

## **EPC Risk Forum**

### **EUROPEAN COMMISSION GREEN PAPER**

**“Promoting Healthy Diets and Physical Activity: A European Dimension for the Prevention of Overweight, Obesity, and Chronic Diseases” (2005)**

### **COMMENTS**

## **1. BACKGROUND**

### **1.1. ABOUT THE EPC RISK FORUM**

The Risk Forum is a part of the European Policy Centre’s Better Regulation Programme ([www.theepc.be](http://www.theepc.be), EPC). The genesis of the programme was the first examination of cost-benefit analysis and risk assessment in 1995. The EPC made submissions to the Intergovernmental Conference leading to the Treaty of Amsterdam in support of a legally binding provision for the undertaking of cost-benefit analyses. One was contained in the Subsidiarity and Proportionality Protocol attached to the 1997 Treaty.

The subsequent focus of the EPC was on risk assessment, risk management and risk communication. The Risk Forum was formed in 1996 to promote improved regulation of risk-related issues throughout the EU decision-making process.

Bringing together representatives of corporate business and supported by senior officials, NGOs representatives and academics, the Forum has met regularly since 1997. It has produced a number of papers and submissions to the European Commission. The Forum has also organised a number of seminars, workshops and conferences on risk, precaution, and Better Regulation.

As part of its work, the Risk Forum commissions major, own-initiative, studies on risk-related issues from experts (and manages them, where appropriate, through Steering Groups). Major studies are published and communicated extensively to a wide range of EU-level policy-makers, and opinion-formers. Major own-initiative studies include:

- *The Politicisation of Science* (1999)
- *A Proportionate Implementation of the Precautionary Principle* (2001)
- *Regulatory Impact Analysis* (2001)
- *Improving the Quality of Risk Management in the European Union: Risk Communication* (2003)
- *The Role of Science in the Decision-making of the European Union* (2005)

## **1.2. BETTER REGULATION AND LIFESTYLE RISKS**

Regulation of lifestyle risks is a subject of considerable interest to the EPC Risk Forum. It complements earlier work undertaken to consider the management of technological risks to public safety, human health, and the environment.

The Risk Forum focuses on “horizontal”, cross-sectoral issues, particularly regulatory decision-making processes. Its interest is in promoting Better Regulation, through improvements in the way in which decisions are taken about the best way to manage risks. Within this context, “Better Regulation” is seen to be a public interest issue, focusing on the outcomes and processes of regulatory decision-making.

In order to achieve this, the Forum believes that decision-making processes should meet three criteria:

- First, they should be designed such that outcomes are capable of meeting agreed social objectives;
- Second, good design should minimise negative side-effects, such as new, unintended risks (“risk-risk”), economic losses, reduced personal freedoms or restrictions on consumer choice.
- Third, the way in which regulatory decisions are taken should be structured, consistent, non-discriminatory, predictable, open, transparent, evidence-based, legitimate and accountable.

Achieving these goals is likely to require extensive use of evidence, especially science: rigorous definition, description and assessment of problems and their underlying causes; realistic understanding of the costs and benefits of policy options; and extensive consultation.

Although, the Risk Forum’s comments on the Green Paper are based on its ‘horizontal’, Better Regulation perspective, they are intended to be a contribution to the debate about the ways to limit the impact on human health, healthcare resources and the economy of unhealthy lifestyle choices.

## **2. POLICY-MAKING AND MANAGING LIFESTYLE RISKS**

The Green Paper, with its extensive description of policy options, provides decision-makers with a number of important principles for the effective management of lifestyle risks. Specifically, the Green Paper:

- Recognises the importance of the problem and highlights the wider harm it can cause, including economic losses and healthcare costs;

- Emphasises the multi-causal nature of the problem, stressing, for example, the need to consider both diet and physical activity, when seeking to find ways to limit negative health impacts of unhealthy lifestyle choices;
- Highlights the need, because of the complex nature of the problem, for integrated and cohesive policy action that crosses traditional internal boundaries within governments;
- Avoids seeking simple solutions, recognising the need for a wide range of actions;
- Seeks alternatives to traditional forms of ‘command and control’ regulation, including self-regulation by industry and investment in consumer education;
- Sets out to involve a wide range of social actors, including companies, trade unions, NGOs, different levels of government, schools and healthcare providers;
- Builds on other, innovative initiatives, including the multi-stakeholder platform for voluntary activity by business, NGOs and others;
- Recognises the need, due to the complex nature of the problem, to work closely with industry and to use non-regulatory methods, if possible.

**These principles are important, and could be used to help inform the development of policies to manage other lifestyle risks, as well as helping to guide the process of policy development in this area. If possible, they should be codified and made available to all parts of the Commission. They are to be welcomed and supported.**

### **3. IMPROVEMENTS**

Notwithstanding the major advances made by the Commission in developing processes to manage lifestyle risks, a close analysis of the Green Paper reveals three areas where improvements could be made in regulatory decision-making processes:

- Problem definition
- Selection of policy options
- Evaluation of policy options

#### **3.1. PROBLEM DEFINITION**

Although the Green Paper recognises the multi-causal nature of the problem and, in one of the annexes, refers to some of the proximate causes, there are a number of important gaps in the definition of the policy problem.

This is an important issue. Clear, logical, and rigorous assessment of the problem and its underlying causes is an essential pre-condition for good policy-making. It ensures that action is focused on the correct problem, rather than other, related issues, and that policy is used to target the underlying causes of the risk. In turn, this determines the likely effectiveness of action and thus its capacity to meet social goals.

In this instance, there are at least five important gaps in the description of the policy problem set out in the Green Paper. Specifically:

- **Social demography:** Although the paper provides a brief description of differences in health outcomes, BMI (body mass index), and obesity between Member States, and recognises the importance of social inequalities in influencing health outcomes, it fails to provide a complete analysis of the social demography of unhealthy diet and inadequate exercise. It does not provide insights into whether, for example, these problems are concentrated amongst certain groups defined by occupation, income, age or gender, rather than being distributed evenly across the entire population.

This is an important gap in the description of the problem. If, for example, problems are heavily concentrated amongst poor and disadvantaged groups, then policy responses need to take this into account. Policies designed to change behaviours amongst disadvantaged groups may be radically different from the type of actions needed to help all EU citizens make healthier lifestyle choices.

- **Balance between exercise and diet:** The paper recognises the importance of taking into account both diet and exercise - the two proximate causes of weight gain, high BMI and related diseases - when developing policy. However, the problem description fails to provide a comprehensive assessment of the relative importance of the two factors. There is, for example, no analysis of trends in 'calories out' (exercise) compared to 'calories in' (diet).

Understanding the potential relative contribution of the two principal proximate causes is important for policy design. It helps to set policy priorities.

- **Sources of 'dietary inputs':** Dietary choices consist of a continuous range of meal and snack decisions. Many are made in the home, but many are also made outside it. Consequently, dietary inputs come from a range of sources, including processed foodstuffs, fresh food and meals eaten out. The paper does not include a full analysis of the sources of salt, fats and sugar in national diets, based on the wide range of different meal decisions made by citizens.

This is an important gap in the problem description included in the Green Paper. If, for example, meals outside the home are a significant source of fats, salt and sugar, then policy needs to take this into account. A fuller analysis may also identify cooking practices within the home as a possible source of problems.

- **Counter-veiling trends:** The paper fails to include a rigorous assessment of counter-veiling trends that may limit the growth of the problem, and, potentially, influence the design of public policy. There is, for example, no analysis of the extent of shifts in consumer behaviour towards healthier lifestyles or in the

improved availability of healthy product options, as a result of decisions by retailers and food manufacturers.

Effective policy needs to take account of likely evolution in behaviour by citizens, retailers, restaurant operators, and food manufacturers. Market operators may well already be responding to changes in consumer needs. If this is so, then the nature of policy problem changes and policy action should take this into account. The ‘baseline’ for public policy action should take account of known and expected shifts in consumer and business behaviour, rather than extrapolating solely on the basis of historic data.

- **Underlying causes of unhealthy diet and exercise choices:** Although the “proximate causes” (diet and exercise choices) are considered, the paper provides a brief, but incomplete, commentary on potential underlying causes of unhealthy diet and exercise choices. Moreover, because the paper fails to provide a description of the social demography of the problem, it is not possible to identify whether or not poor dietary choices are the result of different factors for different social groups.

Lack of analysis of the underlying causes of risks is a major gap in the definition of the problem that public policy seeks to solve. This is needed to maximise the likelihood that policy action will have a beneficial impact on the negative health outcomes of unhealthy lifestyle choices. As an example, if unhealthy diets and lack of exercise are concentrated amongst deprived communities and disadvantaged groups, then the reasons for such choices may include lack of access to safe exercise facilities and lack of availability of food choice. There is also a need, for example, to understand purchasing criteria and ‘food cultures’, if action is to be taken to change behaviours. Understanding barriers to healthier lifestyles and the reasons why certain products are chosen rather than others are important pre-conditions for developing effective policy options.

**These are important gaps in the definition of the policy problem set out in the Green Paper. In the paper, the Commission asks stakeholders to identify ways in which Community action could contribute to policy-making in this area. One way of achieving this would be for the Commission to invest in gathering the evidence needed to close these gaps. This would improve the evidential basis for policy-making and help ensure greater effectiveness of policy action.**

### **3.2. SELECTION OF POLICY OPTIONS**

The process of selecting potential policy options aims to identify means of action that are likely to have a beneficial impact on the underlying causes of risks: in this case, the reasons why particular citizens make poor dietary choices and undertake inadequate exercise. Option selection should, however, also take into account the nature of risks to be managed (distinguishing between ‘lifestyle’ and ‘technological’ risk, for example), and the acceptability to citizens of government action.

A range of possible policy options for tackling the causes of unhealthy dietary and exercise choices are set out in the Green Paper. These cover an extensive range of areas of activity; include a number of non-regulatory options; and recognise the need for coherent action across a range of policies. Much of this is to be welcomed and supported.

In four areas, however, potential improvements could be made that might contribute to ensuring an effective and complete identification of potential options. Specifically:

- **Link to policy problem:** The link between potential options and the policy problem is, in a number of cases, inadequately explained. This makes it difficult to identify the benefits of specific options and, hence, to make comparisons between them. It would, for example, be helpful to provide stakeholders, citizens and decision-makers with a table showing the specific underlying causes of the problem that each option is designed to address, and, if possible, to highlight, on a qualitative basis, potential benefits.
- **Policy gaps:** It is possible that there are gaps in the range of options identified, because the description and definition of the policy problem is incomplete. Potentially, this is a major weakness of the list of policy options provided to citizens.

Although it is not possible to identify all of the potential gaps in policy options, Risk Forum members suggest that additional options should be developed in three areas:

- Improving the evidence base for decision-making;
  - Promoting exercise;
  - Integrating policy actions to cover all sources of dietary inputs.
- **Evidence:** In some cases, specific policy ideas are set out in the Green Paper. However, in a number of cases, no evidence is provided to substantiate the rationale for including the idea or its potential effectiveness. It is, for example, suggested that advertising of food and drink products to children and other vulnerable groups should be restricted, possibly through industry self-regulation. Whilst the rationale for controlling advertising to children is well-understood, no evidence is provided to support an extension to adults. Without evidence to support policy ideas, it is difficult for policy-makers to make fully informed choices.
  - **Personal responsibility:** The Green paper does not address sufficiently directly the issue of responsibility for lifestyle choices. This is an important determinant of policy, because it helps establish boundaries to state action and guides the direction of policy. In a democratic society, it is widely accepted that citizens are responsible for making decisions about diet and exercise, and, ultimately, their own health. Moreover, as parents, they are responsible for the health of their children. This should become a central principle of policy-making in this area.

**There is a need to amend the list of policy options identified by the Commission. Personal responsibility for diet and nutrition decisions should become the central principle on which all policy action is based. Options should, moreover, be ranked on the basis of their likely impact on the underlying causes of poor dietary and exercise choices, and this should take account of a complete and rigorous assessment of the description and definition of the policy problem. Finally, specific policy ideas should be supported by evidence.**

### 3.3. EVALUATION OF OPTIONS

In the evaluation phase of the risk management process, potential policy options are assessed against a number of criteria, such as effectiveness. Ideally, these criteria should reflect the nature of the risk being managed, making, for example, a clear distinction between technological and lifestyle risks. The aim of this process is to find options that are most likely to achieve social goals, whilst, at the same time, minimising negative side-effects.

In its Green Paper, the Commission asks contributors to identify ways in which policy options might be ranked. Taking into account the nature of this particular lifestyle risk and widely-accepted risk management decision-making frameworks, it is suggested that all options be assessed against the following criteria:

- **Strength and quality of evidence:** Options should be evidence-based, demonstrating a clear link between policy action and one or more underlying cause of the problem. Wherever possible, the best quality scientific evidence should be used.
- **Impact assessment:** For each option, there should be a clear understanding of benefits and costs, including the cost effectiveness of options in terms of likely health improvements.
- **Workability:** The extent to which officials can implement policy decisions in an open transparent, accountable and predictable way should be considered when assessing options. This is of particular importance when managing lifestyle risks. In most cases, these are highly complex and involve innumerable personal choices.

Policy action in this area may, for example, seek to alter imbalances between diet and exercise, as well as the nature of dietary choices. This must occur across a wide range of cultures and social groups. Yet, it is widely accepted that there are no ‘good’ or bad’ foods. Rather, the problem lies in the mix of foods consumed and the balance of exercise and diet. Such complexity limits the workability of many traditional policy ideas.

- **Effectiveness:** The extent to which policy options are likely to achieve objectives should be assessed rigorously. Wherever possible, this should be evidence-based, using examples of policy experience from Member States, other countries and other

policy areas. When dealing with lifestyle risks, however, policy-makers need to consider an additional range of factors that may influence the effectiveness of policy options. These include the challenge of shifting long-standing behaviours of very large numbers of people in democratic societies; and the need to recognise personal responsibility for healthy lifestyles. There are also, clearly, problems of complexity, because of the nature of lifestyle risks and their causes.

- **Legitimacy:** Many lifestyle risks are the result of innumerable, freely-made decisions by citizens. In democratic societies, citizens are, in many cases, unwilling to accept state intervention in their lifestyle choices, unless it is clearly justified. Few citizens, for example, are likely to accept that government should play a direct role in determining daily dietary and exercise decisions.

The nature of lifestyle risk also poses other similar problems for governments. In many cases, the harm is limited to part of the population and is, in general, the result of freely-made choices. However, some policy options could require restrictions to be placed on the freedoms of all citizens. This may be unacceptable, because of the nature of the distribution of harm and costs. Selection and assessment of policy options should consider such issues explicitly, because of the need to ensure the ‘consent of the governed’ and to protect the rule of law.

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