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DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY  
Health systems, medical products and innovation  
**Cross-border healthcare and tobacco control**

Brussels, February 2022

**Minutes from teleconference with representatives of the European Confederation of Tobacco Retailers (CEDT)**

**04 February 2022**

Participants:

Mr. P. Schweinschwaller (CEDT President), Mr. M. Marchese (CEDT Secretariat), Mr. F. Borkowski, Ms. A. Kozakiewicz, Mr. M. Ferech, Mr. D. Apostolou (DG SANTE, B2 Unit)

CEDT had requested a teleconference with SANTE B2 in order to discuss the expected Commission Delegated Act regarding exemptions for heated tobacco products and, in particular, the possibility to include therein a transitional period for the stock exhaustion of the tobacco products that will fall within the scope of the Delegated Act.

CEDT informed that tobacco retailers feared the consequences of the Delegated Act, underlying that retailers are usually the most affected sector by changes in the tobacco legislation that concern tobacco products permitted to be placed on the EU market. CEDT asked SANTE B2 to take into account their concerns over the establishment of an appropriate transitional period during the preparation of the Delegated Act.

SANTE B2 explained that the adoption of the Delegated Act simply corresponds to the Commission obligations described in Articles 7(12) and 11(6) of Directive 2014/40/EU that entered into force in 2014, and clarified that the removal of the conditional exemption the Delegated Act is expected to introduce with regard to Article 7(12) of Directive 2014/40/EU, concerns solely the placing on the market of flavoured heated tobacco products.

In addition, SANTE B2 pointed out that the Delegated Act is expected to take the form of a Directive addressed to the Member States and requiring them to adopt, within a specified deadline that will not be shorter than six months, the necessary national provisions. SANTE B2 also described in detail the procedure that will be followed for the adoption and entry into force of the Delegated Act, including the period of scrutiny by the co-legislators (the European Parliament and the Council). SANTE B2 explained that given all the procedural steps as well as the time required for national transpositions, the prohibition in question

cannot be expected to become effective much sooner than in a year from the present discussion. Therefore, the tobacco sector, including retailers, will have more than sufficient time to adjust to the new rules.

SANTE B2 further informed as to its intention to publish, on SANTE's tobacco-control website, the pre-OJ version of the Delegated Act, which will be sent for the co-legislators' scrutiny after its adoption by the Commission. This will further assist CEDT, its members and all the other stakeholders in following the timeline.

CEDT undertook to inform its members on the need for wise management of the flavoured Heated Tobacco Products' stocks. Given the FMCG status of the sector, the risk of overstocking is in particular present closer to the prohibition date, when the distributors may tend to oversupply the retailers who literally overnight may be left with unsellable products. The retailers should be warned against such an eventuality.

CEDT also signalled the problem of unregulated herbal products (cannabis) that can be found on several national markets. SANTE B2 thanked CEDT for this information and explained that the Member States remain free to regulate such products provided that the relevant national measures are compatible with the TFEU and the relevant provisions of the Tobacco Products Directive concerning herbal products for smoking which complement other relevant legislative frameworks.

At the end of the teleconference, SANTE B2 informed CEDT that in the following week the draft Delegated Act will be discussed with the Expert Group on Tobacco Policy consisting of representatives of the national competent authorities in the field of tobacco control.

The teleconference was closed.