



EUROPEAN COMMISSION
 DIRECTORATE-GENERAL
 TAXATION AND CUSTOMS UNION
 Indirect Taxation and Tax administration
Indirect taxes other than VAT

Brussels,
 taxud.c.2(2018)4425195 [REDACTED]

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MEETING REPORT

- 1. Subject** Directive 2011/64/EU, e-cigarettes
- 2. Date and Place** 24 July 2018, Brussels
- 3. Participants** DG TAXUD: [REDACTED]
 Simply-EU: [REDACTED]
 Bündnis für tabakfreien Genuss: [REDACTED]

4. Summary of the discussion

On behalf of the German Association for e-cigarettes (Bündnis für tabakfreien Genuss), [REDACTED] requested a meeting to discuss the possible taxation of e-cigarettes and the setting up of a European e-cigarettes association. 'Bündnis für tabakfreien Genuss' represents only small and medium e-cigarette manufacturers; none of the members of this association produce traditional tobacco products or 'Heat-not-Burn' tobacco products.

The association has been in contact with [REDACTED], project leader at Economisti Associati, the consultant who is working on a study on the possible revision of Directive 2011/64/EU. TAXUD briefly presented an overview of the process for the possible revision of Directive 2011/64/EU. Moreover, TAXUD explained that an evaluation of the rates and structure of the excise duties applied to traditional tobacco products will be carried out. This is likely to be followed by an impact assessment. The external study also contains a forward looking component. In this part of the study the possible harmonised taxation of e-cigarettes will be re-considered as also explained in the Commission Report COM (2018)17. If the decision is taken to submit a proposal, this will be at the earliest at the end of 2019 or early 2020.

The German Association for e-cigarettes continues to experience problems with the implementation of the Tobacco Products Directive. During the previous meeting, the association mentioned that this directive has been implemented differently across Member States. Some Member States decided to include nicotine-free liquids, while other did not. The association observed an increase of the 'Do It Yourself' (DIY) market, in particular in Member States where nicotine-free liquids are not regulated. In these Member States, customers buy the highest concentration of nicotine which is allowed and then dilute this at home. Overall, a lower need of nicotine has been observed due to

improvement of the devices. Operators also experience problems with internet sales from China which are largely uncontrolled.

The market growth is less than in previous years due to the notification period of 6 months for bringing new products onto the market, electronics regulations, packaging requirements and consumer protection rules. However, a growth of 10% next year is still expected.

The position of the association remain the same as expressed during the previous meeting: The association is against the introduction of a harmonised excise duty on e-cigarettes. Even if Member States have introduced and are introducing different tax systems and rates on national level, the association remains of the opinion that no harmonised tax should be implemented. One of the reasons is the experience with the Tobacco Products Directive: even while there is a directive, the implementation still differs so it did not bring the expected harmonisation. The other reason is the administrative burden which is expected if the liquids of e-cigarettes become excise goods. Operators have already problems with coping with the administrative burden of the Tobacco Products Directive and the association expects that in particular the small and medium enterprises will not be able to deal with a higher administrative burden. If a harmonised tax would be proposed, the association would prefer a system similar to the Value Added Tax, where the operator declares at the end of the month the sales, instead of financing the tax upfront as is the case for excise duties.

Finally, the German Association for e-cigarettes elaborated on the new European Independent e-cigarette Association. This association will have members in the UK, FR, DE, DK, EL, IT, RO NL and IE. Operators only qualify for a membership if they are not directly or indirectly under control by companies involved in the sales of traditional tobacco products. Once set up, the contact details will be shared with TAXUD.

Report by: [REDACTED]

c.c.: [REDACTED], TAXUD LIST C2