



## EUROPEAN COMMISSION

Brussels, 25.6.2013  
C(2013) 3878 final

Dear President,

*The Commission would like to thank the Folketing for its Reasoned Opinion concerning the proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products {COM(2012) 788 final}.*

*The Commission welcomes the support of the Folketing for many measures foreseen in the proposal aiming to discourage especially young people from taking up smoking tobacco.*

*The Commission would like to make the following remarks.*

*The Folketing considers the proposed delegation of powers in the proposal as too comprehensive and as an impediment to being able to properly perform a subsidiarity check. The Commission would like to underline that in order to make this Directive fully operational in the view of technical, scientific and international developments in the tobacco manufacture, consumption and regulation, the power to adopt acts in accordance with Article 290 TFEU has been deemed necessary. The delegations of power in the proposal provide for clear and concise criteria, giving limited discretion to the Commission. The Commission would involve Member States in the preparation of these acts and would ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.*

*The Folketing considers that a ban on loose snus would be contrary to the Danish interpretation of the current Directive, and that it would mean banning a product which is less harmful than conventional cigarettes. The Commission would like to stress that the current Directive prohibits the sale of tobacco for oral use, which is defined as "all products for oral use, in powder or in particulate form or in any combination of those forms, particularly those presented in sachet portions or porous sachets, or in a form resembling a food product". Loose snus is therefore already prohibited under the current Directive and would remain banned in the EU under the proposal for its revision.*

*The Commission is aware that the adverse health effects of snus may differ from those of other tobacco products and wishes to stress that this does not mean that snus is a safe or a harmless product. The ban of snus should be maintained to prevent the introduction to*

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*the internal market of a new product that is known to be addictive, to have adverse health effects and to be especially attractive for young people.*

*The Folketing considers that the Directive should only apply to tobacco products and that nicotine-containing products should not be regulated under the proposal. The Commission would like to emphasize that the proposal would indeed extend the product scope to nicotine containing products, requiring a market authorisation under pharmaceutical legislation for certain such products as is already foreseen in some Member States, and imposing health warnings for all other such products. The sale of addictive nicotine-containing products, such as in particular e-cigarettes as consumer products is increasing rapidly and has not been specifically regulated until today. Member States take different approaches on how to regulate e-cigarettes, which is likely to impair the functioning of the internal market.*

*The Commission hopes that these clarifications address the comments and concerns raised by the Folketing and looks forward to continuing our constructive political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*