Nominal quantities for prepacked products

2004/0248(COD) - 04/07/2016 - Follow-up document

This Commission report concerns the evaluation of three Directives that make up the legal framework for pre-packaging:

- Directive 75/107/EEC on bottles used as measuring containers, which provides for the free circulation of '3-marked' bottles;
- Directive 76/211/EEC on making up pre-packaged products by weight or volume, which concerns the quantity indicated on pre-packed products and guarantees the free circulation of 'e-marked' pre-packages; and
- **Directive 2007/45/EC** on nominal quantities for pre-packed products, which prohibits Member States from regulating pack/bottle sizes up to 10 l or 10 kg and lays down mandatory EU sizes for wines and spirits; it applies to all pre-packed products.

Market size: the Commission recalled that according to estimates, pre-packaging accounts for an estimated EUR 170 billion in turnover and around **EUR 34 billion in added value** across the EU. This represents 12 % of total added value in the main sectors in which it takes place (food and beverages, pet food, chemicals, paints and fertilisers, detergents, cosmetics and glass bottle manufacture), the equivalent of **0.3 % of EU GDP**. There are about **300 000 companies** in these sectors, most of which are small and medium-sized enterprises (SMEs) with an average of 17.7 employees each. Within these sectors, an estimated 640 000 people are employed full-time in pre-packaging; this accounts for 0.**3 % of EU employment.**

Evaluation: the Commission took on an external contractor to evaluate the functioning of the Directives. The evaluation used the Commission's standard evaluation criteria: effectiveness, efficiency, coherence, relevance and EU added value.

Directives 75/107/EEC, 76/211/EEC and 2007/45/EC support the internal market, because they foster competition in the pre-packaging industry by providing a comprehensive legal framework and a basis for administrative cooperation. They have increased trust between market surveillance authorities.

The following issues are highighted:

- the fact that using (3-mark) measurement containers and fixed volume (e-mark) pre-packages is voluntary means that firms can choose what is most appropriate for their needs. Many small enterprises producing mainly for their home market value the mutual recognition that comes into play where the Directives are not used;
- the mandatory nature of the pack-sizes Directive guarantees freedom of choice and has led to a diversification of pack sizes. For wines and spirits, fixed EU sizes have protected SMEs that lack market power. The phasing-out of national provisions did not cause problems.

Alongside this favourable overall assessment, a number of **technical, sector-specific issues** have been raised as regards products sold by length, area or number, drained weight, larger batch definitions, provisions on the speed of production and sampling, viscose products in mass or volume, and wrappings included with pre-packages. Some of these fall outside the scope of the Directives and others remain unresolved internationally.

Conclusion and follow-up: the Commission considered that the evaluation has demonstrated that the EU legal framework for pre-packaging is fit for purpose and that the Directives are effective, efficient, relevant, coherent with other EU policies and have EU added value.

While the Commission considers that there is **no need to propose amendments**, it will discuss the results of the evaluation with stakeholders and follow them up in order to improve application of the Directives. It seeks to:

- promote the **exchange of good practice** between stakeholders and develop guidance taking into account the variations in national implementation;
- discuss with stakeholders the **issues raised as regards technical aspects and relevant international standards**, and take appropriate action, e.g. develop guidance;
- provide **more information to consumers** on the meaning of the 3-mark and the e-mark.

In order to promote the effectiveness of **market surveillance**, in particular on imports, administrative cooperation on the Directives will be enhanced through EU financial support for meetings of the competent authorities in line with Regulation (EC) No 765/2008.