

Commission Directive 1999/10/EC of 8 March 1999 providing for derogations from the provisions of Article 7 of Council Directive 79/112/EEC as regards the labelling of foodstuffs (Text with EEA relevance)

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (1) , as last amended by European Parliament and Council Directive 97/4/EC (2) , and in particular Article 7(3) (d) and (4) thereof,

Whereas Article 7(2) (a) and (b) of Directive 79/112/EEC provide that the quantity of an ingredient is to be stated on the labelling of a foodstuff where the ingredient concerned appears in the name under which the foodstuff is sold or is emphasised on the labelling;

Whereas, on the one hand, Commission Directive 94/54/EC (3) , as amended by Council Directive 96/21/EC (4) , requires the particulars ' with sweetener(s) ' or ' with sugar(s) and sweetener(s) ' to be indicated on the labelling of products containing such ingredients; whereas those particulars must accompany the name under which the product is sold;

Whereas the indication of those particulars required by Directive 94/54/EC has the effect of making it obligatory to indicate the quantity of this ingredient or these ingredients in accordance with Article 7(2) (a) and/or (b) of Directive 79/112/EEC;

Whereas, however, indication of the quantity of sweeteners is unlikely to govern the consumer's choice when purchasing the product;

Whereas, on the other hand, the inclusion of particulars relating to the addition of vitamins and minerals has the effect of making nutrition labelling obligatory in accordance with Council Directive 90/496/EEC (5) ;

Whereas such particulars are regarded as an integral part of the name under which the product is sold or as emphasising an ingredient within the meaning of Article 7(2) (a) and/or (b) of Directive 79/112/EEC, thereby making the indication of the quantity of vitamins and minerals compulsory;

Whereas duplicated information of this kind is not useful to consumers and could even mislead them, inasmuch as quantity is indicated as a percentage under Article 7(4) of Directive 79/112/EEC and in mg on nutrition labelling;

Whereas under these circumstances, it is necessary to provide for further exceptions to the rule of indicating the quantities of ingredients;

Whereas Article 7(4) of Directive 79/112/EEC states that the quantity indicated, expressed as a percentage, must correspond to the quantity of the ingredient or ingredients at the time of its/their use; whereas that paragraph nevertheless provides for derogations from that principle;

Whereas, furthermore, the composition of certain foodstuffs is appreciably changed by cooking or other processes causing dehydration of their ingredients;

Whereas a derogation from the method for calculating the quantity of ingredients laid down by Article 7(4) of Directive 79/112/EEC is necessary for these products in order to better reflect the true composition of the foodstuff and thereby avoid misleading the consumer;

Whereas Article 6(5) (a) of Directive 79/112/EEC applies the same principle to the order of ingredients in the list of ingredients;

Whereas Article 6 nevertheless provides for derogations for certain foods or ingredients;

whereas, for the sake of consistency, the same derogations should be provided for the method of calculating quantity;

Whereas, in accordance with the principles of subsidiarity and proportionality as set out in

Article 3b of the Treaty, the objectives of the proposed action to ensure the effective implementation of the principle of quantitative indication of ingredients cannot be sufficiently achieved by the Member States to the extent that the basic rules are included in Community legislation; whereas this Directive is limited to the minimum required to achieve those objectives and does not go beyond what is necessary to that end;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Standing Committee on foodstuffs,
HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Article 7(2) (a) and (b) of Directive 79/112/EEC shall not apply in cases where the wording 'with sweetener(s)' or 'with sugar(s) and sweetener(s)' accompanies the name under which a foodstuff is sold, as provided for under Directive 94/54/EC.

2. Article 7(2) (a) and (b) of Directive 79/112/EEC shall not apply to particulars relating to the addition of vitamins and minerals, in cases where those substances are subject to nutrition labelling.

Article 2

1. By way of derogation from the principle established in Article 7(4) of Directive 79/112/EEC, the provisions of paragraphs 2 and 3 of this Article shall apply to the indication of quantities of ingredients.

2. For foodstuffs which have lost moisture following heat treatment or other treatment, the quantity shall correspond to the quantity of the ingredient or ingredients used, related to the finished product. The quantity shall be expressed as a percentage.

However, when the quantity of an ingredient or the total quantity of all the ingredients expressed on the labelling exceeds 100 %, the percentage shall be replaced by the weight of the ingredient(s) used to prepare 100 g of finished product.

3. The quantity of volatile ingredients shall be indicated on the basis of their proportion by weight in the finished product.

The quantity of ingredients used in concentrated or dehydrated form and reconstituted during manufacture may be indicated on the basis of their proportion by weight as recorded before their concentration or dehydration.

In the case of concentrated or dehydrated foods which are intended to be reconstituted by the addition of water, the quantity of the ingredients may be indicated on the basis of their proportion by weight in the reconstituted product.

Article 3

Member States shall, where necessary, adopt the necessary laws, regulations and administrative provisions by 31 August 1999 at the latest so as to:

- allow trade in products complying with this Directive by 1 September 1999 at the latest,
- prohibit trade in products not complying with this Directive from 14 February 2000 at the latest. However, products placed on the market or labelled before that date which do not comply with this Directive may be marketed until stocks are exhausted.

They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 4

This Directive shall enter into force on the twentieth day following that of its publication in the

Official Journal of the European Communities.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 8 March 1999.

For the Commission

Martin BANGEMANN

Member of the Commission