



Europäischer Tabakwaren-Großhandels-Verband
European Tobacco Wholesalers Association
Association Européenne des Grossistes en Produits du Tabac

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European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels
Belgium

Cologne, 22nd September 2017

Directive 2014/40/EU of 3 April 2014
Draft secondary legislation relating to the establishment and operation of the systems of traceability and security features for tobacco products of 4 September 2017

Dear ██████████,

From the publication of directive 2014/40/EU it has taken the commission 42 months until the publication of draft secondary legislation relating to articles 15 and 16 thereof. Assuming that said secondary legislation will enter into force by the end of December 2017, 45 months will have elapsed since the publication of directive 2014/40/EU.

Between the (assumed) date for entry into force of the secondary legislation in December 2017 and the date given for availability of the T&T system for testing (20th March 2019) there remain a total of only 15 months for the realization of a complex system for tracking and tracing of tobacco products, encompassing the manufacture/import and all further transactions involving tobacco products until the last economic operator before the first retailer.

This alone is a disproportion bordering on absurdity: where 45 months were required to finalize secondary legislation relating to articles 15 and 16, a very long time of hard work, doubtlessly attributable to the complexity of the matter at hand, it cannot reasonably be expected to actually realize and put in place such a system from scratch within 15 months.

As far as tobacco wholesale in Europe is concerned, the available time frame is even shorter: before the work on programming and implementing changes in ERP systems and implementing adapted warehouse and logistics processes can start, we shall have to wait until the providers of primary repositories, secondary repository and router define the communication structure between repositories and router (hence also the communication structure between economic operators - other than manufacturers and importers - and router). According to the draft secondary legislation, the deadline for the providers of the repositories and router to communicate the communication structure between repositories and router is October 2018.
Ergo, tobacco wholesale in Europe is expected to put in place and manage the change of a significant number of warehouse and logistics processes AND their representation in ERP systems,

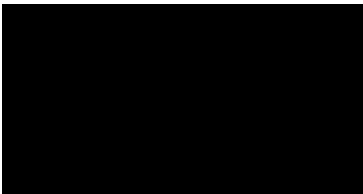
put in place communication routines and data transfer infrastructure, ready for testing within 5 months.

Beneath the striking disproportion of the matter: 45 months for secondary legislation, 15 months for developing and putting in place a massive T&T system, thereof 5 months for economic operators other than manufacturers and importers, it neither looks like a sound, reasonable and realistic plan if one actually expects a working T&T system to be ready for testing in March 2019 and ready for action in May 2019.

In the details of the draft secondary legislation, there are a significant number of problems which have been or will be brought to your attention during the public consultation by various wholesale and retail associations from many member states. Whilst we share the concerns voiced by our colleagues, we have decided to concentrate in this letter on the timeline, which is the most critical aspect, particularly in combination with the fact that the proposed tracking and tracing system does not adhere to standards commonly used in the wholesale and retail industry, which will make its implementation and its operating much more time consuming and costly than necessary.

Please note that we have been in the past, and are presently in full compliance with existing regulations and that we also do and will do our utmost to comply with directive 2014/40/EU. In order to succeed however, it needs to be POSSIBLE and FEASIBLE, technically and economically, to work with and within the regulation at hand. In terms of possibility and feasibility however, the draft secondary legislation is seriously problematic.

Kind regards



Paul Heinen
President