



UNION EUROPEENNE DE L'ARTISANAT ET DES PETITES ET MOYENNES ENTREPRISES  
EUROPÄISCHE UNION DES HANDWERKS UND DER KLEIN- UND MITTELBETRIEBE  
EUROPEAN ASSOCIATION OF CRAFT, SMALL AND MEDIUM-SIZED ENTERPRISES  
UNIONE EUROPEA DELL' ARTIGIANATO E DELLE PICCOLE E MEDIE IMPRESE

**UEAPME RETAIL FORUM Position**  
**on the Communication from the Commission on the implementation of Directive**  
**1998/6/EC of the European Parliament and the Council of 16 February 1998 on**  
**consumer protection and the indication of prices of products offered to consumers.**  
**COM (2006) 325 Final**

## **Introduction**

UEAPME Retail Forum warmly welcomes the communication and consultation on the directive concerning the indication of prices of products offered to consumers. The quality of the Communication has to be highlighted as it is an ideal consultation document and as it gives a very good and detailed overview of the different positions and problems.

We also highly appreciate the efforts of DG SANCO to pursue the better regulation objectives in terms of simplification of the regulatory environment and also their continuous efforts to consult effectively with the different stakeholders.

Nevertheless it has to be stressed that the Commission did not apply the minimum standards on consultation in this case as it was launched during the main holiday period and no extension has been foreseen.

Furthermore, the Forum welcomes the principle of the consultation format, meaning the use of options, which could facilitate and speed-up the consultation. However, more attention should be paid to the exact wording of the arguments, as in some cases, the arguments in favour of an option are, in our opinion, in fact arguments against.

## **QUESTIONS FOR CONSULTATION**

### **Preliminary comments**

The UEAPME Retail Forum recall that the objectives of the principle of the indication of the prices is threefold:

- to safeguard the interest of the consumers against abuses, by giving them, as far as possible, a clear and direct information about the price. The aim is to allow the customer to have a sure picture of the price that he will have to pay for the product and it should allow him, without or with the lowest possible pressure, to be ascertained about the asking price. Thereby it is assumed that the announced price is also the asking price in reality.
- to protect competitors against less scrupulous traders;

- to ensure price competition.

The rules concerning the indication of prices are very complex, not only at the European level but also even more at national level. This is due to the variety of products and services, national customs and the impossibility to catch this diversity in simple rules. As a consequence the rules are not always applied, not deliberately, but due to their complexity. The introduction of the obligation to indicate the selling price and the unit price has certainly not simplified the situation.

One of the problems with the directive is that it has introduced a general rule (indication of the selling price and the price of unit of measurement of products), which has absolutely no sense for a lot of products, as there is no link between the price of these products and any kind of unit of quantity.

The main problem is however that the obligation to indicate the unit price constitutes for small retailers a very high administrative burden and often imposes heavy costs.

- Firstly the administrative burden for the retailer is not in proportion with the advantage it brings to the consumer. The motives of a consumer to buy in small shops are completely different from those in a supermarket. In addition, the indication of the unit price for the limited assortment of small shops offers not at all an additional value to the consumer, due to the fact that often there is no choice between different brands and consequently price comparison is not possible.
- The obligation constitutes also a competitive disadvantage for the small retailers towards the big retailers. Larger retailers have the necessary technical equipment and logistics to indicate the unit price in an automated way, while small retailers have to do this manually. Itinerant traders have the same problem. Fulfilling the obligation is very time consuming and expensive for a small retailer.
- Both technical (no scanning or computer systems) as well as practical reasons (small retailers do not belong to a commercial group) lead to problems in fulfilling the obligation of double pricing.
- Small enterprises and especially small retailers play an important and irreplaceable role in the fabric of villages and cities and are essential for the social and economic cohesion.

The European Commission, European Parliament and the Council have recognised these problems by adopting Directive 98/6/EC, which states “*the obligation to indicate the unit price may entail an excessive burden for certain small retail businesses under certain circumstances.*” Article 6 allows the Member States to waive the obligation for a transnational period.

However the problems and barriers for small retailers still remain. **That is why the UEAPME Retail Forum urges the Commission to make the derogation for small retail businesses permanent. The definition of “small retail business” should be left to the Member States.**

**Question A: Should the derogation in article 3(2) be maintained?**

UEAPME Retail Forum is clearly in favour of excluding the products mentioned in article 3(2) from the obligation to indicate the unit price, as the indication of the unit price for the products mentioned in article 3(2) is not relevant to enable consumers to make informed choices on the basis of simple price comparisons. Indeed for most, if not all products sold by auction, or works of art and antiques, the unit price has no sense, as there is no link between the price of these products and any kind of unit of quantity (see our preliminary remarks). For products supplied in the course of the provision of a service, the obligation to indicate the unit price is also useless, as, in most of the cases, the consumer has no other product to compare with.

The choice between option 1 and 3 is rather technical, nevertheless we prefer option 1., meaning excluding these products from the scope of application of the Directive and eliminating the derogation.

**Question B: For which products should there be an obligation to indicate the unit price?**

As already mentioned, the general rule to indicate the unit price is not workable, as it is too general. Therefore we suggest formulating in article 1 a less general rule, by clearly stipulating that the indication of the unit price is only compulsory when there is a link between the price and any kind of unit of quantity.

As the Member States (as well as business organisations and consumer organisations) have taken different views as to which products do not need to carry the indication of the unit price, it may be clear that there is a need for discretion for the Member States and thus, that article 5 should be maintained.

In addition, guiding principles for member states could be introduced on how the exemption of article 5 should be applied.

**Question C: Should specific rules on advertising be maintained in this context?**

UEAPMEs Retail Forum does not see any reason to change article 3, 4 in its actual form.

**Question D: Should the derogation for small retail businesses become permanent? If so, should a European notion of small retail business be introduced? How should it be formulated?**

For the reasons already mentioned in the preliminary remarks, the UEAPME Retail Forum urges the Commission to make the derogation for small retail businesses permanent. The definition of “small retail business” should be left to the Member States.

**Question E: Should the minimum harmonisation clause be maintained?**

As indeed Member States have hardly made any use of the possibility to introduce or maintain more stringent consumer protection rules in the domain harmonised by the Directive, we do not see any need to maintain article 10.

Brussels, September 2006.

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