Opinion on the proposal for a Council Directive amending Directive 79/373/EEC on the marketing of compound feedingstuffs [1]

(89/C23/06)

On 22 June 1988 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the abovementioned proposal.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 3 November 1988. The Rapporteur was Mr Della Croce.

At its 260th plenary session (meeting of 23 November 1988) the Economic and Social Committee adopted the following Opinion by a unanimous vote.

1. Introduction

1.1. The purpose of the proposal is to amend Council Directive 79/373/EEC on the marketing of compound feedingstuffs. This Directive has already been amended on a number of occasions by Commission Directives 80/509/EEC (2. 5. 1980), 80/695/EEC (27. 6. 1980) and 82/957/EEC (22. 12. 1982), Council Directive 86/354/EEC (21. 7. 1986) and Commission Directive 87/235/EEC (31 3. 1987).

1.2. The Committee was asked for its Opinion on Council Directives 79/373/EEC and 86/354/EEC.

1.3. The present proposal is based on a number of important considerations:

1. An end should be put to all national derogations with regard to labelling rules, by specifying the information which the person responsible must or may provide.

2. The accuracy of the information must be officially verifiable at all marketing stages.

3. It is not considered advisable to require that the quantity of each ingredient in the feed for productive stock be determined, because verification will pose problems which in some cases will be practically insoluble. Hence the proposal that only the name but not the quantity of each ingredient be indicated ('flexible declaration'). The possibility of grouping together , in categories, ingredients derived from the same basic product is considered worth retaining.

4. It is not proposed to require that the energy content of compound feeds for pigs and ruminants be indicated because it is doubtful how this information can be verified. It has been decided, however, to allow such information to be provided on the basis of nationally recognized methods.

5. Manufacturers must also be permitted to provide information other than that expressly laid down in the Directive, provided that this is made subject to certain conditions or restrictions in order to ensure fair competition and objective information.

6. Member States should no longer be able to require that compound feedingstuffs must or must not contain certain ingredients. Instead there should be a Community list of ingredients which are prohibited because they are harmful to animal or human health.

7. It is compulsory to indicate the minimum storage life of a product, with a distinction being drawn between highly perishable feedingstuffs (where a 'use before' date should be given) and other feedingstuffs (where the indication should be 'best before...'). The date of manufacture is to be given indirectly, using the wording 'manufactured 'x' days, months or year(s) before the minimum storage life expiry date indicated'.

2. General comments

2.1. The Committee would draw attention to its past Opinions on the subject, viz. the unanimously approved Opinion of 29/30 September 1971[2] and the Opinion of 30 January 1985[3] which was carried by a large majority.

2.2. The Committee thinks that the new proposal can be approved. More binding Community rules covering all Member States would certainly be timely, especially in the run-up to the all-important objective of the single European market. It is necessary to open up trade in compound feedingstuffs, so that producers, marketers and distributors can all compete fairly. However, it must also be ensured that users receive precise and accurate information.

[1] OJ No C 178, 7. 7. 1988.

[2] OJ No C 4, 20. 1. 1972.

[3] OJ No C 87, 9. 4. 1985.

2.2.1. The Committee therefore gives its broad approval to the proposal, subject to a number of general and specific comments which have been prompted by the fact that some problems remain unsolved and some of the solutions adopted are questionable or confusing.

2.3. The new rules will oblige manufacturers to supply precise information. They also detail the optional information that may be furnished about products, their use, and their composition. Such a system brings a need for effective checks, and hence for harmonized methods of analysis and assessment.

2.3.1. The Commission has already taken decisive steps in this field, but it must continue to look for the most appropriate procedures and select the methods to be adopted. Pending this, internationally recognized methods should be used.

2.4. The new Article 5(1)(e) and Article 5c(2) make it obligatory to list the ingredients in descending order by weight but not to specify the quantity of each ingredient. This is an important change which raises questions and problems to which there is no easy answer.

2.4.1. It means that the composition need not be disclosed in full, i.e. the user will not be provided with full information. In addition, there are doubts about the effectiveness of the checks for verifying the quantity of each ingredient or certifying their presence.

2.4.2. Details of the basic ingredients and the energy content of a feedingstuff are essential for assessing its value and quality.

2.5. A solution must be sought to the problem of determining the energy content of feed. It is impossible to accept that a solution cannot be found. Acceptable results have been obtained for poultry feed and considerable progress has been made with regard to pig-feed. There are thus good grounds for thinking that an economic and scientifically recognized method can be obtained for determining the energy value of other animal feed.

2.6. Grouping together various ingredients in categories—a possibility already provided for in existing rules—must be regarded as a suitable way of providing more reliable checks and ensuring the protection of industrial know-how and production capabilities.

2.6.1. However, it must be ensured that this option cannot confuse the user in any way.

2.7. The possibility of supplying extra information —in addition to that which it is compulsory to provide —is broadly acceptable because operators should be left with some room for manœuvre.

2.7.1. All the same, it is necessary to stress that all the information must be brief, clear, objective and accurate. The user must have sufficient information to determine the nutritive value of the feed, and it must also be possible to verify the information properly.

2.8. Article 5 of the current legislation allow Member States to specify the ingredients which may be used in compound feedingstuffs. Replacing this with a list of prohibited ingredients (new Article 10) is a major change which can be endorsed. However, precise Community agreement is needed on the list of prohibited ingredients, which must be drawn up at an early date.

2.9. The proposals with regard to products' dates of manufacture and expiry raise a good deal of uncertainty. Consumer interests are undoubtedly protected by the indication of these dates. However, some production processes make it difficult to indicate the exact date of manufacture. The argument that it should not be indicated can therefore be endorsed, provided that this does not hamper checks.

3. Specific comments

3.1. Article 1 (2) proposes the addition of a point (e) with regard to the minimum storage life of a compound feedingstuff. The Committee proposes that 'under proper storage conditions' be amended to 'under normal storage conditions'.

3.2. Article 5 (1) must put more emphasis on the need to ensure that the particulars are clearly legible, *inter alia* by using the right print for the packaging.

3.3. Point (h) in the Article 5 (1), which deals with the identification of the person responsible for the information, should head the list of compulsory information, thus becoming point (a). It should also be amended so that the address of the person responsible is specified in the clearest terms.

3.4. The provisions in the new Article 5 (2) should be more precise. Above all, 'small quantities of feedingstuffs intended for the final user' should mean quantities sold and packaged in the presence of the user.

3.5. Some of the optional information referred to in the new Article 5 (3) should be made compulsory and

transferred to Article 5 (1). This would make the information more homogeneous throughout the Community. In particular, the indication of the batch number ought to be obligatory.

3.6. The derogation allowed in Article 5 (4) raises some doubts especially as, once fiscal frontiers have been abolished, it will be difficult to identify feedingstuffs produced and marketed on the territory of only one Member State. At all events, the provision in point (b) might be prejudicial to the principle of commercial secrecy.

3.7. Special attention should be paid to the new Article 5c, which needs to be thoroughly revised in order to ensure that the list of optional information cannot mislead users. Users must also be able to recognize what is meant by 'ingredients' (without having to read the entire Directive and its amendments).

3.7.1. In particular, the grouping together of ingredients in categories raises questions. The establishment of these categories is considered advisable, but the Commission must lay them down promptly in order to prevent differences between Member States.

3.7.2. Clarification is also needed of what is meant by the 'specific name' of an ingredient, because the name must be such as to rule out any confusion.

3.8. The new Article 5d, which specifies how the minimum storage life is to be indicated, raises many problems.

3.8.1. It is certainly a good idea to make it compulsory to indicate the expiry date of the product. However, since the requirements differ for highly perishable and other feedingstuffs, the meaning of 'highly perishable feedingstuffs' and 'other feedingstuffs' ought to be defined better.

3.8.2. The main reason for making indication of the date of manufacture compulsory is to make checks easier. The user, however, is more interested in the date of expiry.

3.8.2.1. To make it less rigid. Article 5d (2) could be reworded as follows: 'manufactured 'x' months or 'x' months and year(s) before the minimum storage life expiry date indicated.'

3.9. Article 5e, which sanctions the right to supply additional information subject to a number of conditions, can be endorsed. The stipulation that no claims can be made about therapeutic properties might seem over-strict. However, it is justified by the requirement that any additional information should relate to 'objective or quantifiable factors which can be substantiated'. Nonetheless, an acceptable compromise might be to allow therapeutic properties to be indicated only when they relate to illnesses caused by malnutrition.

3.10. The Commission proposes to amend Article 10 by adding a point (d) which makes it possible to establish a list of ingredients whose use is prohibited in compound feedingstuffs in the interests of human and animal health.

3.10.1. In practice, the Commission is proposing to change the positive list of ingredients into a negative list.

3.10.2. Such an amendment can be considered useful on account of the high number of ingredients available and the ongoing technological developments which are constantly extending the number of ingredients.

3.10.3. However, it is necessary to be particularly severe and exhaustive when drawing up a list of prohibited ingredients.

3.11. The annex which contains general provisions in part A and rules for the declaration of analytical constituents in part B can be generally endorsed.

3.11.1. The declarations with regard to methionine and lysine cannot be required as long as Community methods of analysis are not available.

3.11.2. If some of the rules in the Directive have to be amended, part B should be altered accordingly.

Done at Brussels, 23 November 1988.

The Chairman

of the Economic and Social Committee

Alberto MASPRONE