



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 30.1.2008

SEC(2008) 95

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 NUTRITION LABELLING ISSUES

{COM(2008) 40 final}

{SEC(2008) 92}

{SEC(2008) 93}

{SEC(2008) 94}

SUMMARY

1. INTRODUCTION

The recently published White Paper on a Strategy for Europe on Nutrition, Overweight and Obesity related health issues¹ stressed the need for consumers to have access to clear, consistent and evidence-based information when deciding which foods to buy. Nutrition labelling is an established way for information to be passed to consumers to support health conscious decision making in relation to food purchases. There is wide agreement in Europe today that the effectiveness of nutrition labelling can be strengthened as a channel for information to consumers to support their ability to choose a balanced diet.

The revision of the Community legislation on general food labelling requirements (Directive 2000/13/EC) and nutrition labelling (Directive 90/496/EEC) have been included in the Commission work programme for simplification.

2. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

The main stakeholders were consulted on the revision of Directive 90/496/EEC on nutrition labelling of foodstuffs between 2003 - 2007. There were broad surveys of all interested parties seeking their views on the provisions and application of existing legislation and the needs for change. The respondents were from governmental and NGOs, industry and individuals. Certain consultations were targeted at Member States, industry or consumers. Along with input from various discussions within Commission Committees and Advisory Groups an open consultation was conducted over the internet from 13 March 2006 to 16 June 2006.

A Commission Inter-Service Group was formed. The impact assessment was scrutinised by experts from different Commission Directorate-Generals' represented in the Group as well as by the European Commission Impact Assessment Board, which gave its opinion.

3. PROBLEM IDENTIFICATION

The Impact Assessment concerns the revision of Directive 90/496/EEC which provides the framework for the presentation of nutrition information on food labels. The main purpose of this labelling legislation - to inform consumers, to ensure smooth functioning of the Internal Market and ensure equal conditions of competition – has not been questioned by stakeholders during extensive consultation.

The feedback is that there is dissatisfaction among stakeholders on the current legislation but there are divergent views on how the legislation could be improved. For example, many consumers find nutrition labels hard to use but the research has not indicated whether the cause of the problem is the amount of information or other

¹ European Commission (2007), White Paper on a Strategy for Europe on Nutrition, Overweight and Obesity related health issues - COM(2007) 279.

factors such as format of the presentation, lack of understanding of terms, placement of the information, type size, etc. Consumers demand more and "better" information on labels and are interested in clear, simple, comprehensive, standardised and authoritative information. Industry considers there are too many labelling requirements which involve implementation of detailed, technical rules. The cost of changes is a concern to industry and the potential impact on international trade has to be borne in mind. Member States wish to balance the needs of consumers and industry, taking into account, any issues that are specific to their country.

What is clear is that labels can be complex and most consumers would like simple, clear, understandable, standardised and authoritative nutrition information. Whilst the industry would support such an aim, they express concerns about the prescriptive nature of the current legislation and the cost implications of any potential changes.

During the consultation process four main issues were identified for further examination:

- Disparity in inclusion of nutrition labelling on prepacked foods
- Consideration of the nutritional elements that should be included in the nutrition labelling
- Simplified nutrition labelling – in particular the inclusion of nutrient content information on front of pack
- Legibility of information.

4. OBJECTIVES

The main objectives of the legislation on nutrition labelling are:

- to make key nutrition information more widely available;
- to make nutrition labelling more easily understandable to the consumer; and
- to create a level playing field for companies to compete.

Taking this objective into account, the broad scope of the revision should meet the needs of consumers and industry, and reflect the following specific objectives:

- provision of key nutrition information – which means that the nutritional elements that should be included in the nutrition label need to be reviewed;
- increase the availability of information to the consumer with nutrition information included on nearly all relevant prepacked products;
- the information to be presented in a way that makes it easy for the consumer to find, understand and use, including its legibility;
- clarify the legislative situation of nutrient content information provided on the front of pack;
- flexibility, allowing the industry to innovate on nutrition labelling, adapt to different markets and consumer demands, and to take account of the variations in packaging (size, shape, etc.);
- to avoid impediment of the single market, and to meet the expectations of consumers and industry, there should be mechanisms in place to control the extent of any flexibility at the national and EU level.

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 for the revision of the Community legislation on all food labelling legislation. With respect to the nutrition labelling legislation the main aspect of simplification is:

- 5.1. General simplification tools to bring the legal text into line with other EU policies (including Better Regulation):
 - Setting-up of a flexible bottom-up mechanism (new labelling governance) that would enable the industry to innovate on food labelling, and the labelling rules to adapt to different and continuously changing markets and consumer demands.
 - Recasting of the different horizontal provisions on labelling. The merging of the horizontal texts will maximise synergies 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.

6. BASIC OPTIONS

In the impact assessment report various options for Community action are described to address these issues varying from no further action (the baseline scenario) to statutory actions.

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. Although food manufacturers would continue to apply the current rules for a short period of time, they would progressively remove information they consider as a burden. Non-harmonised rules would impair the internal market, lead to poor information and reduce the level of consumer protection. Existing rules have proven their merits in allowing free circulation of goods and consumers' protection. Dismantling them would meet resistance from most Member States and consumers given that they have been 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 harmonised 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* (self-regulation, co-regulation, guidance) - 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 EU level. A multi-level bottom-up governance (local/national/community) based on the principle of commitment to formal, measurable 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

Although the so called basic alternative approaches were considered, given that the initiative in question concerns a revision of the legislation 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 on the four main issues that were identified for review in the legislation:

7.1. Policy Issue 1: Disparity in inclusion of nutrition labelling on pre-packed foods

7.1.1. Current problems

It is considered that the provision of nutrition information is essential to enable consumers to make informed choices. However, the inclusion of such information is not uniform across product categories nor Member States. Information is less likely on products that have negative attributes such as high fat content.

7.1.2. Policy options

The options of no EU action, a voluntary approach, and statutory approach including the mandatory labelling of products were examined.

7.1.3. Main findings

The do nothing option and a purely voluntary approach would not overcome the identified problem, in particular in relation to provision of information on products with negative attributes.

The introduction of mandatory labelling was examined on the basis of applying to all the industry or with exceptions for SMEs as a whole or only exceptions for microbusinesses. In terms of the potential impact on industry the application of mandatory nutrition labelling across the board would have a major impact if applied immediately. However, with a transition period of 3 years it was estimated that the costs would be reduced significantly to around € 1.2 billion. Whilst for the objective of making information more widely available to the consumer, the option that would lead to the most widespread inclusion of information was the mandatory labelling of all prepacked foods. Exceptions for microbusinesses were expected to lead to around 90% of prepacked food being labelled. It is anticipated that the more widespread availability of nutrition information would lead to changes in consumers' behaviour with potential benefits on public health.

7.2. Policy Issue 2 - How much nutrition information should be included on the label – consideration of the nutritional elements that should be included in the nutrition labelling

7.2.1. Current problems

The aim of nutrition labelling is to inform the consumer and to facilitate their ability to choose a nutritionally balanced diet, therefore the question is what information should be included on a nutrition label to achieve this aim. At the moment nutrition labelling must consist of at least energy, protein, carbohydrates and fats. The WHO Global Strategy on Diet Physical Activity and Health² noted that the following nutrients were associated with increased risk of noncommunicable diseases: fats, saturated fats, trans fats, free sugars, and salt (sodium). These broadly coincide with the most frequently mentioned nutritional elements in the 2006 consultation. However, certain stakeholders have called for inclusion of nine nutritional elements in the labelling. Other stakeholders argue that a long list of nutrients is confusing for the consumer. The balance between providing information on the components most relevant to public health and comprehensive information needs to be considered against consumer understanding and risk of information overload.

7.2.2. Policy options

The options of no action, a voluntary approach, and a statutory approach to specify the main elements for nutrition labelling were considered.

² World Health Assembly Resolution 57.17, 2004, Global Strategy on diet, physical activity and health.

7.2.3. *Main findings*

The do nothing and voluntary approach would mean that the information that is provided would not necessarily coincide with the nutritional elements that are of most interest for the consumer. Any change from the existing requirements would have a potential impact on businesses needing to collect different nutritional composition information for their products. These costs to industry were estimated as being not significant (if the necessary computer software was available to allow rapid calculation of the nutrient content of foods) to € 3.7 billion if the information was collected through chemical analysis of the product. There could be potential benefits to the consumers if the information that was included covered the nutritional components that are most frequently looked for and those that are important in public health terms as being associated with the risk of development of certain non-communicable diseases.

7.3. **Policy Issue 3 - Simplified nutrition labelling – in particular the inclusion of nutrient content information on front of pack**

7.3.1. *Current problems*

The inclusion of nutrient content information in simplified form has been increasing in the recent years through the promotion of such schemes by individual Member State Authorities and representative industry organisations. The situation regarding such presentations, particularly those being promoted for use on the front of pack, is not clear under the existing legislation leading to a need for clarification. In addition, the application of different schemes could potentially lead to confusion for the consumer and barriers to trade for the industry.

7.3.2. *Policy options*

The options of no action, a voluntary approach, and a statutory approach - to ban such presentation, or to provide a framework for a voluntary approach or to include the information on a mandatory basis were assessed.

7.3.3. *Main findings*

From the analysis, the options to do nothing or leave to voluntary approaches would mean continuing proliferation of different schemes. There is a need for clarity of the situation, however, the ban of such labelling would potentially have negative consequences for the industry and consumers. Therefore, the provision of a framework for front of pack labelling would benefit the consumer (reducing the risk of confusion) and benefit the industry (reducing the risk of the creation of barriers to the free movement of goods). The inclusion of the information on a mandatory basis would potentially increase the impact of nutrition labelling on consumer behaviour as evidence suggests that consumers take account of information on the front of pack more often than when provided on the back of pack.

7.4. Policy Issue 4 - Legibility of information

7.4.1. Current problems

There is little benefit to the consumer if the nutrition information is hard to read. The question of legibility concerns various aspects of presentation, font size, type style and colour, contrast with background etc. The main cause for complaint is font size particularly for the back of pack information. There is a need for consideration whether the legislation should be adapted to give a framework for the general provision that labels should be legible. This issue is of relevance to all information provided on food labels, not just nutrition information.

7.4.2. Policy options

The options of no action, a voluntary approach, and a statutory approach were assessed.

7.4.3. Main findings

In the analysis of the options it appeared that doing nothing or leaving to a voluntary approach would not lead to a significant improvement in the situation. The inclusion of a minimum font size for the type on food labelling would help to address the main complaint from consumers.

8. CONCLUSION

The preferred option identified is mandatory labelling of nutrition information on energy, fat, saturated fats, sugars and salt in the principal field of vision (front of pack) with the voluntary declaration of other nutrients. The impact on manufacturers can 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. In addition, the availability of computer systems to enable the easy calculation of the nutrient composition of a product would significantly reduce any costs associated with obtaining such information.