



EUROPEAN COMMISSION

Brussels, 6.2.2014
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Dear President,

The European Commission would like to thank the Assemblée nationale for its Opinion on 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 would like to make the following remarks on the comments provided by the Assemblée nationale.

The Commission welcomes the Assemblée nationale's support of the proposed directive and its aim to discourage especially young people from taking up smoking tobacco.

In particular, the Commission welcomes the Assemblée nationale's support for the proposed measures on packaging and labelling – including larger health warnings – for the establishment of a framework for cross-border distance sales, for the incorporation of provisions on traceability and security features and for the proposed ingredients regulation.

The Commission also welcomes the Assemblée nationale's general call to increase anti-smoking and information campaigns at national level, to effectively enforce national public area smoking bans and to adopt national measures to prevent the uptake of electronic cigarette use amongst young people.

The Assemblée nationale considers that Member States should be allowed, in the context of the Tobacco Products Directive, to take stricter measures in certain areas. The Commission agrees that – within the boundaries of the Treaty on the Functioning of the European Union – such flexibility is granted under certain conditions.

The Commission takes note of the Assemblée nationale's call for a distinction to be made between independent certification laboratories and testing laboratories. The Commission also notes the Assemblée nationale's belief that the tracking and tracing system should be in conformity with Article 8.4 of the WHO Framework Convention on Tobacco Control Protocol to Eliminate Illicit Trade.

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The Commission further notes that, though welcoming efforts to provide a legal framework for nicotine containing products, the Assemblée nationale does not consider there to be sufficient evidence at this time to subject these products to medicinal product legislation. The Commission would like to point out that, in view of the increasing market share of these products, its intention was to propose a suitable regulatory framework to ensure their safety, quality and efficacy, whilst enabling them to develop their full cessation potential and limiting their potential as entry gate into new nicotine addiction.

The Commission has certain concerns regarding the Assemblée nationale's call for the quantity of tobacco transported across borders to be restricted. Such a provision could be seen to contradict the legal basis of the proposal (Article 114 of the Treaty on the Functioning of the European Union), which is to facilitate the functioning of the internal market, taking into account a high level of public health .

The Commission proposal for a revision of Tobacco Products Directive was discussed by the legislators (the European Parliament and the Council of Ministers) throughout 2013 and an agreement in first reading was found in December 2013. This agreement will be formalised by the European Parliament and by the Council of Ministers during spring 2014, with a view to an entry into force of the new EU Directive in the first half of 2014.

The Commission hopes that these clarifications address the comments and concerns raised by the Assemblée nationale and looks forward to continuing a constructive political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*