COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 30.1.2008
SEC(2008) 93 C6-0052/08

COMMISSION STAFF WORKING DOCUMENT

accompanying the

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the provision of food information to consumers

SUMMARY OF THE IMPACT ASSESSMENT REPORT ON GENERAL FOOD LABELLING ISSUES

{COM(2008) 40 final}
{SEC(2008) 92}
{SEC(2008) 94}
{SEC(2008) 95}

SUMMARY

1. INTRODUCTION

General food labelling is governed by Directive 2000/13/EC, a codified version of Directive 79/112/EC. Although one major recent amendment was introduced in 2003 (allergenic ingredients) most of the provisions date back to 1978. The evolution of both the foods market and consumers' expectations renders the update and modernisation of this legislation necessary.

The revision of the Community legislation on general food labelling and nutrition labelling is included in the Commission work programme for simplification.

2. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

The main stakeholders were consulted in 2003 - 2007. The basis of the consultation process was the conclusion of a study carried out in 2003 on the evaluation of the food labelling legislation. The conclusions of this study identified the key points on which the Commission should focus in the context of a proposal aiming at modernising the Community legislation on labelling and meeting consumers' aspirations.

There were broad surveys of all interested parties seeking their views on the existing legislation and the needs for change. An open consultation was conducted over the internet from 13 March 2006 to 16 June 2006.

A Commission Inter-Service Group on the Impact Assessment was set up. The impact assessment results were scrutinised by the European Commission Impact Assessment Board (IAB), which gave its opinion.

3. PROBLEM IDENTIFICATION

The Impact Assessment concerns the revision of Directive 2000/13/EC providing for compulsory information on the label of foods. The main purpose of this legislation has not been questioned by stakeholders during extensive consultation. The basic contents of the existing requirements are seen as a valuable acquis and there seems no desire from stakeholders for a change in the core components of the legislation.

However, there are certain aspects of the legislation that do not work efficiently and do not fully meet the original objectives. There is a general criticism about the piecemeal approach in the delivery of the entire spectrum of Community labelling legislation and, more specifically, a lack of coordination of implementation dates. For the horizontal food labelling concerns have been expressed about the lack of clarity and legal certainty, and the failure of the rules to address current stakeholders needs and expectations (which have changed over time).

The process of consultation demonstrated that certain main issues are in need of review. However, stakeholders have very different views on how these issues should be addressed.

4. OBJECTIVES

The main objectives of the legislation on food labelling are to:

- enable consumers to make informed, safe, healthy and sustainable choices;
- provide consumers with relevant, useful and legitimately expected information;
- ensure the smooth functioning of the internal market;
- foster a pro-competitive market environment.

Taking this objective into account, the broad scope of the revision should reflect the following specific objectives:

- ensure consistency and clarity in the provision of information;
- protect consumers' health and address specific consumer demands for information;
- avoid misleading indications and eliminate existing inconsistencies;
- enable and reward industry innovation allowing them to make full use of the power of labelling to sell their products.

5. MAJOR POLICY ISSUES AND EXPECTED SIMPLIFICATION BENEFITS

With a view to achieving the objectives and in line with the simplification process a number of measures have been considered. Taking full account of the simplification needs that emerged from the consultation those measures have been divided into two categories:

5.1. General simplification tools:

- Setting-up of a flexible bottom-up mechanism (new labelling governance) that would enable industry to innovate, and the labelling rules to adapt to different and continuously changing markets and consumer demands;

- Recasting of the different horizontal labelling provisions. The merging of those texts will maximize synergies, minimize overlaps and redundancies and increase the clarity and consistency of Community rules. This is a powerful simplification method that should provide economic operators and enforcement authorities with a clearer and more streamlined regulatory framework. Consideration was given to bring all labelling legislation, including vertical requirements, into one text but this would have resulted in an even more complex approach;

- Elimination of inconsistencies between horizontal and vertical rules, where possible;

- Rationalisation (update, clarification, removal of redundancies) of the compulsory information required by Article 3.1 of Directive 2000/13/EC.

5.2. Measures that during the consultations were identified as having more important impacts, and for which a more detailed analysis has been carried out. Addressing the following issues would contribute towards simplification in terms of easier compliance and greater clarity for stakeholders:

- **Legibility of the labels** – the objective is to simplify and improve the way information is made available to the consumers and make it easier for operators to comply with the general requirement for readable and clear labels.

- Lack of information on **allergenic ingredients** on non-pre-packed food – the objective is to protect consumers' health and to ensure consistency in the provision of information.

- **Origin labelling** – the objective is to simplify the current situation where due to uncertainty there is a proliferation of misleading voluntary indications of origin and a non ending debate on how to address recurrent consumer demand for information on food origin. Addressing this issue would provide clarity in the legislation, facilitate compliance for operators and improve consumer understanding of origin indications.

- Inconsistent information on ingredients and in particular **ingredient listing for alcoholic** beverages – the objective is to rationalise the current situation by clarifying the existing legal limbo.

6. BASIC OPTIONS

In the Impact Assessment report various options for Community action are described to address these issues varying from no further action to statutory actions. Although the so-called "basic approaches" were considered, given that the initiative in question concerns a revision for which clear areas for action have been identified through the extensive consultation, the detailed analysis of impacts has been based on the options for action of the 4 main issues that were identified for possible review in the legislation.

6.1. **No intervention** would maintain the current situation with scattered legislation with the following negative effects:

– piecemeal and confusing rules undermining the effective implementation;

– unjustified burdens on food business because of outdated, redundant or unclear requirements;

– inconsistent consumer use of labels;

– ineffectiveness of labelling as a communication tool;

– failure of the legislation to adapt to changing markets and consumers' legitimate demands.

6.2. **Intervention** was considered in the context of deregulation, national legislation, non-statutory approach or updating Community legislation.

6.2.1. *A deregulatory* approach would entail the abolition of the basic policy instruments on horizontal food labelling rules with a direct impact on vertical labelling rules. Non-harmonised rules would impair the internal market, lead to poor information and reduce the level of consumer protection. Dismantling the existing rules would meet resistance from most Member States and consumers given that they are used to the current requirements and any change could be seen as an abandonment of a valuable "acquis". Therefore, deregulation was not considered a viable approach.

6.2.2. *National legislation* and repeal of the Community rules would result in different national rules that would impede the internal market; distortion of fair competition; increased administrative burden for industry; inconsistent approach in content and availability of information creating confusion for consumers; different level of protection for EU citizens.

6.2.3. *Alternative non-statutory approach* - The different features of consumer information and current *trends* towards the development of a "new legislative culture" called for the assessment of an approach that could strike the balance between flexibility and prescription and between action at the national and action at the EU level. A multi-level bottom-up governance based on the principle of commitment to best practice and data sharing between stakeholders could be a viable alternative for certain aspects of the legislation and this innovative mechanism has been assessed as an option.

7. POLICY ISSUES AND SPECIFIC OPTIONS

7.1. Policy Issue 1: Legibility of the information

7.1.1. Current problems

Although the framework Directive requires that the mandatory requirements be easy to understand, marked in a conspicuous place and in such a way as to be *easily visible, clearly legible and indelible*, there is widespread complaint that labels are neither legible nor understandable. The most frequent complaint in particular is the size of the type face.

7.1.2. Policy options

The options of no EU action, a voluntary approach, and statutory approach including standardisation of labels or setting of a minimum font size were examined.

7.1.3. Main findings

The analysis showed that specific rules on typeface size would address one of the fundamental issues related to legibility of information. However, it is recognised that this is not the only aspect. If other aspects of legibility are seen to be creating a significant problem for consumers then the desirability of harmonisation on these factors may need to be addressed in the future.

There is inadequate information to assess the impact of the change in the legislation to include a minimum font size however manufacturers already have to follow the principle that their labels should be legible so the inclusion of specific requirements related to legibility in the legislation would provide a framework through which it could be expected that the label would be legible for the average consumer.

Further prescription on the legibility of food labels has been opposed by the business stakeholders so far, as they fear it will increase the costs of food labelling and reduce their flexibility. However, this is one of the key issues of the revision, since it does not make sense to set obligations as to the information to be provided to the consumer if the latter cannot make use of it. Therefore, it is considered that there will be no benefit from any review of the labelling legislation if it does not lead to more readable labels.

7.2. Policy Issue 2: Lack of information on allergenic ingredients on non-prepacked food

7.2.1. Current problems

Consumers who have allergies or intolerances to certain food ingredients are well served by the current legislation in relation to the provision of information on prepacked foods. However, these foods make up only part of the diet of such consumers and increasingly there are demands to extend the pre-packed requirements to non-pre-packed food. Especially as there are potential health implications if the wrong information is provided or is implied.

7.2.2. Policy options

The options of no EU action, a voluntary approach, and a statutory approach to extend mandatory allergens labelling to non-prepacked food were examined.

7.2.3. Main findings

The analysis shows that providing information about the presence of allergens would respond to a safety and health concern expressed by consumers. Although in terms of business affected the overall cost is likely to be significant, the operational costs are difficult to quantify. The actual production of a physical label for food sold loose seems to be a rather unproblematic feature but there might be issues with generating and updating the information. Ensuring that the required information is readily available to retailers selling non-prepacked food and to restaurants from their suppliers would reduce the information costs. Flexibility for Member States with the implementation should allow tailoring the measures to the domestic characteristics of each Member State's food retail and food catering business and might enable a more cost effective regime.

Under a voluntary approach there is less likely to be consistency in the provision of reliable and accurate information.

7.3. Policy Issue 3: Clarification of the use of origin labelling on foods

7.3.1. Current problems

Details about the origin of products are often found on food labels, either because legislation requires that this is present or a company voluntarily decides to provide such information. Although detailed data is unavailable, it would seem that more and more products contain some indication of origin. This leads to expectations from consumers to both more origin labelling and assurances that when it is provided they can be certain that the information is not false or misleading. The latter issue is also of interest to the industry, not least as the use of origin labelling can give a competitive advantage. Consequently they would wish to have a level playing field across the EU, with clear 'rules' on origin labelling. However, at the horizontal level of legislation such rules are not in place.

7.3.2. Policy options

The options of no EU action, a voluntary approach and a statutory approach to require mandatory origin labelling for all unprocessed food or to address specific justified demands of origin labelling or to lay down criteria to frame the voluntary use of origin labelling were examined.

7.3.3. Main findings

Consumers across the European Union value country of origin information on foods. The costs of mandatory country of origin labelling are variable and dependent on the extent of the requirement. However, the potential costs are reduced through the number of companies that already provide such information and through existing tracking and tracing systems. A suitable transition period that enabled for any labelling changes that might be required to be incorporated into the usual labelling cycle would help to reduce any direct costs associated with changes in the legislation.

In meeting consumers' demands and contributing to an informed choice the introduction of different degrees of origin labelling for different food products, modelled after the different consumers' demands for labelling would constitute a benefit compared to the current situation. However, to secure these benefits, the country of origin label has to be clear, understandable and not misleading to the consumer. Current labelling practices are poorly understood by consumers and are sometimes even misleading. Clarification about the use of origin labelling would thus be a benefit to the consumers but also to industry and enforcement authorities.

7.4. Policy Issue 4: Consistent application of ingredients listing rules

7.4.1. Current problems

Currently, alcoholic beverages are not required to bear listing of ingredients. This situation is not the result of an explicit derogation granted by Directive 2000/13/EC but of **a legal limbo** rooted in the acknowledgement that specific rules are needed for ingredient listing of alcoholic beverages because of their particular characteristics and production methods. So, whilst there is in the current legislation a theoretical obligation for alcoholic beverages to label their ingredients, in reality this requirement never became operational due to the lack of specific rules.

7.4.2. Policy options

The options of no EU action, voluntary approach and statutory approach to exempt all or part of alcoholic beverages from ingredients listing or on the contrary to make operational the current rules have been examined.

7.4.3. Main findings

There is little evidence on the impacts of extending horizontal, mandatory ingredient listing requirements to alcoholic beverages, which so far have been exempt from regulation and the level of consumer interest in ingredient labelling of alcoholic beverages is unclear.

Although significant progress has been made in relation to the labelling of allergens, the situation is still unchanged for other ingredients which may be present in alcoholic drinks and not labelled, such as food additives and flavours that are used in many of these drinks, including ready-to-drink beverages, without any information for consumers. Consumers should be provided with information that is useful and vital to enable them to make an informed decision and often to prevent them from being misled. Therefore, the use of substances that are likely to influence the consumer's choice because of their presence or technological effect on the finished product should normally be expected to result in compulsory labelling.

Introducing ingredient listings would impose some small costs on the producers to change and print new labels, while the actual ingredient listing should be readily available to the company.

8. CONCLUSION

In considering the various options and their respective impacts, the challenge for the Commission is how to streamline and simplify the food labelling scene without undermining the high level of consumer protection pursued by the Community. The impact of any regulatory approach could be minimised by providing transition periods that allow for the labelling changes to be made during the normal cycle for label changes that are in operation within a company.