

COMMUNICATION
of the European Affairs Committee of the Federal Council
of 13 March 2013
to the European Parliament and the Council
pursuant to Article 23f (4) of the Austrian Constitution

regarding

COM (2012) 788 final

Proposal for a Directive of the European Parliament and the Council on the approximation of laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products

“The proposal for a Directive of the European Parliament and the Council on the approximation of laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products revises the current version of the Tobacco Products Directive adopted in 2001. The proposal now on the table foresees new and stricter rules regarding the manufacture of tobacco products, health warnings on the product packages and the sale of such products, as well as provisions governing the maximum tar, nicotine and carbon monoxide levels. Moreover, the proposal contains provisions regarding illicit trade in tobacco products as well as the manufacture of smokeless tobacco. According to the Commission, the proposed directive aims not only to ensure a higher level of public health protection (especially for children and adolescents through prevention), but also to improve the functioning of the internal market.

The Federal Council supports these objectives pursued by the Commission, in particular the commitment to protecting the health of the citizens of the European Union. We welcome the proposal as a move in the right direction.

All the measures proposed must be examined for their potential to contribute to the achievement of the above objectives. It goes without saying that the principles of subsidiarity and proportionality, as enshrined in paragraph 3 of Article 5 of the Treaty on European Union, must be observed in any area of European legislation.

Given the fact that the detrimental health consequences of smoking are beyond any doubt, none of the measures contributing towards a reduction of tobacco consumption should be excluded a priori. As regards the foreseen provision on additional health warnings and the related labelling requirements contained in the proposal tabled by the European Commission, i.e. health warnings covering 75% of the front and back surfaces and 50% of the sides of the packages, it would be necessary to provide sufficient empirical evidence of the fact that health warnings actually result in reduced consumption. We therefore suggest that the impact of health warnings be evaluated on a regular basis and that adjustments, if necessary, be made on the basis of concrete, practical experience.

The use of relatively uniform packages – and the resulting uniform appearance of products – may lead to an increased probability of fake tobacco products appearing on the market. In the interest of health protection, counter-measures will therefore have to be taken to avoid the detrimental consequences of such fake products. Any additional effort to make the packages forgery-proof should build on and further develop the established technical standards.
The impact of the proposal on trademark and copyright issues should be re-examined.”