



Brussels, 26 June 2020  
SANTE B2/TE/FB/KB/MF/AK/AS/JL/  
AM/SL/MB/KS/AW

## MEETING OF THE GROUP OF EXPERTS ON TOBACCO POLICY

26 JUNE 2020

MEETING VENUE: HALF-DAY WEBINAR 10:00~13:15

–SUMMARY RECORD–

### (1) Welcome and introduction

The Chair welcomed the participants and new participants introduced themselves. SANTE expressed regret over cancelling the in-person expert group meeting in March, however an online information webinar was held instead to update on the main developments.

The agenda was adopted. SANTE updated the group on major COM work-streams that also relate to tobacco control (e.g.; COVID-19 and smoking, funding under MFF, Cancer Action Plan).

### (2) Implementation and Monitoring of the TPD

#### (a) Follow-up on the compliance assessment (transposition/conformity checks)

SANTE updated the group on the status of compliance assessments of national transposition measures, including transposition and conformity checks. Member States were informed that the last infringement for non-communication of the transposition measures has just been closed.

SANTE informed that bilateral contacts in the framework of the conformity checks continue and further structured bilateral meetings took place since the last Expert Group and more are planned *via* teleconferences. MS were reminded of their obligation to notify new transposition measures to the Commission.

#### (b) Court cases

Member States were updated on the International Tax Stamp Association (ITSA) appeal against the Order of the General Court on 16 May 2019 (Case: C-533/19), a new request for a preliminary ruling (Case: 160/20) and the new cases related to pictorial health warnings (Case: T-654/19 and T-653/19).

#### (c) Article 28

Member States were updated on the planning and timelines of upcoming and ongoing studies in preparation for the Article 28 report on the application of the TPD. Member States were updated on the ICF study, Eurobarometer and SCHEER work on e-cigarettes. SANTE thanked MS for their contribution to the ICF study. Due to COVID-19

limitations and restrictions there are delays in the Eurobarometer and SCHEER work. The SCHEER preliminary opinion for public consultation is now foreseen after the summer.

Member States were encouraged to actively support and take part in preparations for the Article 28 report on the application of the Directive.

### **(3) Updates by Member States on regulatory, enforcement and legal developments**

Implementation of provisions of Art. 7 concerning the ban of products imparting characterising flavour was discussed (tour de table) following the expiry of transitional period for certain flavours as of 20 May 2020. The main objective was to ensure that non-compliant products are not placed on the market and properly withdrawn from the EU-CEG database. MS were reminded of the practical aspects of the procedure for determination of characterising flavours. The Commission also gave an overview on its own findings about non-compliant products in the EU-CEG database.

Member States reported on experience of implementing the menthol ban, in particular on market surveillance, enforcement obligations and examples of circumvention of the ban.

Member States need to ensure that manufacturers and importers submit to EU-CEG all information, including modifications and withdrawal from the market, in accordance with Article 2 of the Commission Implementing Decision (EU) 2015/2186.

In this respect, SANTE confirmed that the new MSREP functionality, allowing MSs to deactivate obsolete products, is to be launched in the coming weeks.

### **(4) Other tobacco control developments beyond the TPD (Tobacco and e-cigarette advertising, promotion and sponsorship)**

#### **(a) Advertising and smoke-free study**

SANTE gave an overview of the advertising and smoke-free study and asked MS to contribute to the report *via* questionnaires received from the contractor. MS were updated on planning and timelines of the advertising and smoke-free study and encouraged to contribute towards the report.

#### **(b) Formula One 2020 season**

The Commission expressed concerns regarding possible breaches of EU tobacco and e-cigarette advertising and sponsorship bans as regards: sponsorship agreements and promotion activities at Formula 1 and motorsport events; advertising in information society services, in particular social media platforms and including indirect/covert forms of advertising; (cross-border) advertising of devices of novel tobacco products; corporate promotion and corporate social responsibility practices intensifying during covid-19 (and the need to also reinforce implementation of FCTC Article 5.3. in this context).

Member States were advised to stay vigilant and undertake the necessary monitoring and enforcement actions regarding sponsorship and promotion activities at this season's Formula One races with a view to ensure that EU and national legislation on TAPS is respected.

In the discussion some MSs informed of their preventive actions with regard to upcoming Formula One events and measures envisaged in case of any breach of EU or national legislation.

SANTE expressed the expectation that JATC-2 will further support MS to address challenges in enforcement of TAD and TPD.

### **Member States' update on new developments**

MS updated on new developments/challenges in the application and enforcement of EU and domestic bans on tobacco and e-cigarette advertising, promotion and sponsorship, in particular regarding advertising in social media and the internet, advertising of novel tobacco products including their devices, promotion and sponsorship in online publications, and corporate social responsibility activities. The group agreed that more enforcement cooperation is needed between MS and that the second Joint Action on Tobacco Control will be a useful platform to take this work forward.

SANTE informed that it is increasingly concerned about the proper application of the TAD and TPD when it comes to bans on tobacco and e-cigarette advertising in information society services, especially on social media platforms which are cross-border by nature.

SANTE reminded that any commercial communications promoting a device whose sole or main function is to enable the consumption of a tobacco product would have an aim or an indirect effect of promoting that tobacco product. MS competent authorities were encouraged to carry out case-by-case assessments.

### **(5) Tobacco traceability and security features**

SANTE informed the group on the latest developments as regards the traceability system.

### **(6) Joint Action on Tobacco Control (JATC)**

SANTE updated on the progress of JATC-1. Member States were informed about the recent JATC Steering Group meeting and the need to intensify the work of some WPs to ensure the timely conclusion of all project deliverables.

JATC-2 is under preparation and SANTE reported back on the Info Day of 3 June 2020 which was hosted by Chafea. COM has high expectations for the JATC-2 and congratulated the newly appointed coordinator. Outputs will make an important contribution towards tobacco control and may also feed into the cancer plan. The appointed coordinator updated the participants on the progress of the drafting group preparing the proposal due in October.

### **(7) Any other business**

SANTE reminded that FCTC COP9 was postponed to 8-13 November 2021, followed by MOP2 on 15-17 November 2021. SANTE informed on the intersessional consultations and the work of the Working Group on cross-border advertising, promotion and sponsorship.

MS were informed of provisional dates for upcoming meetings.

In an open session, the contractor of the Art. 28 study gave an update on the work progress. MS were thanked for their inputs and encouraged to further support their work.

Close of the meeting.

**(8) Annex I: List of participants (remotely)**

**European Commission:**

DG SANTE B2	Thea Emmerling (Chair) Filip Borkowski Katja Broman Matus Ferech Agnieszka Kozakiewicz Andrea Schwarz Julia Langer Sascha Löwenstein Anna Wozniak Melina Ballario Kleopatra Sekellari
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**Member States:**

Austria	(Federal Ministry of Social Affairs, Health, Care and Consumer Protection)
Belgium	(FPS Health, Food Chain Safety and Environment)
Bulgaria	(Ministry of Economy)
Croatia	(State Inspectorate of the Republic of Croatia (Sanitary Inspection), Permanent Representation of the Republic of Croatia)
Cyprus	(Public Health Services Ministry of Health)
Czech Republic	(Ministry of Agriculture, Ministry of Health, CAFIA)
Denmark	(Ministry of Health, Danish Safety Technology Authority)
Estonia	(Ministry of Social Affairs)
Finland	(Valvira)
France	(Ministere des solidarités et de la santé, ANSES)
Germany	(Bundesministerium für Ernährung und Landwirtschaft, Federal Office of Consumer Protection and Food Safety)
Greece State Laboratory)	(Independent Authority For Public Revenue - General Chemical)
Hungary	(Ministry of Human Capacities, Focal Point for Tobacco Control)
Ireland	(Health Service Executive (HSE), Department of Health)
Italy	(Ministry of Health)
Latvia	(Ministry of Health, Health Inspectorate )
Lithuania	(Ministry of Health)
Luxembourg	(Direction de la santé)
Malta	(Ministry of Health – Environmental Health Directorate, Customs Department)
Poland	(Ministry of Health, Bureau for Chemical Substances)
Portugal	(General Directorate of Health, Ministry of Health)
Romania	(Ministry of Health)
Slovakia	(Public Health Authority of the Slovak Republic,)
Slovenia	(Ministry of Health of the Republic of Slovenia)
Spain	(Ministry of Health)
Sweden	(Public Health Agency)
The Netherlands	(RIVM,NVWA, Ministry of Health)
Norway (observer)	(Norwegian Directorate of Health, Norwegian Ministry of Health)
Iceland (observer)	(Ministry of Welfare)