

# Public 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.

## Introduction

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This is a public consultation on the implementation of an EU system for traceability and security features for tobacco products, as required under Articles 15 and 16 of the Tobacco Products Directive 2014/40 /EU (TPD). The purpose of this consultation is to seek comments from the general public and interested parties, such as consumers, retailers of finished tobacco products, manufacturers of finished tobacco products, wholesalers and distributors of finished tobacco products, providers of solutions for operating traceability, security feature or data storage systems, and governmental and non-governmental organisations active in the area of tobacco control and the fight against illicit trade.

The basis for the consultation is the Commission's [Inception Impact Assessment](#). This document develops the main policy options currently under consideration for implementing the system for traceability and security features provided for under Articles 15 and 16 TPD. These policy options are outlined in Table 4 of the Inception Impact Assessment (page 8).

As the objective of this public consultation is, among others, to gain confirmation or otherwise of the assumptions made regarding the policy options mentioned above, **those participating are strongly advised to review the Inception Impact Assessment before responding**. The comments received in the course of this consultation will provide input for the ongoing implementation work on the future EU system.

Stakeholders are invited to submit their responses to this consultation via the survey form below until **4 November 2016**.

The survey form 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. Submissions

should - where possible - be in English.

In the case of corporate groups, one single reply should be prepared. For responses from governmental organisations not representing a national position, the reply should explain 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 see [here](#) for information on rules governing personal data protection and consult the [privacy statement](#) provided on the consultation webpage). In the case of submissions by corporate groups, respondents are asked not to upload personal data of individuals.

Please note that organisations falling under the following respondent groups should register in the [Transparency Register](#) before they begin to answer the questions:

- Manufacturers of tobacco products destined for consumers (finished tobacco products)
- Operators involved in the supply chain of finished tobacco products (excluding retail)
- Providers of solutions for operating traceability, security features or data storage
- Non-Governmental Organisations

The submissions of non-registered organisations will be published separately from those of registered ones and considered as the input of individuals.

The Commission reserves the right to contact you to request further explanation and/or justification of your calculations and/or the reasoning on which your responses rely. You may also be requested to provide further evidence for your detailed replies.

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

## A. Respondent details

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\*A1. Please identify which respondent group you fall under:

- ☐ a) Consumer/member of the general public
- ☐ b) Retailer of finished tobacco products
- ☐ c) Manufacturer of tobacco products destined for consumers (finished tobacco products)
- ☒ d) Operator involved in the supply chain of finished tobacco products (excluding retail)
- ☐ e) Provider of solutions for traceability, security features or data storage
- ☐ f) Governmental organisation
- ☐ g) NGO
- ☐ h) Other organisation

If you fall under groups **b), c), d)** or **e)** above, please indicate if you are a small or medium sized enterprise as defined in [Commission Recommendation 2003/361/EC](#) (i.e. an enterprise which employs fewer than 250 persons and which has an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.)

- ☐ Yes  
☒ No

If other, please specify

*Text of 1 to 800 characters will be accepted*

If other, please specify

*Text of 1 to 800 characters will be accepted*

A5. If you fall under respondent group **d)** above, please indicate your main area(s) of activity:

- ☐ Importer  
☐ Distributor  
☐ Wholesaler  
☐ Warehouse operator  
☒ Other

If other, please specify

*Text of 1 to 800 characters will be accepted*

Raben is a 3PL (3rd party logistic partner) of a tobacco company, providing services of transportation from factories, customs clearance, warehouse operations and distribution (transportation) within the end market. Raben also secures compliance (within their part of the supply chain) with the tracking & tracing requirements under the European Union Cooperation Agreement (EUCA) signed between the tobacco company, EU and its individual Member States on the anti-illicit trade in tobacco products in 2010.

## B. Respondant contact details

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B2. In the case of organisations, please provide the organisation's name, address, email, telephone number and, 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*

Raben Logistics Czech s.r.o.

Company ID: 24705128

Hořovice, K Plevnu 388, 268 01, Czech Republic

[REDACTED]

[REDACTED]

[REDACTED]

shareholder: Raben Group N.V.; 5342LW Oss, Vorstengrafdonk 81, Netherlands,  
Company ID: 08049306

B3. Please indicate if your organisation is registered in the [Transparency Register of the European Commission](#)\* (unless you fall under respondent groups **a)**, **b)** or **f)** of Question 1A above):

*(\*Please note that organisations falling under the relevant respondent groups should register in the Transparency Register before they begin to answer the questions. The submissions of non-registered organisations will be published separately from those of registered ones and considered as the input of individuals.)*

☒ Yes

☐ No

If you indicated yes, please enter your Transparency Register registration number:

*Text of 1 to 20 characters will be accepted*

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Where applicable please upload extract from the trade or other relevant registry confirming the activity indicated under Question A1 (English translation where possible)

**37f83a1d-7116-4c92-88e2-9441a4636dc7/Raben\_CommReg\_Extract\_20161102.pdf**

- \* B4. Please state your preference with regard to the publication of your contribution  
( Please note that regardless of the option chosen, your contribution may be subject to a request for access to documents under [Regulation 1049/2001](#). In such cases, the request will be assessed against the conditions set out in the Regulation and in accordance with applicable data protection rules.  
)

- ☒ My contribution may be published under the name indicated; I declare that none of it is subject to copyright restrictions that prevent publication
- ☐ My contribution may be published but should be kept anonymous; I declare that none of it is subject to copyright restrictions that prevent publication
- ☐ I do not agree that my contribution will be published at all.

## C. Consultation questions

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Please carefully read the [Inception Impact Assessment](#) document before answering the questionnaire

### Questions on the governance model

- \* C1. Out of the three governance models outlined in the Inception Impact Assessment for the traceability system for tobacco products, which one do you consider most suitable for operating the traceability system from your perspective:
- ☒ Option A1: industry operated solution
  - ☐ Option A2: third party operated solution
  - ☐ Option A3: mixed solution (industry and third party)
  - ☐ No opinion
- \* C2. Do you agree that the industry operated model (option A1) will require, on the part of the public authorities, additional control measures to ensure traceability of tobacco products?
- ☐ Yes
  - ☒ No
  - ☐ No opinion
- \* C3. Do you consider that traceability of tobacco products can only be achieved on condition that the supply chain is controlled by a third party independent from the tobacco industry?
- ☐ Yes
  - ☒ No
  - ☐ No opinion

\* C4. If options A1 and A2 are to be compared in terms of their overall impact on cost per pack of product (excluding potential additional costs for the public authorities related to monitoring and enforcement in option A1), do you consider\*

- ☒ Option A1 to be cheaper than option A2
- ☐ Both options to have the same cost impact
- ☐ Option A1 to be more expensive than option A2
- ☐ No opinion

*\*Subquestion a) to question C4: What is your estimate of the average likely increase in the cost of a pack of product that would be incurred in establishing and operating the traceability system under option A1 (in Euro, ex-factory level, before taxes. If relevant please indicate an exchange rate)? Please outline your justifications/reasoning for this estimate including a clear indication of your sources of information. If needed please indicate how your estimate may differ for different categories of products*

*Text of 1 to 1500 characters will be accepted*

This would have to be answered by the manufacturer itself or by a third party provider. But our rationale is that the Article 15 requested functionality is already partially secured by the industry solution under the European Union Cooperation Agreement (EUCA) signed between the 4 main tobacco manufacturers, the European Union and all its member States, so anything else will come with further costs (in development and implementation). And in the Czech Republic a pilot project utilising the EUCA related functionalities and extending them to TPD specifications is successfully running, with the costs predominantly carried by the industry. If industry solution is not a preferred option all the up-to-date incurred costs will have to be duplicated, incl. warehouse HW, SW etc.

*\*Subquestion b) to question C4: What is your estimate of the average likely increase in the cost of a pack of product incurred in establishing and operating the traceability system under option A2 (in Euro, ex-factory level, before taxes. If relevant please indicate an exchange rate)? Please outline your justifications/reasoning for this estimate including a clear indication of your sources of information. If needed please indicate how your estimate may differ for different categories of products*

*Text of 1 to 1500 characters will be accepted*

Again, we are not in the best position to comment on this. It is very hard to estimate when the obligations on the business and service companies (warehouse, transportation, etc.) are not clear. But having implemented already one T&T solution in our premises (EUCA related tracking and tracing) and knowing the complexity of various systems' compatibility, this is feared to be liquidating for smaller entities in the business.

- \* C5. Do you agree that a mixed model of governance, in which the choice of governance is separately made with respect to each distinct technological block/process (e.g. generation, printing/affixing and visual control of a unique identifier) can both provide for full traceability of tobacco products and mitigate the overall public-private cost of establishing and operating the system?

- ☐ Yes
- ☒ No
- ☐ No opinion

C6. Would you like to add any comments or suggestions on the choice of the governance model?

*Text of 1 to 1500 characters will be accepted*

The responsibility (and liability) should at all stages be with the manufacturers. Any other model seems to be imposing liability issues (incl. allowing the controlling party access into hundreds of private premises throughout the whole value chain while installing controlling mechanisms) and increase costs. What if in any of the stages of the process there is an error and any organisation is imposed a fine for non-compliance? How to track the source of such failure? One entity should be accountable for the whole process. It would be also easier for the governmental controlling bodies: at every stage they will know who to contact. In our opinion, everything else is destined for failure where blame is shifted from organisation to organisation and the goal of the system is not achieved.

### Questions on the data storage location

- \* C7. Out of the two data storage locations outlined in the Inception Impact Assessment, which option do you consider most suitable from your perspective:

- ☐ Option B1: centralised data storage
- ☒ Option B2: decentralised data storage
- ☐ No opinion

- \* C8. Do you agree with the assumption made in the Inception Impact Assessment (p. 12) that centralised data storage can provide for important economies of scale (construed as savings in costs gained by an increased level of centralisation), in particular given the related costs of interconnectivity and interoperability present in the option of decentralised data storage?\*

- ☐ Yes
- ☒ No
- ☐ No opinion

*\*Subquestion to question C8: Please provide the reasoning for your response*

*Text of 1 to 1500 characters will be accepted*

In our understanding, and knowing the amount of product turnover (and thus data involved), a centralised data storage for all the information of all the Europe would be a gigantic encounter prone to long response times, technical complexity, etc. That is in case all the systems inputting the data from Member States can "talk to the system". The enormous scale could make it extremely expensive. In the light of the fact that the data is already stored somewhere this seems unnecessary.

**\* C9. Which type of data storage represents higher risks in terms of time required to access data and/or potential downtimes?\***

- ☒ Centralised data storage
- ☐ Decentralised data storage
- ☐ No opinion

*\*Subquestion to question C9: Please provide the reasoning for your response*

*Text of 1 to 1500 characters will be accepted*

Following up on Q C8 – the scale and requirement to save the data for several years could mean a very long response time, unacceptable for the controlling bodies in EU Member States. Such centre would also be very demanding in terms of space, connection, etc.

An option where the data is stored separately for each manufacturer by a third party chosen by that entity and approved by the Commission (and possibly audited by independent organisations) seems more appropriate and clearly in compliance with the TPD. As such, there is also no risk of centrally stored data of individual manufacturers getting mixed up (or even misappropriated).

Current pilot running in the Czech Republic works under this model: each manufacturer stores their data separately on secure servers and governmental agencies are provided access through a dedicated portal that allow them to access any of such databases.

**\* C10. In the case of a decentralised data storage, how should data be split among individual data storages:**

- ☐ Geographic decentralisation with regional/national data storages
- ☐ Product decentralisation with all the data on a single product stored in one place
- ☒ Other option
- ☐ No opinion



*\*Subquestion to question C10: If other option is selected, please specify*

*Text of 1 to 1500 characters will be accepted*

The data should be stored per manufacturer. This would not only address the above issues but also secure confidentiality of proprietary information.

\* C11. If the option of geographic decentralisation of data storages is considered, the relevant data on a given product should be placed

- ☐ In the storage of the region/country of product origin
- ☐ In the storage of the region/country of intended retail market
- ☐ In all the regional/national data storages of a given product's presence, incl. transit countries
- ☒ No opinion

C12. Would you like to add any comments or suggestions on the choice of the data storage location?

*Text of 1 to 1500 characters will be accepted*

This should probably be left up to the choice of the respective manufacturer as long as necessary connectivity for involved parties is secured.

### **Questions on the allowed data carriers**

\* C13. Out of the three options for data carriers outlined in the Inception Impact Assessment which one do you consider most suitable for operating the traceability system from your perspective

- ☐ Option C1: system with a single data carrier
- ☒ Option C2: system with a limited variety of data carriers
- ☐ Option C3: free system allowing any existing data carrier
- ☐ No opinion

\* C14. Do you agree with the assumption made in the Inception Impact Assessment (p. 12) that a system with a single data carrier may offer insufficient flexibility in view of different requirements of various economic operators, including small and medium enterprises?

- ☒ Yes  
☐ No  
☐ No opinion

\* C15. Do you agree with the assumption made in the Inception Impact Assessment (p. 12) that a free system (allowing any existing data carrier) introduces a risk that certain data carriers will not be readable by all the scanners installed in the system and that its functioning would require frequent updates of the scanners, which may not be technically feasible and/or economically viable?

- ☒ Yes  
☐ No  
☐ No opinion

*\*Subquestion to question C15: Please provide the reasoning for your response*

*Text of 1 to 1500 characters will be accepted*

The data carriers allowed should commonly used international standards (e.g. GS1). Throughout supply chain various options are used but only solutions widely acceptable (compatible) secure an easy flow of products and their tracking. However, if the selection is not wide enough it could negatively impact the trade with such products internationally. If EU and non-EU countries selected different data carriers, the products would have to carry two or even more carriers to comply with different requirements. This would result in mis-allocation of data and erroneous results.

C16. Would you like to add any comments or suggestions on the choice of the allowed data carriers?

*Text of 1 to 1500 characters will be accepted*

We would see using GS1 standard bar-codes for outside packaging and the ISS DotCode for the unit packs as optimal. In the Czech Republic a pilot project is conducted and it proves that the dot code can be read by current image scanners with the appropriate software update. Both the mentioned solutions are currently in use and work well. It is important to realise though that master case (at early stage of the supply chain) and cartons (at the wholesale /Retail level) will be most frequently used codes.

**Questions on the allowed delays in reporting events**

\* C17. Out of the three options for the allowed delays in reporting events outlined in the Inception Impact Assessment, which one do you consider most suitable for operating the traceability system from your perspective:

- ☐ Option D1: real-time (or limited delay – max. several minutes – reports)
- ☒ Option D2: once daily reports
- ☐ Option D3: once weekly reports
- ☐ No opinion

\* C18. Do you agree with the assumption made in the Inception Impact Assessment (p. 12) that option D1, which envisages real-time reporting (or limited delays of maximum several minutes), would be particularly efficient to track products in transit as it would avoid duplicating scanning operations (e.g. by both a dispatcher/recipient and a transport operator)?

- ☐ Yes
- ☒ No
- ☐ No opinion

\* C19. Do you agree with the assumption made in the Inception Impact Assessment (p. 12) that option D1 (real-time or limited delays of maximum several minutes) would support effective realtime risk analysis so that controls by competent authorities can be better targeted on illicit trade?

- ☐ Yes
- ☒ No
- ☐ No opinion

\* C20. Do you agree with the assumption made in the Inception Impact Assessment (p. 13) that the once-daily frequency of data uploads provides for important cost savings for the economic operators as compared to the option of real-time reporting (or limited delays of maximum several minutes)?

- ☒ Yes
- ☐ No
- ☐ No opinion

*\*Subquestion a) to question C20: What is your estimate of the average likely increase in the cost of a pack of product that would be incurred in operating the traceability system with the option of real-time (or limited delay of maximum several minutes) reporting (in Euro, ex-factory level, before taxes. If relevant please indicate an exchange rate)?*

*Please outline your justifications/reasoning for this estimate including a clear indication of your sources of information. If needed please indicate how your estimate may differ for different categories of products*

*Text of 1 to 1500 characters will be accepted*

From our position we are unable to quantify such additional costs. But knowing the environment, its complexity and volumes managed daily, such solution seem technically impossible or either extremely costly or facing delays.

*\*Subquestion b) to question C20: What is your estimate of the average likely increase in the cost of a pack of product that would be incurred in operating the traceability system with the option of once-daily reporting (in Euro, ex-factory level, before taxes. If relevant please indicate an exchange rate)?*

*Please outline your justifications/reasoning for this estimate including a clear indication of your sources of information. If needed please indicate how your estimate may differ for different categories of products*

*Text of 1 to 1500 characters will be accepted*

From our position we are unable to quantify such additional costs.

**\* C21.** Do you agree with the assumption made in the Inception Impact Assessment (p. 13) that the once-weekly frequency of data uploads provides for important cost savings for the economic operators as compared to the option of once-daily reporting?

- ☐ Yes
- ☒ No
- ☐ No opinion

\*Subquestion to question C21: What is your estimate of the average likely increase in the cost of a pack of product that would be incurred in operating the traceability system with the option of once-weekly reporting (in Euro, ex-factory level, before taxes. If relevant please indicate an exchange rate.)?  
*Please outline your justifications/reasoning for this estimate including a clear indication of your sources of information. If needed please indicate how your estimate may differ for different categories of products*

*Text of 1 to 1500 characters will be accepted*

Once-weekly reporting could provide cost saving but would deprive the whole solution serving its purpose as that would not be sufficiently frequent solution. Tobacco is an FMCG and a week is too a long period within its movement. Data would be outdated in most cases.

C22. Would you like to add any comments or suggestions on the choice of the allowed delays in reporting events?

*Text of 1 to 1500 characters will be accepted*

Once-daily reporting seems to provide an optimal balance between costs, efficiency and acceptable delays.

### Questions on the method of adding a security feature

\* C23. Out of the three options for the method of adding a security feature that are outlined in the Inception Impact Assessment which one do you consider most suitable for securing the product from your perspective?

- ☐ Option S1: affixing
- ☐ Option S2: printing or integrating through a different method
- ☒ Option S3: any method
- ☐ No opinion

\* C24. Do you agree with the assumption made in the Inception Impact Assessment (p. 13) that by broadening the range of available methods, it will be easier for economic operators (including small and medium enterprises) to obtain the necessary level of security in a cost-efficient manner?

- ☒ Yes  
☐ No  
☐ No opinion

\* C25. How do you rate the importance for consumers of having visible security features on unit packs of tobacco products?

- ☐ Important  
☐ Rather important  
☐ Neutral  
☐ Rather unimportant  
☒ Unimportant  
☐ No opinion

\* C26. Do you consider that enabling individual consumers to decode and verify a serialized unique identifier with mobile devices (e.g. smartphones) would bring added value to the effectiveness of the tracking and tracing system?

- ☐ Yes  
☒ No  
☐ No opinion

C27. Would you like to add any comments or suggestions on the choice of the method of adding a security feature?

*Text of 1 to 1500 characters will be accepted*

It is our understanding that member states which use tax stamps with security features (with invisible and visible parts) are very protective of this solution as (for example in the Czech Republic) they (security features) seem to form an integral role in their fight with counterfeit goods (not only tobacco but also alcohol). It would seem logical to allow such Member States to retain these stamps which work well and serve the purpose of A16. At the same time, other Member States may have different solutions. Probably the final solution should not be limited to one specific option.

C28. Please upload any additional comments on the subject of this consultation (max. 5 pages)

## Contact

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