



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Single Market Enforcement
Notification of Regulatory Barriers

Message 115

Communication from the Commission - TRIS/(2025) 0368

Directive (EU) 2015/1535

Notification: 2024/0610/AT

Forwarding of a detailed opinion received by a Member State (Slovakia) (article 6, paragraph 2, second indent of Directive (EU) 2015/1535). This detailed opinion extends the standstill period until 08-05-2025.

Detailed opinion - Avis circonstancié - Ausführliche Stellungnahme - Подробно становище - Podrobné stanovisko - Udførlig udtalelse - Εμπεριστατωμένη γνώμη - Dictamen circunstanciado - Üksikasjalik arvamus - Yksityiskohtainen lausunto - Detaljno mišljenje - Részletes vélemény - Parere circostanziato - Išsamiai išdėstyta nuomonė - Sīki izstrādāts atzinums - Opinioni dettaljata - Uitvoerig gemotiveerde mening - Opinia szczegółowa - Parecer circunstanciado - Aviz detaliat - Podrobné stanovisko - Podrobno mnenje - Detaljerat yttrande

Extends the time limit of the status quo until 08-05-2025. - Prolonge le délai de statu quo jusqu'au 08-05-2025. - Die Laufzeit des Status quo wird verlängert bis 08-05-2025. - Удължаване на крайния срок на статуквото до 08-05-2025. - Prodłużuje lhůtu současného stavu do 08-05-2025. - Fristen for status quo forlænges til 08-05-2025. - Παρατείνει την προθεσμία του status quo 08-05-2025. - Amplía el plazo de statu quo hasta 08-05-2025. - Praeguse olukorra tähtaega pikendatakse kuni 08-05-2025. - Jatkaa status quon määraaika 08-05-2025 asti. - Produžuje se vremensko ograničenje statusa quo do 08-05-2025. - Meghosszabbítja a korábbi állapot határidejét 08-05-2025-ig. - Proroga il termine dello status quo fino al 08-05-2025. - Status quo terminas pratęsimas iki 08-05-2025. - Pagarina "status quo" laika periodu līdz 08-05-2025. - Jestendi t-terminu tal-istatus quo sa 08-05-2025. - De status-quoperiode wordt verlengd tot 08-05-2025. - Przedłużenie status quo do 08-05-2025. - Prolonga o prazo do statu quo até 08-05-2025. - Prelungește termenul status quo-ului până la 08-05-2025. - Predlžuje sa lehota súčasného stavu do 08-05-2025. - Podaljša rok nespremenjenega stanja do 08-05-2025. - Förlänger tiden för status quo fram till 08-05-2025.

The Commission received this detailed opinion on the 07-02-2025. - La Commission a reçu cet avis circonstancié le 07-02-2025. - Die Kommission hat diese ausführliche Stellungnahme am 07-02-2025 empfangen. - Комисията получи настоящото подробно становище относно 07-02-2025. - Komise obdržela toto podrobné stanovisko dne 07-02-2025. - Kommissionen modtog denne udførlige udtalelse den 07-02-2025. - Η Επιτροπή έλαβε αυτή την εμπεριστατωμένη γνώμη στις 07-02-2025. - La Comisión recibió el dictamen circunstanciado el 07-02-2025. - Komisjon sai üksikasjaliku arvamuse 07-02-2025. - Komissio sai tämän yksityiskohtaisen lausunnon 07-02-2025. - Komisija je zaprimila ovo detaljno mišljenje dana 07-02-2025. - A Bizottság 07-02-2025-án/én kapta meg ezt a részletes véleményt. - La Commissione ha ricevuto il parere circostanziato il 07-02-2025. - Komisija gavo šią išsamiai išdėstytą nuomonę 07-02-2025. - Komisija saņēma šo sīki izstrādāto atzinumu 07-02-2025. - Il-Kummissjoni rċeviet din l-opinioni dettaljata dwar il-07-02-2025. - De Commissie heeft deze uitvoerig gemotiveerde mening op 07-02-2025 ontvangen. - Komisja otrzymała tę opinię szczegółową w dniu 07-02-2025. - A Comissão recebeu o presente parecer circunstanciado em 07-02-2025. - Comisia a primit avizul detaliat privind 07-02-2025. - Komisia dostala toto podrobné stanovisko dňa 07-02-2025. - Komisija je to podrobno mnenje prejela dne 07-02-2025. - Kommissionen mottog detta detaljerade yttrande om 07-02-2025. - Fuair an Coimisiún an tuairim mhionsonraithe sin maidir le 07-02-2025.

MSG: 20250368.EN

1. MSG 115 IND 2024 0610 AT EN 08-05-2025 07-02-2025 SK DO 6.2(2) 08-05-2025

2. Slovakia

3A. Úrad pre normalizáciu, metrológiu a skúšobníctvo SR
Odbor skúšobníctva a európskych záležitostí



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4. 2024/0610/AT - X60M - Tobacco

5. article 6, paragraph 2, second indent of Directive (EU) 2015/1535

6. The Slovak Republic files a detailed opinion on the legislative proposal of Austria, which establishes prohibited substances in tobacco products and liquids for electronic cigarettes (2024/0610/AT) – further as the Draft Law.

The Draft Law aims to prohibit certain ingredients in tobacco products and electronic cigarettes, as listed in Article 7(6) of the Tobacco Products Directive 2014/40/EU (further as the Directive or TPD). However, in the category of additives that have CMR properties in unburnt form, the Draft Law (in 5.4) includes substances, which according to the MAK and BAT values list (published by the Deutsche Forschungsgemeinschaft (DFG)), have been classified by the MAK Commission as having teratogenic effects. Based on the entry for glycerol on the MAK list, it belongs to the risk group C, thus considered as a teratogen. It could, therefore, result to prohibition on the use of glycerol in production of selected tobacco products placed on the Austrian market.

A ban on glycerol would make the production of tobacco products and all electronic cigarettes technically unfeasible, which would de facto mean a ban on several product categories. Such a restriction would constitute an introduction of trade barriers within the meaning of Article 34 of the TFEU, preventing the sale of compliant products lawfully placed on the market in other Member States. Austria's regulation would create disparities in the internal market, create legal uncertainty for producers and distributors operating in the EU, prevent equal access to the market and ultimately cause significant economic damage.

The Draft Law states that in transposing the ban on certain ingredients, national legislation has largely followed the wording of Directive 2014/40/EU. The Directive (in Article 7) foresees full harmonisation of national rules related to the content or composition of tobacco products and electronic cigarettes in order to avoid creation of barriers to trade due to different national legislations. TPD (in Article 24(1)) forbids Member States to prohibit or restrict placing of tobacco or related products on the market which comply with this Directive. The objective of the Directive is to approximate the laws, regulations and administrative provisions of the Member States concerning the ingredients and emissions of tobacco products in order to facilitate the smooth functioning of the internal market. Subsequently, there is no room for manoeuvre to act beyond the rules of the TPD in ingredients of tobacco and related products. The Member States' markets are harmonised by the composition list defined by the Directive, with glycerol being an authorised additive (Commission Implementing Decision 2016/787) and not classified as a CMR substance. More stringent ingredients regulations for tobacco products cannot be introduced and thus, by our opinion, the Draft legislation is not compliant with EU law in this regard. By banning glycerol, Austria is introducing contradictory requirements that conflict with the harmonised framework, which will lead to legal uncertainty for manufacturers and distributors in the EU.

Moreover, the timing of unilateral extension of the prohibited substances is unfortunate, as the European Commission is expected to present an amendment to the TPD within its mandate. At the same time, it should be emphasised that glycerol is a common ingredient in many cosmetic and food products, so this step has a potential to cause complications on a wider scale than just the tobacco and electronic cigarette sector.



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In view of the above mentioned, Slovakia is convinced that with the legislative proposal Austria creates obstacles to the functioning of the internal market, restricts the free movement of goods, acts against the objectives of the TPD and the Draft Law is not compatible with the principle of proportionality.

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