Flavourings and food ingredients with flavouring properties for use in and on foods

2006/0147(COD) - 16/12/2008 - Final act

PURPOSE: to lay down rules on flavourings and food ingredients with flavouring properties for use in and on foods to ensure the effective functioning of the internal market and a high level of human health protection and consumer protection.

LEGISLATIVE ACT : Regulation (EC) No 1334/2008 of the European Parliament and of the Council on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC.

CONTENT: the Council adopted this Regulation having accepted all the amendments made by the European Parliament at second reading. This Regulation lays down rules on flavourings and food ingredients with flavouring properties for use in and on foods with a view to ensuring the effective functioning of the internal market whilst ensuring a high level of protection of human health and a high level of consumer protection, including the protection of consumer interests and fair practices in food trade, taking into account, where appropriate, the protection of the environment.

The approval of flavourings should also take into account other factors relevant to the matter under consideration including societal, economic, traditional, ethical and environmental factors, the **precautionary principle** and the feasibility of controls.

Raw foodstuffs which have not undergone any processing treatment and non-compound foodstuffs such as **spices, herbs, teas and infusions** (e.g. fruit or herbal tea) as well as mixtures of spices and/or herbs, mixtures of tea and mixtures for infusion, as long as they are consumed as such and/or not added to the food, do not fall within the scope of this Regulation.

It provides for:

- a Community list of flavourings and source materials approved for use in and on foods, set out in Annex I (‘the ‘Community list’);
- conditions of use of flavourings and food ingredients with flavouring properties in and on foods;
- rules on the labelling of flavourings.

The main objectives of the Regulation are:

- to clarify the scope of legislation on flavourings;
- to modernise and adapt the existing legislation on flavourings to technological and scientific developments;
- to establish clear evaluation and authorisation procedures;
- to inform better the consumer about the use of natural flavourings;
- to adapt to the requirements of Regulation (EC) N° 882/2004 on official controls performed to ensure the verification with feed and food law, animal health and animal welfare rules.

The Regulation provides that only flavourings or food ingredients with flavouring properties which meet the following conditions may be used in or on foods:

(a) they do not, on the basis of the scientific evidence available, pose a safety risk to the health of the consumer; and

(b) their use does not mislead the consumer.

The Regulation contains maximum levels for undesirable substances in food. The conditions for the use of the term "natural" in describing flavourings are made stricter. The use of flavourings must not mislead the consumer, particularly as regards the nature, freshness, quality of ingredients used, the naturalness of a product or of the production process, or the nutritional quality of the product.

When a flavouring already included in the Community list is produced from a different source falling within the scope of Regulation (EC) No 1829/2003, it will not require a new authorisation under this Regulation, as long as the new source is covered by an authorisation in accordance with Regulation (EC) No 1829/2003 and the flavouring complies with the specifications established under this Regulation.

A **producer or user** of a flavouring substance, or the representative of such producer or user, shall, at the request of the Commission, inform it of the amount of the substance added to foods in the Community in a period of 12 months. The information provided in this context shall be treated as confidential insofar as this information is not required for the safety assessment.

The text also makes reference to natural flavouring substances and smoke flavouring(s) produced from food(s) or food category or source(s) (e.g. smoke flavouring produced from beech).

It should be noted that the Regulation forms part of the package of proposals on 'food improvement agents'. This package of proposals refers to food additives, food enzymes and flavourings. It contributes to the Commission’s simplification programme and also provides for harmonisation not only in their respective fields but also promotes consistency between the three related areas. An additional fourth act within the package will establish a single common authorisation procedure for the evaluation and approval of these substances.

ENTRY INTO FORCE: 20/01/2009.

APPLICATION: It shall apply from 20 January 2011.

Article 10 (Community list of flavourings and source materials) shall apply from 18 months after the date of application of the Community list.

Articles 26 (Amendments to Regulation (EEC) No 1601/91) and 28 (Amendments to Regulation (EC) No 110/2008) shall apply from the date of application of the Community list.

Article 22 (Amendments to Annexes II to V) shall apply from 20/01/ 2009. Foods lawfully placed on the market or labelled prior to 20/01/2011 which do not comply with this Regulation may be marketed until their date of minimum durability or use-by-date.