

GTNF 2015

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Session 1: Tobacco Products Directive

I shall remain eternally grateful that, on leaving the first regulation stream panel session of the GTNF in Bologna in September, the participants weren't tested on what they had just heard about the EU's new Tobacco Products Directive (TPD). It wasn't that the session didn't provide a good background to the provisions of the TPD and the esoteric processes now underway to transpose those provisions into national laws ahead of the May 2016 deadline; it did. It's just that it's difficult to rationalize what is, at least in part, patently absurd.

Take the idea that, under the new TPD, the ban on snus—a far less risky alternative to cigarettes—is to remain in force within the EU outside Sweden; or look at the e-cigarette regulations that seem to be aimed largely at discouraging smokers from switching to this other far less risky product; or take the ill-considered standardized-packaging-lite regulations that seemed originally not to have taken account of the fact that packs in some nations have tax stamps applied. And examine the idea that the deadline for tobacco manufacturers to change their manufacturing processes in line with the way that a nation interprets a particular provision of the directive is apparently the same as the deadline for the nation to transpose the directive into national law.

But the absurdity seemed to come to a head when the discussion turned to the provision that will ban, with certain temporary exemptions, the sale of cigarettes with “characterizing” flavors. It seems that candidate products put forward by EU member states will be assessed by a panel that might have 28 (the number of EU nations), or a multiple of 28, members, who may or may not be experts or consumers, and who won't smoke the products—after all, that's dangerous—but smell them—apparently not dangerous—and compare them against some “standard” product.

One question that was raised when the European Commission was imagining how the panel might be constituted apparently asked whether young people should be involved. Somehow, this question is so absurd that it makes sense. Banning cigarettes with characterizing flavors is meant to help prevent young people from taking up smoking, so who better to assess their attractiveness than young people? But ... oh, never mind. In a time of austerity, and given that there are probably not too many candidate cigarettes in the EU, you cannot help wondering how much the setting up and operation of this panel will cost. The commission might find that it's more efficient to dig a hole at the back of the Berlaymont building and throw money into it.

By the end of the session I wasn't even certain what the purpose of the TPD was. Are its provisions aimed at improving the public health of EU citizens and subjects while hiding under a cloak of oiling the workings of the internal market because health is supposed to be under the control of nation-states? Or are its provisions aimed at simply damaging tobacco manufacturing and allied businesses, such as packaging and printing? Conversely, are its provisions aimed at bolstering licit tobacco manufacturing at the expense of illicit manufacturing by introducing an elaborate tracking and tracing system, which is

seen as ... what? A health provider? An internal-trade facilitator? In the end I decided that the main aim of the new TPD, or at least its main effect, was to keep EU bureaucrats in the luxury to which they've become accustomed—the luxury, which, as one person pointed out, allowed the unelected commission uniquely to be in charge of proposing and managing regulations.