Nominal quantities for prepacked products

2004/0248(COD) - 18/04/2006 - Modified legislative proposal

The Commission accepted 8 of the amendments proposed by Parliament. These are as follows:

- the amendment stating as a fact that consumer protection has improved by generic directives which have been adopted after the fixed sizes came into being;

- the introduction of a reference to the fact that some fixed mandatory nominal quantities are to be retained for the time being;

- a recital which is currently standard for transposition of directives.

- an amendment clarifying that the rules on fixed nominal quantities do not apply to sales in duty-free shops;

- the replacement of the 20 year sunset clause for the fixed nominal quantities for certain sectors by way of derogation by a clause asking the Commission to review the need for derogations;

- the deletion of a clause as the mandatory nominal quantities for aerosol dispensers will be abolished by the new article;

- the deletion of the request to Member States to prepare a table of correspondence;

- the introduction of a review clause requiring regular reporting by the Commission and this new obligation is the consequence of abolishing the sunset clause.

5 amendments were accepted in principle, relating to the following:

- an information campaign should be launched about unit pricing;

- introduction of the concept of a review clause. The Commission agrees with the review clause, but suggests a wording more consistent with the basic philosophy of the proposal that fixing mandatory nominal quantities is a derogation to the principle of deregulation; furthermore, the recital should clarify that for those sectors where nevertheless mandatory nominal quantities are fixed, only those quantities should be mentioned that are most sold to consumers;

- the Commission shares Parliament’s concern on the quality of labelling of quantity relating to the

implementation of Directive 76/211, Annex 1, point 3 on metrological requirements for pre-packed products. However, the Commission does not share the idea expressed by the Parliament in its amendment that fixed nominal quantities protect vulnerable consumers;

- one amendment intends to delete fixed nominal quantities for products sold in aerosol dispensers. The Commission agrees, but the wording of the amendment should be brought technically into line with the terms used in the Aerosols Dispenser Directive 75/324/EEC;

- Parliament adds 2 more sizes to the range for spirits, which has also been requested by industry. The Commission agrees. However, in order to align the terminology to the Council Regulation on Spirit Drinks (Reg. 1576/89), the term “Spirits” used by Parliament should be replaced by “Spirit drinks”.

The Commission rejected 20 amendments, including the following:

- the Commission does not accept the amendment saying that a "study devoted to the impact of the directive" shows the relevance of fixed sizes for vulnerable consumers. The impact study by EP did not make this point convincingly. Furthermore, vulnerable consumers do not become less vulnerable by mandatory rules on pack-sizes. Seeing a package in itself does not mean knowing the actual contents, as perception is strongly influenced by the packing material (tetra-pack, plastic, glass), the type of container (one time use, reusable) and the form of the pack (round, square). Consumers must therefore read contents indications.

- Parliament exempts a number of sectors from the scope in Article 1 of the Directive and states that for these sectors national legislation shall continue to apply. The Commission disagrees because there is no evidence for the need to regulate these sectors. Furthermore, the Directive should not jeopardise the concept of the Internal Market by allowing national derogations that could in any case not be applied to products legally manufactured or placed on the market in another Member State.

- Parliament also introduces a transitory regime for those products for which Parliament proposes to introduce regulation regarding mandatory nominal quantities. As the Commission rejects the idea of regulating new sectors, it also opposes the provision for a transitional period.

- One amendment introduces mandatory nominal quantities sizes for drinking milk, for which currently there are no mandatory sizes fixed at the EU level. Some Member States have national ranges, either mandatory or voluntary for home producers. But national law is never applied to products legally manufactured or placed on the market in other Member States. No sound reasons have been forwarded justifying the need to introduce regulation at Community level concerning mandatory nominal quantities for milk products. For the same reasons, the Commission rejects amendments introducing mandatory sizes for five new sectors, for which currently there are no mandatory sizes fixed at the EU level. The Commission also rejects the amendments reflecting UK mandatory nominal quantities reflecting the pints for milk, as well as the amendment adding the two values of 300 and 330 ml, which are used in Sweden, into the range for drinking milk.

The Commission goes on to state that in the framework of the regulatory review of the vertical harmonization directives on soluble coffee and white sugar at the end of the 1990ies, the Commission proposed to abolish existing ranges of nominal quantities, but Parliament was opposed. In conciliation, the vertical directives were finally modified, with the Commission accepting to propose nominal quantities for these products in the horizontal legislation on nominal quantities for pre-packed products. Consequently, when in 2004 the Commission introduced its current proposal, proposing to abolish regulation of nominal quantities, it made an exception for these products. The commitment of the Commission concerned also the soluble chicory but in the meantime this sector has requested not to have mandatory nominal quantities.

A survey by the Commission services in December 2005 shows that a majority of Member States no longer have regulation or no longer enforce existing national regulation for these sectors. In the absence of strong reasons pleading for reintroduction of mandatory nominal quantities for these products, and in line with the new policy emphasis on simplification and better regulations, the Commission proposes to suppress the definitions of "white sugar" and "soluble coffee" in the Annex.