



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

ETV e.V. · Konrad-Zuse-Ring 4 · 41179 Mönchengladbach

Mönchengladbach, 16 January 2023

**Evaluation of the legal framework of the Dutch Tobacco and Smoking Products Act (Tabaks- en rookwarenwet)
Feedback by European Tobacco Wholesalers' Association (ETV)**

The European Tobacco Wholesalers' Association (ETV) represents the common economic, political and social interests of its members towards authorities, political decision-makers, other associations and organizations, as well as the public and the media.

Thank you for the opportunity to participate in the consultation process on the revision of the Dutch Tobacco and Smoking Products Act (Tabaks- en rookwarenwet). As part of this evaluation, we provide you with some concerns that we encourage you to consider as we move forward in the consultation process.

Doubts about the effectiveness of a product ban

We doubt that the Dutch government will achieve its steering and health policy goal by banning nicotine pouches. There are indications that, on the one hand, cross-border sales will increase and, on the other hand, a shift of sales from the legal to the illicit market will take place.¹ The ban on the sale of certain product categories - in this case nicotine pouches - could thus lead to an increase in sales on the black market.

There is also documented evidence that demand for certain products does not decrease as a result of a ban per se, but only the sources of supply - in this case the black market - shift.² This means that consumers will seek out recently banned product categories that will continue to be provided by illicit suppliers.

¹ See: <https://www.oxfordeconomics.com/resource/combating-illicit-trade/>

² See: <https://www.smokefreeworld.org/eu-menthol-cigarette-ban-survey-2/>



Measures needed to combat the increasingly complex illicit trade

Basically, we would like to state here that we all agree to follow the social consensus that tobacco products must be controlled and regulated because of the health risks inherent to their consumption, and there must be no distribution of tobacco products to those not of age - and this cannot be guaranteed on the illegal market.

Due to increasingly complex trade and logistic structures (e.g. e-commerce and proliferation of postal and small parcel services), official bodies combating illicit trade cannot guarantee full prosecution of illegal activities. These channels exist and become more and more efficient the more products are handed over to them (as an undesirable side effect). Therefore, regulation must be designed to minimise the increase of illegal activities and the future viability of a legal market must logically be guaranteed.

“Smoke-free generation” by 2040

Moving on from this, we have concerns about the EU Commission's proclaimed 'Smoke-free generation' by 2040, which the revision of the Dutch Tobacco and Tobacco Products Act aims to contribute to. This means that current tobacco consumption is to be reduced by 80%, which has certain unavoidable implications for economic operators involved in the production and distribution of tobacco and related products. Such a revision of the law on tobacco and tobacco products is not proportionate: drying up the supply for products in demand has already proved disastrous in the 20th century with alcohol bans in Norway and the United States: In both cases, a huge illegal market was created within a short period of time to meet the continuing demand - in the absence of a legal supply.

We consider repressive, prohibitive and paraprohibitive approaches unsuitable for promising product regulation, given their regular failure in the past and in the present.

The principle of ‘Tobacco Harm Reduction’ should be taken into account.

At this point, it should be mentioned that there are indications that nicotine pouches are less harmful to health than traditional tobacco products.³ According to health experts, the concept of "Tobacco Harm Reduction" or the minimisation of harm through novel products could therefore be a useful addition to existing strategies for dealing with the negative health effects of tobacco consumption.

³ See the 2022 evaluation of nicotine pouches by the Federal Institute for Risk Assessment (Bundesinstitut für Risikobewertung - Germany), in: <https://www.bfr.bund.de/cm/343/gesundheitsliche-bewertung-von-nikotinbeuteln-nikotin-pouches.pdf>



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Furthermore there is no evidence that oral nicotine pouches are a gateway into smoking. In relation to snus, which is quite comparable, the European Commission's Scientific Committee on Emerging and Newly Identified Health Risks concluded in 2008 that smokeless chewing tobacco - i.e. snus - is not a gateway to later smoking. From this, the possible causal conclusion can be drawn that even tobacco-free oral nicotine pouches, do not represent an entry into conventional cigarette consumption.⁴

From a pragmatic health policy point of view, it would therefore be desirable to increase the market share of such products and not to ban them.

We ask that the issues mentioned above be considered in the further consultation process.

If you have any questions or comments, please do not hesitate to contact us.

Kind regards

Matthias Junkers
Secretary General ETV

⁴ European Commission's Scientific Committee on Emerging and Newly-Identified Health Risks. Health Effects of Smokeless Tobacco Products (2008).