Green Paper 'Towards a Europe free from tobacco smoke: policy options at EU level'

2007/2105(INI) - 30/01/2007 - Non-legislative basic document

PURPOSE: to present a Green Paper on launching a public debate on environmental tobacco smoke (ETS).

CONTENT: the aim of this Green Paper is to launch a broad consultation process and an open public debate, involving the EU institutions, Member States and the civil society, on the best way forward to tackle passive smoking in the EU. Exposure to environmental tobacco smoke (ETS) – also called "second-hand smoke" and "passive smoking" - remains a widespread source of excess morbidity and mortality in the EU, imposing significant costs on society as a whole. The Green Paper examines the health burden of ETS exposure, and the huge private and social costs generated as a result of it. It looks at the current regulatory environment, noting that there is a clear trend towards smoke-free environments throughout the Member States, driven by legal requirements at EU and international level. All Member States currently have some form of regulation aimed at limiting exposure to ETS and its harmful effects on health. The scope and character of these regulations vary widely.

A key issue in developing an EU smoke-free initiative is its scope. The most comprehensive approach would consist in proposing a total ban on smoking in all enclosed or substantially enclosed workplaces and public places, including means of public transport. A less stringent approach would consist in proposing a total ban on smoking in all enclosed or substantially enclosed workplaces and public places but with exemptions granted to selected categories of venues. Minimum requirements for enclosed smoking rooms, including ventilation standards, could be developed for exempted venues.

Possible exemptions could include the licensed hospitality sector (restaurants, pubs and bars), and hospitality establishments which do not serve food. The Green Paper discusses the advantages and disadvantages of both these options

Comprehensive bans on smoking in all enclosed public places and all workplaces, including bars and restaurants, have already been introduced in Ireland (March 2004) and Scotland (March 2006). In Northern Ireland, England and Wales, complete smoke-free legislation is due to come into force by summer 2007. Smoke-free legislation with exemptions introduced in Italy (January 2005), Malta

(April 2005) and Sweden (June 2005) permits employers to create special sealed-off smoking rooms with separate ventilation systems. Similar measures are set to come into effect in France in February 2007 (transition period for hospitality venues until January 2008) and in Finland in June 2007. Lithuania is set to become smoke-free (with the exception of specially equipped “cigar and pipe clubs”) as of January 2007. A number of other Member States have banned smoking in all enclosed public places and all workplaces, with the exception of the hospitality sector where partial restrictions apply. These countries include for example Belgium, Cyprus, Estonia, Finland, the Netherlands, Slovenia and Spain. Most Member States have regulations banning or restricting smoking in major public places, such as health care, educational and government facilities, theatres, cinemas and public transport. Restrictions of smoking at the workplace are less common. The force of the measures may range from a resolution or a voluntary agreement to a strict law with penalties for failure to comply.

Several different policy options are available to achieve the smoke-free objectives. The Green Paper lists the regulatory options in an order reflecting an increasing level of possible EU intervention (from continuing the current level of activity to developing a binding framework based on EU legislation).

The five policy options are as follows:

1) No change from the status quo: this option would mean no new activity on the part of the EU, while continuing the current work on second-hand smoke under the different Community programmes (Public health, Research, Employment). Regulatory developments in this area would be left to the Member States and the FCTC process. The Commission states that of all the options, this one could be expected to be the least effective in reducing ETS exposure and related harm. The progress in different Member States is likely to be patchy. As a result of incomplete regulations, many vulnerable groups would remain exposed to ETS in indoor environments under public jurisdiction.

2) Voluntary measures: this option would consist in encouraging stakeholders to adopt common voluntary guidelines at European level to make more places smoke-free. Sectoral approaches (e.g. in the leisure and catering industry) could be promoted. Evidence from the Member States suggests, however, that voluntary agreements have not been effective in the area of tobacco control. Specifically in the leisure and hospitality sector, voluntary measures have not met the key target of significantly reducing ETS exposure.

3) Open method of coordination: this would involve coordinating Member States' efforts on smoke-free environments. Member States would thus be encouraged to make their smoke-free laws more convergent without there being a need for direct harmonisation (although this would remain a possibility). However, the commitment to smoke-free objectives would remain voluntary and there would be no sanctions for non-compliance with the agreed targets. The effectiveness of the scheme would depend on the strength of multilateral surveillance and peer pressure.

4) Commission or Council Recommendation: whilst it would not have binding force, such a recommendation would bring the issue onto the political agenda at a high priority level in all EU Member States and thus provide support for Member States' actions. The effectiveness of this option would depend to a large degree on the clarity of EU guidelines and the reporting requirements. Clear targets accompanied by specific timelines and indicators (e.g. a recommendation that a specific percentage of workplaces be made smoke-free by a given year and sector) would certainly have a greater impact than recommendations of a more general nature. While this option would offer flexibility to Member States, the main risk would be that some Member States might chose not to act at all.

5) Binding legislation: this option would impose a comparable, transparent and enforceable basic level of protection from the risk of ETS exposure throughout the Member States. On the one hand a legislative process ensures formal consultations and thorough negotiations involving all parties, which can make the resulting policy more robust. On the other hand, the legislative route is likely to be relatively lengthy and the end result could be difficult to predict. A few options can already at this stage be mentioned, without prejudice to the outcome of the public consultation:

- revision of the existing directives based on the Framework Directive on workplace safety and health 89 /391/EEC, including extending the scope of the Carcinogens and Mutagens Directive 2004/37 (to cover ETS) and/or strengthening the requirements for the protection of workers from tobacco smoke in Directive 89/654/EEC on minimum health and safety requirements;

- enact a separate directive on workplace smoking;

- amend the Dangerous Substances Directive (67/548/EEC) to classify ETS as a carcinogen.

Taking into account the unequivocal scientific evidence of the harm caused by second-hand smoke and the impact of clean indoor air policies on the overall reduction in tobacco use, the Commission considers that the **policy of the widest scope would bring the biggest benefit to the public health** of the population. It would also create a level playing field for all operators. Several successful examples of

comprehensive smoke-free policy now in force around the world have proved that this option is viable and enforceable. The desirable level of EU involvement in promoting smoke-free legislation is an open question, and is also linked to the current evolutions in Member States.