COMMISSION DECISION

of 13 March 2001

concerning a draft regulation of the Kingdom of the Netherlands on the labelling of poultrymeat

(notified under document number C(2001) 704)

(Only the Dutch text is authentic)

(Text with EEA relevance)

(2001/232/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs [1], and in particular Article 19, fourth paragraph, and Article 20 thereof,

Whereas:

(1) In accordance with the procedure laid down in Article 19, second paragraph, of Directive 2000/13/EC, the Netherlands authorities notified the Commission of a draft regulation containing specific labelling provisions applicable in certain circumstances to poultrymeat put up for retail sale in the Netherlands.

(2) Under Article 1(c) of the aforesaid draft regulation, poultrymeat in which *Salmonella* or *Campylobacter* is demonstrably present in 25 grams may be presented, put up for sale sold or supplied only if it is prepacked and labelled with a warning to the effect that the product contains bacteria which can cause disease and that care should be taken to ensure that the bacteria do not reach the consumer through packaging, handling or kitchen utensils, and that the meat must be well cooked in order to kill the bacteria.

(3) As provided for in Article 19, second paragraph, of Directive 2000/13/EC, the Commission consulted the other Member States within the Standing Committee on Foodstuffs.

(4) The Member States and the Commission agree fully with the Netherlands on the need to protect consumers against infection by *Salmonella* and *Campylobacter*. This objective may be attained by appropriate preventive measures, particularly in regard to hygiene, at the different stages of product processing, and by educating and informing the final consumer in a suitably unambiguous manner.

(5) Furthermore, a labelling measure in the form of a warning and recommendations to consumers may also help towards attaining the desired objective in so far as it offers guarantees of reliability and can be implemented in a way which can be easily understood by consumers.

(6) However, the draft regulation submitted by the Netherlands does not meet the abovementioned conditions, as implementation thereof raises questions and could give rise to confusion or misunderstanding on the part of consumers. In particular, since packaging and labelling are only compulsory for contaminated poultry meat, only an exhaustive inspection prior to marketing would ensure the reliability of the measure. In reality, as no specific inspection system is planned, it is possible that a proportion of the contaminated products will not be detected, and therefore not labelled, and that products which are not contaminated at the production stage may be contaminated at the distribution stage, yet will not be labelled.

(7) There is therefore a significant risk that consumers choosing an unlabelled product, thinking it to be free of contamination, may in fact be in possession of a contaminated product but believe that they need take no precautions.

(8) Furthermore, the wording envisaged for the warning is complex and liable to be misunderstood by some consumers, particularly with regard to the fact that contaminated products are offered for sale.

(9) The abovementioned difficulties could be avoided, and the objective attained more readily, if the Netherlands authorities applied the draft regulation notified to all poultrymeat marketed in the Netherlands and clarified it by simplifying the warning label, which should refer to the possibility of contamination rather than affirm that the product is contaminated.

(10) In the light of the foregoing, the Commission's opinion is negative, in accordance with Article 19, third paragraph, of Directive 2000/13/EC.

(11) The Netherlands authorities should accordingly be requested not to adopt the draft regulation in question.

[1] OJ L 109, 6.5.2000, p. 29.

(12) The measures provided for in this Decision are in conformity with the opinion of the Standing Committee on Foodstuffs,

HAS ADOPTED THIS DECISION:

Article 1

The Netherlands must not adopt their draft regulation stipulating the prepacking and labelling of poultrymeat in the event of contaminaton by *Salmonella* or *Campylobacter*, unless the following amendments are introduced:

1. application, save in duly substantiated exceptional cases, to all poultrymeat marketed in the Netherlands;
2. clarification and simplification of the warning on the label, stating that there is a possibility of contamination.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 13 March 2001.

For the Commission

David BYRNE

Member of the Commission