

HDE Position Paper
on the Commission's Green Paper "Promoting healthy diets and physical activity: towards a European strategy for the prevention of overweight, obesity and chronic diseases" COM(2005)637 final

General Comments:

The Confederation of German Retail e.V. (Hauptverband des Deutschen Einzelhandels, HDE) welcomes the presentation of the European Commission's Green Paper on "Promoting healthy diets and physical activity: towards a European strategy for the prevention of overweight, obesity and chronic diseases" COM (2005)637 final, as it provides the opportunity to launch a broad consultation process on important issues. Thus, all stakeholders will be able to make a contribution to the topical and socially relevant debate on promoting healthy diets and physical activity – particularly with regard to the problem of obesity in children and young people and chronic diseases caused by poor individual nutritional practices.

The HDE is the leading economic umbrella organisation representing the interests of the German retail trade. It brings together some 100,000 enterprises of all sizes and from all sectors and locations with a combined turnover of more than €250 billion per year. The retail sector is in fact the third largest economic sector after industry and the crafts.

The HDE emphasises the need for an integrative approach to the subject and calls for policies – at both the European and national levels – based on such an approach.

The EU Platform for action on Diet, Physical Activity and Health as well as the German national Platform on Diet and Physical Activity ("Plattform Ernährung und Bewegung" – PEB) are promising examples of successful cooperation between diverse stakeholders. Both projects are characterised by the fact that a wide variety of actors – including industry – are represented and work together to find sustainable and well-targeted solutions for promoting a healthy lifestyle.

In the following we set out the HDE's comments on a number of questions which are of particular importance to the retail sector:

Which kind of Community or national measures could contribute towards improving the attractiveness, availability, accessibility and affordability of fruits and vegetables?

The HDE shares the European Commission's view that fruits and vegetables play an important role in a healthy and well-balanced diet and can make an important contribution to it.

However, in our opinion – contrary to what the question seems to imply and as far as consumers in Europe are concerned – neither the attractiveness of the offer nor the accessibility of the products, nor their price, can be considered obstacles to an adequate consumption of fruits and vegetables.

On the contrary, all kinds of fruits and vegetables are easily available in Germany and the EU as a whole. Throughout the year, consumers are able to buy fresh fruits and vegetables regardless of the season and can choose from a wide and varied range of products. In Germany in particular, consumers can rely on affordable prices for fruits and vegetables due to the high density of companies of all shapes and sizes that compete with each other.

When providing nutrition information to the consumer, what are the major nutrients, and categories of products, to be considered and why?

In the view of the HDE, the existing legal provisions concerning nutrition labelling already constitute an adequate basis for communicating nutrition to consumers. Moreover, many companies already provide nutrition information on a voluntary basis; indeed, some companies do this for up to 80 per cent of their products. Given these premises, the HDE does not consider it a priority to request additional (mandatory) nutrition information.

Furthermore, the HDE wishes to point out that there is no connection – or at least no necessary connection – between additional nutrition information on products, on the one hand, and a healthier diet on the other, since there might well be discrepancies between taking in information, understanding the content of the message communicated, appraising its possible implications for individual behaviour, and actual behaviour.

Personal life style, which is a decisive factor in addressing the above-mentioned issues, is extremely complex since it depends on many variables (including physical and psychological as well as cultural influences).

Therefore, nutrition labelling should not be considered a cure-all for the promotion of a healthy life style, but rather, should be regarded as only part of an integrative approach to consumer information and consumer education. First and foremost, what is important is consumers' awareness of their individual responsibility. However, the

state and industry can – within their respective means and possibilities, including the provision of information – contribute to promoting healthier lifestyles.

Which kind of education is required in order to enable consumers to fully understand the information given on food labels, and who should provide it?

It is known that, for lack of knowledge, consumers often cannot relate to the legally mandatory labelling elements. The HDE believes that the comprehensibility of the labelling elements should be improved and/or ensured.

Furthermore, it is important that consumers' awareness of their own responsibility be fostered at an early stage. The information disseminated needs to be easy to understand, factual and scientifically sound. However, the information process implied in these principles is not the sole responsibility of industry. It can only be successful if all social actors are involved. The media, educational authorities, social institutions of all types – particularly nursery schools, day-care centres and schools – as well as health insurance providers, medical doctors and the family, all play an equally important role.

Recent research shows that dietary patterns and lifestyle habits are formed early in life – i.e. in childhood. Therefore, it is essential to lay the necessary foundations at this stage by means of adequate educational tools such as, for instance, the introduction of nutrition education as a school subject. Schools are the appropriate place to provide the basic knowledge about a healthy diet and physical activity.

Already today, industry is assuming its share of responsibility in this educational process, for example by voluntarily displaying additional information on many products (beyond the legally mandatory labelling requirements), by offering customers nutrition information at the point of sale or over the phone through hotlines as well as by making such information available to their customers on the Internet. In fact, in recent months many companies have extended their commitment in this respect.

The HDE and numerous leading German companies of the retail sector are closely involved in the national Platform on Diet and Physical Activity ("Plattform für Ernährung und Bewegung" – PEB), in which since 2004 stakeholders from different sectors of society have been engaged in the fight against the growing problem of obesity in children and young people.

Are voluntary codes ("self-regulation") an adequate tool for limiting the advertising and marketing of energy-dense and micronutrient-poor foods? What would be the alternatives to be considered if self-regulation fails?

The advertising industry in Germany has a very effective and well-functioning self-regulation system. Early in its history, the Central Association of the German Advertising Industry ("Zentralverband der deutschen Werbewirtschaft e.V." – ZAW) published voluntary codes of conduct for specific areas of advertising (e.g. advertising with and to children, advertising with alcoholic beverages, etc.). In 1972 in its capacity as a monitoring body, the ZAW set up the German Advertising Council, which allows all citizens to lodge complaints concerning advertisements.

In addition, the German Advertising Council is committed to promoting compliance with the regulations of the International Chamber of Commerce (ICC), which also encourages socially responsible advertising and marketing. These self-imposed restrictions are intended to enhance the public image of advertising and, above all, protect consumers.

At European level there is the European Advertising Standards Alliance (EASA), which in 2004 published an Advertising Self-Regulation Charter (available on www.easa-alliance.org). In the Charter – signed by EASA in the presence of representatives of the various European self-regulation organisations as well as representatives of the advertising industry, the media and the European Commission – the fundamental principles of independence, transparency and efficiency were laid down for the first time. According to these principles, consumers are entitled, e.g., to lodge complaints free of charge and non-bureaucratically. National-level self-regulation of advertising also provides for complaints to be dealt with quickly, flexibly and effectively. The German Advertising Council, a founding member of EASA, fully complies with these recommendations.

The HDE is firmly convinced that the existing legal provisions, combined with the extremely well-functioning mechanisms of voluntary self-regulation, are adequate to protect consumers' interests.

How can effectiveness in self-regulation be defined, implemented and monitored? Which measures should be taken towards ensuring that the credulity and lack of media literacy of vulnerable consumers are not exploited by advertising, marketing and promotion activities?

The HDE wishes to point out that there already exists an extremely comprehensive and effective set of regulations at European and national level. At European level, the existing legislation in this area includes the General Food Law Regulation No. 178/2002/EC, the Food Labelling Directive 2000/13/EC, Regulation (EC) No. 1935/2004 on materials and articles intended to come into contact with food, as well as Directive 2005/29/EC on Unfair Commercial Practices, and Directives 97/55/EC and 84/450/EEC concerning misleading advertising. At national level, consumers are protected by the Food and Feed Law (“Lebensmittel- und Futtermittelgesetzbuch” – LFGB), the Law for the Protection of Youth (“Jugendschutzgesetz” – JuSchG), the State Treaty on the Protection of Youth in the Media (“Jugendmedienschutz-Staatsvertrag” – JMStV), the Press Laws of the Länder (“Landespressegesetze” – LPG), the State Treaty on Broadcasting (“Rundfunkstaatsvertrag”) and the State Treaty on Media Services (“Mediendienststaatsvertrag”) as well as by the self-imposed code of conduct of the advertising industry. Compliance with the laws and adherence to the voluntary code of conduct are monitored by the companies themselves as well as by the German Advertising Council, the courts of law and consumer protection organisations.

Furthermore, the HDE would like to recall the notion of a well-informed and self-reliant consumer, which the European Court of Justice has established and developed in its case law. This concept should form the basis of all discussions and policymaking, including measures at European level.

The starting point of all discussion should be the consumer, who freely and self-reliantly chooses and consumes his/her food. The freedom and independence of the consumer should be fostered, rather than restricted through disproportionate legal requirements.

The HDE understands the Commission's aim that especially vulnerable groups of consumers – such as minors and certain groups of older consumers – should be protected by special regulations. However, existing European and national law already provides sufficient opportunities and regulatory instruments to tackle this objective and/or fulfil it.

How can consumers best be enabled to make informed choices and take effective action?

A well-informed choice presupposes an informed and educated consumer. As mentioned above, the HDE welcomes all activities (including those by businesses, i.e. by industry and the trade sector itself) which promote the comprehensive education and information of consumers, e.g. through websites, customer hotlines etc.

The HDE and numerous companies of the German retail sector take this task very seriously through their strong involvement in the Platform on Diet and Physical Activity (PEB).

However, the HDE would like to stress that consumer education is a task which belongs to all sectors of society and which should be coordinated and put into practice jointly by different stakeholders (including the State, businesses and citizens) if it is to be successful in the long term.

In the field of nutrition and physical activity, which should be the key messages to give to consumers, how and by whom should they be delivered?

Because the subject of nutrition and physical activity is so complex and multifactorial – depending, as it does, on individual (physiological, psychological, genetic) as well as cultural parameters – the HDE believes that it should always be addressed with an integrative approach and communicated only as an integrated whole.

For this reason the HDE considers any introduction of a scoring system for nutrition as the wrong approach. In the first place, such measures would divide individual foods into “good” and “bad” – whereas in a well-balanced diet all foods have a place; secondly, such measures are ineffective inasmuch as they are implemented in isolation.

In view of the above, the HDE prefers projects which are based on integrative concepts and therefore welcomes the foundation of the European Platform for Action on Diet, Physical Activity and Health, which was set up on the initiative of the Commission in March 2005 with the support of a wide range of stakeholders, including participants from the trade sector. It should be remembered that the HDE and its member companies are already fulfilling their responsibilities and actively participate in the European and national (PEB) platforms.

In which way could social and cultural variations and different regional and national dietary habits be taken into account in food-based dietary guidelines at a European level?

How can dietary guidelines be communicated to the consumers?

The HDE believes that diet must always be considered in a cultural and national context. Different preferences for different types of food exist in every country of the European Union. Often, dietary habits vary from region to region within individual nation-states. In other words, there are considerable regional and local differences in dietary habits and trends across Europe.

Therefore, in our opinion it is neither possible nor desirable to merge the national and regional dietary specificities of all 25 members into a single European dietary guideline.

In which way could nutrient profile scoring systems such as those developed recently in the UK contribute to such developments?

Any scoring system or any system which highlights a certain food item through a symbol is based on the categorisation of foods – and therefore is based on the fundamental error of wanting to divide products into “good” and “bad”. Such a categorisation contradicts the principle that, in nutrition, there are neither good nor bad foods but only good and bad diets.

The HDE is of the opinion that every type of food has a place in a well-balanced diet and should form part of it. For this reason we reject any form of categorisation of food items. It seems to us that it is much more important to provide consumers with integrative, objective information which – combined with early education – will enable them to choose their diet and lifestyle accordingly.

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