

# 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

## 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*

SMD Logistics AB (SMD), Klara Norra Kyrkogata 31, SE-118 85 Stockholm

Parent company: Swedish Match AB, Sveavägen 44, SE-118 85 Stockholm, Sweden  
SMD is in fact a wholly-owned subsidiary of the ultimate parent company Swedish Match AB and as such is part of the Swedish Match Group. SMD's business, operating only within the distribution chain, is however a totally separate and neutral distribution company within the Swedish Match Group. SMD distribute approximately 97 % of all tobacco products (cigarettes, snus, RYO, and all other tobacco products) within Sweden and hence, not only tobacco products produced by Swedish Match.

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)

- \* 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*

As a distributor the introduction of such a governance model will not bear great cost for us, however we understand that industry will bear a great cost. In addition, due to the fact that the estimation requested above contains a large amount of, to us, unknown variables, it is not feasible to make an adequate calculation with any qualified results representing an actual costs. However, we understand that most costs would be related to programmable transmitters consisting of copper, which is costly. An industry solution with RFID, where we would scan multiple distribution units, e.g. 25 at a time and with data carriers on each short side, would cost around 100 000 €/year, and an industry lead system where each distribution unit would be scanned separately would cost around 800 000 €/year. The two last solution would also amount to more labour and resource costs for us as a distributor. We would also like to emphasise that for us as distributors it is important and necessary that any solution chosen must be suitable for the full value chain. In any governance solution chosen it is critical that the data carrier allowed is based on ISO (GS1) standards, and that the track and trace system allows for smooth event tracking for all parties of the value chain.

*\*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*

A solution where a third party operates track and trace in our facilities has never been calculated on, as this has not been a viable solution for us. The estimation requested above contains a large amount of, to us, unknown variables, to the extent that it is not feasible to make an adequate calculation with any qualified results representing the actual costs. We would however like to emphasise that for us as distributors it is important and necessary that any solution chosen must be suitable for the full value chain. In any governance solution chosen it is critical that the data carrier allowed is based on ISO (GS1) standards, and that the track and trace system allows for smooth event tracking for all parties of the value chain.

**\* 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*

We would like to remind the Commission of the findings in the Feasibility Study ([http://ec.europa.eu/health/tobacco/docs/2015\\_tpd\\_tracking\\_tracing\\_frep\\_en.pdf](http://ec.europa.eu/health/tobacco/docs/2015_tpd_tracking_tracing_frep_en.pdf), p. 81) indicates that an industry governed solution would be the most cost effective on per unit, compared to similar solutions of those presented in A2 and A3.

## 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 general, centralised storage has the advantage that all data is stored and accessible in one place and the question of where geographically data should be stored becomes obsolete. Security of data is very important. Centralised data storage can be cost effective. However, it also raises questions of security issues, as data stored in one single place is a easier target for security breaches. Multiple actors will be involved in the traceability chain, which gives a higher risk for traceability to be lost by one of the actors, therefore legal responsibilities need to be clearly addressed.

\* 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*

Albeit centralised storage has the advantage that all data is stored and accessible in one place and that it can be cost effective, nevertheless it also raises questions, as previously stated, of security issues, as data stored in one single place is a easier target for security breaches. In any handling and storage of data, security is imperative as well as clear definitions of data access and ownership in accordance with EU law.

**\* 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

**\* 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

*\*Subquestion to question C11: Please provide the reasoning for your response*

*Text of 1 to 1500 characters will be accepted*

We would prefer storage at the region/country of intended retail market, because that is where distribution, sales and final consumption takes place..

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*

### 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*

While C3 offers the highest flexibility in terms of applying data carriers, the solution also risks that certain data carrier will not be readable by all scanners, which could amount to cost an operational inefficiency of the system. That said, on the other hand C1, a system only allowing for one single data carrier to be used, would not bear sufficient flexibility in view of the specific requirement, therefore we are of the opinion that option C2 is the most suitable of the three solutions provided in the Inception Impact Assessment (IIA). We would however, as previously in this response like to emphasise that the technology and media that holds data and allows automatic data capture needs to be truly interoperable, with international recognized standards ISO (GS1). For distributors, the track and trace system needs to be as efficient and unified amongst various parts of the value chain as possible.

**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*

In addition to our selection of C2 as the most suitable option for allowed data carriers, we would like to emphasise that this would better allow economic operators to select the most appropriate system and components for their business.

In the selection of allowed data carriers under this solution there is not only a need to regard the crucial point of interoperability and adhering to international recognized standards as defined by ISO (GS1), but also from the perspective of the whole value chain solution/operational costs, and the maturity of various data carrier solutions at hand.

In the specific case of distribution, for us, only handling distribution of tobacco products at an aggregated level past per pack of product, i.e. as stocks of snus/cartons of cigarettes , the most convenient solutions would be RFID, as standardised by GS1. This would allow us to record stocks of snus /cartons of cigarettes in a cost and time efficient manner. This solution also bears a better quality standard than other solutions on the market, but also in terms of labour conditions as no hand held device is needed. As a second solution we view the possibility of scanning a set of multiple distribution units (e.g. 25 distribution units) at a time. This would allow recording of each distribution unit as each bears a mark on their short sides. As a last resort we would see the solution of scanning each distribution unit separately, but this is expensive and would add additional labour costs.

**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

\* 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*

As the estimation requested above contains a large amount of, to us, unknown variables, to the extent that it is not feasible to make an adequate calculation with any qualified results representing the actual costs. If attempts were to be made, we would not have the resources or capacity to make these hypothetical calculations.

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*

We believe that once a month should be sufficient, this would also be the most efficient solution as it would limit the occurrence of error. Our data would have the best quality with this delay in reporting. Should reporting occur more often errors in reported data would occur more often, devaluating the reliability and quality of the data distributed.  
From a cost benefit analysis, we estimate that the amount of data we would generate, given also our limited sales, would be sufficient to store locally with reporting occurring once weekly or even less. This as it is both easier and less costly to store the data locally, than creating a stable process which can transmit data in real time.

### 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*

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

## Contact

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