

REGULATORY COMMITTEE

**Established under Article 10 of the
Directive 2001/37/EC**

**3RD MEETING OF THE COMMITTEE
OF 15 NOVEMBER 2004 IN LUXEMBOURG
10.00 A.M. ROOM M3 (JEAN MONNET BUILDING)**

SUMMARY RECORD

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OF 15 NOVEMBER 2004 IN LUXEMBOURG
10.00 ROOM M3 (JEAN MONNET BUILDING)**

1. Adoption of draft agenda

2. Colour Photographs

- **Opinion of the committee on draft Commission decision to establish library of selected source documents of colour photographs or other illustrations for each of the additional warnings listed in annex 1 to the directive 2001/37/EC**
- **Member States plans/intentions to apply the above decision.**

3. Update from Member States: latest initiatives to combat environmental tobacco smoke (ETS).

4. Information from the Commission:

- **Preparation of the Article 11 of the Tobacco Products Directive report**
- **The Aspect Report on tobacco control policy in the European Union.**

5. Any other business.

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PARTICIPANTS

Commission Services

Participants

Commission services:

Mr Matti Rajala	DG SANCO C/4 Chairman of the Committee
Mr Kari Paaso	DG SANCO C/4
Ms Ceri Thompson	DG SANCO C/4

Committee members

United Kingdom	(Department of Health)
Sweden	(National Institute of Public Health)
Netherlands	(Ministry of Health)
Ireland	(Department of Health&Children)
France	(Ministry of Health)
Germany	(Ministry for Consumer Protection)
Belgium	(Ministry of Health)
Austria	(Institute of Social Medicin)
Finland	(Ministry of Health)
Slovenia	(Ministry of Health)
Lithuania	(Ministry of Economy)
Latvia	(Ministry of Health)
Malta	(Ministry of Health)

Representatives of the contractor who prepared the proposal for the library of pictorial warnings participated for item 4.

Introduction

The meeting, chaired by the Commission, opened at 10.00 a.m.

1. Adoption of the draft agenda

The Chairman introduced the agenda. He proposed to change the order of discussion so that items 3 and 4 could be discussed first and item 2 thereafter. The agenda was adopted with these amendments.

The Netherlands wanted to add to the agenda a discussion on the interpretation of Commission decision of September 2003 on the colour photographs. It was agreed to discuss this in the context of item 4.

2. Update from Member States: latest initiatives to combat environmental tobacco smoke (ETS).

Finland: Workplaces have been smoke free since 1995. This does not totally apply to hospitality industry, because restaurants and bars are only partly smoke free. Just recently a one-man Committee proposed that the smoke-free rule should cover also these. No final decisions on that yet.

UK: Scotland has just introduced a proposal for a smoke-free Scotland including also bars and restaurants. This will enter into force in 2006. England and Wales are also considering a similar measure banning smoking in restaurants where food is served.

Slovenia: The smoking is banned everywhere else in public places but restaurants and bars.

Ireland: The ban covering bars and restaurants entered into force on 29 March 2004 and immediately got a very positive response. According to the opinion poll, 92 % support the ban and 85 % think it is a positive health measure. Also the compliance rate is very high, about 90 %.

The Netherlands: Most workplaces are smoke free. Hospitality industry is an exception and it will still take some time before the ban applies also to bars and restaurants. Data from Ireland indicating especially the financial impact on the hospitality industry would be very important.

Belgium: At least 50 % of the area in restaurants and bars must be smoke free. Minister of Health would like to propose a total ban but that is politically difficult. Irish example is very important also for Belgium. Ministry of Employment has the responsibility for work places.

Malta: A full ban covering also bars and restaurants entered into force on 5 October 2004. It was preliminary to enter into force on 5 April 2004 but the hospitality industry got it postponed. A sealed smoking room is allowed. Public opinion very much supports the ban.

Latvia: Law On Restrictions regarding Sale, Advertising and Use of Tobacco products defines specially designated areas for smoking in such places as workplaces, cinemas, concerts, discotheques, dance halls, and other public places. Law banning smoking in public places covering also bars, restaurants and casinos will come into force. Smoking will be allowed only in designated rooms.

Lithuania. Law banning smoking in public places entered into force in May 2004. Smoking is prohibited in all educational institutions, health care institutions and areas thereof, internet cafes (internet clubs etc), also in premises where sports competitions and other events take place, in general residential and other premises designated for general use, on all kinds of public transport, in workplaces which are in closed in areas. In restaurants, where smoking is not prohibited, separate premises must be set aside for smokers. These premises must be set up in such a fashion that the clients and staff members would be protected from tobacco smoke. Local administrators can introduce a prohibition for smoking in other public places (parks, squares etc.) within the limits of their competence.

Germany: Federal legislation on the work places basically guaranties a smoke free environment. However, federal states have different policies and different legislations in place.

France: La Loi Evin from 1991 bans smoking in certain areas. However, there have been major difficulties in the enforcement. An assessment report from 2001 on passive smoking revealed a problem on the general knowledge of La Loi Evin. A comprehensive communication campaign on this started in October. France is very interested in the Irish experience. The hospitality industry is afraid of loosing clients should the same take place in France.

Austria: Legislation for smoke free work places with designated areas for smokers is in the pipeline. This legislation is linked with the ban on advertising which enters into force in July 2005. Minister of Health is willing to expand the ban also to bars and restaurants.

Sweden: The Act extending the ban on smoking also to restaurants and bars will enter into force on 1 June 2005.

The Chairman thanked for the information and requested the participants to keep the Commission informed of the developments in respective countries.

Finland proposed that the Commission should draft a report on the actual situation in the Member States on this. The proposal was seconded by Slovenia.

3. Information from the Commission

Preparations of the Article 11 of the Directive 2001/37/EC Report

The Commission is finalising the above report, which is due by the beginning of next year. One of the most difficult issues has been the ingredients. Not many Member States have submitted this information to the Commission and the submissions have varied greatly. Although the Commission is not planning to draft a list of ingredients as foreseen in article 12 of the Directive, ingredients submissions will be addressed in the report.

Austria asked the Commission, how the issue of harm reducing tobacco products, such as “snus”, will be dealt with in the context of this report. Austria emphasised that smokeless tobacco is one option for heavily addicted smokers, who cannot stop smoking. Austria wants this option to be studied very carefully.

The Commission recalled the pending court case before the Court of Justice on the issue, and said that only after the judgment this could be discussed in more detail.

The ASPECT report on tobacco control policy in European Union

The Commission explained the background and making of the report. The report is Mr Byrne’s legacy to his successor. Mr Kyprianou has already expressed his firm commitment to continue strict tobacco policies.

4. Draft Commission Decision to establish library of selected source documents of colour photographs or other illustrations for each of the additional warnings listed in annex 1 to the directive 2001/37/EC– Opinion of the Committee.

The Contractor presented the selection procedure: how the images were created and how the pre-testing was conducted in all the 25 Member States. Out of 84 (6 for each of the 14 warnings) images selected for pre-testing, 42 most effective that qualified in the testing were selected and are included in the Commission proposal.

UK asked whether Member States must stick to these 42 images or could more be included. The Commission replied that Member States must stick to the 42, but among those, they are allowed to select those best suited for them.

In the discussion views and questions were raised concerning, on the one hand the, the selection procedure and, on the other hand, the individual images. The participants had been able to view the proposed pictures already from 22 October when they were posted on the Commission’s website after Mr Byrne’s press conference on the issue. Some participants had differences of opinion regarding some of the

individual images. However, the participants were convinced by the scientific rigour of the research process which established the most effective images in all the Member States. Except for DE, the participants agreed that the scientific and evidence based approach as presented by the Commission should be maintained. DE did not object but abstained because since the scientific information had not been available before, they needed consultations in the government.

The Commission noted the overall agreement on the draft measure. However, due to the low participation of Member States (13), the Committee was not able to deliver its opinion on the draft measure, since one Member State was not yet able to give its opinion. Hence the Commission proposed to formally obtain the opinion of the committee by means of the written procedure, according to Article 9 of the committee's rules of procedure. Participants agreed on this procedure.

5. Member States plans/intentions to apply the above decision

UK said that they were committed to start applying combined warnings hopefully before the end of next year.

MT said that there is a huge public support to these images and they will start applying these as soon as possible.

BE said that they had already transposed the necessary provisions into their law in 2003. They will start applying the images as soon as possible.

FR said that they will decide on the issue at the end of 2005 or at the beginning of 2006.

AT is considering applying the decision, but there are no final decisions on that yet.

6. Any other business

Finland requested the Commission to examine the internet sales of tobacco products.

The Chairman declared the meeting closed at 4.00 p.m.