



Brussels, 8 March 2012

**MINUTES OF THE MEETING
BETWEEN COMMISSIONER DALLI AND REPRESENTATIVES OF THE ECONOMIC
STAKEHOLDERS ACTIVE IN TOBACCO PRODUCTS
ON 7 MARCH 2012**

Participants: Commissioner John Dalli, Joanna Darmanin, Paula Duarte Gaspar and Frederic Vincent (CAB Dalli)
Martin Seychell (moderator), Dominik Schnichels, Antti Maunu, Anna-Eva Ampélas, Matus Ferech, Dalibor Mladenka and Katja Broman (DG SANCO)

Kristof Doms (Philip Morris), Pardeep Grewal (Imperial Tobacco Group), Ronan Barry (British American Tobacco), Michiel Reerink (JT International), Inge Delfosse (European Smokeless Tobacco Council), Marcel Crijnen (European Cigar Manufacturers Association), Christian Greiveldinger (European Smoking Tobacco Association), Paul Heinen (European Tobacco Wholesalers Association); Giovanni Risso, Flaminia Triglia (European Tobacco Retailers), François Vedel (International Tobacco Growers Union), Katherine Devlin (Electronic Cigarette Industry Trade)

The main objective of the meeting was to listen to the concerns and/or comments from representatives of the tobacco industry *et alia* as regards the on-going revision of the Tobacco Products Directive (TPD).

Commissioner Dalli referred to the need for revising the TPD, highlighted the legal basis, outlined the main areas of revision (scope, attractiveness, access) and welcomed the opportunity to hear the views and concerns of the industry. He informed participants that he had met the representatives of health NGO's on 29 February. Both meetings are held in a transparent manner in compliance with Art. 5 of WHO Framework Convention on Tobacco Control which entails also publication of the minutes on DG SANCO's website.

Industry thanked Commissioner Dalli for the invitation and opportunity to express their views.

1. Attractiveness

Industry representatives accept the need to reduce the uptake of smoking and prevent young people from smoking, but argued that regulation must be evidenced based. Other factors also need to be considered with any proposals, i.e. the loss of government revenues, the risks of increased illicit trade, the need to preserve 1.5 million jobs in the

legal supply chain, the legal basis for the revision and the right to conduct business, freedom of expression and property rights as contained in the Charter of Fundamental Rights.

In general terms the industry maintained that standardising packaging and regulating ingredients would only serve to distort competition, reduce market value and limit consumer choice. It would not reduce consumption or prevalence. The 'attractiveness' concept should be rejected as it lacks scientific foundation and is arbitrary and subjective while not being linked to prevalence.

Regarding health warnings/packaging the industry argued that the harmful effects of smoking are already well known and that enlarged health warnings/plain packaging would not bring additional benefits. In this respect they pointed to surveys commissioned by Health Canada – carried out after the introduction of large pictorial warnings which showed – according to the industry - no significant effect on prevalence. The same observation is allegedly true for the nine Member States where pictorial warnings were introduced. The industry asked that the effects on illicit trade are carefully analysed.

Regarding ingredients/additives, industry expressed support for the EMTOC system to facilitate compliance with reporting obligations. Industry argued, however, that additives have no impact on addictiveness and/or consumption (including that of young people), but strict regulation would have severe economic consequences for industry. According to the industry menthol cigarettes, which only have a share of 4% of the European market (with Finland and Poland over 20%), have not explicitly featured in the consultation process.

Representatives of growers claimed that a strict ingredients/additives policy could have a negative impact on growers, particularly of the oriental and burley tobacco varieties.

Industry also noted that some new measures under consideration such as standardising the appearance of cigarettes were part of the Matrix investigation but had not been part of the public consultation.

2. Scope

Representatives of the smokeless tobacco industry claimed that snus is less harmful than cigarettes and additionally said that the SCENIHR report quotes science stating that snus-like products are approximately 90% less harmful than smoking.¹ Sweden, the only Member State which permits the sale of snus, has the lowest level of smoking-related diseases. Success rates of nicotine replacement therapies are low and lifting the ban on oral tobacco (snus) would give consumers a wider choice. All smokeless tobacco products should be regulated by the Commission on a level playing field.

E-cigarettes distributors claimed that full consumer choice needs to be maintained. Adequate legislation on e-cigarettes would be in place already and – referring to the UK example - the industry works well on the basis of self-regulation. E-cigarettes would neither be medicinal products, nor tobacco products.

One of the cigarette manufacturers mentioned that there is a unique opportunity (similar to USA's FDA) for the EU to establish a dedicated regulatory regime for reduced risk products (based on scientific evidence).

¹ Annotation by the Commission: the science to which the industry refers is only one of many studies mentioned in the SCENIHR report. Overall the conclusion of SCENIHR is that smokeless tobacco products have adverse health effects and are addictive.

Cigar manufacturers pointed to the differences between their products and factory manufactured/roll-your-own cigarettes (age and consumption profile of smokers, production by SMEs). The representatives suggested that this should be taken into account. They questioned the legal basis for a display ban and stressed that this would have disproportionate impact on cigars, in particular small brands.

The representative of the smoking tobacco industry agreed with all the points made by the cigar manufacturers' representative, especially with the impact on SMEs producing smoking tobacco products (fine-cut tobacco (RYO), pipe tobacco and traditional nasal snuff and chewing tobaccos) and called for a differentiated approach for the products, also taking into account the low market shares and the consumers using them (older age profiles). The representative pointed in this respect to the age profile of pipe tobacco consumers which is 40-60 and above. The regulation of flavourings should not apply to smoking tobacco products, such as pipe tobacco, due to the differences described above (the cigar manufacturers shared the same view as regards cigars). The representative also expressed fundamental disagreement with the use of the concept of 'attractiveness'.

3. Access

The association of wholesalers, which also represents tobacco vending machine (TVM) operators, called for TVMs with age verification mechanisms which exist already in a number of Member States.

They pointed out that, as long as a channel of distribution is there, it can be regulated (as so happens in Member States), controlled and monitored. As long as it is there, legal operators will operate legally and enforce age verification regulations professionally and responsibly. The same is not true for illicit trade, which is always ready to take up inadvertently created opportunities. A ban on TVMs would therefore be disproportionate and also incompatible with the internal market (TVMs do not have cross-border relevance).

Tobacco retailers supported the objectives of the revision and emphasized "active role of responsible retailers". They spoke against plain packaging and display bans, considering that evidence on the effectiveness of these measures would not be compelling.

They claimed that in those countries which adopted display ban, it turned out to be a failure. Furthermore, they argued it has enhanced illicit trade, while entailing an increased risk for health, since counterfeited products circumvent the quality check provided for products in the legal circuit. Display ban will threaten retailers with increased costs of installation and personnel.

Tobacco retailers stated that they count on the Commission to take into consideration the significant data provided in the preceding phases of the consultation. They insisted that young people are fascinated by prohibited and hidden products and a product sold under the counter looks like one of these.

Communication and awareness raising campaigns would be a better and more effective option.

Tobacco retailers argued that sales regulations such as cross border internet sales should be left to the Member States. The moderator thanked the industry for their comments and indicated that they would be carefully analysed, in particular any peer reviewed studies. He pointed in particular to the argument on illicit trade, which might call for action at the

level of the Community. The Commissioner granted the opportunity to provide additional information on any of the points raised or other issues within one week.