

18 April 2008

**UEAPME position on the  
Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on  
the provision of food information to consumers COM(2008) 40 final**

UEAPME represents more than 12 million enterprises, which employ around 50 million people across Europe. At least 3 million of these enterprises produce and sell food. After consultation of the member federations and consultation in the UEAPME working group on foodstuffs the following opinion crystallised:

**With great disappointment we notice**

that the European Commission did not consider the UEAPME arguments in the proposal for a regulation concerning the information of consumers about food (COM(2008) 40), published the 30.1.2008).

**In general it has to be noted**

that the comprehensive 96 page draft cannot be regarded seriously as contribution to simplification. With implementing, amending and final provisions and alone 13 appendices with specifications for nearly each individual food (chewing gum, ice-cream, vinegar...), it's far too complex to be workable in practice and opposes the intention of the European Commission to simplify regulations for the industry. The possible practicalities for the predominant majority of all European food manufacturers and caterers remain completely unconsidered.

**It is surely true**

that if the regulation were to come into force in this form, the European culture would be seriously damaged, without providing any better consumer information.

**Without fundamental changes**

small and medium-sized enterprises would be entirely put out of business for packaged foods. Owners of a small and medium-sized enterprise would not be able to understand the rules themselves. They would have to operate with external experts. This would be financially impossible.

**Even a little change of recipe**

causes a new analysis and therefore an adoption of the labelling. A seasonal changing of the products would be too cost-intensive for small and medium enterprises. The consumer could no longer choose of a wide range of fresh and seasonal products.

**However**

UEAPME welcomes the intention of the European Commission to simplify and rationalise the rules for food labelling.

## **Specific points:**

### **Recital 2**

UEAPME is concerned that the flexibility for member states to have their own conditions will deny the free movement of goods between states. Members of UEAPME support the free movement of goods.

### **Recital 3**

UEAPME sees a "need" for accurate information to be provided to consumers, but we do not see that as a "right". This applies to Article 1.2 also. If consumers have rights, what rights do producers have?

### **Recital 41**

UEAPME objects strongly to the provision that Member States should be able to make mandatory demands on non-pre-packed foods.

For pre-packed foods we accept that consumers who have allergies will appreciate professional advice on the ingredients. This is so they can make informed choices. This means that the craft production, retail and catering sectors should have access to professional and reliable sources of information regarding their products.

For non-pre-packed foods, consumers cannot realistically expect a written display of all the ingredients. Allergen sufferers require an accurate oral response to any question they may pose about the composition of a food. That is the only way they can get reliable information.

Buying from craft, small retail and catering outlets enables consumers with allergies to benefit from the individual services that can be offered.

Indeed, the relationship established between the client and the service supplier allows for flexibility and adaptation of products so that the allergen sufferer can benefit with confidence. This relationship is very important and cannot be reflected in mass distribution outlets.

### **Article 1.3 mass caterers**

This clause is very confusing. While it says "all foods including that for mass caterers" and then defines mass caterers in Article 2.2.d as restaurants and canteens, there seem to be many exemptions. This definition in Article 1.3 and Article 6 implies all foods, including foods sold loose. Article 41.1 exempts foods sold loose - like restaurant meals - and suggests these could be the subject of national rules. Then Annex IV gives further exemptions - and it is not clear whether these apply to the national rules - which appear to exempt caterers altogether. The final wording has to be clear and unambiguous in saying that the regulation applies to pre-packed foods only.

### **Article 4.1.b.i certain groups of consumers**

If this is meant to cover the allergens specified in Annex II, then we would agree. As it is worded, "may be harmful", it is too wide for a workable definition.

### **Article 4.1.b.iii risks and consequences related to harmful and hazardous consumption of a food**

This is unreal and impractical.

### **Article 4.2 need for certain information**

UEAPME objects to the words "attach significant value". This implies that declarations about the suitability of the food for vegetarians, religious diets, organic and animal welfare conditions must be made. These are not safety matters.

### **Article 8.4 presence of the applicable food information**

Small retailers cannot be held responsible for the labelling of pre-packaged

proprietary goods. There is no practical way in which they can verify the ingredients and nutritional values.

#### **Article 9.1**

##### **i) country of origin**

Most of the members of the UEAPME do not see any need for the indication of the country of origin, if the country is part of the European Union. Food production is by European Union legislation in all countries on the same high level.

##### **j) Instructions for use**

UEAPME sees no need for an instruction manual. This is unnecessary, would use too much space on the label and is so unclear that it is not practicable. We propose to modify the clause that it applies only if the food without further treatment is not safe.

##### **l) Nutrition declaration**

The obligation of a nutrition declaration on packed food must be deleted in any case. The demand misses any provable justification.

The proposal contains an exemption for "food directly supplied by the manufacturer of small quantities of products to the final consumer or to local retail establishments directly supplying the final consumer". UEAPME welcomes this exemption however it is too restrictive. The real problems of SMEs in the daily life would not be alleviated or solved. All enterprises in the food sector, which supply their products directly to the final consumer or to local retail establishments, must be exempt from the mandatory nutrition declaration.

The foreseen mandatory nutrition labelling cannot apply to craft businesses. It is impossible in terms of financial means and also in terms of time for the businesses to order a nutrition analysis for every craft prepacked foodstuff. Unlike standardised industrial recipes, craft recipes are subject to changes, because raw materials and consumer demands are changing. Mandatory nutrition labelling would make it impossible for the craft sector to adapt in a flexible way to consumer demands and to offer a great product variety. The necessary derogation must be guaranteed through Annex IV.

- There is scientific evidence that nutritional information is not an appropriate means to combat obesity, or a change in general the nutritional behaviour. A compulsory declaration of nutritional values for all types of food products is therefore meaningless.
- Small enterprises are not able to provide this. They have neither the capacity nor the expertise. They can't finance external experts.
- Already a small change of the recipe makes a new analysis necessary. In small firms the recipes change constantly.
- The creativity of the food manufacturer will substantially be limited.
- Micro enterprises would be excluded from the market by this obligation.
- Packed food is sometimes only one piece! (cake).
- The variety for consumers was substantially be limited.
- By this restriction a disservice was proven to the fight against obesity.
- Food variety is one of the determining elements of the European idea of life. This food variety in Europe would be damaged seriously by mandatory nutrition declarations.

#### **Article 9.3 changes of "non-essential elements"**

The change of "non-essential elements", in particular the admission of additional regulations without engagement of the parliament are not acceptable.

#### **Article 14.1 font size**

Due to the change in dietary habits packages are constantly smaller sized. The establishment of minimum font sizes and demands for more and more labelling elements leads to an impossible impasse. Example: marzipan figurines are packed in a transparent envelope. Labelling is only possible at the bottom. This is only a few square centimetres.

(The demanded font size of 3 mm is not even fulfilled by the Official Journal of the European Union, which is the most important information source of the European citizens. The capitals have a size of 2 mm and the lower case letters a size of 1 mm.)

#### **Article 34 presentation**

It is probably hardly owed as coincidence or justified by the system that in each paragraph of this article a "mandatory nutrition declaration" is mentioned like a Mantra. The regulation that all data has to appear in the "principle field of vision", misjudges an ontological commonplace: At a three-dimensional object there is no "principle field of vision". The major task of a label cannot be to deter consumers from the purchase of the respective good.

#### **Article 38.2 mandatory indication of the country of origin**

UEAPME's members agree that extra national mandatory information should only be made on the grounds of safety. We do not agree that information further to Article 9 need be made mandatory. That type of information should be voluntary and based on commercial considerations even if many consumers attach significant value to it.

#### **Article 41 national measures for non-prepacked food**

The entire article must be deleted. Measures of the individual nations for not packaged food are absolutely not necessary. The entire regulation exclusively refers to packed food. Appropriate exceptions are not necessary therefore and could give the wrong impression an obligation like this would exist. In addition clearance for the member states is unnecessary in this case and is a wrong reason for exceptions. The possibility of measures by the individual nations for not packaged food introduces unfair competition between States.

#### **Article 41.2 2 Declaration of allergens**

The proposal for a regulation contains a mandatory allergen declaration for non pre-packed food.

This food is not feasible in practice. The fact, that there are other ways to inform the consumer, remains unconsidered. Especially for SMEs an exemption of a mandatory allergen declaration must be made. SMEs sell their products mainly in their own shops. They have qualified personnel who are able to inform the consumer about allergen components in the products.

#### **Members of UEAPME reject the idea**

of information being put on foods sold loose. To accept the draft in its present form would disadvantage all small food businesses by adding significant costs and limiting the time available to develop products. It would also seriously disadvantage consumers by restricting choice, standardising all forms of food and increasing costs.

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