

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(87) 719 final

Brussels, 28 January 1988

Proposal for a
COUNCIL DIRECTIVE
on the approximation of the laws, regulations and administrative provisions
of the Member States concerning the labelling of tobacco products

(presented by the Commission)

**PROPOSAL FOR A DIRECTIVE ON THE LABELLING
OF TOBACCO PRODUCTS**

EXPLANATORY MEMORANDUM

This proposal for a directive is to be seen in the context of the achievement of the single market in 1992. More precisely, its aim is to ensure the free circulation of tobacco products in the Community whilst taking account of health considerations and, in particular, the guidelines approved by the Council and the Ministers of Health meeting within the Council on 15 May 1986 (OJ C184 of 23.07.1986).

I. BACKGROUND

Many Community countries already have legislation governing the labelling of tobacco products.

In the following six countries the tar and nicotine yield of cigarettes must be specified on the packet: Belgium, Federal Republic of Germany, Denmark, France, Netherlands and Portugal.

In eight countries a medical warning on cigarette packets is compulsory. In France, the warning "The abuse of this product is dangerous" is obligatory on the side of the cigarette packets. In Belgium, the Federal Republic of Germany, Spain, and Portugal the following warning is printed on the side of the packet: "Tobacco is - or can be - harmful to your health". In the Netherlands and in Ireland the message "Smoking is a health hazard" is also compulsory but has to be printed on the front or the back of the packet, whilst in Ireland one of the following four health warnings must figure on the front of the packet: "Smoking causes cancer", "Smoking causes heart disease", "Smoking kills" or "Smokers die younger".

In the United Kingdom the warning "Smoking can damage your health" is not compulsory but one of the following six messages must figure on each packet of cigarettes: "Smoking can cause fatal diseases", "Smoking can cause lung cancer, bronchitis and other chest diseases", "Smoking can cause heart disease", "Smoking when pregnant can injure your baby and cause premature birth", "Stopping smoking reduces the risk of serious diseases", "More than 30 000 people die each year in the UK from lung cancer".

In addition to these legal measures, which are limited to the labelling of cigarette packets, it should be noted that France, Spain and Ireland have already made the printing of medical warnings on the packaging of other forms of tobacco products compulsory. In Ireland the following warning is compulsory on packets of chewing tobacco: "This product may cause oral cancer"; cigarillos, cigars or pipe tobacco must carry the warning "Smoking seriously damages your health".

Moreover, the Commission is aware that there exists on the market cigarettes made from products other than tobacco which are liable to endanger health. The Commission is aware, however, that very few medical studies have been devoted to those products which make up a small portion of the market and that none of the Member States have until now taken any measures in this respect.

II. BASIS FOR COMMUNITY ACTION

The elimination of all trade barriers by 1992 requires the harmonization of national provisions governing the labelling of tobacco products. According to Article 100A(3) of the Single Act "The Commission in its proposals laid down in paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection." the following proposals therefore are in line with this provision.

This improvement in information and health education should not, on the whole, affect small and medium-sized businesses in Europe. It is clear, however, that the objective of better labelling is to reduce the consumption of tobacco products which, in the medium- and long-term, will affect small tobacco producers and the small and medium-sized businesses which distribute tobacco products. On the other hand, the ECUs which former smokers will no longer spend on tobacco products will be put back into the economy to the benefit of other firms, particularly small and medium-sized ones.

III. COMMENTS ON THE INDIVIDUAL ARTICLES

Article 1

This Article sets out the objective of the proposed directive : harmonisation within the context of the achievement of the internal market of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products on the basis of a high level of public health protection.

Article 2

Article 2 defines the terms used in this Directive. It should be noted that in the French text the term "produits du tabac" (tobacco products) is also used in French legislation.

Article 3

This Article lays down the conditions concerning the indication on cigarette packets of the tar and nicotine yield. These should be printed on the sides of the packets, the front and back being reserved for health warnings, as with all other tobacco products. A discrepancy not exceeding 1 mg between the claims made on the packets and the results of tests carried out by the appropriate bodies in the Member States should be considered acceptable.

Article 4

The experience of the Member States in terms of the sort of health warnings to be printed on tobacco-product packaging shows that it is more effective to print two different messages on the front or back of each packet.

Paragraph 1 lays down the general health warning to be printed on either of largest surface of the packet of all tobacco products.

Paragraph 2 deals with specific warnings which should figure on the other large surface of cigarette packages only. Experience has indeed shown that, by rotating the warning message, the smoker becomes more aware of the risk presented by the particular product to his health. Moreover, the two compulsory warnings have been chosen because they indicate in a precise manner the two major risks of fatal disease.

Paragraph 3 fixes the extent of the package surface to be covered by these warnings. The combined obligation of a minimum size for the lettering and the percentage of the packet surface covered was preferred above any other obligation because a greater flexibility with regard to language was therefore permitted. These limit values have been laid down because they constitute the minimum necessary for legibility.

Each Member State is to draw up a list of its own taken from the list of warnings as given in the annex. In each list thus established must figure the specific compulsory warnings indicated under a) and b) of this paragraph. The warnings are to be used according to a formula of rotation to be determined by each Member State giving each warning equal opportunity of display on the packet.

Lastly, paragraph 4 contains the other standards in terms of clarity and legibility to be met by these health warnings.

Articles 5, 6, 7

These Articles lay down the procedure to be followed after the adoption of the present directive in the event of progress in research concerning the information which, under Article 3, is to be indicated on cigarette packets. The same procedure could eventually allow for a modification of the Directive, with regard to the medical warnings required under Article 4 in the event of progress in medical knowledge in this field.

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Directive on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products

COM(87) 719 final

(Submitted by the Commission to the Council on 4 February 1988)

(88/C 48/09)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas there are differences between the laws, regulations and administrative provisions of the Member States on the labelling of tobacco products; whereas such differences are likely to constitute barriers to trade and to impede the establishment and operation of the internal market;

Whereas those obstacles should accordingly be eliminated and whereas to that end the marketing and free movement of tobacco products must be made subject to uniform rules concerning labelling;

Whereas such common rules must take due account of public health protection;

Whereas the European Council held in Milan on 28 and 29 June 1985 stressed the importance of launching a European action programme against cancer;

Whereas the Council and the Representatives of the Governments of the Member States, meeting within the Council, in their resolution of 7 July 1986 ⁽¹⁾, set for this programme the objective of contributing to an improvement of the health and quality of life of citizens within the Community by reducing the number of cancers; whereas they have for this purpose identified the fight against the use of tobacco products as their prime objective;

Whereas the printing of health warnings on the packaging of all tobacco products concerning the risks of use of tobacco products are a vital factor in the protection of public health;

Whereas, for the purpose of improving health protection, the indication of the tar and nicotine yield on cigarette packets is essential for the health information and education of the general public,

Whereas this Directive calls for minimum provisions which will be reviewed on the basis of experience gained and the development of medical knowledge in this area, the objective being to achieve greater protection of individuals,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The objective of this Directive is the harmonization of the laws, regulations and administrative provisions of the Member States concerning the medical warnings on the unit packet of tobacco products and the indication of the tar and nicotine yield on cigarette packets, taking as a base a high level of health protection.

Article 2

For the purposes of this Directive:

1. 'tobacco products' means products for the purpose of smoking, sniffing, sucking or chewing, in as much as they are, even partly, made of tobacco;
2. 'tar' means the raw anhydrous nicotine-free condensate of smoke;
3. 'nicotine' means nicotinic alkaloids.

⁽¹⁾ OJ No C 184, 23. 7. 1986, p. 19.

Article 3

1. The tar and nicotine yields to be indicated on cigarette packets shall be measured on the basis of the ISO 4387 and ISO 3400 methods respectively, or any other method which yields equivalent results.

2. Indications on packets shall be considered acceptable where they do not differ by more than 1 mg from the results of tests carried out by the bodies designated for that purpose by the Member States.

3. The indications concerned shall be printed in the official language or languages of the consumer's country on the side of the packet or on a mobile part of the packet in clearly visible print on a contrasting background.

Article 4

1. All units of packaging of tobacco products shall carry the following warning in the official language or languages of the consumer's country, on one of the two largest surfaces: 'Tobacco seriously damages health'.

2. With regard to cigarette packets, the other large surface shall carry in the official language or languages of the consumer's country a specific warning.

For this purpose, each Member State shall draw up a list of warnings taken from those listed in the Annex. That list must include however the following warnings:

- (a) smoking causes cancer;
- (b) smoking causes heart disease.

Those warnings shall appear on the unit of packaging according to a formula adopted by each Member State in such a way as to guarantee an equal frequency of display for each warning.

3. The warnings provided for in paragraphs 1 and 2 shall be printed in letters of a minimum size of 3 mm and in such a way as to cover at least 2 % of the total surface of the corresponding side of the unit of packaging.

The required warnings on the two sides of each unit of packaging:

- (a) shall be clear and legible;
- (b) shall be printed in bold letters;
- (c) shall be printed on a contrasting background;
- (d) shall not be printed in a place where they may be damaged when the packet is opened;

(e) shall not be printed on the transparent wrapper or any other external wrapping.

Article 5

Adaptation to technical progress in accordance with the procedure provided for in Article 6 shall be limited to the obligatory indications given on cigarette packets as provided for in Article 3 (1) as well as to the health warnings laid down in Article 4 (1) and (2).

Article 6

With a view to the adaptation to technical progress referred to in Article 5, the Commission shall be assisted by a Committee of an advisory nature composed of representatives of the Member States and chaired by the representative of the Commission.

Article 7

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

Article 8

Member States may not prohibit or restrict the sale of products which conform to this Directive.

Article 9

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive before 31 December 1990. They shall forthwith inform the Commission thereof. However, products existing at that date which do not comply with this Directive may still be put on sale until 31 December 1992.

2. Member States shall communicate to the Commission the provisions of national law which they adopt in the field governed by this Directive.

Article 10

This Directive is addressed to the Member States.

*ANNEX***List of health warnings**

- I. Which must be included in the list of warnings to be drawn up by Member States:
- (a) Smoking causes cancer;
 - (b) Smoking causes heart disease.
- II. Which may be included in the list of warnings to be drawn up by the Members States:
- (a) Smoking causes fatal diseases;
 - (b) Smoking can kill you;
 - (c) Smoking when pregnant can injure your baby;
 - (d) Stopping smoking reduces the risk of serious disease;
 - (e) Smoking causes lung cancer, bronchitis and other chest diseases;
 - (f) More than (...) people die each year in (name of the country) from lung cancer;
 - (g) Smokers die younger.
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