



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Single Market Enforcement

Notification of Regulatory Barriers

Notification Number : 2023/0709/NL (Netherlands)

Amendment of the Tobacco and Smoking Products Regulation in connection with the introduction of a registration requirement for points of sale of tobacco products and related products.

Date received : 13/12/2023

End of Standstill : 14/03/2024

Message

Message 001

Communication from the Commission - TRIS/(2023) 3492

Directive (EU) 2015/1535

Notification: 2023/0709/NL

Notification of a draft text from a Member State

Notification – Notification – Notifizierung – Нотификация – Oznámení – Notifikation – Γνωστοποίηση – Notificación – Teavitamine – Ilmoitus – Obavijest – Bejelentés – Notifica – Pranešimas – Paziņojums – Notifika – Kennisgeving – Zawiadomienie – Notificação – Notificare – Oznámenie – Obvestilo – Anmälan – Fógra a thabhairt

Does not open the delays - N'ouvre pas de délai - Kein Fristbeginn - Не се предвижда период на прекъсване - Nezahajuje prodlení - Fristerne indledes ikke - Καμία έναρξη προθεσμίας - No abre el plazo - Viivituste perioodi ei avata - Määräaika ei ala tästä - Ne otvara razdoblje kašnjenja - Nem nyitja meg a késéset - Non fa decorrere la mora - Atidējimai nepradedami - Atlikšanas laikposms nesākas - Ma jiftaħ il-perijodi ta' dewmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Nu deschide perioadele de stagnare - Nezačína oneskorenia - Ne uvaja zamud - Inleder ingen frist - Ní osclaíonn sé na moilleanna

MSG: 20233492.EN

1. MSG 001 IND 2023 0709 NL EN 13-12-2023 NL NOTIF

2. Netherlands

3A. Ministerie van Financiën
Belastingdienst/Douane centrale dienst voor in- en uitvoer

3B. Ministerie van Volksgezondheid, Welzijn en Sport, Directie Wetgeving en Juridische Zaken

4. 2023/0709/NL - SERV - INFORMATION SOCIETY SERVICES

5. Amendment of the Tobacco and Smoking Products Regulation in connection with the introduction of a registration requirement for points of sale of tobacco products and related products.

6. Subject: introducing a registration requirement for points of sale of tobacco and related products

7.



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Directive 2006/123/EC on services in the internal market

Information society

The proposed amendment is applied without discrimination. The registration obligation applies to all retailers established in the Netherlands, regardless of the origin of the tobacco products and related products offered. The proposed amendment is justified in view of an overriding reason in the public interest, namely: the protection of public health. Like previous measures, this ban is part of a coherent package of measures necessary to achieve the goals set out in the National Prevention Agreement. A significant measure is furthermore to reduce the number of points of sale of tobacco products and related products, of which this ban is part. The omission of this measure would undermine the overall policy aimed at achieving a smoke-free generation by 2040.

Dutch people arrive at locations where tobacco products and related products are sold several times a week. In order to prevent young people from smoking and to protect children and former smokers, the government has chosen to limit the sale of tobacco products and related products to sales channels where there are usually no children, young people and former smokers. In the long run, these products will therefore only be sold at specialist retailers only the adult smoker visits, and which focus almost exclusively on the sale of tobacco products and related products. This reduction in points of sale is to occur in phases. As a result, shifts in the market around points of sale of tobacco products and related products are possible. A registration requirement for points of sale of these products facilitates monitoring compliance with the applicable regulations for these products. In addition, the registration obligation helps in accurately monitoring tobacco points of sale (number and type). The information collected through this monitoring may inform additional policies in the field of tobacco points of sale.

The registration requirement is an appropriate measure, and does not go beyond what is necessary to protect public health. The registration obligation is an appropriate measure for the effective enforcement of the legal requirements and prohibitions imposed on the sale of tobacco products and related products. The registration obligation is a less intrusive measure than alternatives such as a licensing obligation for points of sale of tobacco products and related products. The law does not change anything concerning which products can be sold and where they can be sold.

8. This amendment to the Tobacco and Smoking Products Act obliges the owners tobacco products and related products sale outlets to register with the Dutch Food and Consumer Product Safety Authority (NVWA). This is regulated in the new Article 6 of the Tobacco and Smoking Products Act – Article I(A), of the bill. There is no provision on mutual recognition, as the obligation relates to points of sale that are or become established in the Netherlands. By virtue of Article 34 of the TFEU, enforcement of this legislation is justified by an overriding reason in the public interest, namely the need to protect public health. Member States are free to determine their level of protection. The Netherlands opts for a very high level of protection, to achieve a smoke-free generation in 2040, with only 5% of adults still smoking. This high level can only be achieved by means that include new legislation.

9. Prohibition of discrimination

The proposed amendment is applied without discrimination. The registration obligation applies to all retailers established in the Netherlands, regardless of the origin of the tobacco products and related products offered.

Necessity

The proposed amendment is justified in view of an overriding reason in the public interest, namely: the protection of public health. Like previous measures, this ban is part of a coherent package of measures necessary to achieve the goals set out in the National Prevention Agreement. A significant measure is furthermore to reduce the number of points of sale of tobacco products and related products, of which this ban is part. The omission of this measure would undermine the overall policy aimed at achieving a smoke-free generation by 2040.

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Proportionality

The registration requirement is an appropriate measure, and does not go beyond what is necessary to protect public health. The registration obligation is an appropriate measure for the effective enforcement of the legal requirements and prohibitions imposed on the sale of tobacco products and related products. The registration requirement is a less intrusive measure than alternatives such as an authorisation requirement for points of sale of tobacco products and related products. The law does not change anything concerning which products are allowed to be sold and where they can be sold.

10. Numbers or titles of basic texts:

11. No

12.

13. No

14. No

15. No

16.

TBT aspects: No

SPS aspects: No

European Commission

Contact point Directive (EU) 2015/1535

email: grow-dir2015-1535-central@ec.europa.eu