

Position of the Federal Public Service Public Health, Belgium

Electronic contribution (rec. 261) submitted by Mathieu Capouet, Political tobacco expert,
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Question 1 - scope

Problem definition	Which option	Recommend option	Additional option
Yes	Extend the scope of the Directive		New products like the ones described also have been put on the market in Belgium. The position of BE is clear as regards electronic cigarettes containing tobacco or nicotine extracts, but there still are loopholes in today's legislation (nicotine-free electronic cigarettes), « herbal cigarettes »,... - Everything that has to do with products similar to cigarettes (like « herbal cigarettes ») should be included as extensively as possible in the new directive. As far as electronic systems are concerned, those delivering nicotine fall within the medicine legislation and do not have to be covered. On the other hand, electronic systems containing tobacco extracts or simply other products should be included in the directive because for these products the legislation is unclear for the moment.

Question 2 – smokeless tobacco

Problem definition	Which option	Recommend option	Additional option
Yes	Ban on all types of smokeless tobacco products		Option 1 (no change) is the minimal option. The putting on the market of a product that is currently forbidden should not be authorized. As far as option 3 (ban on all types of smokeless tobacco products) is concerned, chewing tobacco products do not pose specific problems in Belgium. However, products (of Indian origin, among others) bordering on chewing tobacco and snuss bring up questions. In that context, it probably would be easier to ban all non-smoked tobacco products. That option should therefore be considered.

Question 3 – consumer info

Problem definition	Which option	Recommend option	Additional option
Yes	Improve consumer information; Introduce generic or plain packaging	Picture warnings to become mandatory; Tar, nicotine and carbon monoxide levels to be replaced with general information on harmful substances in tobacco products; Information on harmful substances in tobacco products that cannot be placed on the package would be placed inside the package;	Belgium encounters problems with certain allegations printed by manufacturers, like « naturally sun ripened », « no additives », « 100 % natural »,... (see note to the EC of March 2009 in the appendix). Applying option 2a and option 2b is the minimal solution. Belgium was the first country to use picture

		<p>If option 3 is not chosen, there should be a more obvious and stricter ban on allegations like « naturally sun ripened », « no additives », « 100 % natural »,... (see note to the EC of March 2009 in the appendix).</p>	<p>warnings on cigarette packets. Our experience shows that this poses no practical problems and that the impact of pictures on people is real, especially on the younger ones. Other MS are applying that measure now. Given the advantages and the absence of disadvantages, the use of warning picture - as big as possible – should be made mandatory. As it has been shown that TNCO measures mislead the consumer, they should be suppressed. Option 2c still has to be examined from on a practical side but applying it could be interesting. Putting option 2d into practice seems difficult (individually importing traditional water pipes?) ; as a consequence, it should not be included in the proposition. It would be preferable to concentrate on packets of shisha tobacco which often do not comply with the law. Option 3: Today generic packets are an innovative option, that seems to be efficient to reduce attractiveness of tobacco as stated by the Australian government. This option should thus be at least considered as picture warnings were, ten years ago. It is important that using that type of packet should at least be possible, if not made mandatory. One solution would be to let the MS freely choose and to mention it specifically in the</p>
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			Directive, like the use of picture warnings was mentioned in directive 2001/37/EC. Besides, that type of packaging would de facto put an end to all the problems encountered as a result of manufacturer more and more wanting to use packets as a marketing device (see Belgian note to the EC of March 2009) : allegations, images, special packets for events (festivals, care races,...)...
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Question 4 – reporting

Problem definition	Which option	Recommend option	Additional option
<p>No</p> <p>globally yes but it should also be mentioned that a harmonised format exists and that an electronic data gathering system (EMTOC) has been installed by a consortium of MS under the leadership of the Netherlands. EMTOC has been used in 4 MS this year among which BE. Big manufacturers have supported the system, as manufacturing secrets were taken into account.</p>	<p>Establish a common compulsory reporting format; Introduce fees and sanctions</p>	<p>Electronic systems (EMTOC) have to be made mandatory for data reporting.</p>	<p>A harmonised format exists (it has been developed by the EC and some MS in a working group). Its use for reporting is mandatory in BE and, as far as we know, in the Netherlands too at least. That format makes it much easier to read the data and posed no practical problems. Thus we are in favour of its mandatory use. Option 3 should be applied too. BE already asks to pay a reporting tax of 100 € annually for each product. The tax allows among other things to pay the personnel handling and checking files but also our contribution to the electronic system. Ultimately it could help other MS and release money for toxicological and product attractiveness tests. Besides, it is obvious that important sanctions have to apply in case there</p>

			is no reporting; otherwise there is no pressure possible on the industry.
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Question 5 – ingredients

Problem definition	Which option	Recommend option	Additional option
Yes	Establish a common list of tobacco ingredients	Establish a positive common list of tobacco ingredients	The current situation poses a problem. As an example, BE has a list with some forbidden ingredients that are authorised in other countries. It creates discrepancies between the different UE markets and, as a consequence, manufacturers put pressure on BE authorities. So option 1 is not the good one. Option 2 seems difficult to put into practice. Identical criteria could be interpreted differently, resulting in different lists depending on MS, what in turn would create problems like the ones currently encountered. The option 3 that is proposed seems more consistent. The choice between a positive or a negative list should be made in the light of the easiness of setting up, the result achieved and the experience of such restrictive lists of ingredients in other fields (like food, e.g.). At first analysis, a positive common could be the most restrictive and easiest option to implement In BE we currently have a system combining a positive list and a negative list.

Question 6 – access to tobacco products

Problem definition	Which option	Recommend option	Additional option
<p>No</p> <p>Internet sale is obviously a problem in BE. Displaying the tobacco brand at the point of sale is still authorised, unlike all other types of advertising or promotion, the point of sale being one of the last legal means of advertising. As for vending machines, they are regulated but still exist.</p>	<p>Ban</p>	<p>Cross-border retail sales of tobacco to be banned over the Internet; Vending machines to be banned; Promotion and displays in retail stores to be banned</p>	<p>The possibilities proposed in option 2 already are implemented in many European countries and some countries already apply the propositions listed in option 3 (3b and 3c, among others). In our opinion, those countries have proved that the measures can be implemented without creating particular problems. As a consequence, we are in favour of the three propositions in option 3.</p>