# Targeted stakeholder consultation on the implementation of an EU system for traceability and security features pursuant to Articles 15 and 16 of the Tobacco Products Directive 2014/40/EU

Fields marked with * are mandatory.

This is a targeted stakeholder consultation. The purpose of this consultation is to seek comments from stakeholders:

- directly affected by the upcoming implementation of an EU system for traceability and security features pursuant to Articles 15 and 16 of the new Tobacco Products Directive (Directive 2014/40/EU), or
- considering to have special expertise in the relevant areas.

In the Commission's assessment, the following stakeholders, including their respective associations, are expected to be directly affected:

1. manufacturers of finished tobacco products,
2. wholesalers and distributors of finished tobacco products,
3. providers of solutions for operating traceability and security features systems,
4. governmental and non-governmental organisations active in the area of tobacco control and fight against illicit trade.

Not directly affected are retailers and upstream suppliers of tobacco manufacturers (except the solution providers mentioned in point 3 above).

The basis for the consultation is the Final Report to the European Commission's Consumers, Health and Food Executive Agency (CHAFEA) in response to tender n° EAHC/2013/Health/11 concerning the provision of an analysis and feasibility assessment regarding EU systems for tracking and tracing of tobacco products and for security features (hereafter the Feasibility Study). The Feasibility Study was published on 7 May 2015 and is available at http://ec.europa.eu/health/tobacco/docs/2015_tpd_tracking_tracing_frep_en.pdf. The interested stakeholders are advised to review the Feasibility Study before responding to this consultation.

The comments received in the course of this consultation will be an input to the further implementation work on a future EU system for traceability and security features. In particular, the comments will be taken into account in a follow-up study.

Stakeholders are invited to submit their comments on this consultation at the following web-address https://ec.europa.eu/eusurvey/runner/trace until 31 July 2015. The web-based survey consists of closed and open questions. For open questions stakeholders will be asked to provide comments up to the limit of characters indicated in the question or to upload (a) separate document(s) in PDF format up to the limit of total number of standard A4 pages (an average of 400 words per page) indicated in the question. Submissions should be - where possible - in English. For a corporate group one single reply should be prepared. For responses from governmental organisations, which are not representing a national position, it should be explained why the responding body is directly affected by the envisaged measures.

The information received will be treated in accordance with Regulation 45/2001 on the protection of individuals with regard to the processing of personal data by the Community (please consult the privacy statement). Participants in the consultation are asked not to upload personal data of individuals.

The replies to the consultation will be published on the Commission's website. In this light no confidential information should be provided. If there is a need to provide certain information on a confidential basis, contact should be made with the Commission at the following email address: SANTE-D4-SOHO-and-TOBACCO-CONTROL@ec.europa.eu with a reference in the email title: "Confidential information concerning targeted stakeholder consultation on the implementation of an EU system for traceability and security features". A meaningful non-confidential version of the confidential information should be submitted at the web-address.

Answers that do not comply with the specifications cannot be considered.

## A. Respondent details

*A.1. Stakeholder's main activity:

- a) Manufacturer of tobacco products destined for consumers (finished tobacco products)
- b) Operator involved in the supply chain of finished tobacco products (excluding retail)
- c) Provider of solutions
- d) Governmental organisation
- e) NGO
- f) Other

*A.1.e. Please specify:

- i) NGO active in the area of fight against illicit trade of tobacco products
- ii) Other

*A.2. Contact details (organisation's name, address, email, telephone number, if applicable name of the ultimate parent company or organisation) - if possible, please do not include personal data

*Text of 1 to 800 characters will be accepted*

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*A.3. Please indicate if your organisation is registered in the Transparency Register of the European Commission (unless 1d):

(•) Yes ( ) No

*A.3.1. Please enter your registration number in the Transparency Register

50674299591-83

*A.4. Extract from the trade or other relevant registry confirming the activity listed under 1 and where necessary an English translation thereof.

• **098d2b6f-7c75-47f9-839f-007c42f8709b/Transparency Register - International Chamber of Commerce.pdf**

## B. Options proposed in the Feasibility Study

B.1. Please rate the appropriateness of each option for tracking and tracing system set out in the Feasibility Study in terms of the criteria listed in the tables below

B.1.1. Option 1: an industry-operated solution, with direct marking on the production lines carried out by tobacco manufacturers (for further details on this option, please consult section 8.2 of the Feasibility Study)

| | Appropriate | Somewhat appropriate | Neutral | Somewhat inappropriate | Inappropriate | No opinion |
|---|---|---|---|---|---|---|
| *Technical feasibility | ○ | ○ | ○ | ○ | ○ | ◉ |
| *Interoperability | ○ | ○ | ○ | ○ | ○ | ◉ |
| *Ease of operation for users | ○ | ○ | ○ | ○ | ○ | ◉ |
| *System integrity (e.g. low risk of manipulation) | ○ | ○ | ○ | ○ | ○ | ◉ |
| *Potential of reducing illicit trade | ○ | ○ | ○ | ○ | ○ | ◉ |
| * Administrative/financial burden for economic operators | ○ | ○ | ○ | ○ | ○ | ◉ |
| * Administrative/financial burden for public authorities | ○ | ○ | ○ | ○ | ○ | ◉ |

B.1.2. Option 2: a third party operated solution, with direct marking on the production lines carried out by a solution or service provider (for further details on this option, please consult section 8.3 of the Feasibility Study)

| | Appropriate | Somewhat appropriate | Neutral | Somewhat inappropriate | Inappropriate | No opinion |
|---|---|---|---|---|---|---|
| *Technical feasibility | ○ | ○ | ○ | ○ | ○ | ◉ |
| *Interoperability | ○ | ○ | ○ | ○ | ○ | ◉ |
| *Ease of operation for users | ○ | ○ | ○ | ○ | ○ | ◉ |
| *System integrity (e.g. low risk of manipulation) | ○ | ○ | ○ | ○ | ○ | ◉ |
| *Potential of reducing illicit trade | ○ | ○ | ○ | ○ | ○ | ◉ |
| * Administrative/financial burden for economic operators | ○ | ○ | ○ | ○ | ○ | ◉ |
| * Administrative/financial burden for public authorities | ○ | ○ | ○ | ○ | ○ | ◉ |

B.1.3. Option 3: each Member State decides between Option 1 and 2 as to an entity responsible for direct marking (manufacture or third party) (for further details on this option, please consult section 8.4 of the Feasibility Study)

| | Appropriate | Somewhat appropriate | Neutral | Somewhat inappropriate | Inappropriate | No opinion |
|---|---|---|---|---|---|---|
| *Technical feasibility | ○ | ○ | ○ | ○ | ○ | ◉ |
| *Interoperability | ○ | ○ | ○ | ○ | ○ | ◉ |
| *Ease of operation for users | ○ | ○ | ○ | ○ | ○ | ◉ |
| *System integrity (e.g. low risk of manipulation) | ○ | ○ | ○ | ○ | ○ | ◉ |
| *Potential of reducing illicit trade | ○ | ○ | ○ | ○ | ○ | ◉ |
| * Administrative/financial burden for economic operators | ○ | ○ | ○ | ○ | ○ | ◉ |
| * Administrative/financial burden for public authorities | ○ | ○ | ○ | ○ | ○ | ◉ |

B.1.4. Option 4: a unique identifier is integrated into the security feature and affixed in the same production process (for further details on this option, please consult section 8.5 of the Feasibility Study)

| | Appropriate | Somewhat appropriate | Neutral | Somewhat inappropriate | Inappropriate | No opinion |
|---|---|---|---|---|---|---|
| *Technical feasibility | ○ | ○ | ○ | ○ | ○ | ◉ |
| *Interoperability | ○ | ○ | ○ | ○ | ○ | ◉ |
| *Ease of operation for users | ○ | ○ | ○ | ○ | ○ | ◉ |
| *System integrity (e.g. low risk of manipulation) | ○ | ○ | ○ | ○ | ○ | ◉ |
| *Potential of reducing illicit trade | ○ | ○ | ○ | ○ | ○ | ◉ |
| * Administrative/financial burden for economic operators | ○ | ○ | ○ | ○ | ○ | ◉ |
| * Administrative/financial burden for public authorities | ○ | ○ | ○ | ○ | ○ | ◉ |

B.1.5. Please upload any additional comments on the options referred to in question B.1 (max. 5 pages)

B.2. Please rate the appropriateness of each option for security features set out in the Feasibility Study in terms of the criteria listed in the tables below

B.2.1. Option 1: a security feature using authentication technologies similar to a modern tax stamp
(for further details on this option, please consult section 9.2 of the Feasibility Study)

| | Appropriate | Somewhat appropriate | Neutral | Somewhat inappropriate | Inappropriate | No opinion |
|---|---|---|---|---|---|---|
| *Technical feasibility | ○ | ○ | ○ | ○ | ◉ | ○ |
| *Interoperability | ○ | ○ | ○ | ○ | ◉ | ○ |
| *Ease of operation for users | ○ | ○ | ◉ | ○ | ○ | ○ |
| *System integrity (e.g. low risk of manipulation) | ○ | ○ | ○ | ○ | ◉ | ○ |
| *Potential of reducing illicit trade | ○ | ○ | ○ | ○ | ◉ | ○ |
| * Administrative/financial burden for economic operators | ○ | ○ | ○ | ○ | ◉ | ○ |
| * Administrative/financial burden for public authorities | ○ | ○ | ○ | ○ | ◉ | ○ |

B.2.2. Option 2: reduced semi-covert elements as compared to Option 1 (for further details on this option, please consult section 9.3 of the Feasibility Study)

| | Appropriate | Somewhat appropriate | Neutral | Somewhat inappropriate | Inappropriate | No opinion |
|---|---|---|---|---|---|---|
| *Technical feasibility | ○ | ○ | ○ | ◉ | ○ | ○ |
| *Interoperability | ○ | ○ | ○ | ○ | ◉ | ○ |
| *Ease of operation for users | ○ | ○ | ○ | ◉ | ○ | ○ |
| *System integrity (e.g. low risk of manipulation) | ○ | ○ | ○ | ○ | ◉ | ○ |
| *Potential of reducing illicit trade | ○ | ○ | ○ | ◉ | ○ | ○ |
| * Administrative/financial burden for economic operators | ○ | ○ | ○ | ○ | ◉ | ○ |
| * Administrative/financial burden for public authorities | ○ | ○ | ○ | ○ | ◉ | ○ |

B.2.3. Option 3: the fingerprinting technology is used for the semi-covert and covert levels of protection (for further details on this option, please consult section 9.4 of the Feasibility Study)

| | Appropriate | Somewhat appropriate | Neutral | Somewhat inappropriate | Inappropriate | No opinion |
|---|---|---|---|---|---|---|
| *Technical feasibility | ○ | ○ | ○ | ◉ | ○ | ○ |
| *Interoperability | ○ | ○ | ○ | ◉ | ○ | ○ |
| *Ease of operation for users | ○ | ○ | ○ | ◉ | ○ | ○ |
| *System integrity (e.g. low risk of manipulation) | ○ | ○ | ○ | ○ | ◉ | ○ |
| *Potential of reducing illicit trade | ○ | ○ | ○ | ○ | ◉ | ○ |
| * Administrative/financial burden for economic operators | ○ | ○ | ○ | ◉ | ○ | ○ |
| * Administrative/financial burden for public authorities | ○ | ○ | ○ | ◉ | ○ | ○ |

B.2.4. Option 4: security feature is integrated with unique identifier (see Option 4 for traceability)
(for further details on this option, please consult section 9.5 of the Feasibility Study)

| | Appropriate | Somewhat appropriate | Neutral | Somewhat inappropriate | Inappropriate | No opinion |
|---|---|---|---|---|---|---|
| *Technical feasibility | ○ | ○ | ○ | ○ | ◉ | ○ |
| *Interoperability | ○ | ○ | ○ | ○ | ◉ | ○ |
| *Ease of operation for users | ○ | ○ | ○ | ◉ | ○ | ○ |
| *System integrity (e.g. low risk of manipulation) | ○ | ○ | ○ | ○ | ◉ | ○ |
| *Potential of reducing illicit trade | ○ | ○ | ○ | ○ | ◉ | ○ |
| * Administrative/financial burden for economic operators | ○ | ○ | ○ | ○ | ◉ | ○ |
| * Administrative/financial burden for public authorities | ○ | ○ | ○ | ◉ | ○ | ○ |

B.2.5. Please upload any additional comments on the options referred to in question B.2 (max. 5 pages)

- **60aa8c45-4ad2-4dba-af92-6d32d67fbae0/Consultation Questionnaire B.2.5 comments.pdf**

## C. Cost-benefit analysis

C.1. Do you agree with?

| | Agree | Somewhat agree | Neither agree nor disagree | Somewhat disagree | Disagree | No opinion |
|---|---|---|---|---|---|---|
| *The benefit analysis presented in section 11.3.1 of the Feasibility Study | ○ | ○ | ○ | ○ | ◉ | ○ |
| *The cost analysis presented in section 11.3.2 of the Feasibility Study | ○ | ○ | ○ | ○ | ◉ | ○ |

*C.1.1. If you selected option "Disagree" or "Somewhat disagree" in the previous question, please upload your main reasons for disagreement (max. 5 pages)

• **86625b7f-5997-4dff-85d9-0cc12bc610d8/Consultation Questionnaire Cost Benefit Analysis comments.pdf**

## D. Additional questions

**The questions in this section relate to different possible building blocks and modalities of the envisaged system (questions D.1, D.3, D.4, D.6, D.8, D.10, D.12, D.14 and D.16). When replying please take into account the overall appropriateness of individual solutions in terms of the criteria of technical feasibility, interoperability, ease of operation, system integrity, potential of reducing illicit trade, administrative/financial burden for economic stakeholders and administrative/financial burden for public authorities.**

*D.1. Regarding the generation of a serialized unique identifier (for definition of a unique identifier, see Glossary in the Feasibility Study), which of the following solutions do you consider as appropriate (multiple answers possible)?

- [ ] a) A single standard provided by a relevant standardization body
- [ ] b) A public accreditation or similar system based on the minimum technical and interoperability requirements that allow for the parallel use of several standards;
- [ ] c) Another solution
- [x] d) No opinion

D.2. Please upload any additional comments relating to the rules for generation of a serialized unique identifier referred to in question D.1. above (max. 2 pages)

• **6c31f0d0-2759-4727-bad8-567e8d343d17/Consultation Questionnaire Cost Benefit Analysis comments.pdf**

*D.3. Regarding (a) data carrier(s) for a serialized unique identifier, which of the following solutions do you consider as appropriate (multiple answers possible)?

- [ ] a) Solution based on a single data carrier (e.g. 1D or 2D data carriers)
- [ ] b) Solution based on the minimum technical requirements that allow for the use of multiple data carriers;
- [ ] c) Another solution;
- [x] d) No opinion

*D.4. Regarding (a) data carrier(s) for a serialized unique identifier, which of the following solutions do you consider as appropriate (multiple answers possible)?

- [ ] a) System only operating with machine readable codes;
- [ ] b) System operating both with machine and human readable codes;
- [x] c) No opinion

D.5. Please upload any additional comments relating to the options for (a) data carrier(s) for a serialized unique identifier referred to in questions D.3 and D.4 above (max. 2 pages)

*D.6. Regarding the physical placement of a serialized unique identifier, when should it happen (multiple answers possible)?

- [ ] a) Before a pack/tin/pouch/item is folded/assembled and filled with products;
- [ ] b) After a pack/tin/pouch/item is folded/assembled and filled with products;
- [x] c) No opinion

D.7. Please upload any additional comments relating to the placement of a serialized unique identifier referred to in question D.6. above (max. 2 pages)

D.8. Which entity should be responsible for?

| | Economic operator involved in the tobacco trade without specific supervision | Economic operator involved in the tobacco trade supervised by the third party auditor | Economic operator involved in the tobacco trade supervised by the authorities | Independent third party | No opinion |
|---|---|---|---|---|---|
| *Generating serialized unique identifiers | ○ | ○ | ○ | ○ | ◉ |
| *Marking products with serialized unique identifiers on the production line | ○ | ○ | ○ | ○ | ◉ |
| *Verifying if products are properly marked on the production line | ○ | ○ | ○ | ○ | ◉ |
| *Scanning products upon dispatch from manufacturer's/importer's warehouse | ○ | ○ | ○ | ○ | ◉ |
| *Scanning products upon receipt at distributor's/wholesaler's premises | ○ | ○ | ○ | ○ | ◉ |

| | | | | | |
|---|---|---|---|---|---|
| *Scanning products upon dispatch from distributor's/wholesaler's premises | ○ | ○ | ○ | ○ | ◉ |
| *Aggregation of products | ○ | ○ | ○ | ○ | ◉ |

D.9. In relation to question D.8. above, please specify any other measures that your organisation considers relevant

*Text of 1 to 1200 characters will be accepted*

*D.10. Regarding the method of putting the security feature on the pack/tin/pouch/item, which of the following solutions do you consider as appropriate (multiple answers possible)?

- [ ] a) A security feature is affixed;
- [ ] b) A security feature is affixed and integrated with the tax stamps or national identification marks;
- [x] c) A security feature is printed;
- [x] d) A security feature is put on the pack/tin/puch/item through a different method;
- [ ] e) No opinion

*D.10.d. Please explain your other method

*Text of 1 to 800 characters will be accepted*

The most effective security feature consists of using a combination of: 1) the unique, encrypted and human-readable Unique Identifier used to track and trace products (e.g. a Codentify® code) as a visible security feature, which is printed directly onto the pack at the point of manufacture; 2) 'event' data drawn from this Unique Identifier, which displays a picture of each pack's journey through the supply chain, which is extremely difficult to replicate; 3) capturing a digital 'fingerprint' of the internal arrangement of cardboard fibers in the cigarette packaging which is completely unique and impossible to copy (invisible element); and 4) (should authorities require it) a taggant imbedded into the tear tape of the cellophane (providing a tamper-proof element).

D.11. Please upload any additional comments relating to the method of putting the security feature on the pack referred to in question D.10 above (max. 2 pages)

- **41c824df-a678-4d66-8925-c0f2aef20b2c/Consultation Questionnaire additional comments.pdf**

*D.12. Regarding the independent data storage as envisaged in Article 15(8) of the TPD, which of the following solutions do you consider as appropriate (multiple answers possible)?

- [ ] a) A single centralised storage for all operators;
- [ ] b) An accreditation or similar system for multiple interoperable storages (e.g. organised per manufacturer or territory);
- [ ] c) Another solution
- [x] d) No opinion

D.13. Please upload any additional comments relating to the independent data storage referred to in question D.12. above (max. 2 pages)

*D.14. In your opinion which entity(ies) is/are well placed to develop reporting and query tools (multiple answers possible)?

- [ ] a) Provider of solutions to collect the data from the manufacturing and distribution chain;
- [ ] b) Provider of data storage services;
- [ ] c) Another entity
- [x] d) No opinion

D.15. Please upload any additional comments relating to the development of reporting and query tools referred to in question D.14. above (max. 2 pages)

*D.16. Do you consider that the overall integrity of a system for tracking and tracing would be improved if individual consumers were empowered to decode and verify a serialized unique identifier with mobile devices (e.g. smartphones)?

- ( ) a) Yes
- ( ) b) No
- (•) c) No opinion

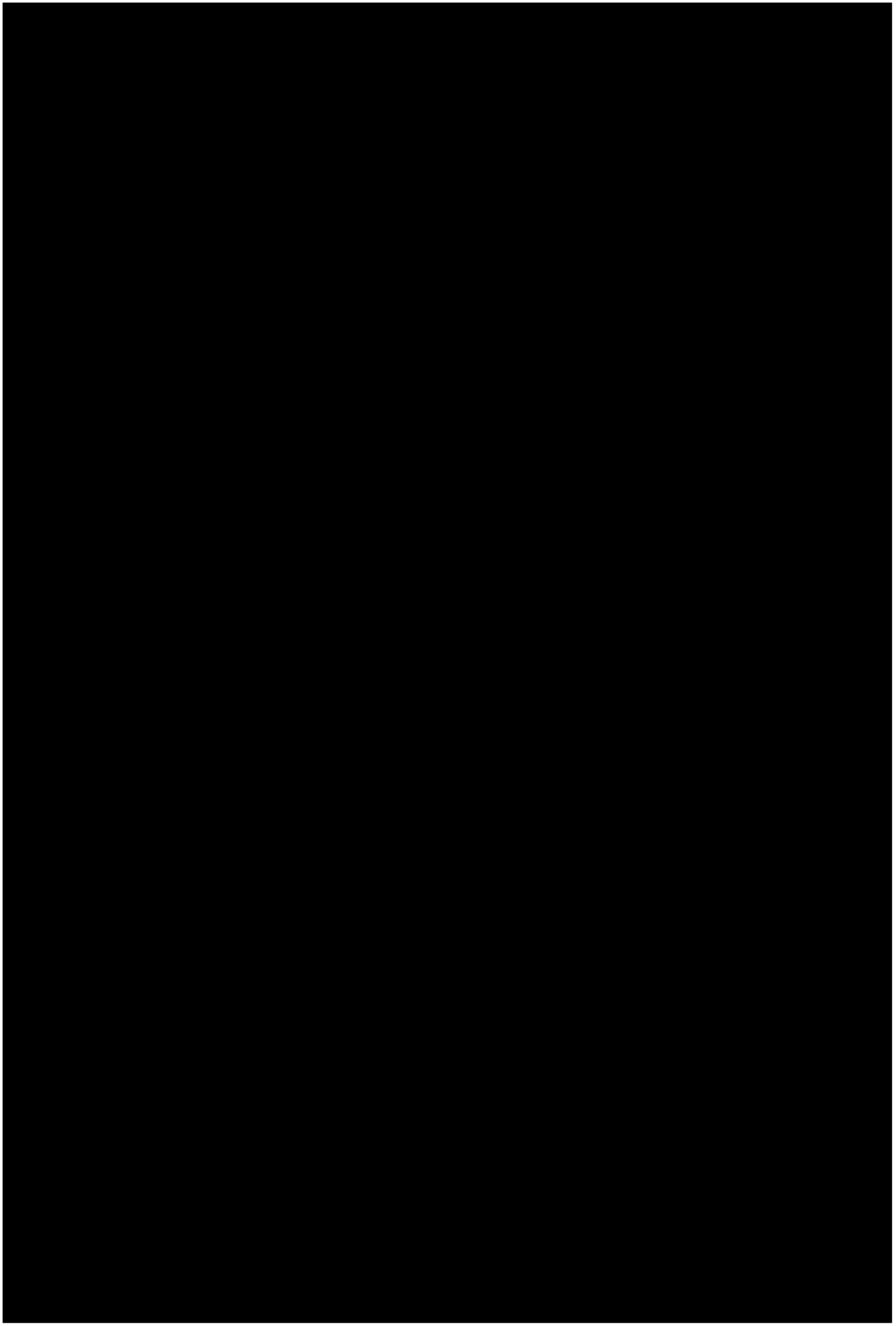
D.17. Please upload any additional comments on the subject of this consultation (max. 10 pages)

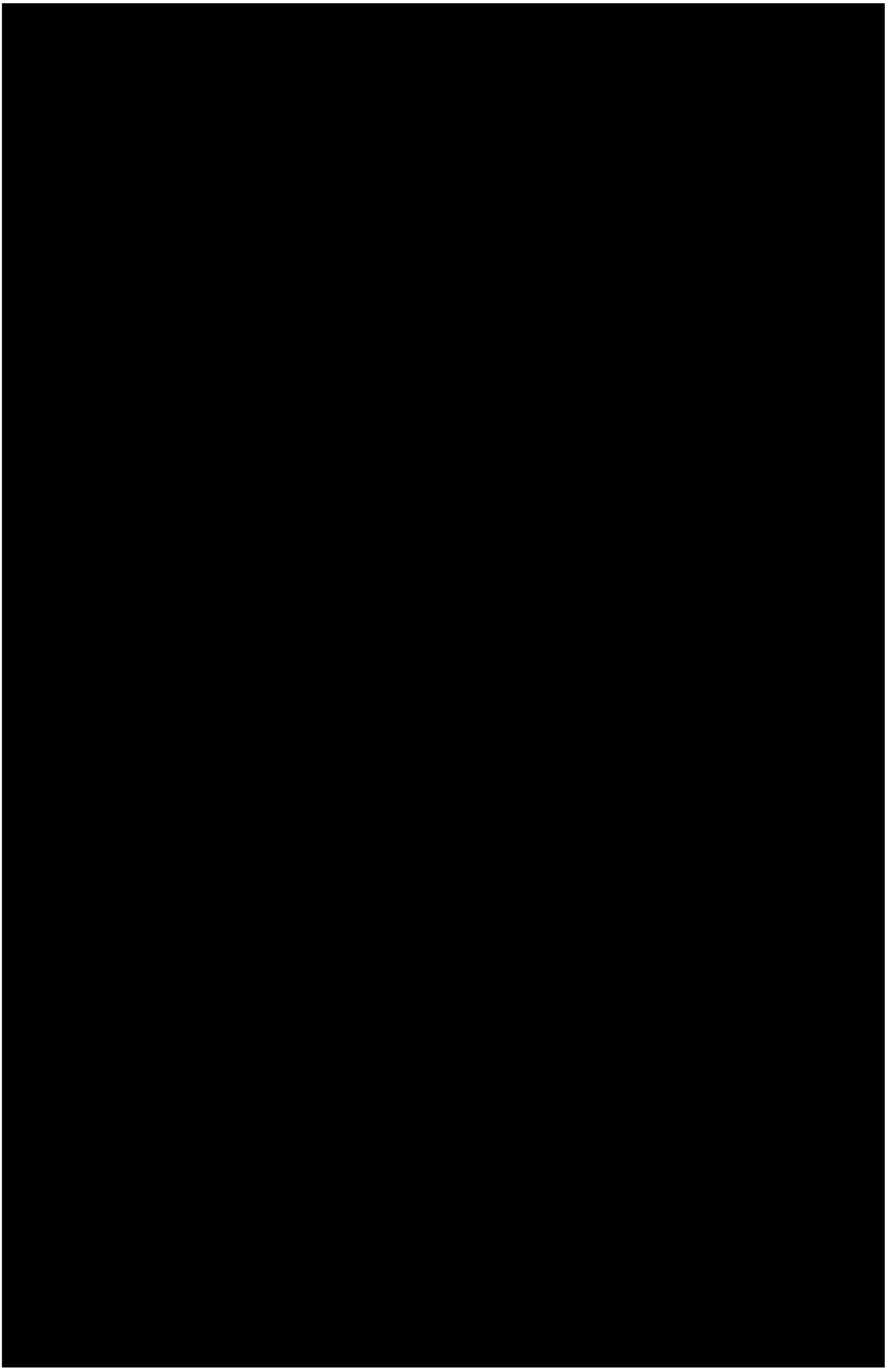
• **4433330b-efb0-4aee-844b-81c9f3982448/Consultation Questionnaire additional comments.pdf**

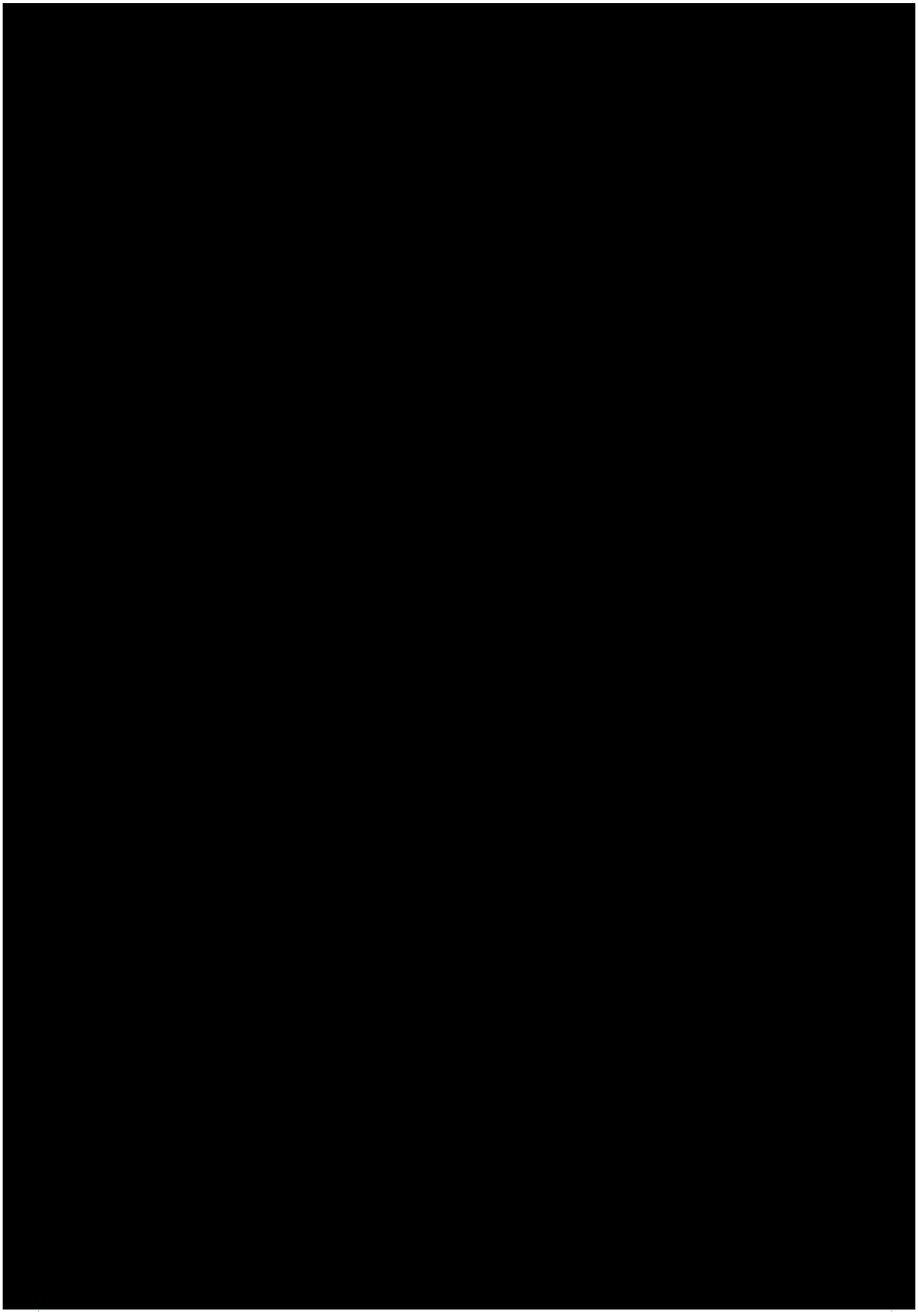
## Contact

✉ SANTE-D4-SOHO-and-TOBACCO-CONTROL@ec.europa.eu

Attachment A4







## Stakeholder consultation on EU system for traceability and security features under Art 16 TPD

### Response to Question B.2.5

It is noted that all four options within the Report are based on a 'paper solutions' which are intended to be attached to packaging. This approach is flawed from the outset as it fails to properly consider existing and more advance digital solutions which evidence shows is robust.

Paper markers only enable the authentication of the marker itself, rather than the pack onto which it is glued. This makes removal relatively easy and does not provide the necessary integrity to avoid counterfeiting. This is contravention of Article 16.1which requires that the feature shall be irremovable.

Paper-based stamps, patches and labels are ineffective anti-counterfeiting tools. They are easily copied and are an outdated method of authentication which provide a false sense of security. Paper based security systems also have the following fundamental weaknesses:

- They are glued onto a pack and so do not form an integral, irremovable part of packaging;
- They can be easily counterfeited themselves. Years of brand owner and law enforcement efforts at tackling counterfeiting has shown that criminal networks can turn around new security designs and features (including sophisticated holograms, colour shifting inks and design patters) in a matter of weeks, rendering such security features useless.
- Anything affixed onto packaging can, by its very nature, be removed and re-used.
- Proprietary (and often expensive) reading devices are needed to check the authenticity of stamps and labels; these devices are not always in the procession of enforcement officials, and are never possessed by consumers, thus limiting their usefulness and impact as a mass authentication tool.
- Genuine stamps and labels have been found affixed to counterfeit product, meaning the information they provide relates to the security feature itself, rather than the product.
- In short, material-based anti-counterfeiting devices provide a false sense of security for law enforcement and consumer.

Reliance on a fixed paper stamp is mistaken. The purpose of a fixed paper stamp is to provide evidence that tax has been paid. All a genuine stamp on a counterfeit product will do is to provide evidence fitting its fiscal purpose. For authentication purposes, different measures are required. All four options presented by the Study are misguided and appear simply to propose a modification of current paper based systems without really adding any product authentication evidence.

It is noted that Option 4 recommends the inclusion of the unique identifier for track and trace on a paper marker. This solution contradicts the results regarding location of the stamps presented by other DG SANTE consultants (Chafea/2014/Health/22).

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Also, a pre-printed unique identifier would contravene the Tobacco Products Directive and FCTC Protocol to Eliminate Illicit Trade in Tobacco Products. Both require specific manufacturing information, which can only be obtained at the exact time of production, to form part of the identifier.

The only viable option which could provide evidence of authenticity is Option 3. This is the only option which recognizes the characteristics of the product itself performs the role of a viable security feature, e.g. the fiber structure (fingerprint) of the pack. However, it is regrettably that, in outlining Option 3, the Study arrives at a flawed conclusion. There is no need for any storage of the fingerprint structure of a pack in a database. The fiber structure of a part of the surface of the pack is already digitized and included in the unique identifier. A copied identifier on a counterfeit pack would simply not be able to match the fiber structure of a genuine pack.

There is also no need for any additional paper stamps to provide a means of authentication. Instead, alternative authentication solutions need to be considered e.g. invisible inks, taggant on the pack, tear tape and/or cellophane which are all easier to apply. All these technologies authenticate the products rather than the paper attached to it.

The focus of the Study on purely affixed paper based solutions is ultimately flawed. All the Study has done is to re-invent tax stamps with overt, semi-covert, covered and forensic elements and has failed to properly consider the considerable advantages of existing industry technology. This approach does not reflect the requirements of Art 16.

Attachment D.11

INTERNATIONAL CHAMBER OF COMMERCE
The world business organization

BASCAP
Business Action to Stop Counterfeiting and Piracy

**Stakeholder consultation on EU system for traceability and security features under Art 16 TPD**

**Response to Question D.11.**

We believe the most robust form of security feature is where it forms an intrinsic, integral part of the pack/packaging itself, rather than being material-based (e.g. a paper stamp, label) and applied/glued onto the pack.

BASCAP's approach consists of four elements:

1. The visible element of the security feature is based on the track and trace unique identifier, e.g. a secure, encrypted Codentify® code. Each encrypted code is unique, printed indelibly directly onto each pack and is visible to the human eye. Duplicate codes created by criminals can be immediately identified as counterfeit as no two codes are the same.
2. 'Event' data associated with each pack's journey through the supply chain captured by the track and trace system through this Unique Identifier adds another layer of verification regarding the provenance of a pack which is extremely difficult for counterfeiters to replicate.
3. For the invisible element the forensic internal arrangement of cardboard fibers in the cigarette packaging itself is exploited to generate digital 'fingerprint' or signature of the pack which is completely unique and impossible to copy, as all packaging structures are different. This 'fingerprint' is stored in a secure database and is linked with the Unique Identifier serialisation code, which combined creates a 'double lock' security feature.
4. A tear-tape with embedded taggant ink technology provides a tamperproof security element; tear-tapes cannot be re-used and it is immediately evident if a pack is missing its tear-tape.

Elements 1-3 can be verified using low-cost non-proprietary inspection equipment, such as a smart phone. The taggant in Element 4 (typically only used during law enforcement inspections) requires a low cost reader.

In addition, we continue to believe that forensic testing in accredited laboratories of the unique and inherent qualities of the product itself or packaging remains a highly robust and reliable method for detection of counterfeit tobacco products. These forensic details (such as material structure, print marks and glue patterns) are known only by the brand owner, identifiable only via detailed forensic examination and are widely accepted as the only method for providing court-admissible evidence for distinguishing between genuine and counterfeit goods. Moving away from these tried and tested techniques and towards material-based security features (e.g. paper stamps, labels) is a step backwards and will severely impede brand protection efforts and law enforcement investigations.

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As mentioned, we believe that material-based security features have several fundamental flaws:

- They can and have been easily counterfeited, including even supposedly 'sophisticated' security elements like those mentioned in the Report;
- They can and have been removed and re-used (genuine stamps/labels have been found affixed to counterfeit product, meaning the information they provide relates to the security feature itself, rather than the product);
- They have a supply chain of their own and can be lost, stolen, damaged and tampered with in the period between production and delivery to manufacturers;
- They require a huge amount of paper, chemical inks, metals, metal traces and other substances to produce. For full EU coverage hundreds of thousands of tons of paper would be required each year, imposing a significant environmental burden and challenging European efforts to reduce paper usage under EU Directive/Guideline/Policy.
- In short, they can only ever verify the authenticity of the security feature itself, rather than the pack, thus creating a false sense of security.

Attachment D.17

**Stakeholder consultation on EU system for traceability and security features under Art 16 TPD**

**Response to Question D.11.**

Overall, BASCAP believes that the role of legislators is not to choose technologies, but to set standards and let industry develop and apply the most effective, cost-efficient technologies.

We believe the most robust form of security feature is one that forms an intrinsic, integral part of the pack/packaging itself, rather than being material-based (e.g. a paper stamp, label) and applied/glued onto the pack. BASCAP suggests that a security feature should consist of four essential elements:

1. The visible element of the security feature should be based on the track and trace unique identifier, e.g. a secure, encrypted Codentify® code. Each encrypted code is unique, printed indelibly directly onto each pack and is visible to the human eye. Duplicate codes created by criminals can be immediately identified as counterfeit as no two codes are the same.
2. 'Event' data associated with each pack's journey through the supply chain captured by the track and trace system through a Unique Identifier adds another layer of verification regarding the provenance of a pack which is extremely difficult for counterfeiters to replicate.
3. For the invisible element required by Article 16 TPD, the forensic internal arrangement of cardboard fibers in the cigarette packaging itself can be exploited to generate digital 'fingerprint' or signature of the pack which is completely unique and impossible to copy, as all packaging structures are different. This 'fingerprint' is stored in a secure database and is linked with the Unique Identifier serialisation code, which combined creates a 'double lock' security feature.
4. A tear-tape with embedded taggant ink technology provides a tamperproof security element; tear-tapes cannot be re-used and it is immediately evident if a pack is missing its tear-tape.

Elements 1-3 can be verified using low-cost non-proprietary inspection equipment, such as a smart phone. The taggant in Element 4 (typically only used during law enforcement inspections) requires a low cost reader.

In summary, BASCAP believes that forensic testing in accredited laboratories of the unique and inherent qualities of the product itself or packaging remains a highly robust and reliable method for detection of counterfeit tobacco products. These forensic details (such as material structure, print marks and glue patterns) are known only by the brand owner, identifiable only via detailed forensic examination and are widely accepted as the only method for providing court-admissible evidence for distinguishing between genuine and counterfeit goods. Moving away from these tried and tested techniques and towards material-based security features (e.g. paper stamps, labels) is a step backwards and will severely impede brand protection efforts and law enforcement investigations.

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- In short, material based security features can only ever verify the authenticity of the security feature itself, rather than the pack, thus creating a false sense of security.