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

Message 785

Communication from the Commission - TRIS/(2025) 3267

Directive (EU) 2015/1535

Notification: 2025/7022/XI

Forwarding of a detailed opinion received by a Member State (Italy) (article 6, paragraph 2, second indent of Directive (EU) 2015/1535). This detailed opinion extends the standstill period until 18-02-2026.

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 - Opinjoni 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 18-02-2026. - Prolonge le délai de statu quo jusqu'au 18-02-2026.- Die Laufzeit des Status quo wird verlängert bis 18-02-2026.- Удължаване на крайния срок на статуквото до 18-02-2026. - Prodlužuje lhůtu současného stavu do 18-02-2026. - Fristen for status quo forlænges til 18-02-2026. - Παρατείνει την προθεσμία του status quo 18-02-2026. - Amplía el plazo de statu quo hasta 18-02-2026. - Praeguse olukorra tähtaega pikendatakse kuni 18-02-2026. - Jatkaa status quon määräaikaa 18-02-2026 asti. - Produžuje se vremensko ograničenje statusa quo do 18-02-2026. - Meghosszabbítja a korábbi állapot határidejét 18-02-2026-ig. - Proroga il termine dello status quo fino al 18-02-2026. - Status quo terminas pratęsiamas iki 18-02-2026. - Pagarina “status quo” laika periodu līdz 18-02-2026. - Jestendi t-terminu tal-istatus quo sa 18-02-2026. - De status-quoperiode wordt verlengd tot 18-02-2026. - Przedłużenie status quo do 18-02-2026. - Prolonga o prazo do statu quo até 18-02-2026. - Prelungește termenul status quo-ului până la 18-02-2026. - Predlžuje sa lehota súčasného stavu do 18-02-2026. - Podaljša rok nespremenjenega stanja do 18-02-2026. - Förlänger tiden för status quo fram till 18-02-2026.

The Commission received this detailed opinion on the 18-11-2025. - La Commission a reçu cet avis circonstancié le 18-11-2025. - Die Kommission hat diese ausführliche Stellungnahme am 18-11-2025 empfangen. - Комисията получи настоящото подробно становище относно 18-11-2025. - Komise obdržela toto podrobné stanovisko dne 18-11-2025. - Kommissionen modtog denne udførlige udtalelse den 18-11-2025. - Η Επιτροπή έλαβε αυτή την εμπεριστατωμένη γνώμη στις 18-11-2025. - La Comisión recibió el dictamen circunstanciado el 18-11-2025. - Komisjon sai üksikasjaliku arvamuse 18-11-2025. - Komissio sai tämän yksityiskohtaisen lausunnon 18-11-2025. - Komisija je zaprimila ovo detaljno mišljenje dana 18-11-2025. - A Bizottság 18-11-2025-án/-én kapta meg ezt a részletes véleményt. - La Commissione ha ricevuto il parere circostanziato il 18-11-2025. - Komisija gavo šią išsamiai išdėstytą nuomonę 18-11-2025. - Komisija saņēma šo sīki izstrādāto atzinumu 18-11-2025. - Il-Kummissjoni rċeviet din l-opinjoni dettaljata dwar il-18-11-2025. - De Commissie heeft deze uitvoerig gemotiveerde mening op 18-11-2025 ontvangen. - Komisja otrzymała tę opinię szczegółową w dniu 18-11-2025. - A Comissão recebeu o presente parecer circunstanciado em 18-11-2025. - Comisia a primit avizul detaliat privind 18-11-2025. - Komisia dostala toto podrobné stanovisko dňa 18-11-2025. - Komisija je to podrobno mnenje prejela dne 18-11-2025. - Kommissionen mottog detta detaljerade yttrande om 18-11-2025. - Fuair an Coimisiún an tuairim mhionsonraithe sin maidir le 18-11-2025.

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1. MSG 785 IND 2025 7022 XI EN 18-02-2026 18-11-2025 IT DO 6.2(2) 18-02-2026

2. Italy

3A. Ministero delle Imprese e del Made in Italy
Dipartimento Mercato e Tutela

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3B. Ministero delle Imprese e del Made in Italy
Direzione generale per la politica industriale, la riconversione e la crisi industriale, l'innovazione, le PMI e il made in Italy
Div. XIII – Agroindustria, industrie culturali e creative, industria del turismo

4. 2025/7022/XI - X60M - Tobacco

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

6. Following the examination by the competent authorities of the draft law on tobacco and vaporisers notification 2025/7022/XI (UK/Northern Ireland), Italy issues the following detailed opinion.

Background
On 14 August, as part of the TRIS notification procedure, the United Kingdom sent the Commission notification 2025/7022/XI of the draft 'Tobacco and Vaporisers Bill'. Under the Protocol on Ireland and Northern Ireland (post-Brexit agreement), Northern Ireland – while formally outside the European Union's single market – remains part of the EU customs territory, and EU technical standards continue to apply to its products, including rules on the free movement of goods.
The scope of the bill includes electronic cigarettes (nicotine vaporisers and non-nicotine vaporisers), tobacco products, herbal smoking products, cigarette papers and nicotine products. It will also apply to vending machines and also concerns the advertising and sponsoring of such products.
The provisions of the bill introduce, among other things, new age limits for sales, including a total ban on the sale of tobacco products to persons born on or after 1 January 2009 (so-called "generational sales ban") in Northern Ireland.
On closer inspection, the measure has several critical aspects and contains provisions that are in conflict with EU law, as they are incompatible with the principles of free movement of goods and proportionality of rules.
Severability
1. Generational Prohibition of Sale: Incompatibility with the fundamental principles of EU law
Firstly, it is considered that the generational ban on the sale of tobacco products (for persons born on or after 1 January 2009), which the draft law introduces in point 68, constitutes a violation of the principle of free movement of goods enshrined in Article 34 TFEU.
Article 34 of the TFEU prohibits, as is well known, 'quantitative restrictions on imports and all measures having equivalent effect' between Member States. The imposition of a complete prohibition on the distribution of a specific range of merchandise, even if implemented in a phased manner, is regarded as a measure that bears a striking resemblance to a quantitative restriction, as defined in Article 34 TFEU. This measure would create a significant barrier to trade and would be contrary to the principle of free movement of goods.
It is important to note that the Court of Justice of the European Union (CJEU) ruled in the seminal Cassis de Dijon judgment (CJEU, case C-120/78) that a Member State is not permitted to prohibit or restrict the sale of a product that is legally manufactured and sold in another Member State. This ruling is the basis for the principle of mutual recognition. Tobacco products are subject to extensive regulation by harmonised legislation. In the event of the UK proposal being implemented in Northern Ireland, it would prevent the sale of products that are legally manufactured and marketed in EU Member States.
Furthermore, when restricting fundamental freedoms defined at EU level (including the free movement of goods), Member States must ensure – even where permitted by the TFEU – that any restrictive measure is, in any case, proportionate, regardless of its justification. Restrictions must be appropriate to the achievement of their objectives, limited to what is necessary and proportionate in the strict sense, demonstrating that the positive effects of the measure outweigh its negative impacts.
The burden of proof regarding the justification for the restriction lies with the State proposing the measure. According to the CJEU, "The reasons invoked by a Member State by way of justification must thus be accompanied by an analysis of the appropriateness and proportionality of the measure adopted by that State […]" (CJEU, Case C-456/10). Therefore, the

draft law should be based on comprehensive reasoning that the proposed total ban on generational sales is the only means of effectively protecting the interests to be protected. It appears that no alternative policy options to a total ban have been considered in order to achieve the same objective. No data or analysis has been provided to demonstrate the ineffectiveness of less restrictive alternatives. Consequently, this draft decree appears to be in conflict with the principle of proportionality.
It is imperative to note that the proposed measure does not specify how the criterion on which the ban is based was defined. That is to say, there is a lack of clarity regarding the specific reasoning and supporting arguments for identifying a certain date and thus distinguishing between individuals born before and after 1 January 2009. The introduction of prohibitions and obligations for specific categories of the population on the basis of a criterion established unilaterally and without adequate justification undermines the necessity and proportionality of the restriction, as well as setting a precedent for the determination of unilateral and inadequately justified criteria. The absence of a clear defining criterion, or its arbitrariness, could constitute a form of discrimination between citizens who, in principle, should be subject to the same rights and obligations. It is imperative that this distinction is adequately justified and substantiated; failure to do so risks undermining the principle of self-determination and compromising the fairness of the measure.

2. Contrast with sectoral European legislation (Directive 2014/40/EU)
As tobacco products are extensively regulated under EU law, in particular by Directive 2014/40/EU, a total ban would be contrary to European legislation in this area.
Article 24 of the directive in question makes it clear that Member States are prohibited from prohibiting or restricting the marketing of tobacco and related products that comply with the requirements of the directive. This is in order to ensure the harmonisation of the internal market and the free movement of products lawfully placed on the market. Paragraph 2 permits the introduction of supplementary national measures, exclusively in relation to packaging standardisation. Conversely, paragraph 3 authorises Member States to prohibit specific categories of tobacco or associated products, provided there is adequate and detailed justification at national level on health grounds. That said, the so-called generational ban, which restricts purchases based on the purchaser's year of birth, does not appear to fall within the scope of these exceptions.
This measure does not affect packaging or prohibit a category of products; rather, it introduces a subjective restriction that is incompatible with the principle of free movement of goods enshrined in EU law and with the objective of harmonisation pursued by the aforementioned directive.
Moreover, clause 6 of the bill under review expressly prohibits the publication, design, printing and distribution of any form of advertising pertaining to electronic cigarette products and refill containers. This prohibition is applicable to all forms of publication, including professional and trade publications.
This provision is contrary to European Union law and, in particular, to Article 20(5)(A) of the aforementioned directive, which states: 'commercial communications in Information Society services, in the press and other printed publications, with the aim or direct or indirect effect of promoting electronic cigarettes and refill containers are prohibited, except for publications that are intended exclusively for professionals in the trade of electronic cigarettes or refill containers and for publications which are printed and published in third countries, where those publications are not principally intended for the Union market'.
Finally, it should be noted that the generational ban risks creating trade distortions along the border between Ireland and Northern Ireland, where consumers in Northern Ireland could cross the border to purchase the products in question in the Republic of Ireland.
Form of order sought
In conclusion, a significant contrast is apparent between the provisions of the UK draft and the current EU legislation, in both general EU principles, such as the free movement of goods and proportionality, and with regard to the vertical regulation of the sector laid down in Directive 2014/40/EU.

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