



EUROPEAN COMMISSION

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

Message 103

Communication from the Commission - TRIS/(2024) 2988

Directive (EU) 2015/1535

Notification: 2024/0444/LU

Forwarding of the observations of a Member State (Bulgaria) (article 5, paragraph 2, of Directive (EU) 2015/1535). These observations do not have the effect of extending the standstill period.

MSG: 20242988.EN

1. MSG 103 IND 2024 0444 LU EN 06-02-2025 06-11-2024 BG COMMS 5.2 06-02-2025

2. Bulgaria

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4. 2024/0444/LU - X60M - Tobacco

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

6. The draft Law of the Government of the Grand Duchy of Luxembourg in question amends the Law of 11 August 2006 on tobacco control by introducing labelling requirements for all novel tobacco products (Article 4(1) of the draft law). These requirements are in line with the provisions on the labelling of tobacco products for smoking under Directive 2014/40/EU, as amended by Commission Delegated Directive (EU) 2022/2100 of 29 June 2022, i.e. the draft Law in question does not distinguish between new smokeless tobacco products and new tobacco products for smoking with regard to labelling requirements. We consider that this is contrary to the provisions of Directive 2014/40/EU, which provides for different health warnings for tobacco products for smoking (Article 10 of Directive 2014/40/EU) and for smokeless tobacco products (Article 12 of Directive 2014/40/EU).

It should be taken into account that, according to Article 19(4) of Directive 2014/40/EU, "new tobacco products placed on the market shall comply with the requirements of this Directive. The applicability of the specific provisions of this Directive to novel tobacco products depends on whether the products fall within the category of smokeless tobacco products or tobacco products for smoking."

The reasons for the harmonisation of labelling requirements for tobacco products (including novel tobacco products) are set out in recital 22 of the preamble to Directive 2014/40/EU, which states that disparities between national provisions regarding the labelling of tobacco products "are liable to constitute a barrier to trade and to impede the smooth functioning of the internal market in tobacco products, and should, therefore, be eliminated. Also, it is possible that consumers in some Member States are better informed about the health risks of tobacco products than consumers in other Member States."

In addition, we note that, according to Article 24(1) of Directive 2014/40/EU, "Member States may not, for considerations relating to aspects regulated by this Directive, and subject to paragraphs 2 and 3 of this Article, prohibit or restrict the



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placing on the market of tobacco or related products which comply with this Directive ...”.

Introducing different labelling requirements for new smokeless tobacco products in Luxembourg would create barriers for products lawfully manufactured in other EU countries to be placed on the market in that country and would violate the principle of free movement of goods within the EU.

In the light of the above, we consider that the Luxembourg draft law should clearly specify the labelling requirements for tobacco products for smoking and smokeless tobacco products (including novel tobacco products that fall under the category of “smokeless”) in compliance with the provisions of Directive 2014/40/EU.

European Commission

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