



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Single Market Enforcement
Notification of Regulatory Barriers

Message 115

Communication from the Commission - TRIS/(2025) 0852

Directive (EU) 2015/1535

Notification: 2024/0560/IT

Forwarding of a detailed opinion received by a Member State (Spain) (article 6, paragraph 2, second indent of Directive (EU) 2015/1535). This detailed opinion extends the standstill period until 08-04-2025.

Detailed opinion - Avis circonstancié - Ausführliche Stellungnahme - Подробно становище - Podrobné stanovisko - Udførlig udtalelse - Εμπεριστατωμένη γνώμη - Dictamen circunstanciado - Üksikasjalik arvamus - Yksityiskohtainen lausunto - Detaljno mišljenje - Részletes vélemény - Parere circostanziato - Išsamiai išdėstyta nuomonė - Sīki izstrādāts atzinums - Opinioni dettaljata - Uitvoerig gemotiveerde mening - Opinia szczegółowa - Parecer circunstanciado - Avis detaliat - Podrobné stanovisko - Podrobno mnenje - Detaljerat yttrande

Extends the time limit of the status quo until 08-04-2025. - Prolonge le délai de statu quo jusqu'au 08-04-2025. - Die Laufzeit des Status quo wird verlängert bis 08-04-2025. - Удължаване на крайния срок на статуквото до 08-04-2025. - Prodłużuje lhůtu současného stavu do 08-04-2025. - Fristen for status quo forlænges til 08-04-2025. - Παρατείνει την προθεσμία του status quo 08-04-2025. - Amplía el plazo de statu quo hasta 08-04-2025. - Praeguse olukorra tähtaega pikendatakse kuni 08-04-2025. - Jatkaa status quon määraaika 08-04-2025 asti. - Produžuje se vremensko ograničenje statusa quo do 08-04-2025. - Meghosszabbítja a korábbi állapot határidejét 08-04-2025-ig. - Proroga il termine dello status quo fino al 08-04-2025. - Status quo terminas pratęsiamas iki 08-04-2025. - Pagarina "status quo" laika periodu līdz 08-04-2025. - Jestendi t-terminu tal-istatus quo sa 08-04-2025. - De status-quoperiode wordt verlengd tot 08-04-2025. - Przedłużenie status quo do 08-04-2025. - Prolonga o prazo do statu quo até 08-04-2025. - Prelungește termenul status quo-ului până la 08-04-2025. - Predlžuje sa lehota súčasného stavu do 08-04-2025. - Podaljša rok nespremenjenega stanja do 08-04-2025. - Förlänger tiden för status quo fram till 08-04-2025.

The Commission received this detailed opinion on the 24-03-2025. - La Commission a reçu cet avis circonstancié le 24-03-2025. - Die Kommission hat diese ausführliche Stellungnahme am 24-03-2025 empfangen. - Комисията получи настоящото подробно становище относно 24-03-2025. - Komise obdržela toto podrobné stanovisko dne 24-03-2025. - Kommissionen modtog denne udførlige udtalelse den 24-03-2025. - Η Επιτροπή έλαβε αυτή την εμπεριστατωμένη γνώμη στις 24-03-2025. - La Comisión recibió el dictamen circunstanciado el 24-03-2025. - Komisjon sai üksikasjaliku arvamuse 24-03-2025. - Komissio sai tämän yksityiskohtaisen lausunnon 24-03-2025. - Komisija je zaprimila ovo detaljno mišljenje dana 24-03-2025. - A Bizottság 24-03-2025-án/-én kapta meg ezt a részletes véleményt. - La Commissione ha ricevuto il parere circostanziato il 24-03-2025. - Komisija gavo šią išsamiai išdėstytą nuomonę 24-03-2025. - Komisija saņēma šo sīki izstrādāto atzinumu 24-03-2025. - Il-Kummissjoni rċeviet din l-opinioni dettaljata dwar il-24-03-2025. - De Commissie heeft deze uitvoerig gemotiveerde mening op 24-03-2025 ontvangen. - Komisja otrzymała tę opinię szczegółową w dniu 24-03-2025. - A Comissão recebeu o presente parecer circunstanciado em 24-03-2025. - Comisia a primit avizul detaliat privind 24-03-2025. - Komisia dostala toto podrobné stanovisko dňa 24-03-2025. - Komisija je to podrobno mnenje prejela dne 24-03-2025. - Kommissionen mottog detta detaljerade yttrande om 24-03-2025. - Fuair an Coimisiún an tuairim mhionsonraithe sin maidir le 24-03-2025.

MSG: 20250852.EN

1. MSG 115 IND 2024 0560 IT EN 08-04-2025 24-03-2025 ES DO 6.2(2) 08-04-2025

2. Spain

3A. Ministerio de Asuntos Exteriores, Unión Europea y Cooperación
DG de Coordinación del Mercado Interior y Otras Políticas Comunitarias



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Plaza Marqués de Salamanca 8

3B. Comisión Interministerial para la Ordenación Alimentaria
Agencia Española de Seguridad Alimentaria y Nutrición
Ministerio de Consumo

4. 2024/0560/IT - C00A - AGRICULTURE, FISHING AND FOODSTUFFS

5. article 6, paragraph 2, second indent of Directive (EU) 2015/1535

6. The Government of Italy has submitted, on 7 October 2024, through the notification procedure of Directive (EU) 2015/1535, a draft legislation amending Article 21 of the 2023 Annual Draft Law for Market and Competition entitled 'Amendments to Legislative Decree No 206 of 6 September 2005'.

This Article refers to the amendments to Legislative Decree No 206 of 6 September 2005, and introduces into it Article 15a which refers to the establishment of a number of measures to counteract commercial practices of resizing pre-packaged products.

Examination of the draft has led the Spanish authorities to issue the following detailed opinion, as set out in Article 6.2 of said Directive.

In this regard, Spain expresses the following considerations:

(1) On the one hand, the text of the draft states:

a) Producers who offer for sale, also through distributors operating in Italy, a consumer product that, while maintaining the previous packaging, has undergone a reduction in the nominal quantity and a related increase in the price per unit of measurement, shall inform the consumer about the reduced quantity and the increase in the price in percentage terms, by affixing a specific label with special graphic highlighting such in the sales packaging.

The obligation to inform referred to in paragraph 1 shall apply for a period of six months from the date on which the product is displayed in its reduced quantity.

Following a detailed analysis, Spain considers it necessary to clarify to whom this legislation is addressed and who will be responsible for its implementation. The current wording, in both the translated and original versions, states: 'Producers offering for sale, including through distributors operating in Italy'.

We understand that this formulation is ambiguous, since, in the trade in food products, it is unusual for producers, or distributors, to sell directly to the final consumer, so they do not usually determine the final price of the product.

Producers can usually set a recommended selling price, but this will not necessarily be applied by retailers.

Therefore, if this provision is not explicitly addressed to retail operators, it would be technically difficult to implement. In this regard, we identify two possible interpretations:

1. The standard is aimed at producers, distributors or packers, which would generate numerous contradictions with current European regulations.
2. The standard is aimed at retail operators, with the aim of protecting the final consumer by identifying unfair commercial practices. In this case, it would be necessary to amend the text to clarify specifically who is responsible for its implementation.

2) Moreover, in order to avoid this phenomenon of 'shrinkflation', the project, as already mentioned, introduces the obligation for the producer to inform consumers of the reduction of the quantity in the packaging and of the increase in the price in percentage terms, by affixing a specific label with a specific graphic highlight on the sales packaging and this obligation will apply for a period of six months from the date of exposure of the product in its reduced quantity.

Including this new labelling requirement is intended to adequately inform and protect consumers in relation to the actual



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quantity of the product purchased and the cost actually incurred.

In Spain's view, although the aim pursued by the measure is legitimate, the manner in which it is established is too restrictive and constitutes an obstacle to intra-Community trade for the following reasons:

- a) Firstly, we consider that requiring producers to have specific labelling that includes reducing the quantity in the packaging and increasing the price in percentage terms is a questionable and difficult measure to implement, since producers are not obliged to know the final selling price and are not responsible for fixing it. However, producers are aware of the reduction in the quantity of the product with the use of the same packaging, so they could only refer to that circumstance.
- b) Second, it should be recalled that the obligation to provide information on the net quantity of a food is laid down in Article 9. 1(e) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers. Since the Italian draft aims to provide information not only on the quantity of the product but also on the price per unit of the product in relation to the packaging, this information could be offered in a less restrictive manner and without creating technical barriers to trade if done in accordance with Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on the protection of consumers in the indication of the prices of products offered to consumers. It specifically regulates the indication of the price and the price per unit of measurement of products offered by traders to consumers, which separates producers from this task. According to the provisions of Directive 98/6/EC, the indication of the price per unit of measurement is not necessarily linked to the individual labelling of the product, which allows Member States to consider other options for providing such information to the final consumer without creating obstacles to the free movement of goods.
- c) Third, the specific labelling requirement on sales packaging laid down in the Italian draft constitutes a measure equivalent to a quantitative restriction on imports, which constitutes an obstacle to the free movement of goods within the EU, in so far as it is a measure which is not proportionate and restricts trade more than necessary. Food business operators from other Member States will be subject to this national provision, obliging them to provide this information on their products and therefore to amend the information on their packaging. This, in addition to incurring additional costs, clearly hinders intra-Community trade.

In conclusion, and as explained throughout this letter, Spain considers that the draft legislation amending Article 21 of the 2023 Annual Draft Law on Market and Competition, entitled 'Amendments to Legislative Decree No 206 of 6 September 2005' and relating to the introduction into the Consumer Code of Article 15a (Measures to counteract commercial practices of resizing pre-packaged products), constitutes a clear obstacle to the free movement of goods, in breach of Article 34 TFEU, without it having been sufficiently demonstrated that the measure is proportionate and that there are no other less restrictive ways to achieve the objective pursued. This project contravenes relevant provisions of EU law, which would oblige the Italian authorities to reconsider the content and appropriateness of approving the project.

European Commission
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