

Circulation of compound feedingstuffs

2006/0117(COD) - 27/06/2006 - Legislative proposal

PURPOSE: to correct Directive 2002/2/EC amending Council Directive 79/373/EEC on the circulation of compound feedingstuffs.

PROPOSED ACT: Decision of the European Parliament and of the Council.

CONTENT: this proposal concerns the deletion of a provision requiring manufacturers of feeding stuffs to provide, upon a customer's request, the exact percentages, by weight, of feed materials used in compound feeding stuffs.

Related legislative acts and provisions:

- Council Directive 79/373/EEC on the circulation of compound feeding stuffs as regards labelling provisions;
- Directive 2002/2/EC amending the 1979 Council Directive (please refer to COD/2000/0015), of which the following Articles:
 - Article 1 (4), providing for the compulsory declaration of the percentages of feed materials present in compound feeding stuffs, other than pet food, in descending order by weight, with a tolerance of +/- 15% of the declared value;
 - Article 1 (1) (b) requiring a communication of the exact percentages, by weight, of feed materials used in the compound feeding stuffs, upon a customer's request.

The United Kingdom, Italy and the Netherlands challenged, through the European Court of Justice, the essential validity of Directive 2002/2/EC and in particular Article 1 (4) and Article 1 (1) (b) thereof. Manufactures of compound feeding stuff, as well as representatives of that industry, were seeking an annulment or suspension of the provisions enshrined in these two Articles.

In its judgement on 6 December 2006, the European Court of Justice rejected the arguments contesting the validity of Article 1 (4) and supported the position put forward by the institutions. However, based on the principle of proportionality, the Court ruled that Article 1 (1) (b) was disproportionate and therefore invalid. The Court decided that the obligation to inform customers, on request, of the exact quantitative composition of compound feeding stuffs could not be justified by the objective of protecting public health, which manifestly went beyond what is necessary to attain that objective.

Based on this judgement, the Commission is proposing to correct Directive 2002/2/EC by deleting Article 1 (1) (b). For the sake of consistency any reference made to the deleted provision should also be removed. The form of the draft proposal is a correcting Decision, taking account of the principle that amending acts should not be amended themselves but that they may be corrected. It is proposed to correct the Directive through a Decision, which will guarantee transparency and clarity of Community law, while at the same time not imposing a direct obligation on the Member States to change their national legislation, as they are in any case obliged to take all appropriate measures under their national legal system to ensure fulfilment of the Court's judgement.