

URGENT

Price Marking

PUBLIC CONSULTATION
ON THE EUROPEAN
COMMISSION'S REVIEW
OF DIRECTIVE 98/6/EC
ON PRICE INDICATIONS

No: CCP 003/02

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PUBLIC CONSULTATION ON THE EUROPEAN COMMISSION'S REVIEW OF DIRECTIVE 98/6/EC ON PRICE INDICATIONS

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1. INTRODUCTION

PURPOSE OF CONSULTATION

This consultation document seeks your views on the European Commission's review of Directive 98/6/EC on Price Indications.

RESPONSES

How to respond to this consultation:

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With apologies for the urgency, in order to meet the European Commission's deadline, responses must be received by **MONDAY 30 SEPTEMBER 2002**

We aim to publish the outcome of this consultation.

CONFIDENTIALITY

Your response to this consultation document may be made publicly available in whole or in part at the Department's discretion. If you do not wish all or part of your response (including your identity) to be made public, you must state in the response which parts you wish us to keep confidential. Where confidentiality is not requested, responses may be made available to any enquirer, including enquirers outside the UK, or published by any means, including on the Internet.

2. MAIN CONSULTATION TEXT

REVIEW OF DIRECTIVE 98/6/EC ON PRICE INDICATIONS: EXEMPTION FOR SMALL SHOPS

1 Directive 98/6 sets out rules about clarity of price indications when products are for sale by traders to consumers. The total price of a product must be displayed as well as a unit price (the price for a standard unit, usually the litre or kilogram). This allows consumers to compare prices of similar products that are sold in a range of different sizes and packaging.

2 The Directive allows flexibility for individual Member States to exempt certain types of sales and/or products from some or all of its provisions. The UK used all of the exemptions in its implementing legislation – The Price Marking Order 1999. A major flexibility available under the Directive is for Member States to exempt small shops from unit pricing. The terms of the exemption are set out in Article 6, which states that:-

“if the obligation to indicate the unit price were to constitute an excessive burden for certain small retail businesses because of the number of products on sale, the sales area, the nature of the place of sale, specific conditions of sale where the product is not directly accessible for the consumer or certain forms of business, such as certain types of itinerant trade, Member States may, for a transitional period following [18 March 2000], provide that the obligation to indicate the unit price of products other than those sold in bulk, which are sold in the said businesses, shall not apply.....”

3 The Directive also contains a review provision, which requires the European Commission to submit a comprehensive report on the application of the Directive, which will *“..take particular account of the experience gleaned in the application of the Directive by small retail businesses, inter alia, regarding technological developments and the introduction of the single currency; whereas this report, having regard to the transitional period referred to in Article 6, should be accompanied by a proposal”*. The report and proposal must be submitted to the European Parliament and the Council by 18 March 2003. The Parliament and Council have until 18 March 2006 to act on them.

4 The UK exempted small shops with an internal floor area not exceeding 280 square metres from unit pricing when it implemented Directive 98/6 in The Price Marking Order 1999. As part of its information gathering work for the imminent review of the Directive, the European Commission has now written to Member States seeking responses to a number of questions on the application of Directive 98/6. The questions, with draft responses in some cases, are set out in the annex attached.

5 This consultation is being sent to all those that submitted views on whether or not the UK should exempt small shops from unit pricing when the original consultation on how Directive 98/6 should be implemented in the UK took place plus some additional small firms organisations and consumer bodies. Views are being sought in order to inform the UK's response to the European Commission's review of the Directive and particularly the small shops exemption. Any views you have on the questions raised in this review are sought and, in particular, your opinion on whether or not the exemption for small shops should be retained, with reasons. Any evidence that the factors justifying exemption listed in Article 6 still exist, or on the contrary no longer apply, would be particularly welcome.

6 The Commission has set a relatively short deadline for responses from Member States and **your responses is therefore needed by 30 September in order to allow the Commission's deadline to be met.**

3. The European Commission's review

Q. Has your country availed itself of the derogation provided for in Article 6? If so, please describe the use made of the derogation.

A. [Yes, small shops with a floor area not exceeding 280 square metres are exempted from unit pricing in the UK. The intention is to exempt micro businesses, characterised by small sized premises and limited staff resource, from the additional burden of unit pricing. There is flexibility within the implementing legislation for small shops to unit price if they wish to do so but anecdotal evidence suggests that many small shops that qualify for the exemption have used it.]

Q. Have there been any “*technological developments*” allowing small retail business to better comply with the obligations of the directive since its coming into force?

A. [We are not aware of any “technological developments” that would allow small retail business to better comply with the obligations of the directive since its coming into force.]

Q. Does your country intend to maintain or amend the derogation? If so, please give the reasons, describe the extent of the proposed amendment and the envisaged duration?

A. [Views are particularly sought on whether or not the exemption should be maintained, with reasoning.]

Q. Does your country intend to abolish the derogation? If so, please give the reasons for this, describe the extent of the envisaged abolition, ie complete or partial and state from when the abolition is proposed?

A. [Views on this are particularly sought, with reasoning.]

Q. What is your evaluation of the Directive to date? Has it achieved its objectives? Has it had negative consequences for traders and/or consumers? Have there been any unforeseen (negative or positive) effects?

A. [Views on any of the questions raised are sought.]

Q. Do you have specific suggestions to make concerning possible amendments of the Directive? If so, please outline them.

A [Views on this question about the other provisions of the Directive are particularly sought. It should be noted that the question relates to the Directive rather than the UK's implementing legislation – The Price Marking Order 1999, which is separately under review.]

4. List of consultees

CONSULTEES

Aberdeen Chamber of Commerce
Age Concern
Asian Trade Publications Ltd
Association of Convenience Stores
Biscuit, Cake, Chocolate & Confectionery Alliance
Booker
Booksellers Association of Great Britain and Ireland
British Chambers of Commerce
British Goat Society
British Meat Manufacturers' Association
British Retail Consortium
British Shops and Stores Association Ltd
CBI Small & Medium Enterprise Council
Consumers Association
Co-operative Union Ltd
Cosmetic Toiletry & Perfumery Association Ltd
Essex County Trading Standards
Federation of Small Businesses
Food and Drink Federation
Forum for Private Business
Home Brewing and Winemaking Trade Association
Ice Cream Federation Ltd
Institute of Directors
LACORS
Meat and Livestock Commission
National Association of Master Bakers
National Consumer Council
National Consumer Federation
National Federation of Meat & Food Traders
National Market Traders' Federation (NMTF)
National Pharmaceutical Association
Office of Fair Trading
Scottish Association of Master Bakers
Scottish Consumer Council
Scottish Grocers Federation
Small Firms Council of the CBI
Summerfield Stores Ltd
Tesco Stores Ltd
Trading Standards Institute

Trading Standards & Regulatory Services (North Yorkshire County Council)

UK Association of Frozen Food Producers

Welsh Consumer Council

Whitbread plc

5. Other current consultations

**OTHER CURRENT CONSULTATIONS FROM CONSUMER &
COMPETITION DIRECTORATE**

EU Regulation concerning Sales Promotions.

EC Consultation on the future options for ensuring the safety of services provided to consumers.

6. Comments or complaints

COMMENTS OR COMPLAINTS

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to Mr Philip Martin, DTI Consultation Co-ordinator, Room 725, 1 Victoria Street, London SW1H 0ET or telephone him on 020 7215 6206 or e-mail Philip.martin@dti.gsi.gov.uk

