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# Questions and Answers on Feed Marketing

## How is feed marketing currently regulated in the EU?

Currently, the general rules for the marketing of feed are spread over several Directives according to the type of feed concerned. There is Directive 79/373/EEC on compound feed covering also pet food where the rules for the circulation of this feed in the EU are laid down (e.g. labelling requirements). Directive 93/74/EEC lays down the principles for feedingstuffs intended for particular nutritional purposes ("dietetic feeds"). Directive 96/25/EC contains the general rules for the circulation and use of feed materials. Directive 82/471/EEC lays down the marketing conditions for certain products, belonging to the category feed materials, used in animal nutrition ("bio-proteins").

Apart from these Directives, there is specific legislation in force with feed-relevance. Among other things we have:

- the TSE-Regulation (999/2001) containing the ban to feed meat and bone meal to food producing animals
- the Animal By-product Regulation (1774/2002) setting the conditions for the such product if intended to be fed to animals
- the Regulation on GM Food and Feed (1829/2003) setting the rules for the use of genetically modified feed
- the Feed Hygiene Regulation (183/2005) focussing on assuring safety during the production process of feed.

These Regulations, that have been established following the new integrated food safety approach "from farm to fork", are not at stake here.

## Why is the Commission proposing new legislation on feed marketing?

### Legal clarity, simplification and harmonisation

The current rules on the circulation of feed materials and compound feed are found in old Directives and some 50 amending or implementing acts. This has made existing legislation extremely scattered with many cross references and difficult to understand and implement in a uniform way. Thus, only 2.6% of the EU-compound feed goes into intra EU trade. This indicates that the national implementation of the Directives led to differing market conditions and, as a result, consumers can not fully benefit from the common market. For example, two Member States applied the Directive differently as regards the permitted level of vitamin D3 in complementary feed, which gave rise to obstacles to the free circulation.

### Updating the rules to reflect the modern marketing challenges

It is important to have unambiguous designations and clear descriptions for the feed materials. The specific characteristics of these materials are essential to ensure the efficacy of the final product. Whilst such designations/descriptions are available for many feed materials, the listings are by no means exhaustive. The greatest concern

regards the emerging, innovative feed materials, for example co-products of the feed grain and food processing industry or from the bio-fuel industry. Lack of clear product information contributes to a sub-optimal utilisation of these materials.

For "bio-proteins", the pre-market authorisation procedure is too onerous and it's disproportionate in relation to the marginal risk if these products can be directly placed on the market, particularly considering the improvements in the EU's food and feed safety system in the past years.

The way the current legislation (on the declaration of the raw materials used in mixed, compound feed for food producing animals) has evolved led to an unsatisfying situation for both feed producers and users: At the moment, all feed materials used in a certain compound feed have to be labelled as a percentage of the total weight but with a tolerance of +/- 15%. However, the feed user can not get the real percentage of incorporation, which hides behind the labelled percentage. On the other hand, the mandatory percentage indication is viewed by the industry as a threat to intellectual property rights and by many as a disincentive to invest in research and development of new feeds.

Concerns have been expressed that the current legislation on the labelling of pet foods does not adequately address customer needs with respect to the appropriateness of the information given. This may lead to the customer being confused, or at worse misled, as to what the feed they give to their pets contains.

## What are the key elements of the proposal?

The main improvement will be achieved by setting modern rules under t one Regulation resulting in more legal clarity and a more homogenous market. The compound feed and feed material Directives contain 12 derogations from the general labelling requirements, which are not applied in the same way by all the Member States. They can, for example, foresee on their territory that the nutritional parameters are only given on an accompanying document and not on the on-pack label. In addition to problems to the free circulation due to different labelling requirements from one MS to another, this may also cause lack of transparency for the customers.

The proposal contains innovative and modern elements that all have scrutinized for not jeopardising the high level of the protection of public and animal health and animal welfare achieved in the Community:

### Improving market transparency on feed materials

Measures to improve market transparency by more comprehensive product designation, for example, for emerging feed materials, would help the smooth functioning of the internal market, on trade and on competitiveness of feed businesses including farmers. Thus, it is proposed that all stakeholders (including the users) elaborate a Community Catalogue of feed materials that is more comprehensive and better adapted to market developments than the current non-exhaustive list in the Directive. That list contains for example "Distillers dried grains" but only with a general specification, thus not taking properly into account that due to the tremendous developments in the bio-fuel industry this feed material has meanwhile emerged with very specific properties not reflected in the list.

### Simplifying the rules

The proposal aims to greatly reduce the "red tape" for feed operators by removing unnecessary administrative burdens and technical requirements, which are not necessary anymore since an integrated food safety approach has now been implemented from farm to fork. Pre-market authorisations are to be made proportionate to risks and not based on pre-defined feed groups such as products acting as proteins sources ("bio-proteins"). In fact, there are extracts of inactivated yeast, since decades legally put into food but before their use as feed, current law requires a pre-market authorisation procedure.

### Updating compound feed rules

The proposal increases the accuracy of the indication of feed materials incorporated in compound feed for food producing animals, by requiring the indication in the exact descending order of weight. At the same time, it is removing unnecessary and inefficient labelling obligations. It is now proposed that the requirements to label ingredients are in line with those requested for food. Currently, a labelled rapeseed content of 20% can mean in fact only 17% of rapeseed but also 23%. The new rule would no more require the indication of the percentage of all raw materials but only their indication in the exact weight order. If a manufacturer indicated voluntarily the percentages, they have to be exact. Furthermore, the exact percentage has to be indicated for raw materials in compound feed that are highlighted on the label. Finally, the farmer can request information on the composition of the feed beyond the descending weight order of raw materials, which the manufacturer could only reject if this unveils business secrets.

### Clearer and more targeted information

The proposal follows the philosophy that information needed by the feed user for an informed choice and safety relevant information has to be provided unequivocally and in a harmonised way throughout the Community. This concerns for example the identification of the producer, which is important for traceability in case of a feed recall or the nutritional value of the feed, which is crucial for the dairy farmer to calculate the diets for his cows.

Further labelling particulars can be given on a voluntary basis to fulfil special interest of customers, but then these have to be accurate and understandable for each target group. In this way, pet food labels could be freed from technical indications like "cobaltous nitrate", a valuable trace element, or "decorticated rapeseed expeller", an immaculate feed material, but which alienate the normal pet owner and lead to unjustified refusal. Nevertheless, the industry could label such details as voluntary.

Stakeholders will also be encouraged to develop EU codes for good labelling practice in the context of voluntary labelling provisions for example on how much chicken a pet food contains if it is labelled "with chicken" or on how feed additives are labelled.

### Will the abolition of the mandatory percentage declaration of raw materials in compound feed result in poorer information of the customer and a lower feed safety standard?

No. As a consequence of the BSE- and dioxin crises, the obligation to indicate the weight percentage of all feed materials incorporated in compound feed was introduced in 2002. In parallel, the level of food and feed safety has been meanwhile significantly improved due to the new General Food Law, the Feed Hygiene Regulation and their implementing measures. In particular, the focus on the responsibility of the feed and food business operators, the improved traceability system, the introduction of the HACCP (Hazard Analysis and Critical Control Point) principle in feed businesses and the guides to good hygiene practice in feed businesses contributed the percentage deletion to become superfluous in terms of feed safety.

In addition, the European Court of Justice deemed the disclosure of the exact percentage of feed materials to be not proportionate with respect to the value added to public health. Hence, the legislator can not foresee a requirement that forces the manufacturer to disclose the exact percentage hiding behind the labelled percentage with the +/-15 tolerance level. The new system will be more accurate.

### Will the abolition of the pre-market authorisation procedure for "bio-proteins" lower the feed safety standard?

No. When the Directive on "bio-proteins" was established in 1982, its scope covered several kinds of feed such as amino acids, for which a pre-market authorisation procedure is appropriate. Since 2003, these products have been transferred to the Feed Additive Regulation assuring that they still have to undergo a risk assessment before they can be marketed in the EU. However, for the remaining "bio-proteins" like inactivated yeast such a procedure is not appropriate to the marginal risk that might emanate from them. In this context, again the recent developments in Community legislation which give higher guarantees as regards in particular HACCP, strict hygiene rules, traceability and responsibility of the operators have to be borne in mind.

### Will the stakeholder-driven Community Catalogue of feed materials and the EU Codes for good labelling practice allow the industry to freely arrange the marketing and labelling conditions?

No. First of all, these instruments only make voluntary labelling provisions. The mandatory labelling rules needed by the feed user for an informed choice and safety relevant information are laid down in the new Regulation. Secondly, the Commission keeps full control over the Catalogue and Codes because the proposal foresees that they have to be approved by Commission ("Co-regulation"). This ensures the interests of the feed users or the prevention of misleading labelling are addressed.

### Will imported feed have to adhere to the new labelling requirements?

Yes. The proposed new rules on the marketing and use of feed also apply to imported feed sold in the EU. The proposal will be notified to other countries through the normal Word Trade Organisation procedures.

## Were EU feed users, industry and other interested parties consulted in the process of drafting the new Regulation?

Yes. The Commission carried out a very thorough consultation process prior to finalising its proposal for new labelling rules. Broad surveys for all stakeholders were conducted, as well as more specific consultations with industry, Member States and feed users. After the report of an external study in 2004, an online consultation, open to all interested parties, was carried out in January 2006 and subsequently stakeholders and Member States were involved in the development of the proposal.

## When would the proposed Regulation enter into force?

The Commission's proposal will directly be transmitted to Council and Parliament for consideration under the co-decision procedure. Once adopted by the Council and Parliament, the Regulation would enter into force 20 days after its publication in the Official Journal and then the transition period of one year for the application of the new rules would start.