

Advertising and sponsorship of tobacco products

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The Commission presents a report on the implementation of the Tobacco Advertising Directive 2003/33/EC. Given the short period of time since the transposition of the Directive, including delays in some Member States, it is too early to evaluate the effectiveness of this Directive on public health. However, it is expected that the comprehensive cross-border advertising ban introduced by the Directive will help to reduce the prevalence of smoking within the EU in the long run.

Print media: Article 3(1) obliges Member States to ban tobacco advertising in the press and other printed publications, with certain exceptions. In general, the ban on tobacco advertising in print media is complied with. Traditional cigarette brand advertisements appear to be absent from publications intended for the general public. However, print media within the EU is not yet completely free from tobacco advertising and promotion. The latter may take the form of references in press stories and print media content. In addition, tobacco advertising has occasionally been spotted in catalogues at certain points of sale. Typical examples are tax-free shop catalogues on cross-border vessels and in-flight magazines. Furthermore, tobacco advertisements are often visible in news images (e.g. from sports events) from third countries where tobacco sponsorship of events and activities is still legal. The scope of this problem will depend on how well the Parties of the FCTC implement the comprehensive ban on tobacco advertising, promotion and sponsorship in events in line with its Article 13. The Commission is closely involved in the international efforts to enhance speedy and effective implementation of this Article.

Information society services: the virtual environment is the most common cross-border platform for tobacco advertising and the biggest challenge for the effective implementation of the EU advertising ban. The pace of change of communication technologies provides for a variety of platforms for tobacco advertising and sponsorship. Elements of tobacco promotion are regularly inserted into a variety of digital media contents, including internet sales of tobacco and specialised communication applications that function in the virtual environment. The key challenge of implementing the tobacco advertising ban in the virtual environment is how to recognise covert forms of advertising. Tobacco advertising in the internet takes a variety of forms, mostly indirect. Buying tobacco through the internet has become easier. The Directive does not cover the sale of tobacco products, but the websites selling tobacco often involve an element of promotion (“buy cheap”). Another challenge is the number of entities involved in the virtual environment and their identification. Almost anybody may produce promotional content and make it available worldwide. The international dimension poses the biggest challenge in terms of implementing the tobacco advertising ban in the virtual environment. Servers hosting the advertising content may be located in third countries. As regards third countries, guidelines and decisions of the Third Conference of Parties under the FCTC are expected to improve exchanges of information with third countries.

Sponsorship issues: the ban on tobacco sponsorship of cross-border events is well implemented within the EU. However, tobacco sponsorship arrangements have not completely stopped. Instead, they have taken indirect and more insidious forms that pose a challenge to the enforcement authorities in Member States. There are indications of exclusive selling arrangements and free distribution of tobacco products at festivals for young people. There are also attempts to glamorise tobacco products by associating them with events, festivals, celebrity artists, movie stars and different products in various ways.

Tobacco advertising and sponsorship is still visible in media coverage received from third countries. Such advertising is not covered by the Directive, but it risks undermining the EU ban. The most visible events are famous sports events that get wide media attention, such as Formula One races. The Audiovisual Media Services Directive (2007/65/EC), which now clearly prohibits product placement for tobacco products, could be relevant in such cases after its transposition deadline of 19 December 2009. The

Commission states that work needs to be done within the FCTC in order to prevail on third countries to adopt comprehensive tobacco sponsorship bans. Corporate promotion still exists as a cross-border method to market tobacco products. There is a need to streamline ways in which different Member States address such cases.

Cross-border enforcement: the Commission states that it will explore the possibility of making the cross-border enforcement mechanism in the Regulation on Consumer Protection Cooperation applicable to the Tobacco Advertising Directive. It invites Member States to designate enforcement liaison offices, exchange information, and take all necessary enforcement measures to bring about the cessation of any infringement and respond without delay to enforcement requests of other Member States. The EC should support the development of a similar mechanism in the context of implementation of Article 13 of the FCTC.

Conclusion: the Commission considers that the Directive is wide enough to cover changing patterns of cross-border tobacco advertising and sponsorship. There is a risk of inconsistent interpretation and application of the Directive, and a need to streamline monitoring so as to avoid differences of interpretation. Mechanisms for cross-border enforcement need to be developed and strengthened. The Commission does not see any need to propose amendments to the Directive.