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SUPPLEMENTARY REPORT

drawn up on behalf of the Committee on Public Health and the Environment

on the amended proposal from the Commission of the European Communities to the Council for a directive on the approximation of Member States' legislation on cosmetic products

Rapporteur: Mr K.H. WALKHOFF

PE 35.468/fin.

Following the instructions given by the European Parliament in paragraph 12 of its Resolution of 6 July 1973 on the proposal for a directive on the approximation of Member States' legislation on cosmetic products, the Committee on Public Health and the Environment, at its meeting of 17 December 1973 examined the amended proposal for a directive submitted by the Commission to the Council pursuant to Article 149 (2) of the EEC Treaty.

At the instigation of Mr Walkhoff, rapporteur, deputizing for Mrs Orth, the Committee decided to submit to Parliament a supplementary report and a motion for a resolution.

The motion for a resolution and explanatory statement drawn up by Mr Walkhoff were unanimously adopted at the meeting of 18 February 1974.

The following were present: Mr Della Briotta, chairman, Mr Walkhoff, rapporteur, Mr Creed, Mr Gibbons, Mr Lagorce, Lord Lothian, Mr Willi Müller, Mr Petersen, Mr Premoli, Mr Vernaschi and Mr Yeats

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The Committee on Public Health and the Environment hereby submits the following motion for a resolution to the European Parliament, together with explanatory statement:

MOTION FOR A RESOLUTION

on the amended proposal from the Commission of the European Communities to the Council for a directive on the approximation of Member States' legislation on cosmetic products.

The European Parliament,

- having regard to the amended proposal from the Commission of the European Communities to the Council (COM(73) 1733 final),
 - having regard to the supplementary report of the Committee on Public Health and the Environment (Doc. 383 /73),
1. Refers to its resolution of 6 July 1973¹ on the Commission's original proposal;
 2. Regrets that the Commission has failed to take note of two important proposals for amendments contained therein;
 3. Firmly insists that the Commission take into account its demands as regards
 - (a) the compulsory requirement that information given on containers and labels of cosmetic products be printed in the language of the country of destination,
 - (b) the implementation of the system of compulsory positive lists of cosmetic products within the next five years;
 4. Requests the Commission, pursuant to Article 149 (2) of the EEC Treaty, to submit to the Council a further amended proposal taking into account the two important points made by the European Parliament concerning public health and consumer policy;
 5. Instructs its President to forward this motion for a resolution and the report of its committee to the Council and Commission of the European Communities.

¹ OJ No. C 62, 31 July 1973, p 43

EXPLANATORY STATEMENT

1. On 6 July 1973 the European Parliament approved the proposal for a directive from the Commission on the approximation of Member States' legislation on cosmetic products (Doc. 209/72).

However, on the basis of the report drawn up by Mrs Orth on behalf of the Committee on Public Health and the Environment (Doc. 35/73), Parliament proposed a number of amendments requesting the Commission to incorporate them in its proposal, pursuant to Article 149 (2) of the EEC Treaty.

2. The Commission has met this request in part, by incorporating the following amendments proposed by Parliament:

- special precautions for use shall be clearly printed on the container. If this is impossible for practical reasons, the directions shall be printed on the outside wrapping and on an accompanying leaflet (Article 6 (3));
- the labels and wrappings of cosmetic products as well as advertisements for such products, shall not show any designations, trade marks, drawings or other signs, descriptions or other statements that claim properties which the products do not in fact possess, or attribute effects which are not justified or adequately proven by scientific knowledge (Article 6 (4));
- Community protective measures in the case of a cosmetic product complying with the provisions of the directive being found to constitute a risk to human health are clarified and made more practicable (Article 12);
- the stipulated transitional period of 3 years for the disposal of stocks is deleted (Article 14 (2)).

Furthermore, the Commission has to a large extent taken into account the wishes of the European Parliament in modifying and supplementing Annex II (list of substances which must not be present in cosmetic products), Annex III, Part 1 (list of substances which must not be present in cosmetic products except for specified limited uses) and Annex IV, Part 1, (list of provisionally permitted substances).

The committee is gratified that the Commission has taken account of the European Parliament's amendments to this extent.

3. It regrets, however, that the Commission has not adopted the view of the European Parliament on two important points involving the safety and health of the consumer.

The first point is the compulsory indication of directions for use and warnings, which must be printed in the language or languages of the country of destination. The Commission had proposed to leave it to the Member States to decide on the importance of clear labels comprehensible to the consumer.

In the past few years, particularly in examining the Commission's numerous proposals for the harmonization of food standards, your committee has constantly taken the view - supported by the European Parliament - that the consumer cannot be expected to properly understand information given in a language other than his own. There is a risk of error and misunderstandings likely to be detrimental to the consumer. In the case of the present directive there is a further consideration, and that is that it deals with cosmetic products with labels setting out

- directions for use and warnings,
- expiry dates for products which cannot be stored indefinitely.

This is quite clearly a question of the safety and health of the consumer. Your committee cannot understand why the Commission should ignore these important considerations and maintain its original proposal. Even if it is assumed that the Commission's proposed optional solution will promote the free movement of goods within the Community - which is by no means proved - the interests of producers and distributors must take second place to the protection of the health of the population of the Community.

4. There is a second important point in which the Commission has not met the demands of the European Parliament: it continues to insist on the negative list system. The European Parliament delivered its opinion on this point in paragraph 6 of the resolution of 6 July 1973, in which it supported, 'in the interests of more effective protection of consumers' health, the system of compulsory positive lists hitherto adopted at Community level' and consequently urged the Commission 'to apply this system in the field of cosmetic products within the next five years'.

The arguments for this request, which is extremely important to public health and consumer policy, are contained in the report by Mrs Orth¹ and are repeated below: 'The list of 425 prohibited substances shows all substances which may not be used; conversely all substances not included in this list are permitted (Article 4). The question then arises whether this list is complete; in fact it is not, since Germany has already presented a supplement to it. It would be preferable to prepare a positive list, i.e. a list of substances which are permitted in the manufacture of cosmetics. The manufacturers' argument that this would prevent the development of new

¹ see Doc. 35/73, explanatory statement, paragraph 8

preparations appears untenable since a list of this kind would in no way prohibit combinations of the permitted substances in a different manner. As a result of technical progress new products are brought onto the market in rapid succession; there is therefore a risk to the consumer since evidence of the harmful nature of these cosmetics is in practice only obtained after they have been available to consumers for an extensive period.

The situation was reversed under the system of a positive list used hitherto and always advocated by your committee; manufacturers were first required to provide evidence of the safety of new products before bringing them onto the market. This prevented experiments with new products at the expense of the consumers' health. Your committee should therefore favour this system of a positive list which has been adopted in the past at Community level.

Since, however, your committee is aware of the practical difficulties entailed by immediate application of this system of a positive list to cosmetic products, it has voted for a transitional period of five years during which the system of a negative list provided for in Article 4(a) can be tolerated. With this reservation, it approves Article 4 of the proposal for a directive.'

The Commission is requested to state whether it is now prepared to meet the demands of the European Parliament and submit a positive list for cosmetic products for enough ahead for the Council to take a decision on it within five years of the adoption of the first directive. If the Commission agrees, work must begin immediately on the preparation of the positive list.

5. The committee considers it necessary to submit this supplementary report to Parliament and to recommend its adoption given that in paragraph 12 of the resolution adopted by the European Parliament on 6 July 1973 the committee was requested 'to ascertain whether the Commission of the European Communities alters its proposal to reflect the amendments of the European Parliament and to report back if necessary'.

Luxembourg
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