



EUROPEAN COMMISSION
HEALTH & CONSUMERS DIRECTORATE-GENERAL

Directorate D
D4 – Substances of Human Origin and Tobacco Control

Brussels, 25 January 2012

MINUTES OF THE MEETING

Participants:

Dominik Schnichels, Sigrid Wimmer, Anna-Eva Ampelas, Matus Ferech (DG SANCO D4)

Flaminia Consuelo Triglia (CEDT), Maciej Ptaszynski (Polska Izba Handlu), Carsten Zenner (E.T.V.), Dr. Reinhard Pauling (E.T.V.)

Place: Rue Froissart 101, 03/33

Date: 12 January 2012

The meeting was organised on the request of tobacco trade representatives in order to discuss the ongoing revision of the Tobacco Products Directive (TPD).

Wholesalers and Vending Machine Operators:

Most of the discussion focused on tobacco-vending machines where E.T.V. reiterated their economic and legal position against a ban, arguing that Council Recommendation 2003/54 provides a sufficient regulation; that this is an issue for Member States (subsidiarity) and that age verification mechanisms are in place in most Member States. E.T.V. mentioned, that even the Commission itself („COMMISSION STAFF WORKING DOCUMENT SEC (2009) 1621 final) certified the satisfactory implementation of several Council Recommendations – e.g. the requirement to verify the minimum age for the purchase of tobacco products, the introduction of measures to restrict the use of vending machines by under age persons – in the Member States.

Moreover, E.T.V. explained, that a ban on vending machines cannot be based on the competence to harmonize the internal market, because it does not have any cross-border implications (the catchment area is limited to the immediate vicinity of the site of the machine).

ETV referred to the fact that the responsibility and decision making regarding the use of suitable and effective technical age verification process/age verification media lies with the operator of the machine (obviously within the limits of national legislation). Typically the national (legal) requirements for the sale of tobacco products via vending machines are designed technologically neutral. As a consequence, technical age verification procedures could vary from Member State to Member State and possibly from operator to operator (Token System in Belgium and the Netherlands; bank card system in Austria and Germany).

E.T.V. explained there are 380 000 tobacco vending-machines in place in Germany, all with age verification system, linked to bank cards or official documents like EU driver's license. E.T.V. stated that under the principle of proportionality the German Government certified the implementation of this age verification system as sufficient, and as the most moderate instrument in order to effectively regulate the sales ban on tobacco products via vending machines to minors. The cost of a tobacco vending machine was estimated to 2500 EUR without the technical equipment and 3500 - 4000 EUR with technical equipment (age verification system, verification system for bank notes and coins, coin returner). The cost of developing and installing an ID age verification system in Germany was estimated to 300 mEUR in total.

E.T.V. claimed that the ID age verification system provided a good protection from underage purchasing and that Germany had seen a drop in smoking among young people in recent years. It was recalled, however, that this reduction cannot be attributed exclusively to the new tobacco vending-machines, but also to other tobacco control actions undertaken (e.g. implementation of minimum age which would be mandatory also for retailers; information/education campaigns).

E.T.V. and CEDT explained that the ownership of tobacco vending-machines differs between the Member States. In Germany, the vending machines are owned by the vending machine operators - typically wholesalers, while they are owned by the tobacconists in Italy. The profit of the sales from the machines goes to the owner and it is also the owner who has to pay for a required upgrade of the machine.

SANCO asked E.T.V. to send further information on:

- number of tobacco vending-machines in the EU and per Member State, indicating the type of ownership and the age verification system in place, plus trends since 2000 (if available)
- number of wholesalers in the EU and per Member State as well as the distribution structure (state monopoly etc.) in each of the Member States
- shares of sales from tobacco vending-machines in total sales across all sales channels (including if available trends since 2000).

E.T.V. promised to send the available information by 20 January and the rest a week later.

Retailers:

CEDT explained that they represent retailers in France, Italy, Spain, Greece and Austria and that tobacco counts for 45% of the total turnover for most of its members although there is a trend of diversifying to other products.

CEDT reiterated its position against banning display of tobacco at point of sales reminding that tobacco is a legal product and arguing that such measure would be excessive, disproportionate and discriminatory; that the customer needs to see what he/she is buying; that a display ban would imply an important cost for retailers and that, due to lack of competence, any sales arrangement could not be regulated under the revision of the tobacco product directive as it would not be a measure that would foster the functioning of the internal market. Moreover a display ban would harm, even destroy the retailers business, without any evidence of its effectiveness.

Italian estimates for the costs of introducing a tobacco display ban in Italian tobacconists' shops would amount to 30 000 EUR per shop, including restructuring of the premise and additional employment needed to comply with the ban. This is based on the assumption that tobacco would need to be permanently out of sight (e.g. under the counter). CEDT claimed that there were experiences from countries who have already introduced display ban that the ban has increased illicit trade. SANCO asked for more precise information on this (see below).

CEDT also stressed that they are against internet sales of tobacco. This would go to the detriment of tobacco retailers.

CEDT explained that a temporary Working Group of tobacco retailers associations from 11 different European countries was created for the TPD revision, given the important impact on the sector. The figures on the employment in the retail sector have been previously given (points of sale and employment). A series of first-phase consideration on the measures at stake i.e. plain packaging, display ban and ingredient regulation, are indicated in the position paper drawn up by these associations which was handed over at the end of the meeting.

CEDT stressed that its main concerns were related to measures that drive down average tobacco prices by attacking premium segments. This would be the inevitable effect of banning brands, and homogenising packages and products. It would have a very detrimental impact on the profitability of shops which rely on tobacco products.

SANCO asked CEDT to send further information on:

- the estimated impact of a tobacco display ban on illicit trade and references to the sources for suggested increase in countries that introduced display bans as well how this increase is linked to the display ban,
- the estimated impact of a display ban on smoking prevalence,
- the estimated impact of a display ban on the economic actors, including a detailed break-down of estimated costs and a description of what kind of display ban the estimation is based on (30000 EUR),
- development of the tobacco retail sector over time (2000-2012; number of outlets) and if possible a break-down between tobacconists and other shops, as well as share of non tobacco products sold in these tobacco retail outlets,
- shares of sales of tobacco from retail in total sales across all sales channels (including if available trends since 2000),

CEDT promised to send the available information by 20 January and the rest a week later. SANCO indicated to both associations that it would be ready to receive additional substantiated submissions, if deemed appropriate.