



COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION TO THE COUNCIL

**on the application of Article 5 of Council Regulation (EC) No 2991/94
laying down standards for spreadable fats**

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TABLE OF CONTENTS

1.	INTRODUCTION.....	3
1.1.	Background	3
1.2.	Article 5, terms implying a reduced fat content.....	3
2.	QUESTIONNAIRE.....	4
3.	MARKETING OF SPREADABLE FATS IN THE EUROPEAN UNION - DYNAMISM, COMPLEXITY AND DIVERSITY OF THE SECTOR	4
4.	IMPLEMENTATION OF ARTICLE 5 OF REGULATION (EC) NO 2991/94	5
4.1.	Use of the claim "reduced-fat"	5
4.2.	Use of the claims "low-fat" or "light"	5
4.3.	Problems connected with the application of Article 5(2).....	6
4.4.	Article 5(2) as a response to traders' and consumers' requirements.....	6
4.5.	Other aspects to be considered.....	7
5.	CONCLUSIONS	8
	QUESTIONNAIRE.....	10
A.	Production of reduced-fat spreadable fats.....	10
B.	Use of claims implying a reduced-fat content.....	10

1. INTRODUCTION

1.1. Background

Council Regulation (EC) No 2991/94 laying down standards for spreadable fats¹ was adopted on 5 December 1994 against the background of:

- a market in solid fats intended for human consumption which was becoming increasingly more diversified as a result of the development of production techniques and changes in consumer expectations,
- the similarity of the products covered, from the point of view of appearance and use, which made them competing products.

In order to create a legal framework which would contribute to the development of trade under conditions of fair competition, make it easier for the consumer to choose and avoid confusion, a uniform classification was established for all the products concerned.

This classification incorporates two factors which allow a comparison and a distinction to be drawn:

- fat content (which is the essential constituent of such products),
- milk or non-milk, vegetable or animal origin.

For each of the products resulting from the classification, a reserved sales description was laid down.

The sales description thus makes it possible to identify a product with a given fat content and origin while complying with two criteria (Annex I takes over the classification laid down in Regulation (EC) No 2991/94):

1. Restrict use of the terms "butter" and "margarine" and, by analogy, the term "blend" to certain categories of products with the highest fat content (not less than 80% but less than 90%);
2. For other categories, the reduced fat content must be included in the description by using the terms "three-quarter-fat", "half-fat" or "fat spread X%".

In addition to the second criterion, the option of using terms implying a reduced-fat content is provided for by Article 5(2), the application of which is the subject of this report.

1.2. Article 5, terms implying a reduced fat content

Article 5 of Regulation (EC) No 2991/94 specifies the following:

- "1. Terms for products referred to in the Annex which state, imply or suggest fat content other than those referred to in that Annex shall be prohibited.

¹ OJ L 316, 9.12.1994, p. 2.

2. By way of derogation from paragraph 1 and in addition:
 - a) the term 'reduced-fat' may be used for products referred to in the Annex with a fat content of more than 41% but not more than 62%;
 - b) the terms 'low-fat' or 'light' may be used for products referred to in the Annex with a fat content of 41% or less.

The term 'reduced-fat' and the terms 'low-fat' or 'light' may, however, replace respectively the terms 'three-quarter-fat' or 'half-fat' used in the Annex.

Within five years of the date of entry into force of this Regulation the Council shall review the application of this paragraph on the basis of a report by the Commission."

2. QUESTIONNAIRE

For the purpose of drawing up this report, a questionnaire (see Annex) was prepared by the Commission and sent to the Member States so that their experience and perception of the Community system concerned could be taken into account.

There were two groups of questions:

- questions on production: it was necessary to know what percentage of all yellowfat products was accounted for by reduced-fat products in order to gauge the interest shown by consumers in purchasing this type of product;
- questions concerning the use of claims implying a reduced fat content: the purpose of these questions was, first, to assess the interest shown by manufacturers and distributors in using the terms covered by the report and, second, to identify the problems which had arisen in applying the specifications relating to the claims.

Member States' answers were taken into account in drafting this report.

3. MARKETING OF SPREADABLE FATS IN THE EUROPEAN UNION - DYNAMISM, COMPLEXITY AND DIVERSITY OF THE SECTOR

In order to determine what volume of reduced-fat products was placed on the market and what percentage of all products covered by Regulation (EC) No 2991/94 was accounted for by them, Member States were requested to supply the requisite data.

The absence of reliable statistics, the dynamism of the market and the fact that some Member States argued that the data was confidential made it impossible to obtain precise information. Since the information transmitted by certain Member States was limited in some respects, we had to use other sources which could serve to draw up this report. In any event, as a result of the effort made by most Member States in supplying the production and/or marketing figures available, it was possible to arrive at the following conclusions:

- the spreadable fats sector is highly dynamic, with new products constantly being introduced;
- the market in these products has become greatly diversified: many products with a changing milk and non-milk fat composition and a variable fat content are placed on the market;

- far fewer reduced-fat milk products are marketed than other products not derived exclusively from milk;
- the market is characterised by its plurality, with wide gaps between Member States.

Some differences lie in the origin of the raw material: in some Member States, such as Spain, Portugal and Greece, vegetable fats predominate, while use of milk fats is traditionally rather limited. This is not the case in Belgium, France, Germany and Denmark, where substantially more butterfat is sold.

There are also differences in the volume of reduced-fat products marketed. Despite the disparity between Member States, however, there is one common trait: low-fat products have gained a significant share of the market everywhere.

4. IMPLEMENTATION OF ARTICLE 5 OF REGULATION (EC) NO 2991/94

4.1. Use of the claim "reduced-fat"

It was noted that the term "reduced-fat", or the alternative term provided for in some languages (e.g. *allégé* in French), is used throughout the European Union.

The term chosen varies according to the Member State: both terms are used in France and Greece, the alternative is used in Belgium and Italy, while in the other countries "reduced-fat" is used.

4.2. Use of the claims "low-fat" or "light"

The terms which suggest a low fat content are used by all Member States marketing this type of product, the choice of term and intensity of use varying according to the country, as is demonstrated by the table below.

Member States marketing this type of product	Low-fat	English term "light"	National language equivalent of "light"
France	x	x	x
Spain	x	x	x
Germany	x	x	x
Portugal	x	x	x
Finland		x	
Sweden		x	
Netherlands ⁽¹⁾	x	x	
United Kingdom		x	x
Belgium			x
Austria			x
Greece	x		
Denmark			x ⁽²⁾
Ireland	x	x	x

(1) In the Netherlands, "half-fat" is the term used in marketing milk fats with a fat content of no less than 39% and no more than 41%. For non-milk products, on the other hand, the terms "halvarine" or "light" are commonly used as a sales description.

(2) Used as a complement to minarine.

4.3. Problems connected with the application of Article 5(2)

Neither traders nor the national authorities responsible for implementing the provisions of the paragraph in question have experienced any practical problems in applying Article 5(2) anywhere in the European Union.

One country alone - the United Kingdom - pointed out that there had been some confusion on the part of manufacturers and consumers between the use of the provisions of Regulation (EC) No 2991/94 and the use of the terms "low-fat" or "light" for other food products.

4.4. Article 5(2) as a response to traders' and consumers' requirements

On the whole, the option of using the terms implying a reduced or low fat content, as provided for in Article 5(2), meets the requirements of manufacturers, distributors and consumers. Such was the view expressed by the Member States. Similarly, there was a desire to maintain the terms concerned.

However, perceptions of this kind of term are not homogeneous:

On the one hand, there are countries which are more accustomed to using the general terms "half-fat" or "three-quarter-fat". Germany is one such example.

On the other hand, there are countries where the terms "half-fat" or "three-quarter-fat" are less widespread and, in some cases, are not used at all, so that the terms "reduced-fat", "low-fat" and "light" are commonly used in marketing this type of product. Such is the case, for example, with France.

The choice between the general sales descriptions "half-fat" or "three-quarter-fat" and the optional terms forming the subject-matter of this report varies and reflects an attempt to continue to use the terms which have become more familiar to consumers on account of their use in the past.

It was noted that, on the whole, the terms covered by this report provide information which is clearly understood by the consumer.

4.5. Other aspects to be considered

Although no problems were raised in connection with the application of Article 5(2), several aspects requiring improvement were identified:

– Specific indication of the fat content in addition to the mandatory terms

Some delegations believe that including the fat content in the labelling or in the sales description would avoid confusion on the part of consumers (Sweden, Germany, Finland, United Kingdom). However, this is already provided for in Article 3(1). According to this Article, sales descriptions must be accompanied by an indication of the fat content and of the vegetable or animal origin, so that consumers are fully informed about the nature and composition of the product.

– Change in general sales descriptions

Some delegations (Portugal, Italy, Greece, Germany, Finland, United Kingdom, Ireland, Belgium) find that the general sales descriptions laid down in Regulation (EC) No 2991/94 are not the most appropriate, either because they are not readily accepted by consumers or because consumers do not have sufficiently clear information about the nature of these products. A variety of amendments is proposed:

Germany and Ireland wish to continue to use the descriptions "half-fat margarine" and "three-quarter-fat margarine", but suggest replacing the description "fat spread X%" with "margarine X%".

The United Kingdom also suggests that all products should be labelled consistently so that sales descriptions for products in the same group are the same and the difference between two products in the same group lies in the fat content declaration. The proposed descriptions are therefore "dairy spread X%", "fat spread X%" and "blended spread X%". For products which fall into the 39-41% and 60-62% bands, the terms "half-fat" and "three-quarter-fat" could be used as an optional addition to the mandatory sales description and fat content declaration.

Finland proposes that the permitted sales descriptions should be: "butter X%", "margarine X%" and "blended spread X%".

Italy proposes replacing the description "fat spread X%" with "vegetable condiment X%" or "vegetable margarine X%".

Portugal suggests that the sales descriptions "dairy spread X%", "fat spread X%" and "blended spread X%" should be translated into Portuguese as "dairy cream spread X%", "cream spread X%" and "blended cream spread X%".

Greece also proposes changing the description "fat spread X%" to "margarine X%" and "blended spread X%" to "margarine and butter spread X%" or "blended margarine and butter spread X%".

Finally, Belgium believes that some translations do not convey the nuances expressed by the terms used in other languages.

– Abolition of the optional use of certain terms.

Two Member States suggest abolishing the option available to traders of marketing their products using certain terms provided for in Article 5(2) of Regulation (EC) No 2991/94, i.e.:

- Denmark proposes abolishing the optional use of two terms which are not used by Danish traders. The terms in question are "reduced-fat" and "low-fat";
- the United Kingdom considers that terms implying a low fat content should be applied in a uniform manner to all foods and that the course of action followed should be that provided by Codex. Since the Codex guidelines lay down that terms implying a low fat content may be used only when the fat content of food products does not exceed 3%, the United Kingdom considers that such terms should not be applied to products covered by Regulation (EC) No 2991/94.

However, the use of terms implying a low fat content in connection with products with a fat content of between 10% and 90% is justified since this type of claim must not be considered out of context; on the contrary, such terms must be defined by reference to full fat products (butter, margarine and blends).

5. CONCLUSIONS

After studying the information received from the Member States as well as the Commission's own information, the following conclusions can be drawn:

1. The information received from Member States on the volume of yellowfats produced and/or marketed is not sufficient to provide a full picture of the market situation of such products.

Furthermore, the frequent introduction of new products, the lack of reliable statistics and statistical secrecy on the part of producers have contributed to making it difficult to obtain information.

However, the information gathered indicates that the volume of reduced-fat or low-fat products marketed has increased at the expense of more traditional products.

2. Application of the provisions on general sales descriptions laid down in Regulation (EC) No 2991/94 and application of the provisions on terms suggesting a reduced-fat content laid down in Article 5(2) of that Regulation have made it possible to clarify the sales descriptions of the products marketed without curbing the dynamic growth of the sector.

Firms have acquired the know-how required to comply with the rules.

Where the terms implying a reduced fat content are concerned, the existence of two options - using only the terms "half-fat", "three-quarter-fat" and "fat spread X%" laid down in Article 5(1), or replacing them or adding the terms "reduced-fat", "low-fat" or "light" - makes it possible to meet the needs of traders and consumers who are more familiar with one or other type of sales description according to the country involved.

By the same token, it has been noted that all the terms covered by this report are used, although the choice of terms varies from one country to another.

Furthermore, the efforts made by producers to create and/or consolidate their market by using terms implying a reduced fat content certainly must be taken into consideration in assessing the application of those terms.

3. Neither the competent national authorities nor traders have reported any problems in applying the provisions laid down in Article 5(2) of Regulation (EC) No 2991/94.
4. The competent national authorities gave a positive assessment of the performance of the terms laid down in Article 5(2) of Regulation (EC) No 2991/94. In their view, the terms meet manufacturers', distributors' and consumers' requirements.

Such terms as "reduced-fat", "low-fat" or "light" are familiar to consumers. By implying a reduced fat content, they make it possible to distinguish this type of product from "butter" and "margarine", which have a clearly-defined, full-fat content.

5. The aim of the report, as laid down in Regulation (EC) No 2991/94, was to serve as a basis for examining the application of the terms "reduced-fat", "low-fat" and "light". However, the suggested amendments to other elements have been carefully examined and the following conclusions have been drawn:

First, the Commission has received no communication, since the entry into force of Regulation (EC) No 2991/94, which might give the impression that problems have arisen in connection with the use of the general sales descriptions. Consequently, it is not necessary to amend the general sales descriptions laid down in that Regulation.

Second, the amendments which some Member States suggest should be made to the general sales descriptions are disparate and focus too closely on individual situations.

6. To sum up, not only has the application of Article 5(2) of Regulation (EC) No 2991/94 given rise to no problems, but it has proven to be effective in contributing, together with the general descriptions, towards creating a framework of Community rules which incorporates and clarifies the range of sales descriptions and terms used throughout the European Union.

Since no problems have arisen in applying them and their effectiveness has been proven, it is inconceivable that the terms should be abolished, which would only confuse consumers and traders alike.

The application of terms implying a reduced or low fat content may, of course, be reviewed in the light of developments at Community level in legislation on the standardisation of claims for food products.

ANNEX

QUESTIONNAIRE

The Commission is to send the Council a report on the application of Article 5(2) of Regulation (EC) No 2991/94 regarding the use of terms implying a low fat content.

To that end, we must know what percentage of all spreadable fats is accounted for by low-fat products and the interest shown by the manufacturers and distributors in using the terms covered by the report.

A. Production of reduced-fat spreadable fats

Specify production for 1998 and 1999 in tonnes by group of products and by fat content.

Groups of products listed in the Annex to Regulation (EC) No 2991/94

Fat content	Milk fats		Fats		Fats composed of plant and/or animal products	
	1998	1999	1998	1999	1998	1999
Not less than 10% and not more than 41%						
More than 41% but not more than 62%						
More than 62% but less than 90%						

B. Use of claims implying a reduced-fat content

1. Are spreadable fats with a fat content of more than 41% but not more than 62% marketed in your country?
 - 1.1. If so, is the term “reduced-fat” added to the sales description? Is this always the case? Sometimes?
 - 1.2. In the case of products with a fat content of not less than 60% but not more than 62%, is the term “three-quarter-fat” replaced by “reduced-fat”? If so, is this always the case? Sometimes?
2. Are spreadable fats with a fat content of not more than 41% marketed in your country?
 - 2.1. If so, are the terms “low-fat” or “light” added to the sales description? Which term? Is this always the case? Sometimes?

- 2.2. In the case of products with a fat content of not less than 39% but not more than 41%, is the term “half-fat” replaced by “low-fat” or “light”? If so, by which term? Is this always the case? Sometimes?
3. Since the entry into force of Regulation (EC) No 2991/94 the Commission has received no reports of problems arising in the application of Article 5(2) of that Regulation. To your knowledge:
- Have the competent authorities experienced any problems in applying that Article? If so, please give details.
 - Have traders reported any difficulties in application? If so, what are they?
4. Do you think that the provisions of Article 5(2) meet the needs of manufacturers, distributors and consumers? If not, how could they be improved?
5. According to Article 5(2), the term “reduced-fat” can be used for products with a fat content of more than 41% but not more than 62%.

However, there are various options depending on the fat content:

- in the case of products with a fat content of not less than 60% but not more than 62%, the term “reduced-fat” can either be added to or replace the sales description “three-quarter-fat”;
- the term can, however, be added to, but not replace, the description of products with a fat content of more than 41% but less than 60%.

This also applies to the terms “low-fat” and “light”.

Do you think that proposing two different options in applying those terms, depending on whether a narrow range (60-62%) or a wide range (42-62%) is involved, causes confusion?

- If so, what amendments should be made?
 - If not, have these terms sufficed?
6. Do you have any other comments?