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**Philip Morris comments on the Icelandic draft bill amending the law on tobacco control no. 6/2002 (ingredients, traceability, packaging of tobacco products, etc.).**

Philip Morris is grateful for the opportunity to submit our comments on the Icelandic draft bill amending the law on tobacco control no. 6/2002 (draft bill) covering the transposition bill of the EU Directive (2014/40/EU) on Tobacco Products (TPD).

Philip Morris would like to highlight four issues with the current draft bill:

1. Article 6 (g) relating to the Tobacco Products Directive’s article 19 Notification of Novel Tobacco Products
2. Entry into force date for Traceability, Registration and Security Feature for cigarettes and roll-your-own tobacco
3. Ingredients of tobacco products and characterizing flavors
4. Fees to ATVR
5. **Notification of Novel Tobacco products**

The TPD Article 2 (14) defines novel tobacco products as a tobacco product which:

(a) does not fall into any of the following categories: cigarettes, roll-your-own tobacco, pipe tobacco, waterpipe tobacco, cigars, cigarillos, chewing tobacco, nasal tobacco or tobacco for oral use; and

(b) is placed on the market after 19 May 2014.

This corresponds with Article 2 (18) in the draft bill.

The TPD Article 19 is referencing only Novel Tobacco Products as defined in TPD Article 2 (14). However, in the draft bill, even though the heading states Notification of novel tobacco products and thereby corresponding with TPD Article 19, the provision reads *“Producers and importers who intend to put products* ***covered by this law*** *on the market in Iceland must send ÁTVR a notification six months before marketing is planned.”* (our emphasis). This is a much broader scope than the scope of TPD Article 19 as it includes *all* products covered by the law and not only Novel Tobacco Products as defined in TPD Article 2 (14) and the draft bill Article 2 (18). This draft provision is not in line with the TPD and would be incredibly cumbersome for both the producers and ATVR.

We therefore suggest that products not covered by TPD Article 19, i.e. products that were on the European market before May 20 2014, continues to be handled as today, e.g. ATVR approves packaging and name, and Article 6 (g) in the draft bill should only cover Novel Tobacco Products as defined in Article 2 (18) in the draft bill.

1. **Entry into force; Traceability, Registration and Security Feature**

Article 21 (a) in the draft bill states the law enters into force on December 1, 2023 except for Article 6 (d) (Traceability), Article 6 (e) (Registration) and 6 (f) (Security Feature which are valid from 20 May 2024 for tobacco products *other* *than* cigarettes and roll-your-own tobacco.

This means that Articles 6 (d), 6 (e) and 6 (f) would come into force for e.g. cigarettes as of 1 December 2023. This is a very short timeline from a practical perspective since an ID issuer needs to be appointed, security features need to be prepared and manufacturers need time to adjust production. Due to this complexity, the EEA decision No 6/2022, Article 1(d) and (e) grants manufacturers 16 months after the EEA decision has entered into force to comply with the requirements set out in the TPD Article 15 (Traceability) and Article 16 (Security feature). The EEA decision has not yet entered into force since both Norway and Iceland need to clear constitutional requirements in accordance with the EEA agreement Article 103(1). We suggest that Iceland implements this longer timeline in order to give both manufactures and ATVR enough time to adapt to this new regulation.

We would also like to point out that under the EU Commission’s Implementing Regulation (EU) 2018/574 as well as Implementing Decision (EU) 2018/576 contain transition periods for the traceability and security feature regulation. Specifically, Article 37 of the Implementing Regulation and Article 9 of the Implementing Decision provide for a one-year transition period for cigarettes and roll-your-own tobacco manufactured before 20 May 2019 to remain in free circulation until 20 May 2020 and for tobacco products other than cigarettes and roll-your-own tobacco manufactured before 20 May 2024 to remain in free circulation until 20 May 2026. We encourage Iceland to adopt the similar transition periods of one and two years respectively.

Through the implementation of the track and trace regulation Iceland becomes a part of the EU traceability system for tobacco products. We find that it is essential that Iceland integrates to the whole existing TPD eco-system, including the primary and secondary repositories and router. By following the Implementing Regulation in EU Iceland can draw on all the experience from the implementation of the Track & trace system from all EU member states and most importantly become a part of the knowledge sharing across borders. From the experience from other EU markets, we can only emphasize the importance of having realistic delays between each step in the implementation of the actual processes.

1. **Ingredients of tobacco products and characterizing flavors**

As Philip Morris understands the Icelandic proposal the provisions in TPD article 7(6) that bans on *additives* reads as a ban on substances in Icelandic. This change is essential. This can be interpreted as the ban cover traces of substances in mixtures. This is clearly not covered by TPD as Art. 7 (6) talks about additives. As the intention with the bill is to transpose the TPD under the EFTA agreement, the definitions of TPD should be used. TPD does not regulate substances, TPD only regulates ingredients, additives and flavors.

Similarly, the TPD 7 (6) (e) is missing the words “in unburnt form“. Without those words this could lead to unintended bans.

1. **Fees to ATVR**

Some articles, e.g. Article 6 (a), grants ATVR the authority to charge manufacturers a fee. This is rather standard. It should be noted that these fees should be reasonable and correspond with the service performed by the ATVR. It cannot be a hidden tax.

Kind regards,

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