterated***, fit for purpose and of merchantable quality;

Justification

The term 'genuine' can give rise to confusion. The term 'unadulterated' is employed in Article 3 of Directive 79/373/EEC of 2 April 1979 on the marketing of compound feeds.

Amendment 22

Proposal for a regulation

Article 5 – paragraph 2

Text proposed by the Commission

2. ***Manufacturers of feed*** shall make available to the authorities responsible for carrying out official controls any information concerning the composition or claimed properties of the feed ***they place*** on the market which enables the accuracy of the information given by the labelling to be verified.

Amendment

2. ***The person responsible for the first placing on the market*** shall make available to the authorities responsible for carrying out official controls any information concerning the composition or claimed properties of the feed ***he places*** on the market which enables the accuracy of the information given by the labelling to be verified.

Justification

The concept of 'first placing on the market' is more appropriate since it also covers cases for which the importer and not the manufacturer is responsible pursuant to Articles 17, 18 and 20 of Regulation (EC) No 178/2002.

Amendment 23

Proposal for a regulation

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The competent authorities may pass on to consumers information forwarded to

them pursuant to paragraph 2 where they consider, after weighing up the respective legitimate interests of manufacturers and consumers, that such a step is justified. Where appropriate, the authorities shall make the passing on of information contingent on the signing of a confidentiality declaration.

Justification

Amendment 11 has been changed following the discussions in committee. The value of the open declaration concerning feed materials must be guaranteed by ensuring that where there are justified grounds for suspecting that the law has been breached access to this information is granted even though provision of the labelling particulars is only voluntary.

Amendment 24

Proposal for a regulation Article 6 – title

Text proposed by the Commission

Amendment

Prohibition

Prohibited materials

Amendment 25

Proposal for a regulation Article 6 – paragraph 2 - subparagraph 1

Text proposed by the Commission

Amendment

2. Taking into account in particular scientific evidence, technological progress, notifications under the Rapid Alert System for Food and Feed or results from official controls according to Regulation (EC) No 882/2004, the Commission shall adopt **a** list of materials whose placing on the market or use for animal nutritional purposes is prohibited.

2. Taking into account in particular scientific evidence, technological progress, notifications under the Rapid Alert System for Food and Feed or results from official controls according to Regulation (EC) No 882/2004, the Commission shall adopt **the list in Annex IIa** of materials whose placing on the market or use for animal nutritional purposes is prohibited.

Justification

The list of prohibited materials should be incorporated into the regulation itself, in an annex, like the list of authorised materials, and not appear in a separate text (at present Decision 2004/217/EC).

Amendment 26

Proposal for a regulation

Article 6 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

On imperative grounds of urgency, the Commission may invoke the urgent procedure specified in Article 29(4)(a), in order to ensure a high level of consumer protection.

Justification

In the interest of consumer protection, the Commission should be able to issue bans on certain materials in animal feed with immediate effect. In such cases the urgent procedure should be used.

Amendment 27

Proposal for a regulation

Article 7

Text proposed by the Commission

Amendment

In accordance with the procedure referred to in **Article 29(2)**, the Commission may adopt guidelines clarifying the distinction between feed materials, feed additives and veterinary drugs.

In accordance with the procedure referred to in **Article 29(4)**, the Commission may adopt guidelines clarifying the distinction between feed materials, feed additives and veterinary drugs.

Justification

Since the clarification of the scope of this regulation involves general measures to amend non-essential provisions of this regulation, inter alia by supplementing it, these measures must be issued in accordance with the regulatory procedure with scrutiny referred to in Article 5a of Decision 1999/468/EC.

Amendment 28

Proposal for a regulation Article 8

Text proposed by the Commission

Without prejudice to the conditions of use provided for in the Regulation authorising the respective feed additive, complementary feed shall not contain feed additives incorporated at levels more than 100 times the relevant fixed maximum content in complete feed or five times in case of coccidiostats and histomonostats

Amendment

Without prejudice to the conditions of use provided for in the Regulation authorising the respective feed additive, complementary feed, ***such as licking buckets containing minerals***, shall not contain feed additives incorporated at levels more than 100 times the relevant fixed maximum content in complete feed or five times in case of coccidiostats and histomonostats.

Amendment 29

Proposal for a regulation Article 10 – paragraph 4

Text proposed by the Commission

4. If, on the basis of available scientific and technical information, the **Commission** has reasons to believe that the use of the specific feed may not meet the particular intended nutritional purpose or may have adverse effects on animal health, human health, the environment and animal welfare, the Commission shall forward a request for a assessment together with the dossier to the European Food Safety Authority ('the Authority') within three months. The Authority shall give an opinion within six months of receipt of the request. This time limit shall be extended whenever the Authority seeks supplementary information from the applicant.

Amendment

4. If, on the basis of available scientific and technical information, the **committee defined in Article 29** has reasons to believe that the use of the specific feed may not meet the particular intended nutritional purpose or may have adverse effects on animal health, human health, the environment and animal welfare, the Commission shall, ***in accordance with the procedure laid down in Article 29(3)***, forward a request for a assessment together with the dossier to the European Food Safety Authority ('the Authority') within three months. The Authority shall give an opinion within six months of receipt of the request. This time limit shall be extended whenever the Authority seeks supplementary information from the applicant.

Justification

The rapporteur's Amendment 16 intends to give the right of referral of a dossier for a particular nutritional purpose individually to each Member State.

In the interest of EU harmonisation and to for ensure debate involving all Member States before referring a dossier to the EFSA, Member States should have the right to recommend a referral to the EFSA, whereas the decision on such a referral should be taken by the Standing Committee for the Food Chain and Animal Health.

Amendment 30

Proposal for a regulation Article 11– paragraph 3

Text proposed by the Commission

3. Where feed is offered for sale by means of distance communication as defined in Article 2 of Directive 97/7/CE of the European Parliament and of the Council the mandatory labelling particulars required by this Regulation shall appear on the material **supporting** the distance selling.

Amendment

3. Where feed is offered for sale by means of distance communication as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council the mandatory labelling particulars required by this Regulation shall appear on the **information** material **relating to** the distance selling **or be provided by any other appropriate means. In any event, provision of the particulars referred to in Article 15(d), (e) and (f) and Article 17(d) and (e), shall become mandatory only when the feed is delivered.**

Justification

In the special case of transactions by distance communication feed is very frequently sold before it is made, so that not all the labelling particulars are available at the time of ordering. This applies e.g. to the batch number, the net quantity and the expiry date. In addition, it is not possible to give the precise composition at the time of the binding order/sale, since compound feeds are currently being improved and the composition therefore changes from time to time.

Amendment 31

Proposal for a regulation Article 12– paragraph 1

Text proposed by the Commission

1. The **manufacturer of the feed** shall be responsible for the labelling particulars and ensure their presence and substantive accuracy.

Amendment

1. The **person responsible for the first placing on the market** shall be responsible for the labelling particulars and ensure their presence and substantive accuracy.

Justification

The principle of the 'first placing on the market' is more appropriate, since it also covers cases involving imported feed for which the importer and not the manufacturer is responsible pursuant to Articles 17, 18 and 20 of the basic foodstuffs regulation (Regulation (EC) No 178/2002).

Amendment 32

Proposal for a regulation Article 12 – paragraph 5

Text proposed by the Commission

5. Within the business under their control feed business operators shall ensure that mandatory labelling particulars **can be** transmitted throughout the food chain in order to enable the provision of the information to the final user in accordance with this Regulation.

Amendment

5. Within the business under their control feed business operators shall ensure that mandatory labelling particulars **are** transmitted throughout the food chain in order to enable the provision of the information to the final user in accordance with this Regulation.

Justification

The transmission of information along the food chain is one of the basic conditions for traceability and food safety in accordance with Regulation (EC) No 178/2002.

Amendment 33

Proposal for a regulation

Article 13 – paragraph 1 – point b

Text proposed by the Commission

(b) the person responsible for the labelling provides on request of the competent authority a scientific substantiation of the truthfulness of the claim, either via publicly available scientific evidence or through documented company research. The scientific substantiation shall be available at the time the feed is placed on the market.

Amendment

(b) the person responsible for the labelling provides on request of the competent authority a scientific substantiation of the truthfulness of the claim, either via publicly available scientific evidence or through documented company research ***which is open to scientific review***. The scientific substantiation shall be available at the time the feed is placed on the market. ***Thereafter, consumers shall have the right to receive from the competent authority a summary of the scientific substantiation or, where there are justified grounds for suspecting that a misleading claim has been made, to ask the competent authority to have such substantiation provided by the manufacturer.***

In order to guarantee appropriate scientific quality and uniform implementation, the Commission shall lay down guidelines concerning the requirements to be met by the scientific substantiation and its documentation. These guidelines shall also incorporate procedures for appraising the scientific substantiation by means of checks to be performed by the competent supervisory authorities. The guidelines shall be adopted in accordance with the advisory procedure referred to in Article 29(2).

Justification

In order to increase transparency, it is important that the Commission lay down guidelines to define the necessary rules to substantiate a claim for a feed material. The single market cannot operate properly if the Member State authorities (and in practice the regional/local authorities) alone are competent in matters of interpretation and implementation.

Amendment 34

Proposal for a regulation

Article 13 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) If the claim relates or may relate to a function of an additive on the basis of the functional groups referred to in Annex I to Regulation (EC) No 1831/2003, the presence of the additive in an effective concentration shall be regarded as sufficient substantiation of the truthfulness of the claim. If the claim in question is or cannot be related to a function of an additive, the appraisal of the scientific substantiation of the claim shall be carried out in accordance with Commission Regulation (EC) No 429/2008 of 25 April 2008 on detailed rules for the implementation of Regulation (EC) No 1831/2003 of the European Parliament and of the Council as regards the preparation and the presentation of applications and the assessment and the authorisation of feed additives¹.

¹ OJ L 133, 22.5.2008, p. 1.

Justification

A claim made for an 'additive' product may only be permitted for a feed material if the claim is substantiated with information on safety and efficacy that is equivalent to that required for the additives themselves. If the claim is based on an additive and this is present in an effective concentration, there shall be no need for any further substantiation.

Amendment 35

Proposal for a regulation

Article 13 – paragraph 2

Text proposed by the Commission

Amendment

2. Without prejudice to paragraph 1, claims concerning optimisation of the nutrition and support or protection of the

2. Without prejudice to paragraph 1, claims concerning optimisation of the nutrition and support or protection of the

physiological conditions are permitted if they are not based on a pharmacological or immunological action.

physiological conditions are permitted if they are not based on a pharmacological or **specific** immunological action.

Justification

It should be possible as a matter of principle to make statements about general immunological action, if they are verifiable within the meaning of paragraph 1. This applies exclusively to general statements such as 'strengthens the immune system', but not to the putative prevention, treatment or healing of an illness (as in the case of inoculation) which is explicitly excluded through paragraph 3.

Amendment 36

Proposal for a regulation Article 14 – paragraph 1

Text proposed by the Commission

1. The mandatory labelling particulars **shall be given in their entirety in a prominent place on the packaging, the container or on a label attached thereto**, in a **conspicuous**, clearly legible and **indelible** manner, in at least the language or one of the official languages of the Member State in which it is placed on the market.

Amendment

1. **If the feed is sold to a feed business, the purchaser shall be informed of** the mandatory labelling particulars in the **most appropriate manner. Such particulars shall be given** in a clearly legible and **comprehensible** manner, in at least the language or one of the official languages of the Member State in which it is placed on the market.

Justification

On the one hand, it seems appropriate for the information to appear on the packaging if the feed is not sold to a feed business (e.g. to a private customer); on the other hand, however, that is not necessarily the case for the trade (feed businesses). In the latter case the information should be communicated in the most appropriate manner.

Amendment 37

Proposal for a regulation Article 14 – paragraph 2

Text proposed by the Commission

2. The mandatory labelling particulars shall be easily identifiable and not be obscured by any other information. They shall be

Amendment

2. **If the feed is sold to a person other than a feed business, the mandatory labelling particulars shall be given in their entirety**

displayed in a colour, font and size that does not obscure or emphasize any part of the information, unless such variation is to draw attention to precautionary statements.

in a prominent place on the packaging, the container or on a label attached thereto, in a conspicuous, clearly legible and indelible manner, or on an insert, in the language of the Member State in which it is placed on the market. The mandatory labelling particulars shall be easily identifiable and not be obscured by any other information. They shall be displayed in a colour, font and size that does not obscure or emphasize any part of the information, unless such variation is to draw attention to precautionary statements.

Justification

See the justification for the amendment to Article 14(1).

Amendment 38

Proposal for a regulation Article 14 – paragraph 3

Text proposed by the Commission

3. Specifications to the requirements laid down in paragraphs 1 and 2 may be included in the Community Codes referred to in Article 26.

Amendment

3. Specifications to the requirements laid down in paragraphs 1 and 2 may be included in the Community Codes referred to in Article 26. ***The Codes shall, specifically, indicate the manner in which the mandatory labelling particulars are to be displayed.***

Justification

The Code of good labelling practice should be adopted by the Commission in accordance with Article 29.

Amendment 39

Proposal for a regulation Article 15 – subparagraph (c)

Text proposed by the Commission

(c) ***if available***, the establishment approval

Amendment

(c) the establishment approval number

number granted in accordance with Article 17 of Regulation (EC) No 1774/2002 or with Article 10 of Regulation (EC) No 183/2005. If a manufacturer has several numbers he shall use the one obtained under Regulation 183/2005;

granted in accordance with Article 17 of Regulation (EC) No 1774/2002 or with Article 10 of Regulation (EC) No 183/2005. If a manufacturer has several numbers he shall use the one obtained under Regulation (EC) No 183/2005; ***the competent authority shall, at the manufacturer's request, issue an identification number for establishments registered pursuant to Regulation (EC) No 183/2005 using the format in Chapter II of Annex V to Regulation (EC) No 183/2005;***

Justification

The establishment approval and identification numbers should be provided in a uniform format, as hitherto set out in Directives 95/69/EC und 98/51/EC. Approval numbers pursuant to Regulation (EC) No 183/2005 on feed hygiene are admittedly issued according to a uniform format, but not to pet food plants which do not require approval within the meaning of this regulation. At the request of the manufacturers concerned, such a number should be issued in order to ensure uniform identification and the traceability of the products.

Amendment 40

Proposal for a regulation Article 16 – paragraph 3

Text proposed by the Commission

3. If the used name of the feed material corresponds to one of the names included in the Community Catalogue referred to in Article 25, but the person responsible for the labelling is not applying the provisions thereof, this shall be clearly indicated on the label.

Amendment

3. If the used name of the feed material corresponds to one of the names included in the Community Catalogue referred to in Article 25, but the person responsible for the labelling is not applying the provisions thereof ***or the product does not meet the criteria set out therein***, this shall be clearly indicated on the label.

Justification

Quality criteria for certain feed elements are set out in the Catalogue (for example the protein content of wheat bran). If the manufacturer uses the terms of the catalogue but does not meet the quality characteristics, this shall be clearly labelled (for example, wheat bran: 'starch content under x%').

Amendment 41

Proposal for a regulation

Article 17 – paragraph 2 – point b

Text proposed by the Commission

(b) if the percentages of weight for the feed materials incorporated in compound feed for food producing animals are not indicated on the label, the manufacturer shall make available on request information on the quantitative composition data in a range of +/- 15% of the value according to the feed formulation, ***unless he considers this information to be commercially sensitive and that the disclosure could infringe his intellectual property rights;***

Amendment

(b) if the percentages of weight for the feed materials incorporated in compound feed for food producing animals are not indicated on the label, the manufacturer shall make available ***to the purchaser*** on request information on the quantitative composition data in a range of +/- 15% of the value according to the feed formulation;

Justification

The proposed arrangement gives the purchaser the right to obtain information and - through the tolerance of +/-15% - offers the vendor sufficient protection of his commercial secrets in connection with product composition and labelling. However, purchasers' rights should not be restricted any further. Information should not simply be disclosed as the vendor sees fit. The last part of the sentence should therefore be deleted.

Amendment 42

Proposal for a regulation

Article 17 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In response to a duly substantiated request, the competent authorities may pass on to consumers the information about the quantitative composition of the feed provided pursuant to paragraph 2(b) if, after weighing up the legitimate respective interests of manufacturers and consumers, they take the view that such a step is justified. If appropriate, the competent authorities shall make the passing on of the information contingent on the signing of a declaration of

confidentiality.

Justification

This amendment is intended to clarify the text and is the result of discussions in the committee and with the Commission.

The purpose of the open declaration concerning feed materials must be safeguarded by guaranteeing access to this information where there are duly justified grounds for suspecting that the law has been breached.

Amendment 43

Proposal for a regulation

Article 19 – introductory part

Text proposed by the Commission

Article 19

On the label of pet food a **free** telephone number shall be indicated in order to allow the customer to obtain information in addition to the mandatory particulars on:

Amendment

Article 19

On the label of pet food a **cost-free means of contacting the person responsible for the labelling particulars (such as by telephone, e-mail or via the Internet)** shall be indicated in order to allow the customer **to exercise his right** to obtain information in addition to the mandatory particulars on:

Justification

A freephone number should be regarded as only one of several options permitting the customer to obtain additional information on the pet food's composition. In particular, small and medium-sized companies cannot provide an additional service of this kind, involving the on-the-spot provision of information over the telephone in the 23 official languages on what are often extremely specialised subjects. The person responsible for labelling particulars should therefore be able to choose between several options, such as the telephone, the postal service or the Internet.

Amendment 44

Proposal for a regulation

Article 19 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The information in points (a) and (b) must be given without prejudice to the

right to withhold details either when they are commercially sensitive or when their disclosure could infringe intellectual property rights.

Justification

This adapts the rapporteur's Amendment 23 by giving examples of the means to contact the person responsible and by referring to intellectual property rights.

In addition, there should be a provision to protect intellectual property rights.

Amendment 45

Proposal for a regulation Article 20 – paragraph 1

Text proposed by the Commission

1. In addition to the requirements laid down in Articles 15, 16, 17 and 18, feed ***containing a level of undesirable substances in excess of that permitted under Directive 2002/32/EC shall be labelled 'feed with excessive level(s) of ... (designation of the undesirable substance(s) in accordance with Annex I to Directive 2002/32/EC), only intended for authorised detoxification establishments'. The authorisation of those establishments shall be based on Article 10(2) or (3) of Regulation (EC) No 1831/2005.***

Amendment

1. In addition to the requirements laid down in Articles 15, 16, 17 and 18, feed ***which does not comply with the European legal specifications set out in Annex VIa shall bear the labelling particulars laid down in that Annex.***

Justification

In order to ensure the proper implementation of food safety standards, it is essential that all products considered as feed comply with the food legislation. The restriction introduced by Article 20 for products which exceed the maximum limits for undesirable substances under Directive 2002/32/EC may mean that the minimum food safety requirements are not met, so that in future these products may be governed by a different legal basis from Directive 2002/32/EC.

Amendment 46

Proposal for a regulation Article 20 – paragraph 2

Text proposed by the Commission

2. In case the contamination is intended to be reduced or eliminated by cleaning, the additional labelling of contaminated feed shall be ‘feed with excessive level(s) of ... (designation of the undesirable substance(s) in accordance with Annex I to Directive 2002/32/EC), only to be used as feed after adequate cleaning’.

Amendment

2. The Commission may amend Annex VIa in order to bring it into line with legislative progress towards the development of standards.

Justification

In order to ensure the proper implementation of food safety standards, it is essential that all products considered as feed comply with the food legislation. The restriction introduced by Article 20 for products which exceed the maximum limits for undesirable substances under Directive 2002/32/EC may mean that the minimum food safety requirements are not met, so that in future these products may be governed by a different legal basis from Directive 2002/32/EC.

Amendment 47

Proposal for a regulation Article 21 – paragraph 1

Text proposed by the Commission

1. The particulars referred to in Article 15(c), (d) and (e) and Article 16(2) shall not be required where before each transaction the purchaser has stated in writing that he does not require this information. A transaction may consist of several consignments.

Amendment

1. The particulars referred to in Article 15(c) and (d) and Article 16(2) shall not be required where before each transaction the purchaser has stated in writing that he does not require this information. A transaction may consist of several consignments.

Justification

The derogation should not cover Article 15(e). The feed user needs information regarding the net quantity expressed in units of mass in the case of solid products and in units of mass or volume in the case of liquid products.

Amendment 48

Proposal for a regulation Article 21 – paragraph 3

Text proposed by the Commission

3. Without prejudice to Annex I to Regulation (EC) No 183/2005, the particulars referred to in **Article 15(c), (d) and (e)** and Article 16(2) of this Regulation shall not be mandatory for feed materials that do not contain feed additives, with the exception of preservatives or silage additives, and which are produced and delivered by a feed business operator according to Article 5(1) of Regulation (EC) No 183/2005 to a feed user in primary production for use within its own holding.

Amendment

3. Without prejudice to Annex I to Regulation (EC) No 183/2005, the particulars referred to in **Article 15(c) and (d)** and Article 16(2) of this Regulation shall not be mandatory for feed materials that do not contain feed additives, with the exception of preservatives or silage additives, and which are produced and delivered by a feed business operator according to Article 5(1) of Regulation (EC) No 183/2005 to a feed user in primary production for use within its own holding.

Justification

The derogation should not cover Article 15(e) feed user needs information regarding the net quantity expressed in units of mass in the case of solid products and in units of mass or volume in the case of liquid products.

Amendment 49

Proposal for a regulation Article 21 – paragraph 7

Text proposed by the Commission

7. For quantities of pet food **not exceeding the daily ration of the respective animal species** sold in packages with several containers, the particulars referred to in Article 15(b), (c) and (f) and **Article 17(1)(c), (e) and (f)** may be given only on the package instead of each container.

Amendment

7. For quantities of pet food sold in packages with several containers, the particulars referred to in Article 15(b), (c) and (f) and **Article 17(1) (b), (c), (e) and (f)** may be given only on the **outer** package instead of each container.

Justification

The rapporteur's Amendment 24 should be clarified to ensure that the individual portions must be labelled with certain customer information (complete/complementary feed, intended

species, batch/lot number, net quantity, minimum storage life), but not all mandatory labelling requirements.

It is sufficient to label the instructions for proper use (Article 17(1)(b), i.e. the feeding instructions) only on the outer combining pack, because multipacks are only bought by pet owners after having tried the product in a single packaging.

Amendment 50

Proposal for a regulation

Article 21 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. The particulars laid down in Article 15(e), (f) and (g) and in Article 16(1) and (2) shall not be required if by-products of vegetable or animal origin derived from agro-industrial processing and with a water content of more than 50% are employed.

Justification

The current Directive 96/25/EC exempts feed with a high moisture content from the labelling requirement (Article 6(3)(b) (e.g. tubers, roots and their by-products; wet spent hops and yeast; potato by-products, etc.).

Feeds of this kind with a high moisture content would start to decompose and spoil before test results became available. There is strong demand for these feeds. Accordingly, details other than the type of feed and the brand name are irrelevant.

Amendment 51

Proposal for a regulation

Article 22 – paragraph 1

Text proposed by the Commission

Amendment

1. In addition to the mandatory labelling requirements, the labelling of compound feed may also include voluntary labelling particulars, provided that the general principles laid down in Article 11 are respected.

1. In addition to the mandatory labelling requirements, the labelling of ***feed materials or*** compound feed may also include ***within the mandatory declarations required by Article 14*** voluntary labelling particulars, provided that the general principles laid down in Article 11 are

respected.

Justification

This amendment makes it clear that the provisions concerning mandatory labelling do not prevent the manufacturer providing additional information about the product, such as promotional details, information about new formulations, new and other packaging sizes or product assessment from consumer tests, separately and away from this prominent place.

Without this amendment Article 22 might unintentionally limit the range of voluntary product information.

Amendment 52

Proposal for a regulation

Article 22 – paragraph 2 - introductory part

Text proposed by the Commission

2. The additional voluntary labelling may **only** include the following particulars:

Amendment

2. The additional voluntary labelling may **in particular** include the following particulars:

Justification

The list of voluntary labelling particulars should not be comprehensive. Particulars which are not included in the list but which are not inconsistent with the ban on misleading claims (Article 22(1) in conjunction with Article 1) should be admissible.

Amendment 53

Proposal for a regulation

Article 22 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) particulars concerning digestible starch and raw protein;

Justification

Manufacturers can provide these particulars, which are important for users.

Amendment 54

Proposal for a regulation

Article 22 – paragraph 2 – point h a (new)

Text proposed by the Commission

Amendment

(ha) presence/absence of a given substance;

Amendment 55

Proposal for a regulation

Article 25 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) A person responsible for the first placing on the market of a feed material not yet listed in the Catalogue must register its use immediately and apply to have it included in the Catalogue, pursuant to Article 27(1).

Justification

Amendment 25 has been changed following discussions with the Commission.

The Catalogue cannot constitute an officially recognised positive list, but must instead be drawn up by the industry on its own responsibility. However, novel feed materials used by manufacturers must be incorporated into the Catalogue on the basis of agreement with market participants and the competent authorities.

Amendment 56

Proposal for a regulation

Article 26 – paragraph 1

Text proposed by the Commission

Amendment

1. The Commission shall encourage the development of two Community Codes of good labelling practice (hereinafter ‘Codes’), one for pet food and one for feed for *food producing* animals. They shall ***refer to the scope*** for voluntary labelling

1. The Commission shall encourage the development of two Community Codes of good labelling practice (hereinafter ‘Codes’), one for pet food and one for feed for *food-producing* animals. They shall ***support manufacturers in the practical***

provided for in Article 22 **and support to improve the appropriateness of the labelling.**

implementation of labelling provisions and explain procedures for voluntary labelling provided for in Article 22.

Justification

It should be emphasised that guidelines and codes of behaviour contribute to the practical implementation of legal provisions. They may facilitate interpretation of the leeway provided by legislation, but should not be seen as an instrument for flexibilisation.

Amendment 57

Proposal for a regulation

Article 29 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Where reference is made to this paragraph, Article 5(a)(1)(2)(4) and (6) and Article 7 of Decision 1999/468/EC shall apply, having regard to Article 8 thereof.

Justification

The urgency procedure is introduced in order to enable the Commission to issue bans with immediate effect in accordance with Article 6.

Amendment 58

Proposal for a regulation

Article 30 – introductory part (new)

Text proposed by the Commission

Amendment

Regulation (EC) No 1831/2003 is amended as follows:

Amendment 59

Proposal for a regulation

Article 30 – point -1 (new)

Regulation (EC) No 1831/2003

Article 2 – paragraph 2

Text proposed by the Commission

Amendment

(-1) The following points are added in Article 2(2):

(o) ‘Labelling’: attribution of any words, particulars, trade marks, brand name, pictorial matter or symbol to a feed by placing this information on any medium such as packaging, container, notice, label, document, ring, collar or the internet referring to or accompanying such feed;

(p) ‘Label’: any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed, impressed on, or attached to a container of feed;

Justification

It makes sense to bring the labelling requirements laid down in Regulation (EC) No 1831/2003 into line with the approach, based on the provision of information through labelling, introduced by the regulation under consideration here, since they are linked. This can be achieved by incorporating the definitions of 'labelling' and 'label' into Regulation (EC) No 1831/2003.

Amendment 60

Proposal for a regulation

Article 30 – point 1

Regulation (EC) No 1831/2003

Article 16 – paragraph 1

Text proposed by the Commission

Amendment

Article 16 ***of Regulation (EC) No 1831/2003*** is amended as follows:

(1) Paragraph 1 is amended as follows:

Article 16 is amended as follows:

(1) Paragraph 1 is amended as follows:

(-a) The introductory section is replaced by the following:

‘1. No feed additive or premixture of additives may be placed on the market unless the manufacturer, packager, importer, vendor or distributor established in the Community has made the following labelling particulars available to the feed business:’

(a) Point (d) is replaced by the following:

‘(d) where appropriate, the approval number of the establishment **manufacturing or placing on the market** the feed additive or the premixture pursuant to Article 10 of Regulation (EC) No 183/2005 of the European Parliament and of the Council*;

(a) Point (d) is replaced by the following:

‘(d) where appropriate, the approval number of the establishment **which manufactures, and is responsible for the labelling particulars concerning**, the feed additive or the premixture pursuant to Article 10 of Regulation (EC) No 183/2005 of the European Parliament and of the Council*;

* OJ L 35, 8.2.2005, p. 1.’;

(b) The following subparagraph is added:

‘In the case of premixtures, points (b), (d), (e) and (g) shall **not** apply to **the** incorporated feed **additives**.’

* OJ L 35, 8.2.2005, p. 1.’;

(b) The following subparagraph is added:

‘In the case of premixtures, points (b), (d), (e) and (g) shall **only** apply to **premixtures and not to every** incorporated feed **additive**.’

Justification

It makes sense to bring the labelling requirements laid down in Regulation (EC) No 1831/2003 into line with the approach, based on the provision of information through labelling, introduced by the regulation under consideration here, since they are linked.

Amendment 61

Proposal for a regulation

Article 30 – point 2

Regulation (EC) No 1831/2003

Article 16 – paragraph 3

Text proposed by the Commission

‘3. In addition to the information specified in paragraph 1, the **packaging or container**

Amendment

‘3. In addition to the information specified in paragraph 1, the **labelling particulars** of

of a feed additive belonging to a functional group specified in Annex III or of a premixture containing an additive belonging to a functional group specified in Annex III must ***bear the information, presented in a conspicuous, clearly legible and indelible manner, indicated in*** that Annex.'

a feed additive belonging to a functional group specified in Annex III or of a premixture containing an additive belonging to a functional group specified in Annex III must ***be made available to the feed business which purchases the product in accordance with the provisions of*** that Annex.

In addition to the mandatory labelling particulars, in the case of additives and premixtures voluntary particulars may also be indicated, provided that the general principles laid down in Articles 11 and 13 of Regulation (EC) No .../... of the European Parliament and of the Council [on the placing on the market and the use of feed] are complied with.

An abbreviation may be used in place of the name of the functional group.'

Justification

It makes sense to bring the labelling requirements laid down in Regulation 1831/2003 into line with the approach based on the provision of information through labelling introduced by means of the regulation under consideration here, since they are linked.

Amendment 62

Proposal for a regulation

Article 30 – point 3

Regulation (EC) No 1831/2003

Article 16 – paragraph 4

Text proposed by the Commission

‘4. In the case of premixtures, the word ‘Premixture’ shall appear in capital letters on the label and carriers shall be declared, ***in the case of feed materials***, in compliance with Article 17(1)(e) of Regulation (EC) No .../... of the European Parliament and of the Council [on the placing on the market and use of feed]*.

Amendment

‘4. In the case of premixtures, the word ‘Premixture’ shall appear in capital letters on the label and carriers shall be declared in compliance with Article 17(1)(e) of Regulation (EC) No .../... of the European Parliament and of the Council [on the placing on the market and use of feed]*.

Justification

It makes sense to bring the labelling requirements laid down in Regulation (EC) No 1831/2003 into line with the approach based on the provision of information through labelling introduced by means of the regulation under consideration here, since they are linked.

Amendment 63

Proposal for a regulation

Article 30 – point 3 a (new)

Regulation (EC) No 1831/2003

Article 16 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(3a) The following paragraph 4a is added:

‘The Commission shall encourage the development of a Community Code of good labelling practice. It shall cover all aspects of labelling and support the work of improving the appropriateness of labelling at all stages of the process of placing on the market.

The procedure laid down in Article 16a shall apply for the establishment of the Code and for any amendment thereto.’

Justification

It makes sense to bring the labelling requirements laid down in Regulation (EC) No 1831/2003 into line with the approach based on the provision of information through labelling introduced by means of the regulation under consideration here, since they are linked.

Amendment 64

Proposal for a regulation

Article 30 – point 1 a (new)

Regulation (EC) No 1831/2003

Article 16 a (new)

Text proposed by the Commission

Amendment

(1a) The following Article 16a is added:

'Article 16a

Establishment of the Catalogue and Code

1. The Commission shall ensure that the Code is developed and amended:

(a) in consultation with all appropriate representatives of the European feed sector and other concerned parties, such as feed users;

(b) in collaboration with the competent authorities of the Member States and, where appropriate, the Authority;

(c) taking into account relevant experience from opinions issued by the Authority and developments in scientific or technical knowledge.

2. The Commission shall approve the Catalogue, drafts of the Code and drafts of any amendments thereto in accordance with the procedure referred to in Article 22(2), provided that the following conditions are met:

(a) they have been developed in accordance with paragraph 1;

(b) their contents are practicable throughout the Community for the sectors to which they refer; and

(c) they are suitable for meeting the respective objectives.

3. The Commission shall publish the titles and references of the Catalogue and Codes in the C Series of the Official Journal of the European Union.'

Justification

In line with the other amendments to Article 30, the same provisions concerning the development of codes of good labelling practice in this regulation should be incorporated into Regulation (EC) No 1831/2003. This seems to be the best solution to the problems of implementation for industry and the competent authorities, as highlighted in the recitals.

Amendment 65

Proposal for a regulation Article 33

Text proposed by the Commission

Transitional measures shall be adopted in accordance with the procedure referred to in **Article 29(3)**.

Amendment

Transitional measures ***designed to amend the non-essential elements of this Regulation, inter alia by supplementing it,*** shall be adopted in accordance with the procedure referred to in **Article 29(4)**.

Amendment 66

Proposal for a regulation Article 34 - subparagraph 2

Text proposed by the Commission

It shall apply from twelve months after the date of its **publication**.

Amendment

It shall apply from twelve months after the date of its ***entry into force; however, in the case of feed for non-food-producing animals placed on the market for the first time at least thirty-six months after the date of publication of the Regulation, the measures referred to in Article 17(3) shall apply.***

Justification

With a view to the long shelf-life of pet food (e.g. canned pet food around 24 months, fish food up to five years), the date of application of 12 months after publication is not achievable.

Pet food manufacturers purchase labels/bags in large quantities for economy of scale and short transition periods would lead to unnecessary waste of such labels/bags or already packed pet food, which should be avoided for environmental reasons.

Amendment 67

Proposal for a regulation

Article 34 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

In the case of non-food-producing animals first placed on the market, it shall apply thirty-six months after the date of publication of the measures referred to in Article 17(3).

Justification

With a view to the long shelf-life of pet food (e.g. canned pet food around 24 months, fish food up to five years), the date of application of 12 months after publication is not achievable.

Pet food manufacturers purchase labels/bags in large quantities for economy of scale and short transition periods would lead to unnecessary waste of such labels/bags or already packed pet food, which should be avoided for environmental reasons.

Amendment 68

Proposal for a regulation

Annex I – point 1

Text proposed by the Commission

Amendment

1. Feed materials must, as ***according to*** the good manufacturing practices as laid down in Regulation (EC) No 183/2005, be free from chemical impurities resulting from their manufacturing process and from processing aids, unless a specific maximum content is fixed in the Catalogue referred to in Article 25.

1. Feed materials must, as ***far as is possible using*** the good manufacturing practices as laid down in Regulation (EC) No 183/2005 be free from chemical impurities resulting from their manufacturing process and from processing aids, unless a specific maximum content is fixed in the Catalogue referred to in Article 25.

Justification

Technical provisions governing impurities should be consistent with the definition of processing aids, as laid down in Regulation (EC) No 1831/2003. In practice, it is impossible to guarantee that feed materials are 'free from' any form of contamination. Accordingly, this goes beyond the scope of the requirements laid down in the current Directive 96/25/EC.

Amendment 69

Proposal for a regulation Annex I – point 6 – indent 4

Text proposed by the Commission

– 14 % in the case of other **feed**.

Amendment

– 14 % in the case of other **compound feedingstuffs**.

Justification

The moisture content is relevant for compound feedingstuffs and not for the feed. If the requirement of labelling moisture exceeding 14% applies to feed, this would put a burden on farmers to provide information for harvested agriculture products (whole grains such as cereals, legumes or rape seed). This is technically not feasible. The proposed amendment takes the wording which is currently in place (Part A §2, last bullet point, of the Annex to Directive 79/373/EEC of 2 April 1979 on the marketing of compound feedingstuffs).

Amendment 70

Proposal for a regulation Annex II a (new)

Text proposed by the Commission

Amendment

Annex IIa

List of materials whose placing on the market or use for animal nutrition purposes is prohibited as referred to in Article 6(2)

The placing on the market or use for animal nutrition purposes of the following materials is prohibited:

(1) faeces, urine as well as separated digestive tract content resulting from the emptying or removal of digestive tract, irrespective of any form of treatment or admixture;

(2) hide treated with tanning substances, including its waste;

(3) seeds and other plant propagating materials which, after harvest, have undergone specific treatment with plant protection products for their intended use

(propagation), and any by-products derived therefrom;

(4) wood, including sawdust or other materials derived from wood, which has been treated with wood preservatives as defined in Annex V of Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market¹.

(5) all wastes obtained from the various phases of the urban, domestic and industrial waste water as defined in Article 2 of Council Directive 91/271/EEC of 21 May 1991 concerning urban wastewater treatment², irrespective of any further processing of those wastes or the origin of the waste waters³.

(6) solid urban waste, such as household waste;

(7) the packaging and parts of packaging from the use of products from the agri-food industry.

¹ OJ L 123, 24.4.1998, p. 1.

² OJ L 135, 30.5.1991, p. 40.

Justification

See amendment to Article 6(2). This list corresponds to the current list of prohibited material as provided for in Decision 2004/217.

Amendment 71

Proposal for a regulation Annex V – Chapter 1 - point 1

Text proposed by the Commission

1. The following additives shall be listed with their name, added amount, **identification number** and respective name of the functional group such as laid down in Annex I of Regulation (EC) No 1831/2003 or the category in case of

Amendment

1. The following additives shall be listed with their name **or identification number**, added amount and respective name of the functional group such as laid down in Annex I of Regulation (EC) No 1831/2003 or the category in case of ‘coccidiostats

‘coccidiostats and histomonostats’:

and histomonostats’:

Justification

A feed additive can be perfectly identified by means of its name or identification number. The inclusion of both particulars in the list is superfluous and makes labelling unnecessarily complicated.

Amendment 72

Proposal for a regulation

Annex V – Chapter I - point 1 a (new)

Text proposed by the Commission

Amendment

1a. By way of derogation from point 1, in relation to feed additives, the name of the additive may be replaced with that of the active substance.

Justification

With respect to feed additives, it is more relevant for the information provided to farmers to refer to the name of the active substance (e.g. copper or vitamin D) rather than to that of the additive (cupric chelate of amino acids hydrate or hydroxycholecalciferol). This is particularly relevant when one considers that the aim of the Commission proposal is to provide consumers with useful information.

Amendment 73

Proposal for a regulation

Annex V – Chapter I – point 3

Text proposed by the Commission

Amendment

3. The feed business operator placing the feed on the market shall disclose the names of the feed additives not mentioned in paragraph 1 to the customer on his request.

3. The feed business operator placing the feed on the market shall disclose the names ***and other information pursuant to paragraph 1 in respect*** of feed additives not mentioned in paragraph 1 to the customer on his request.

Justification

In accordance with the provisions of Article 17, measures should be taken to ensure access as a matter of principle to information on the composition of feed and on the use of feed additives upon request, even if there is no obligation to provide the information on the label.

Amendment 74

Proposal for a regulation Annex VI – Chapter I - point 1

Text proposed by the Commission

1. *The following* additives *shall be listed with their name and/or identification number, added amount and the respective name of the functional group* such as laid down in Annex I of Regulation (EC) No 1831/2003 *or the category in case of 'coccidiostats and histomonostats'*:

(a) additives where a maximum content is set,

(b) additives belonging to the categories 'zootechnical additives' and 'coccidiostats and histomonostats',

(c) additives belonging to the functional group of 'urea and its derivatives' of the category 'nutritional additives' as laid down in Annex I of Regulation (EC) No 1831/2003.

2. Feed additives not *mentioned* in paragraph 1 may be voluntarily indicated *in the same full form or partially*.

3. *If a nutritional feed additive as referred to in Annex I of Regulation (EC) No 1831/2003 is labelled voluntarily its level of incorporation* shall be indicated.

4. *If an additive belongs to more than one of the functional groups, the group appropriate to its principal function in the*

Amendment

1. Additives ***of the functional groups 'preservatives', 'colourants', 'antioxidants', 'vitamins, pro-vitamins and chemically well-defined substances having a similar effect', and 'compounds of trace elements'*** as laid down in Annex I to Regulation (EC) 1831/2003 ***will be labelled as follows: 'Contains EU-permitted preservatives/antioxidants/colours/vitamins/trace elements', as appropriate.***

2. ***Functional groups of*** feed additives not referred to in paragraph 1 may be voluntarily indicated.

3. ***In the event that particular attention is drawn on the label to one or more additives, the amount*** shall be indicated ***in line with the Code of Practice established pursuant to Article 26.***

4. ***Other additives incorporated*** shall be indicated ***on request to the customer***

case of the feed in question shall be indicated.

pursuant to Article 19.

4a. The person responsible for the labelling particulars must, on request, immediately provide the competent authority with full information on all additives incorporated into the pet food.

Justification

Under current EU legislation preservatives, colourants and antioxidants are indicated as proposed in the amendment. This enables pet-owners to ascertain whether such substances (of general interest to consumers) are included, and they can seek further information from the firm concerned. This should be extended to include vitamins and trace elements, since these are equally of interest for the average pet-owner.

Amendment 75

Proposal for a regulation

Annex VI – Chapter I – point 2 a (new)

Text proposed by the Commission

Amendment

2a. A feed business operator who markets a feedingstuff shall, at the customer's request, provide the names and other information pursuant to paragraph 1 in respect to feed additives which are not listed in paragraph 1.

Justification

In accordance with the provisions of Article 17, measures should be taken to ensure access as a matter of principle to information on the composition of feed and on the use of feed additives upon request, even if there is no obligation to provide the information on the label.

Amendment 76

Proposal for a regulation

Annex VI a (new)

Text proposed by the Commission

Amendment

ANNEX VIa

Specific provisions for the labelling of feed that does not meet safety and

marketing requirements

1. Feed containing a level of undesirable substances in excess of that permitted under Directive 2002/32/EC shall be labelled 'feed with excessive level(s) of ... (designation of the undesirable substance(s) in accordance with Annex I to Directive 2002/32/EC), only intended for authorised detoxification establishments'. The authorisation of those establishments shall be based on Article 10(2) or (3) of Regulation (EC) No 1831/2003.

2. In case the contamination is intended to be reduced or eliminated by cleaning, the additional labelling of contaminated feed shall be 'feed with excessive level(s) of ... (designation of the undesirable substance(s) in accordance with Annex I to Directive 2002/32/EC), only to be used as feed after adequate cleaning'.

Justification

To ensure the consistency of and compliance with safety standards for feed it is essential to ensure that such products are classified as feed and are therefore subject to the legislation on feed.

However, if the scope of Article 20 is restricted to products which exceed the limits laid down for contaminants under Directive 2002/32/EC, Article 20 might not cover food safety standards which could be introduced in future.

EXPLANATORY STATEMENT

The Commission proposal provides for a complete overhaul of European animal feed legislation. It seeks both to simplify and to bring it into line with food law. The following points which constitute the core of the legislative proposal are dealt with in detail below.

1. The ‘open declaration’ of feed materials

The listing of feed materials from which compound feed is composed and of its precise quantities (the ‘open declaration’) was one of the key demands of the European Parliament following the BSE crisis and in the light of calls made to the Commission by the Temporary Committee of Inquiry into BSE (see Resolution of 19 February 1997 on the results of the Temporary Committee of Inquiry into BSE).

Parliament attached great importance to the fact that consumers should not only be protected as effectively as possible but that they should also be placed in a position to decide for themselves – on the basis of clear and transparent labelling – which food, from which source they wished to choose from the point of view of health and safety. This also applies to farmers who also depend on clear labelling when purchasing compound feed.

With its legislative proposal on the subsequent Directive No 2002/2/EC on the circulation of compound feedingstuffs, the Commission unveiled a proposal along these lines providing for feed materials to be listed with a declaration of the exact percentages by weight while the European Parliament endorsed these measures at first and second readings, there was strong opposition within the Council to the open declaration. In the ensuing conciliation committee, the Council and Parliament reached an agreement which provided for the compulsory declaration of feed materials on the label or in the accompanying instructions, with an indication of the percentages by weight; while on the one hand a tolerance of +/- 15% of the declared value is permitted (Article 1(4) of Directive 2002/2/EC), on the other, consumers are entitled to obtain, upon request, information on the exact composition of the compound feed (Article 1, paragraph 1, of Directive 2002/3/EC)¹.

A number of businesses and Member States have since challenged this legal provision before the European Court of Justice. However, in its judgment of 6 December 2005 the Court unequivocally upheld the legality of the Directive and rejected the majority of criticisms made by the claimants. The Court accepted the claimants' arguments only in respect of one point, criticising the requirements in Article 1(1) for exact information to be provided on request as disproportionate in relation to the stated objective of the Directive, namely to protect public health. The Court of Justice weighed the additional benefits, in terms of protecting public health, of providing exact information upon request against the resulting costs for manufacturers.

In the legislative procedure based on this judgment² amending Directive 2002/2/EC, Parliament and the Council agreed, in view of the proposals that had been announced for a

¹ See Reports A5-0233/2000, A5-0079/2001 and A5-0421/2001.

² For further details see Report A6-0411/2006.

comprehensive overhaul of animal feed legislation, not to make more far-reaching amendments to the basic legal act than transposition of the Court judgment since they ‘anticipate that the issue of the so-called “open declaration” of ingredients will be fully reviewed in this context, and expect new proposals from the Commission taking account both of the interest of farmers in being provided with precise, detailed information on the feed materials contained in feedingstuffs and the interest of the industry in ensuring that business secrets are adequately protected¹’.

This is the background against which the present legislative proposal has been drawn up. It provides for the listing of feed materials in descending order of weight, although the provision of information on percentages of weight remains voluntary. However, under Article 17, paragraph 2, the purchasers may, upon request, obtain information about composition from the manufacturer. However, according to the Commission's proposal, the latter may refuse such information where he considers ‘that the disclosure could infringe his intellectual property rights’.

Your rapporteur takes the view that, in the light of the ECJ judgment on the labelling of feedingstuffs, care must be taken to ensure that the purchaser's right to information is respected just as much as the justified interest of the manufacturer in preserving his intellectual property. However, a decision whether or not to accede to a customer's request should not remain a matter solely for the manufacturer.

In the context of the ECJ judgment and the present legislative proposal the principle of ‘open declaration’ should be interpreted in such a way that the purchaser is accorded the basic possibility of obtaining information – where appropriate on the basis of a substantiated request – within the framework of a legally established procedure.

The amendments to the draft report seek the following changes:

1. The listing of all feed ingredients in descending order of their proportions by weight shall be compulsory. The provision of information about the proportions by weight in percentages shall be voluntary, except in the cases specified in Article 17(2)(1).
2. Purchasers shall be entitled to request information about the proportions by weight from the manufacturer. This information must be precise since a percentage variation of +/- 15% after the production process seems unwarranted.
3. The manufacturer may refuse to disclose information if he is able to prove that his intellectual property rights would thereby be infringed, i.e. if he is able to prove that he actually possesses intellectual property which deserves protection derived from his own research or from purchased research findings. However, this possibility is excluded for the main ingredients of compound feed accounting for more than 2% of the weight of the product since, according to the industry, no intellectual property rights can be invoked in this connection.
4. If the manufacturer invokes his right to refuse disclosure of proportions by weight for ingredients accounting for less than 2% of the product, the purchaser may appeal to the competent authority. This authority is empowered at any time to obtain

¹ Decision No 623/2007/EC of the European Parliament and the Council of 23 May 2007 amending Directive 2002/2/EC amending Council Directive 79/373/EEC on the circulation of feed, OJ L 154, 14.6.2007.

information on the precise composition of the compound feed and may also examine whether the claim to intellectual property rights is justified. After examining the manufacturer's claims to the protection of his intellectual property, the authority may require a confidentiality declaration to be signed as a precondition for disclosure of information on the precise composition of the feed.

The text adopted by the committee essentially follows this approach. However, it provides that the producer/trader may reply to a request from the customer for information about the composition of compound feed with a margin of +/- 15% of the declared value.

Since this satisfies the producer's interest in protecting his intellectual property rights, in accordance with the ECJ judgment in Case C-421/06, the clause allowing producers to refuse to provide information by referring to the protection of intellectual property rights has been dropped.

2. Labelling of the feed additives

The Commission proposes that the labelling of additives for which a maximum content is set or which have zootechnical or anti-parasitical action. Other additives may be labelled on a voluntary basis. Furthermore, information on the use of additives must also be supplied to consumers upon request. Your rapporteur proposes that this provision be made more precise.

3. Self-regulation as part of the codes or guidelines

Experience with legislation on food hygiene (Regulation (EC) No. 852/2003 and No. 853/2003) and on feed hygiene (Regulation (EC) No 1831/2003) shows that guidelines and codes of conduct drawn up by industry can make a useful contribution to the practical implementation of legal provisions. Presumably guidelines of this kind can also play a useful role in the field of feed labelling. However, the legal text must declare unambiguously that these guidelines or codes of conduct do not possess a quasi-legislative character. They are intended merely to facilitate the practical implementation of the regulation and, if appropriate, to interpret a provision in which the Regulation allows some latitude; however, they may not be misused to dilute legislative provisions.

4. Contaminated feed materials

Experience has shown that criminals have devoted considerable energy to disposing of contaminated substances in the form of animal feed; the rules for contaminated feed materials must therefore be formulated very clearly. The Community legal situation was indubitably improved by the adoption of Regulation 2002/32/EC in the wake of the dioxin scandal. In particular, Article 5 on dilution banned an unacceptable practice which was widely practised at the time: the mixing of contaminated with uncontaminated material until a value below the limit value was obtained.

The provisions of Directive 2002/32/EC provide that contaminated materials may not be used as feed. However, it does not show unequivocally what happens to such materials when they are 'withdrawn from circulation'. Article 8 enables Member States to use certain authorised detoxification procedures for contaminated feed materials (for example, active carbon

filtration of fish oils to reduce dioxin content and treatment with ammoniac to break down aflatoxins).

The Commission therefore proposes that the clear labelling of contaminated feed or feed materials be made mandatory (see Article 20). However, in addition to labelling provisions, efforts must be made to ensure that these contaminated substances are not illegally used and that the dilution prohibition is respected.

5. Implementing provisions (comitology)

Council Decision No 1999/468/EC lays down that, in the case of a basic legal act adopted by the codecision procedure, measures of general scope designed to amend non-essential provisions of such a legal act, including through the deletion of some of these provisions or the addition of new non-essential provisions, shall be adopted according to the regulatory procedure with scrutiny. Your rapporteur therefore proposes that the establishment of limit values for impurities and processing aids (pursuant to Article 6a), the adoption of guidelines to clarify the scope (pursuant to Article 7) and the approval of the Catalogue and Codes pursuant to Article 27 should be adopted according to the regulatory procedure with scrutiny. All these measures are general in scope and meet the criteria of Decision No 1999/468/EC on the application of the procedure in question (RPS).

However, it would be appropriate to use the urgency procedure to expand the list of prohibited materials in Article 6 so that the Commission is able to issue bans for certain materials in animal feed with immediate effect.

PROCEDURE

Title	The placing on the market and use of feed			
References	COM(2008)0124 – C6-0128/2008 – 2008/0050(COD)			
Date submitted to Parliament	3.3.2008			
Committee responsible Date announced in plenary	AGRI 24.4.2008			
Committee(s) asked for opinion(s) Date announced in plenary	ENVI 24.4.2008			
Not delivering opinions Date of decision	ENVI 28.5.2008			
Rapporteur(s) Date appointed	Friedrich-Wilhelm Graefe zu Baringdorf 1.4.2008			
Discussed in committee	6.5.2008	14.7.2008	10.9.2008	7.10.2008
Date adopted	7.10.2008			
Result of final vote	+: 30 -: 0 0: 2			
Members present for the final vote	Vincenzo Aita, Peter Baco, Niels Busk, Luis Manuel Capoulas Santos, Giovanna Corda, Albert Deß, Gintaras Didžiokas, Konstantinos Droutsas, Constantin Dumitriu, Michl Ebner, Carmen Fraga Estévez, Duarte Freitas, Ioannis Gklavakis, Lutz Goepel, Friedrich-Wilhelm Graefe zu Baringdorf, Esther Herranz García, Lily Jacobs, Elisabeth Jeggle, Heinz Kindermann, Stéphane Le Foll, Véronique Mathieu, Mairead McGuinness, Rosa Miguélez Ramos, James Nicholson, Neil Parish, Maria Isabel Salinas García, Agnes Schierhuber, Czesław Adam Siekierski, Alyn Smith, Petya Stavreva, Donato Tommaso Veraldi			
Substitute(s) present for the final vote	Katerina Batzeli, Jan Mulder, Zdzisław Zbigniew Podkański, Struan Stevenson			
Substitute(s) under Rule 178(2) present for the final vote	Bernard Wojciechowski			