

provenance, and method of production. Then, the name under which a foodstuff may be sold is restricted, mainly by referring to the vertical regulation governing the particular product. In the case of chocolate products, this is the annex described in the above paragraph. Next, the Directive requires that ingredients be listed. Special provisions govern in special situations such as when a low quantity of a certain ingredient is claimed. Stating the date of minimum durability is required. Several provisions govern specifically when Member States may make derogations.

Another 1979 Directive specifically concerns price indications on foodstuffs.⁹ The focus is on requiring unit pricing of foodstuffs so that consumers can easily make comparisons. However, the Directive states that standardisation of quantities in which prepacked goods are sold should be required; simply labelling the quantity of the contents is an inferior regulation. Two Directives provide this further price transparency by requiring prepackaged products to be sold in certain quantities only.¹⁰

US standards

To place these standards in perspective, US chocolate product standards provide a useful comparison. The Food, Drug, and Cosmetic Act¹¹ provides the general framework for foodstuff standards. The authority to define product standards is given to the Food and Drug Administration (FDA). However, the Act does provide some specific product requirements. For example; the misbranding section governs imitation foods, misleading containers, package form, prominence of information on label, and representation as to definition and standard of identity. All these provisions are very brief and general, however. The FDA has provided detailed regulations implementing the Act. One lengthy section governs food labelling.¹² This section supplements the misbranding section of the Act. It details labelling size, place, order, nutritional contents, and so on. Another section lists required nutritional contents of various foods.¹³

9 Council Directive 79/581, OJ 1979 L158/19 as amended by 88/315, OJ 1988 L142/23; (hereinafter Foodstuff Pricing Directive).

10 Council Directive 80/232, OJ 1980 L051/1 as amended by 86/96, OJ 1986 L080/55, and 87/356, OJ 1987 L192/48 (hereinafter Quality Directive); and Council Directive 76/211, OJ 1976 L046/1 as amended by 78/891, OJ 1978 L311/21, (supplementing 80/232 by setting out tolerable errors in weighing prepackaged contents).

11 21 USC §341 and onward (1991).

12 FDA General Regulations relating to Food Labelling, 21 CFR §101.

13 FDA Regulation Relating to Specific Nutritional Quality Guidelines, 21 CFR §104.5 and onward.

Finally, a vertical regulation governs standards for cocoa products.¹⁴ This regulation differs from the EC verticle regulation in several respects. First, it does not list as many cocoa products as the EC Directive does. Second, it contains labelling requirements as well. Third, it also contains additive provisions. Fourth, in the products it does cover, it generally sets similar standards.

Two Policy Goals of EC Standards

Do not these EC regulations seem a bit excessive? Why is it the government's business to enter the market-place and regulate it to such an excessive degree? Will not such detailed regulations end up stifling competition? Such may be the response of someone unfamiliar with the EC approach to market regulation. However, the degree the EC regulates markets is attributable to more than an arbitrary faith in bureaucratic regulations. Rather the degree of interference of these regulations in the consumer market-place can be traced to a conscious regulatory philosophy. An articulation of this philosophy will allow for a better analysis of the value of these regulations. Also it aids in predicting the nature of the future of the EC export market. All three of the above-stated types of standards: interchangeability, safety, and quality, are attributable to two types of standardisation goals.

First goal

The first type will be referred to as the traditional goals. These are the obvious ones, goals that promote safety and efficiency. In the food product sector, standards limiting the amounts of certain additives are a good example.¹⁵ Efficiency-promoting standards are the most obvious example in those standards resulting in interchangeability in products and parts. When viewing standards from the community-wide view, efficiency is the primary reason for having community-wide rather than national standards. The economies of scale attained are one of the basic reasons for the EC's existence.

Second goal

The second type of goal of standards are those that promote competition-on-the-merits. This is the area where the EC seems to differ the most from the United States. This goal is often referred to as consumer protection. However, for the analysis of this article, promoting

14 FDA Regulation Relating to Specific Standardized Cocoa Products, 21 CFR §163.110 to 163.155.

15 See, for example, Council Directive 89/107, OJ 1989 L040/1 (setting out maximum levels for additives).