



**EXPERT GROUP ON TOBACCO CONTROL  
MEETING OF THE SUBGROUP ON TRACEABILITY AND SECURITY FEATURES**

**– SUMMARY RECORD –**

**Date:** 21 June 2019  
**Location:** Charlemagne building, European Commission

**1. Welcome and introduction**

The Chair welcomed the participants to the last meeting before the summer break. Important matters that might occur over the summer will be addressed by e-mail or, where necessary, in bilateral contacts. The Subgroup approved the agenda, no points were submitted under AOB.

**2. Communication from the Commission**

*2.1. Primary repository contracts*

SANTE provided a short update of the status of the disclosure of the contracts between primary repositories and manufacturers/importers, as requested by several Member States in order to support their enforcement activities. The majority of manufacturers/importers had agreed to full disclosure of their contracts. A small number of manufacturers/importers had submitted requests, together with accompanying justifications, to redact certain information in their contracts (e.g. due to commercial sensitivity).

*2.2. Transposition of Articles 15 and 16 of Directive 2014/40/EU*

SANTE reminded the participants about the requirement to notify to the Commission the national transposition measures for Articles 15 and 16 of Directive 2014/40/EU. In this context, SANTE also informed the participants that the ongoing compliance checks of national legislation would extend to Articles 15 and 16.

### 3. Discussion

#### 3.1. Performance of the repositories system

SANTE provided a short presentation on the latest statistics regarding the performance of the repositories system. The system continued to function well without major interruptions.

Afterwards, the Subgroup discussed the receipt of error messages concerning the non-existence of UIs, which several economic operators had encountered. SANTE explained the most common reasons for why a submitting entity could receive this error message in response to a transmitted reporting message. The reasons are:

- the UI in question is a pre-TPD/legacy UI. Such a UI has never been reported to the router and the secondary repository, and therefore cannot be validated;
- the UI in question is a new UI, but its application has not yet been reported to the router / secondary repository. In this case, economic operators should verify whether earlier reporting activities might still need to be completed. If this is not the case, economic operators should contact the manufacturer/importer of the product at question to seek confirmation as to potential delays in the processing of data at the level of the primary repository;
- the UI in question has not been encoded or decoded in line with the existing formatting instruction. Economic operators should consult the clarifications on the reporting of UIs made available in Dentsu's data centre.

Dentsu has implemented an appropriate notice on this type of error message, including an explanation of the potential causes. SANTE and Dentsu had also agreed to improve the way in which economic operators are informed in the future about such practical matters.

Finally, SANTE noted that whether an economic operator could continue to trade tobacco products upon the receipt of this specific error message depended on the context, as explained earlier. The assessment was the sole responsibility of the economic operator(s) concerned.

#### 3.2. Graphical and non-graphical interfaces

The Subgroup discussed the use of graphical and non-graphical interfaces. A number of Member States provided feedback on the recent workshop that Dentsu had organised on this subject matter. SANTE stressed that, in shaping the functions of the graphical interface, the input from Member States was crucial. For that reason, Dentsu has proposed to form a user group that will discuss the further enhancement of the interfaces. Several Member States welcomed this proposal.

In order to facilitate a common designation procedure of National Administrators, SANTE will share a draft template with Member States for their comments. The Subgroup welcomed such a draft template and would provide comments over the summer months.

Several Member States proposed that, in light of the confidential nature of the traceability data, the Subgroup should develop guiding principles on the work of National Administrators. National Administrators may turn to these principles in the

context of carrying out their task of administering user accounts and access rights. These principles would not be legally binding upon National Administrators, but only serve as guidelines to them. In its initial discussions, the Subgroup referred to an example of differences, in terms of required access rights, between standard users accessing the traceability data in the context of on-spot inspections and advanced users carrying out big data analytics at the national risk assessment centres.

### 3.3. Decoding of flat files

In response to a clarification request, SANTE outlined the general requirements on the creation and transmission of flat files. According to Article 20 of Implementing Regulation 2018/574, competent ID issuers are responsible for preparing offline flat files, along with the necessary explanatory notes, and transmit these to the secondary repository. Article 25(1) of the Regulation furthermore empowers Member States to download any set of data from the repositories system, including offline flat files and the explanatory notes. In this regard, SANTE clarified that Dentsu is not obliged to combine all offline flat files into a single encrypted file.

### 3.4. Registration of economic operators without VAT and TAX number

In the EU, publicly owned entities may engage in the sale of tobacco products and therefore must acquire an EO-ID and F-ID. These public entities normally do not have a VAT or tax number. The Subgroup agreed that, in these cases, when requesting an EO-ID, it would be appropriate to fill in the following information: VAT\_R = '0' (meaning: 'no VAT registration') and TAX\_N = 'public entity'. SANTE confirmed that the validation rules at the level of the ID issuer and router should permit this data entry.

### 3.5. Request of UIs for test products (absence of TP-ID/TP-PN)

SANTE recalled previous discussions in the Subgroup regarding the request for UIs that are applied to test products. In this context, the question on the reporting of TP-ID and TP-PN as part of the request for a UI arose. If test products are not made available to consumers on the territory of the Union, they do not require reporting to the EU-CEG (EU Common Entry Gate). Therefore, these products do not have a TP-ID and PN. The Subgroup agreed that, in these cases, when submitting a request for UIs, it would be appropriate to fill in the following information: TP\_ID = '99999-99-99999' and TP\_PN = 'test product'. SANTE confirmed that the validation rules at the level of the ID issuer and router should permit this data entry.

### 3.6. Follow-up: reporting obligations for sales on airplanes and ships

The Subgroup followed-up on its previous discussions regarding reporting obligations in the case of tobacco products dispatched to airplanes and commercial vessels/cruise ships. The Subgroup acknowledged that various scenarios could arise, taking into account the geographical location(s) of an airplane or commercial vessel/cruise ship at the time when tobacco products are made available to consumers.

The Subgroup did not reach a definite conclusion on this discussion point and the participants agreed to continue the discussion over the summer months. Any conclusions reached will be presented at the next meeting of the Subgroup.

3.7. *Follow-up: data controllership for processing of data in the repositories system*

SANTE referred to the e-mail previously sent by the Commission to Member States regarding data controllership for processing of data in the repositories system. SANTE asked Member States representatives whether they had any further comments on this matter. No Member States raised objections to the reading of SANTE regarding joint controllership. A few Member States took the floor to note that their assessment aligned with that of SANTE. One Member State noted that it had not yet finalised its internal review and that it would share its views, including any potential objections, with SANTE in the coming days.

3.8. *Sharing of data in the traceability system with economic operators (national enforcement activities)*

The Subgroup discussed the scenarios in which Member States may decide to provide an economic operator with an extract of certain data sets in the repositories system, for example, to allow the economic operator to meet its obligations under the legislation (reporting of stolen products, etc.). SANTE clarified that the sharing of data extracts is subject to the assessment of individual Member States. The sharing of data extracts is not the same as access to the data storages, which, in principle, is limited to Member States, the Commission and approved external auditors.

#### 4. Q & A

One Member State representative inquired into the procedure for economic operators to contact Dentsu in the case of technical problems. SANTE clarified that Dentsu has an online ticketing system in place and that, in principle, submitted inquiries would be treated based on the time of receipt but that the severity of the issue may of course also be taken into account.

The Subgroup discussed the registration of logistic terminals in harbours and in which circumstances these terminals required their own F-ID. Several Member States shared the view that terminals operated by the legal entity that also operates and controls the harbour do not require a separate F-ID. It may be appropriate to decide that these terminals are covered by the F-ID that is used to register the harbour facility as a whole. Terminals that are operated by legal entities other than the one operating the harbour must be registered separately.

In response to a question from one Member States, it was recalled that if a chain operator of branded shops issues invoices to its affiliated shops with regard to the tobacco products, even if that operator does not physically tackle the products which are delivered to the affiliated shops directly by a specialised distributor, there is a requirement to report on those invoices. In the same manner, that operator has to report on the payments that it receives from its affiliated shops in relation to the invoices.

## **5. Updates from Member States**

### **5.1. Competence rules**

The Subgroup followed-up on the discussion of cases in which economic operators may have submitted requests for the issuing of UIs that are not compliant with the competence rules laid down in the legislation. Member States noted that these cases were under investigation and that appropriate actions would be taken. A few Member States confirmed that requests to non-competent ID issuers might not only concern UIs but also identifier codes.

### **5.2. Fees for generating and issuing of UIs**

The Subgroup discussed the fees charged by ID issuers for generating and issuing of UIs in the respective Member State. SANTE reminded the Subgroup that the fees charged to economic operators must be non-discriminatory and proportionate to the number of UIs generated and issued to the economic operators taking into the account the mode of delivery, as set out in Implementing Regulation 2018/574.

### **5.3. Other updates**

The ID issuers in the 27 Member States continued to function without any major errors. Romania informed the group that it was working on ensuring the operations of its competent ID issuer. The Commission and other Member States will receive an update on this matter after the summer break.

## **6. AOB**

No points submitted.

## **7. Closing remarks**

The Chair thanked the participants for their input and closed the meeting.

## List of participants

Austria	(Federal Ministry of Labour, Social Affairs, Health and Consumer Protection and Ministry of Finance - Tax and Customs Administration)
Belgium	(Excise & Customs and FPS HEALTH and Food Chain Safety and Environment)
Bulgaria	National Customs Agency
Croatia	(Agencija za komercijalnu djelatnost and Customs Administration)
Cyprus	(Department of Customs and excise)
Czech Republic	(Ministry of Agriculture and STC)
Denmark	(Danish Safety Technology Authority and Danish Ministry of Health)
Estonia	(Ministry of Social Affairs of Estonia)
France	(French Customs)
Germany	(Bundesdruckerei GmbH and Bundesministerium für Ernährung und Landwirtschaft)
Greece	(Independent Authority for Public Revenues and Ministry of Finance, General Secretariat for Information Systems)
Hungary	(Government office of the Prime Minister, Ministry without portfolio responsible for national property management, the National Tax and Customs Administration and ND Nemzeti Dohánykereskedelmi Nonprofit Zártkörűen Működő Részvénytársaság)
Ireland	(Department of Health and Office of the Revenue Commissioners)
Italy	(Ministry of Health)
Latvia	(State Revenue Service of Latvia)
Lithuania	(State Tax Inspectorate Under the Ministry of Finance of the Republic of Lithuania)
Luxembourg	(Customs and Excise Administration, Direction de la santé and ID issuer Luxembourg)
Malta	(Customs Department)
Netherlands	(Ministerie van Volksgezondheid, Welzijn en Sport and Belastingdienst)
Poland	(Ministry of Finance)
Portugal	(Autoridade Tributária e Aduaneira)

Romania (National Agency for Tax Administration, General Directorate of Customs)

Slovakia (Ministry of Finance, Financial Directorate and Slovak Permanent Representation)

Slovenia (Ministry of Health of the Republic of Slovenia)

Spain (Agencia Tributaria. Ministerio de Hacienda y Administraciones Públicas, Comisionado para el Mercado de Tabacos. Ministerio de Hacienda y Administraciones Públicas and Ministry of Finance.)

Sweden (Public Health Agency Sweden)

United Kingdom (HM Revenues and Customs)

**Observers**

Norway (The Directorate of Health)

**European Commission**

DG SANTE

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*- Note: sections 3.4 & 3.5 modified on 26/8/2019, correction of clerical error -*