Consumer Health Considerations in EEC Legislation

P. S. Elias

International Food Irradiation Project, Karlsruhe, West Germany

ABSTRACT

None of the EEC legislation promulgated either as Directives or Regulations by the Council of Ministers following proposals by the Commission of the European Communities deals directly with consumer protection as does the UK Consumer Protection Act of 1961. Nor has the Commission ever proposed a general Directive on the lines of the UK Food and Drugs Act of 1955 with its built-in provisions for protecting the consumer against defraudation and injury to his health. There are, however, numerous instances to be found among the constituent articles of the various Directives issued by the Council of Ministers of the EEC in the food field which deal specifically with health considerations affecting the consumer.

In the area of food additives, health protection of the consumer is provided by the positive list system, on which the Council Directives on various food additives are based. Another aspect of health protection to be discussed is exemplified by the inclusion of strict specifications for individual substances listed. These specifications limit the concentrations of certain unavoidable but toxic contaminants in the additive. Health considerations are involved more indirectly in the deliberations of the Scientific Committees acting as advisory bodies to the Commission. Here, discussion will cover the efforts to generate generally acceptable guidelines for the toxicological testing of chemicals and to establish acceptable daily intakes for food additives and contaminants.

The most recent example of health protection by controlling food contamination is the Directive relating to materials and articles
intended to come into contact with foodstuffs. Some other areas involving health considerations, e.g. microbiological and nutritional standards and specific additive labelling, will be briefly discussed as examples of future EEC legislative activity.

A survey of legislation promulgated by the Council of Ministers of the European Economic Community reveals that none of the Directives or Regulations issued so far deals directly and specifically with the protection of consumer health. The Consumer Protection Act, 1961 of the United Kingdom is an example of such specific legislation. It is an empowering Act enabling the Home Secretary, among other things, to make regulations by statutory instruments under Section (1) to impose:

'as respects any prescribed class of goods—
(a) any such requirements, whether as to the composition or contents, design, construction, finish or packing of, or otherwise relating to, goods of that class or any component thereof, as are in his opinion expedient to prevent or reduce risk of death or personal injury;
(b) Any such requirements for securing that goods of that class or any component part thereof are in the prescribed manner marked with or accompanied by any prescribed warning or instructions, which in the opinion of the Secretary of State is or are expedient as aforesaid.'

Section (2) provides for prohibition or sale or having in one's possession for selling any goods not complying with regulations, with certain exceptions under specified circumstances, such as the goods being sold for scrap.

Section (3) deals with enforcement and makes it a duty of the individual to comply with any regulations issued under the Act, the breach of duty being actionable. In addition, non-compliance carries with it certain statutory financial penalties, and possibly imprisonment for a maximum term of three months. It is also interesting to note that the Act defines 'personal injury' as including 'disease or disability'.

Similar general legislation exists in other Member States of the EEC, the precise national form depending on the legal and political structure of each individual nation. One may speculate therefore that the Commission of the European Communities felt it unnecessary to