Philip Morris International

Comments on the Green Paper
"Towards a Europe free from tobacco smoke: policy options at EU level"

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Introduction

Philip Morris International is providing these comments in response to the European Commission's Green Paper "Towards a Europe free from tobacco smoke: policy options at EU level."

The conclusions of public health officials that exposure to environmental tobacco smoke ("ETS") causes diseases in non-smokers warrant effective measures restricting smoking in public places. We are pleased to have this opportunity to express our views on how such restrictions can be implemented in the European Union.

Question 1: The Scope of the Smoke Free Initiative – A Total Ban versus a Ban with Exemptions

We agree that smoking bans are appropriate in many public places, but believe the best approach is Option 2, which would significantly limit the places in which adults may smoke while providing for limited exemptions in certain specified circumstances.

A total smoking ban should be imposed in general public indoor spaces, such as stores, banks, hospitals, public buildings, and public transportation. Total smoking bans should also be imposed in places frequented predominantly by minors, such as schools and playgrounds. Such an approach across the EU would represent a significant step, particularly in those countries where there are few restrictions on public smoking.

In private workplaces and in the HORECA sector, we believe employers should be able to determine the smoking policy for their employees and customers, subject to specific rules. For example, Spain enacted legislation that bans smoking in most public places and in all workplaces, but permits smoking in bars, nightclubs and restaurants as follows: venues less than 100 square metres can choose to prohibit or permit smoking, and venues larger than 100 square meters can provide smoking areas which can be no larger than 30% of the total surface area. In other countries, employers are given some flexibility to establish separate smoking rooms for employees.

Another approach which governments could consider is to establish exemptions based on the nature of the product. ETS is a combination of the smoke (gases and

particles) predominantly coming from the lit end of a cigarette, plus to a minor extent, from the smoke exhaled by the smoker. Various products have been developed which produce significantly less ETS as they do not burn tobacco, and technological advances could result in new products which virtually eliminate ETS.

The chemical compounds that comprise ETS are generally known and it is possible to do a quantitative and qualitative assessment of ETS generated by tobacco products.[1] The government could decide to permit the use in certain venues of products which are determined by an appropriate regulatory authority to substantially reduce or eliminate ETS. Again, this could allow some flexibility, particularly in the HORECA sector or in private workplaces.

Many public health authorities, such as the WHO, the International Agency for Cancer Research, the US Surgeon General, and the US Centers for Disease Control, have taken a zero-tolerance approach to ETS. The US Surgeon General, for example, concluded that there is no "risk free" level of ETS. However, the Surgeon General's Report acknowledges that no regulatory agency has yet sought to establish a "*de minimis* risk level" for ETS in the way that limits have been established for other hazardous air pollutants.[2] Establishing whether such a level exists, and finding options for meeting it, could provide an incentive for manufacturers to focus research and development efforts on products aimed at reducing ETS.[3] While establishing smoke-free environments is one means of protecting non-smokers, reducing risks through product modification should also be a component of an overall harm reduction strategy, which can be advanced through appropriate regulation.

Question 2: Policy Options for Promoting Smoke-free Environments

The Green Paper proposes various policy options. While any of these options could be used, each poses some challenges. We would support binding legislation and generally prefer it to voluntary measures. We recognize, however, that voluntary measures are frequently used to address workplace issues in Member States, and also recognize that the legal basis for binding EU legislation may be uncertain. Recommendations may serve as the basis for consistent action while permitting flexibility in Member States.

As demonstrated by the responses to the Special Eurobarometer 'Attitudes of Europeans towards tobacco,'[4] there are considerable differences of opinion between the Member States in relation to smoking bans. We therefore would support options which would permit Member States to pursue legislation based on local circumstances.

As the Green Paper points out, the various policy options are not mutually exclusive. A mix of options could be used – with voluntary measures agreed by employers and employees in workplaces within guidelines set by national

legislation or regulation which could be based on recommended or binding EU guidelines developed in consultation with all stakeholders.

Conclusion

We agree that effective measures should be taken in the EU to protect non-smokers. While establishing smoke-free environments is one means of protecting non-smokers, reducing risks through product modification should also be considered a component of an overall harm reduction strategy, which could be encouraged through appropriate regulation.

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[1] For example, the International Organization for Standardization provides for test methods to measure certain environmental smoke constituents. See ISO 18145. 2003; ISO 15593. 2001. Measurement methods have also been established by Health Canada: See Health Canada Tobacco Industry Reporting Regulations, Part 6, Schedule 3

[2] The health consequences of involuntary exposure to tobacco smoke: a report of the [US] Surgeon General: U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for chronic Disease Prevention and Health Promotion, Office on Smoking and Health [2006] at 638.

[3] In establishing principles for the assessment of any potentially reduced harm tobacco products, the WHO Scientific Advisory Committee on Tobacco Product Regulation (SACTob) recommended the evaluation of emissions from new products under conditions of actual use, including ETS emissions. See: WHO SACTob. 2003. Statement of Principles Guiding the Evaluation of New or Modified Tobacco Products. In November 2003 the status of SACTob was changed and it became the WHO Study Group on Tobacco Product Regulation (TobReg).

[4] Attitudes of Europeans towards tobacco, Special Eurobarometer 239, January 2006.

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