

Tobacco traceability and security features: Questions and Answers

Brussels, 20 May 2019

1. As of when will the traceability system and the security features be in place?

On 3 April 2014, the European Parliament and the Council adopted the Tobacco Products Directive 2014/40/EU (hereafter: TPD). According to the Tobacco Products Directive 2014/40/EU, by 20 May 2019 the traceability system and the security features should be in place in Member States for cigarettes and roll-your-own tobacco, and by 20 May 2024 for all other tobacco products (such as cigars, cigarillos and smokeless tobacco products).

2. What are the EU systems of tobacco traceability and security features?

The focus of the TPD is on the smooth functioning of the internal market for tobacco and related products and protecting human health, especially young people. Articles 15 and 16 of the TPD address illicit trade in tobacco products via systems of traceability and security features for them.

Under this system, all tobacco packs produced in, destined for, or placed on the EU market will need to carry a traceability marking, a so-called 'unique identifier'. This marking will have information on the location, the date of manufacture, destination etc. All product movements will be recorded, from the manufacturer to the last level, before the first retail outlet. Each unique identifier will be embedded in a data carrier, a machine-readable optical medium (e.g. a barcode) that allows public authorities to read the information using handheld devices, such as scanners or smartphones.

In addition, all tobacco packs destined for the EU market must be marked with tamper-proof security features, which is a supplementary measure in the EU's fight against illicit trade of tobacco products. To ensure that security features are secure, they should be composed of five types of 'authentication elements'.

3. Why do we need the EU systems of tobacco traceability and security features?

Tobacco use is extremely harmful to health. The fight against illicit trade is an integral component of a comprehensive tobacco control policy. Due to illicit trade, it is easier for people – including children and young adults, to buy tobacco products. Illicit tobacco products are often much cheaper than legal products and as such weaken even the most effective tobacco control instrument. They also often do not carry combined health warnings as requested by the TPD. Furthermore, illicit tobacco trade causes the loss of billions of euros in tax revenue for EU countries every year.

The traceability system fights illicit trade by enabling a monitoring of the movement of legal tobacco products (tracking) and allowing the public authorities to determine at which point the product was diverted into the illicit market, or vice versa (tracing). All information must be submitted to an independent data repositories' system, only accessible to public authorities and approved auditors. There will be decentralised repositories ('primary repositories'), which each store the information linked to tobacco products of a particular manufacturer or importer. There will also be one central repository ('secondary repository'), which stores a copy of all information submitted under the traceability system. The recorded information will enable checks and controls of the supply chain and assist authorities in their enforcement activities.

In addition to the information collected under the traceability system, security features on each tobacco pack will enable authorities and citizens to determine if a tobacco product on the market is genuine or illicit.

4. How does the EU system of tobacco traceability fit into the global efforts to fight against illicit trade?

It is widely acknowledged among the international community that illicit trade is a global problem that countries cannot fight alone. The Framework Convention on Tobacco Control (FCTC)'s Protocol to Eliminate Illicit Trade in Tobacco Products, an international treaty ratified by the EU in 2016, among others requires its Parties to establish a traceability system independent from the tobacco industry. The TPD, and legislation adopted on its basis, ensure compliance with this rule by placing full control of the traceability system in the hands of public authorities, and not the tobacco industry.

The system's overall architecture ensures the necessary level of independence. For example, key tasks, such as the issuing of unique identifiers, are the responsibility of the Member States who may choose to either issue them themselves, or appoint independent third parties to do so. When third parties are appointed to provide other services, for example primary repositories, the legislation lays down clear criteria to assess their independence from the tobacco industry that the Member States and the Commission must apply. The legislation also requires that the tobacco industry, as well as other economic operators, do not have access to the repositories and the data stored therein.

The requirement to use international open standards as much as possible drives innovation and ensures interoperability. It also ensures that different providers can offer their services under the traceability system. This further strengthens the level of checks and balances. Finally, the system provides a high quality of data as it covers all movements of tobacco products, sets timelines for reporting, and has a specific format for individual reports, which in turn will enable authorities to effectively control the supply chain.

5. Will there be any visible change to the products?

The outside image/the packs of tobacco products will be visually changed.

In addition to the current labelling requirements (e.g. combined health warnings, information on quitting), all tobacco packs will have to carry a unique identifier. All unique identifiers will be embedded in data carriers, which will be visible on the tobacco pack and often on the further layers of outside packaging, such as carton boxes. The legislation allows for the use of different types of optical data carriers (Data Matrix, QR code, DotCode, Code 128).

In contrast to traceability markings, the security features will only be displayed on tobacco packs. While security features must be composed of at least five different authentication elements, not all of them will be visible to the human eye (e.g. a certain element may only become visible under UV light). Several Member States already require fiscal stamps on tobacco products to collect excise taxes, which they may also use as the security features (if they meet all the necessary requirements).

The legislation does not have specific rules on the placement of unique identifiers and security features on the products, as long as they do not interfere with other labelling requirements of the TPD.

6. What will happen to the stocks of old products?

In principle, the rules on tobacco traceability and security features will apply instantly, that is, as of 20 May 2019 for cigarettes and roll-your-own tobacco. At the same time, the legislation acknowledges the dynamics of the supply chain, including the existence of products produced in the days before the legal deadline. These products, which may already be in free circulation, understandably do not yet comply with the new rules.

In light of this, the legislation foresees the possibility for manufacturers and importers to exhaust their stocks of non-compliant products legally within a certain timeframe. All cigarettes and roll-your-own tobacco, which have been manufactured in the EU, or imported into the EU before 20 May 2019, may stay in circulation and be sold on the market for one year, until 19 May 2020. They must be removed from the market immediately after this date.

This means that in the first year there will be a mix of products on the market: products with unique identifiers (incl. data carrier) and security features, and products without them. While the transitional period lasts for one calendar year, it is reasonable to assume that the first products produced under the new rules will enter the market already after a few weeks. The exhaustion of stock provision should also ensure the continuity of supplies during the initial phase of launching the systems.

7. What is the level of technical readiness of the EU systems of tobacco traceability and security features?

The traceability system is composed of a number of individual components, the establishment of which falls into the area of responsibility of different actors. The key components of the system are primary repositories, the secondary repository, and national ID issuers.

Member States and the Commission are working very hard to launch the EU tobacco traceability system in time. Excellent progress has been achieved for most parts of the system, including the system's router and the repositories system. Several ID issuers are participating in the on-going technical tests with the repositories system. The Commission continues to closely monitor the situation as regards the appointments of individual ID issuers by Member States as well as all relevant technical developments.

Each manufacturer and importer must sign a contract with an independent data storage provider to set up a 'primary repository'. The draft contract and the proposed provider had to be sent for approval to the Commission by 6 May 2018. The Commission assessed all notifications received, and approved or rejected them within the required three-month time limit. The list of approved repository providers is accessible on the dedicated website (see below).

On 21 December 2018, the Commission selected, among the list of approved repository providers, Dentsu Aegis Network AG (DAN AG) as the provider of the 'secondary repository'. On 20 March 2019, actors involved in the traceability system began to test the submission of information to the secondary repository, in order to prepare for the official launch of the system. DAN AG has indicated that the repositories' system should go live on 10 May 2019, 10 days before the legal deadline.

Each Member State is obliged to appoint a national ID issuer, the entity responsible for issuing unique identifiers, and registering economic operators, facilities and machines in the system. The deadline to appoint ID issuers was 6 May and they must be operational when the traceability system will become operational on 20 May this year. The Commission is aware that one Member State has not yet been able to deliver on this obligation. To enable the start of the system on time, the Commission recently adopted a decision, authorising economic operators in the affected Member States to use the ID issuer services of other Member States.¹ The Commission is monitoring the situation carefully and will use all means at its disposal to ensure the system is fully operational across all Member States as soon as possible.

Each Member State also had to inform manufacturers and importers of the security feature permitted on tobacco packs placed on its national market by 20 September 2018.

8. What are the responsibilities of stakeholders under the new set of rules?

In 2018, the Commission published a stakeholder manual on the EU systems of traceability and security features for tobacco products. It provides for an overview of the two systems and explains what the new set of rules means for the different stakeholder groups. The stakeholder manual is available on the dedicated website in all EU languages.

¹ Commission Decision (EU) 2019/691 of 2 May 2019 authorising, in accordance with Article 4(5) of Commission Implementing Regulation (EU) 2018/574, economic operators to use the services of another ID issuer, OJ L 116, 3.5.2019, p. 80–82. Accessible at: <http://data.europa.eu/eli/dec/2019/691/oj>.

9. How has the Commission informed stakeholders about the launch of the systems?

After the adoption of the tertiary legislation in mid-December 2017, the Commission established a dedicated website (see below), which has been updated regularly with the latest relevant information.

On 6 May, the Commission organised an information event for all stakeholders to inform about the launch of the EU systems of traceability and security features. This meeting was web-streamed.

For more information:

https://ec.europa.eu/health/tobacco/tracking_tracing_system_en