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*****I**

DRAFT 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 Articles 251, paragraph 2, 37 and 152, paragraph 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 (A6-0000/2008),
1. Approves the Commission proposal as amended;
 2. Asks to be consulted again if the Commission intends to amend the 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 1 a (new)

Text proposed by the Commission

Amendment

(1a) The crises in the food sector have so far been attributable mostly to contaminated feedingstuffs.

Or. de

Justification

The major food crises over the last ten years were almost all caused by feedingstuffs (animal meal in the case of BSE, dioxin in pig feed, hormones in industrial sugar solutions fed to animals).

Amendment 2

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 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.

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 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***.

Or. de

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 3

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

Amendment

(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 **limit** the request **to feed materials which account for over 2% by weight of the compound feed**, if he **can prove that** the requested disclosure **infringes** his intellectual property rights. This would not affect the food and feed safety, since the competent authorities always have the right to get the exact percentages of all feed materials **and the competent authorities are also obliged to pass this information on to consumers if there are well founded suspicions of infringements against the legislation in question.**

Or. de

Justification

Manufacturers should be able to invoke their intellectual property rights only if they can prove that they are entitled to do so. Furthermore, according to information supplied by manufactueres, intellectual property rights are only relevant for micro-ingredients, which account for less that 2% of compound feed.

Amendment 4

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.

Or. de

Justification

The Commission has announced an amendment to Regulation 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 5

Proposal for a regulation Recital 20

Text proposed by the Commission

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.

(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.

Or. de

Justification

Contaminated feeding must not enter the food chain.

Amendment 6

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) The experience with engaging stakeholders to set standards by means of Community guidelines in the field of feed hygiene have been throughout positive. The accomplishment of a more extended listing by the stakeholders could be more flexible and better adapted to the information needs of the user than if undertaken by the legislator. The stakeholders can decide on the efforts they dedicate depending on the value of a feed material list. The current lists of feed materials in Directives 96/25/EC and 82/471/EEC should become the initial version of the Community Catalogue of feed materials to be completed by the stakeholders according to ***their interests***. ***The use of*** the Catalogue should be voluntary but in order to avoid that the purchaser is misled as to the real identity of the product, the manufacturer ***should*** indicate ***if he uses designations listed in*** the Catalogue ***while not applying it***.

Amendment

(24) The experience with engaging stakeholders to set standards by means of Community guidelines in the field of feed hygiene have been throughout positive. The accomplishment of a more extended listing by the stakeholders could be more flexible and better adapted to the information needs of the user than if undertaken by the legislator. The stakeholders can decide on the efforts they dedicate depending on the value of a feed material list. The current lists of feed materials in Directives 96/25/EC and 82/471/EEC should become the initial version of the Community Catalogue of feed materials to be completed by the stakeholders according to ***the feed materials used by them. Compliance with the criteria set out in*** the Catalogue ***for feed materials*** should be voluntary; but in order to avoid that the purchaser is misled as to the real identity of the product, the manufacturer ***must*** indicate ***if he does not meet the criteria set out in*** the Catalogue .

Or. de

Justification

All feed material used in compound feed must be listed in the Catalogue.

Amendment 7

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 feedstuff labelling.***

Or. de

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 8

Proposal for a regulation Article 2 – paragraph 2 – letter a

Text proposed by the Commission

(a) Directive 90/167/EEC;

Amendment

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

Or. de

Justification

Clarification.

Amendment 9

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*;

Or. de

Justification

Clarification

Amendment 10

Proposal for a regulation

Article 4 – paragraph 3

Text proposed by the Commission

Amendment

3. Feed shall comply with the technical provisions on impurities and other chemical determinants set out in *Annex I*.

3. Feed shall comply with the technical provisions on impurities and other chemical determinants set out in *Article 6a*.

Or. de

Justification

The provisions to prevent the contamination and chemical pollution of feed directly affect food safety and should therefore not be left simply to the Catalogue and to self-regulation by the industry,

Amendment 11

Proposal for a regulation

Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The competent authorities shall pass on to consumers information forwarded to them pursuant to paragraph 2 where they consider that their suspicion concerning infringements of the relevant legislation justifies the transmission of the information in response to an inquiry, pursuant to Article 17, paragraph 2(b). Where appropriate, the authorities shall make the transmission of information conditional upon the signing of a confidentiality declaration.

Or. de

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 12

Proposal for a regulation

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

Text proposed by the Commission

Amendment

In cases of extreme urgency, the Commission may invoke the urgent procedure specified in Article 29, paragraph 4a, in order to ensure a high level of consumer protection.

Or. de

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 13

Proposal for a regulation

Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Establishment of limit values for impurities and processing aids

The Commission shall, taking into account scientific findings, technical progress, reports within the framework of the early warning system for food and animal feedingstuffs and the results of official controls in accordance with Regulation (EC) No 882/2004, set limit values for impurities resulting from the production procedure and for processing aids in feed.

These measures to amend non-essential provisions in this Regulation by supplementing it shall be adopted in accordance with regulatory procedure with scrutiny referred to in Article 29, paragraph 4.

Or. de

Justification

Limit values for chemical impurities resulting from the production process and for processing aids should be set in the Catalogue at the manufacturer's responsibility, according to the Commission proposal (see Annex I). Since these chemical impurities and processing aids can substantially impact food safety, the limit values should be set by the Commission, subject to scrutiny by the legislator.

Amendment 14

Proposal for a regulation Article 7

Text proposed by the Commission

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.

Amendment

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.

Or. de

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 15

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 shall not contain feed additives incorporated at levels more than **50** times the relevant fixed maximum content in complete feed or five times in case of coccidiostats and histomonostats.
Higher doses of complementary feed or special mixtures may be used in individual cases following authorisation by the veterinarian responsible.

Or. de

Justification

Where complementary feed is too concentrated, there is a danger that the wrong doses of additives may be administered. This applies not only to coccidiostats and histomonostats. Derogations for high doses of complementary feed must be approved by the veterinarian responsible.

Amendment 16

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 Commission **or a Member State** 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, **it** 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.

Or. de

Justification

Member States should also be able to request scientific scrutiny of information supplied by the manufacturer by the EFSA.

Amendment 17

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.

Or. de

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 18

Proposal for a regulation Article 13 – paragraph 1 – subparagraph (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. The scientific substantiation shall be available at the time the feed is placed on the market. ***Thereafter consumers shall be entitled to receive the scientific substantiation from the competent authority or to request the authority to have such a justification forwarded by the manufacturer.***

Justification

Advertising slogans and claims must be verifiable. Provision should be made for scientific substantiations for such statements to be made available at the request of the competent authority, rather than as a matter of principle. However, consumers should also be able to receive sufficient proof from the authority, or to request the authority to have the manufacturer provide the proof.

Amendment 19
Proposal for a regulation
Article 13 – paragraph 2
Text proposed by the Commission

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.

Amendment

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 **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 20
Proposal for a regulation
Article 15 – subparagraph (c)
Text proposed by the Commission

(c) **if available**, the establishment approval number granted in accordance with

Amendment

(c) the establishment approval number granted in accordance with Article 17 of

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;

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; ***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 Annex V of Chapter II of Regulation (EC) No 183/2005;***

Or. de

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 21

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.

Or. de

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 22

Proposal for a regulation

Article 17 – paragraph 2 – subparagraph (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 ***exact*** quantitative composition data according to the ***actual*** feed formulation. ***This provision shall not apply to feed materials which account for 2% or less by weight of the compound feed, if the manufacturer*** considers this information to be commercially sensitive and ***can prove*** that the disclosure ***would*** infringe his intellectual property rights;

Or. de

Justification

The manufacturer may invoke his intellectual property rights only if he is able to furnish proof of his claim. In addition, according to manufacturers, intellectual property is solely relevant to micro-ingredients which account for less than 2% of compound feed. The margin of error of +/- 15% of the value provided for in the current Regulation should provide the manufacturer with a certain degree of flexibility in printing labels. Should a request for information be made subsequently, however, the exact composition is known and this flexibility is therefore unnecessary.

Amendment 23

Proposal for a regulation Article 19 – introduction

Text proposed by the Commission

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

On the label of pet food a **free means of establishing contact** shall be indicated in order to allow the customer **to exercise his right** to obtain information in addition to the mandatory particulars on:

Or. de

Justification

A free telephone number is only one of many ways to allow customers to access further information on the exact composition of pet food. For SMEs, in particular, providing a free telephone number (possibly in several EU official languages) would constitute a disproportionate burden.

Amendment 24

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 **containers** 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.

Or. de

Justification

Many types of pet food are sold in multi-packs. In this case it is only appropriate to provide the compulsory information only on the packaging.

Amendment 25

Proposal for a regulation

Article 25 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. A manufacturer wishing to use a feed material not yet listed in the Catalogue must first apply for the inclusion thereof in the Catalogue, pursuant to Article 27, paragraph 1.

Or. de

Justification

The Catalogue does not constitute an officially recognised list of approved products; rather it is drawn up by the industry at its own responsibility. A new feed material used by a manufacturer shall however be included in the Catalogue with the agreement of market operators and the competent authorities.

Amendment 26

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 provided for in Article 22 ***and support to improve the appropriateness of the 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 implementation of labelling provisions and explain procedures*** for voluntary labelling provided for in Article 22.

Or. de

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 27

Proposal for a regulation

Article 27 – paragraph 1 – introduction

Text proposed by the Commission

Where the Catalogue and Codes are created, they shall be, as appropriate, developed and amended by all appropriate representatives of European feed business sectors:

Amendment

Where the Catalogue and Codes are created, they shall be, as appropriate, developed and amended by all appropriate representatives of European feed business sectors **(manufacturers and consumers)**:

Or. de

Justification

Manufacturers as well as consumers should be involved in drawing up and amending the Catalogue and the Codes.

Amendment 28

Proposal for a regulation

Article 27 – paragraph 2 – introduction

Text proposed by the Commission

The Commission shall approve the Catalogue, draft Codes and draft amendments thereto in accordance with the procedure referred to in Article 29(2) provided that the following conditions are met:

Amendment

The Commission shall approve the Catalogue, draft Codes and draft amendments thereto in accordance with the procedure referred to in Article 29(4) provided that the following conditions are met:

Or. de

Justification

Drawing up and amending the Catalogue and the Codes are general measures which involve amending non-essential provisions of the existing Regulation, inter alia by supplementing it. These the measures should therefore be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 5a of Decision 1999/468/EC.

Amendment 29

Proposal for a regulation Article 27 – paragraph 3

Text proposed by the Commission

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.

Amendment

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

Or. de

Justification

Publication will contribute to transparency.

Amendment 30

Proposal for a regulation Article 29 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Should this paragraph be invoked, Article 5a, paragraphs 1, 2, 4 and 6) and Article 7 of Decision 1999/468/EC shall apply, taking due account of Article 8 thereof.

Or. de

Justification

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

Amendment 31

Proposal for a regulation Annex I – paragraph 1

Text proposed by the Commission

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.***

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 ***pursuant to Article 6a.***

Or. de

Justification

The establishment of limit values for chemical impurities from the production process and processing aids is of key importance for food safety and should be laid down in the legislative text.

Amendment 32

Proposal for a regulation Annex V – Chapter I – paragraph 3

Text proposed by the Commission

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.

Amendment

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.

Or. de

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 33

Proposal for a regulation

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

Text proposed by the Commission

Amendment

2a. A feed business operator who markets a feedstuff 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.

Or. de

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.

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 Commission proposal 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, paragraph 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.

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.