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.c. Please specify:

- i) Provider of solutions for tracking and tracing systems (or parts thereof)
- ii) Provider of solutions for security features (or parts thereof)
- iii) Data Management Providers (or parts thereof)

*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

Arjosolutions –
API 030, 32 rue Jacques lbert, 92300 Levallois Perret – FRANCE

*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

297686417592-66

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

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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)

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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)

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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)

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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)?

- [x] 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
- [ ] d) No opinion

*D.1.a. Please indicate your preferred standardization body

Text of 1 to 400 characters will be accepted

GS1 or similar industry coding standard. As example, in the pharma industry the direct marking is achieved by the manufacturer during the production step without third part burden in.

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)

- **25022026-c1a1-4b1d-bf93-b83d04fa0b5c/D2AWS.docx**

*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)
- [x] b) Solution based on the minimum technical requirements that allow for the use of multiple data carriers;
- [ ] c) Another solution;
- [ ] 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;
- [x] b) System operating both with machine and human readable codes;
- [ ] 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)?

- [x] 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;
- [ ] 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;
- [ ] 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

We do strongly recommand to consider seriously consider alternative solutions rather than only the stamps. By using a digital fingerprint securty feature no security feature is added on the product, thus, no modification of the speed and manufacturing processes are necessary. Moreover, it is totally invisible: counterfeiters will not be attempted to copy it (as a difference with tax stamps and affixed security features). As the carrier (pack/tin/puch/item) is the security feature itself, it is impossible to forge, remove, replicate nor destroy. Such a full digital solution will then considerably reduce the burden in administrative supply chain storage and management of the features avoiding then any theft

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)

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*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;
- [x] b) Provider of data storage services;
- [ ] c) Another entity
- [ ] 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.16.a. If yes, please explain your considerations

Text of 1 to 800 characters will be accepted

By empowering the consumer to verify the unique identifier, it will generate a mass of usefull and strategic data for authorities such as for example information about potential fraud at point of sales. By collecting data along the supply chain down to the consumer, authorities will be able to generate a meaningfull set of data to create reports helping them focusing their resources to tackle fraud.As an example, if a country is selling 5B cigarette packs per year and equip 200 inspectors to control the whole supply chain, only 0,1% of the total amount of cigarette packs will be checked at the end of the year. If a country is empowering the consumer to verify the unique identifier on a pack, 20 times more checks can be expected for a total of 2%.

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

Contact

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

[redacted]

Attachment A4

[redacted]

B. Options proposed in the Feasibility Study

Question B 1.3 related to option 3:

Arjowiggins Security is used to implement solution through various industries and industrial environment. Our expertise is to implement environment friendly and without any impact on production processes and speeds.

We do not consider the solution reflected through the question B1.3 option 3being achievable as long as it will impose the production lines to be equipped with all the 28 different solutions according to the member state choice, as long production facilities are not located in each of the 28 countries. From an industrial point of view it is a non-sense.

Question B 1.4 related to option 4:

As stated in the report, authentications elements will enable authentication of the stamps not of the products. According to our expertise of several and various industrial environments, such a solution isn't feasible without huge financial and implementation time point of view. Indeed, existing labelling equipment shall be modify to enable the application of a stam which will enable the pack aggregation process.

Up to 28 different technologies on production lines is not realistic. If MS choose a solution provider this means a direct financial impact for MS which will have to launch tenders and therefore pay the solution provider. A MS cannot choose without contracted through a commercial relationship with a supplier.

Attachment B.2.5

B. Options proposed in the Feasibility Study

Question B.2.1 related to security feature option1

Question B.2.2 related to security feature option 2

This solutions despites that it is based on a tax stamp, can't be realized without impacting or avoiding th product aggregation as requested within the ART 15.The finger print technology shall be also considered there and implemented either on the stamp or the pack itself. the stamp location available today do not allow to create pack aggregation without huge modifications which will generate additional costs and increase the implementation timing to comply with the Tobacco directory (as also expressed in B1.4 comments)

Question B.2.3 Related to security feature option 3

We globally disagree with your analysis putting within the same analysis different technology with different maturity, and we disagree while not considering the finger printe technology directly applied on a pack, and not on a stamp.

Maturity: The fingerprinting technology and especially Signoptic is a fully mature and industrialized technology. Started in 2006, the Signoptic technology currently protects more than 1 billion products worldwide.

Speed of process/ integration on existing manufacturing lines: We are able to generate a digital signature during manufacturing at a speed of 20 products / second, Signoptic is running on tens of manufacturing lines across many different industries, without modifying manufacturing processes or line hardware setup (Signoptic hardware setup is installed on existing manufacturing machines).

Economic: An investment per line and fees per digital signatures generated are the only costs to run Signoptic technology and is much less than the figures given in the report.

No consumables are to be added nor stored and possibly stolen along the supply chain. As there is nothing to add on the finger print technology decrease the administrative and logistics management and storage costs and risks

Strength of the technology: For Signoptic users, the technology acts as a security feature substitute for traditional level 2, 3 and even level 4.

In fact, Signoptic has already been used as an irrefutable evidence of counterfeit act / market diversion and submitted in a court of law. As the product is the security itself, it is impossible to forge or copy and consequently, impossible to modify the digital signature.

On contrary of the report, the technology can not be compromised. Even if it was foreseen, no fake or smuggled pack could be recognized as legitimate as long as organized crime won’t have access to the databases.

Only finger prints generated from an authorized system can store genuine data into the central system.

Embedded signature (printed on the product): We are able to combine together the unique identifier within the authentication feature, so called embedded signature. Thanks to embedded signature, Signoptic technology can protect markets from counterfeits without the need of a global infrastructure to centralize signatures from all manufacturers.

Conclusions

Security feature should not only consider paper-based stamps or labels, which are outdated and are regularly counterfeited.

Those features are frequently used in the scope of tax collection purpose, and the reality is that they are also highly counterfeited. Member States should be able and allow using advanced technologies. There are new industrial and matures technologies which enable the authentication of products based on the individual physical properties of the packaging material. Tobacco packs are innately secured thanks to their fiber structure which can't be counterfeited.

Avoiding then such a solution is excluding new, innovative and relevant solutions.

We know that key success factor will be the ability to provide a doubtful authentication of a pack not of a stamp or a label. Pairing then the pack innately secured with the unique code will ensure authentication and proof of the data enabling a secure traceability then.

Companies have hugely invested in new technology fulfilling current needs and could be deprived due to the orientation given to this report which avoid and exclude all technologies not based on stamp.

Arjowiggins had already expressed its concerned during its interview with SBS representatives in September 2014 recommending the protection of the pack itself and not of the stamp applied on the pack. I t has not been taken into consideration into the report which is driving solutions only based on stamps.

Attachment C.1.1

C. Cost-benefit analysis

Smuggling as perfectly explained into the report also drives smuggled, counterfeited and illicit white cigarettes. As long as this results of criminal and mafias activities and is an underground market

It would be interesting to gauge and evaluate and see in the report the origin of smuggled cigarette. Most of smuggled cigarettes are coming from outside of the European member's states. They won't therefore be under the scope of the TPD.

Nevertheless, implementation of both security features and Track and trace solution will help to better spot and or identify illicit product within the member states and supply chain.

Doing so, It is therefore important to implement authentication features which are really strong to avoid being copied and replicated to guarantee tracking and tracing data and system. It will be efficient if it is based on forgery and counterfeiting resistant solution. Only a solution based and on the pack itself (not a stamp) can be of help. We consider that finger print technology on pack is the best available technology and solution today.

We think that it shall also be supplemented with other key success factors or measures :

- Public awareness

- Enhancement field inspection and control

- Strengthening Law enforcement

Without enhanced control and public awareness it is not possible to cut those figures.

Stamps, whatever the technologies are might not the best solutions used alone. Most of the European member states are using stamps, more or less complex and combining security features, but the citizens are not trained enough or even willing to control and are more looking to purchase a "low priced" product. And those countries still displays huge level of illicit trade as per to studies such as KPMG one.

A lot of countries having implemented enhanced tax stamps and overt security features such as optical variable inks are still suffering and smuggling has not decreased with the use of either re used stamps (tamps removed from legal pack and re applied on smuggled product) or fake stamps.

Regarding cost estimations comments: Cost estimates and calculations presented in the report are based on inaccurate data, undisclosed assumptions and inappropriate methodology, leading to meaningless results, exaggerated benefits. Implementation of security solution option 3 does not need to have a forensic taggant added, as long as such a technology is one of the strongest as per to your analysis. This will then avoid and enable costs saving and also remove all surrounding costs and risks currently linked with the use of tax stamps in terms of transportation, storage and possible re use.

Would it be possible to get more details regarding cost assumptions and calculations.

D. 2

Additional comments related to Question D2

This is where AWS can implement a solution already used for the e-Passeport and ID card industry which will enable the industry to continue using its own technology but under control. In addition, the implementation of the finger print technology paired with the unique code would ensure both the doubtful authentication of the pack or tobacco product, and to pair a unique pack finger print with a unique identifier. We therefore "seal" and certify the data which are at the basement of a traceability system.