

Roosendaal, 15 January, 2023

Dear Madam, Dear Sir,

Landewyck Tobacco Holland, [based in the Ettenseweg 60 in Roosendaal](#) is a small distributor of traditional tobacco products and nicotine pouches in The Netherlands. Our company manufactures nicotine pouches in Europe which are distributed and sold in several EU member states. Landewyck Tobacco Holland is part of the family owned group Heintz Van Landewyck based in Luxembourg known in the **Transparency Register under TR ID number 923856024330-39**.

We believe that the intent of the Dutch government to regulate nicotine pouches under the 'tabaks- en rookwarenwet' is a correct one, but at the same time its proposal to ban nicotine pouches is misplaced.

Nicotine pouches have been available in certain EU markets since 2018, mainly at first in the Nordic member states. They are a logical alternative for chewing tobacco products, a typical Scandinavian product, that were one of the first available tobacco products in Europe in the 17th century. Nicotine pouches are also substituting smoking tobacco products.

Like e-cigarettes, nicotine pouches do not contain tobacco, explaining its appeal to traditional tobacco users. E-cigarettes are legally available on the Dutch market, and nicotine pouches are also used in the Netherlands. However, the nicotine pouches market volume is low.

When looking at how Dutch consumers are purchasing their nicotine pouches, it is obvious that the purchases might be made as from non-Dutch retailers (even digitally ?). This has implications when a total ban on sales in the Netherlands would be introduced. How will the Dutch government enforce such a total ban for alternative sales as from non-Dutch retailers ?

A more pragmatic approach, similar to the one the Dutch government took when regulating e-cigarettes, and the one that 7 member states have already adopted, is to positively regulate nicotine pouches under the 'Tabaks- en rookwarenwet'. In this way, the Dutch government can ensure:

- the product's maximum nicotine content and weight per portion;
- appropriate labelling with health warnings;
- ingredient content, as well as;
- restricting advertising and promotion; and
- no availability at point of sale to minors.

It creates a legally controlled product and Dutch sales channel, contrary to a ban which creates non-controllable and potential illegal sales of non-regulated products.

A more positive regulatory approach, akin to Dutch culture, can be based on regulation established in those member states that already regulated nicotine pouches, whilst an updated EU Tobacco and Related Products Directive (2024) will be able to harmonise the EU market. Amongst the member states, Denmark, Sweden and the Czech Republic have integrated regulation of nicotine pouches within their laws implementing the Tobacco and Related Products Directive, whilst also levying excise tax.

Banning a product is therefore fraught with risks and requires costly innovative enforcement methods that are in all truth near impossible to yield satisfactory results. The enforcement difficulties can already be observed today in the Netherlands. Following the RIVM study treating the product as a food product, the maximum nicotine content of nicotine pouches has been set at a level which no existing product can meet and is already a de-facto a ban. Nonetheless, and according to the 'memorie van toelichting', nicotine pouches are used in the Netherlands, including those with very high nicotine content.

A product ban also requires scientific evidence to underpin the ban. In contrast with the 4 page RIVM Study, the German Institute for Risk Assessment (Bundesinstitut für Risikobewertung) published a detailed 'Health Assessment Study' in October 2022, treating the product similarly to tobacco products (based on EU accepted ECHA established limits). It concluded that most current nicotine pouches result in similar blood nicotine levels as cigarettes and established a risk-based maximum nicotine content of 16,6 mg/g. Embedding a similar level in regulation would establish a regulated and appropriate tobacco related product.

Concluding, instead of outright banning the product and spurring an illegal market, the Dutch government has the opportunity to create an enforceable regulated market with all the necessary restrictions managing product associated risks.

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