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COMMUNICATION FROM THE COMMISSION
TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

on the present and proposed Community role
in combating tobacco consumption

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I. INTRODUCTION

1. The Community and its Member States have their respective and complementary roles to play in promoting an effective anti-smoking strategy. Already, several of the most effective measures aimed at reducing the damage caused by smoking are of Community origin. These are outlined later in this Communication. The Community is also in a position to act as a catalyst for measures across all Member States, ensuring that information on the most - and least - effective strategies is swiftly exchanged. To this end, a series of national anti-smoking initiatives are also described. The purpose of the Communication is to contribute to a review of existing and possible future anti-smoking strategies both at Community and at Member State level, aimed at reducing the public health impact of smoking on European citizens.
2. The Communication then sets out possible options for further action at the Community level and by way of improved cooperation between the Member States. The Commission will subsequently consider the necessity for proposing further specific measures and actions in the light of the response to this Communication.

II. FACTUAL BACKGROUND

3. The damage to public health caused by tobacco consumption is considerable. Half a million persons die in the Community each year from its effects. The death rate will continue to rise sharply into the next century and smoking will remain the biggest single form of avoidable death in the Community according to statistics from the World Health Organisation and the International Centre for Cancer Research. Almost half of these deaths occur in persons aged between 35 and 69 years of age and thus well below *average* life expectancy. This puts tobacco in the first rank of causes of mortality. Yet the resulting human and economic costs can be effectively reduced. There is a very wide range of options available to reduce the incidence of smoking. These include, for example, health education measures, a taxation policy aimed at discouraging consumption, improved consumer information and restrictions on the advertising and marketing of tobacco products. Progress to date in reducing smoking incidence is nevertheless disappointing. Deaths from smoking will rise substantially over the coming decades as changes in the population structure and the delayed impact of smoking on health come fully into effect.

Over 40% of the Community adult population continue to smoke

4. The incidence of smoking in the Community has been in decline for a number of decades but the rate of fall has slowed in recent years. In May 1994, an estimated 42% of the adult population smoked compared to 46% in 1987. Men continue to smoke substantially more than women though the gap has been closing for some time. Greeks are the heaviest smokers in the Community, followed by the Danes, Spaniards and Austrians. Conversely, the lightest smokers are the Finns, Swedes and Portuguese. Behind these headline figures are some important data, which are briefly outlined below.

4.1. Women are increasingly taking up smoking

Far fewer women than men smoke. However, the gap is narrowing as the rate of uptake among younger women rises. One statistic bears this out. The rate of smoking amongst women aged over 55 years, at 14%, is only one third of the corresponding figure of 42% for women aged between 25 and 39 years of age. The corresponding figures for men are 31% and 51% respectively. This trend is even more apparent in Member States such as Spain and Portugal where the incidence of smoking among women has risen from negligible levels to 25% and 15% respectively in a generation.

Changes in lifestyles and successful niche marketing are the principal factors behind this rise. If unchecked, this trend could lead to a narrowing of the current higher life expectancy of women over men. At present women are up to 40% less likely to contract cancer than men but this gap is narrowing as the higher incidence of female smoking begins to impact on their health and especially on their susceptibility to cancer. Figures for the incidence of lung cancer among women already reflect this trend. In addition it will impact on women's susceptibility to heart disease, respiratory diseases and infertility.

4.2 Many young people continue to ignore the dangers of smoking

There is a remarkable rise in smoking among young people from a rate of around 1% at age 11 to between 20% and 33% at 15 years of age. Many young people are clearly ignoring the evidence of the harmful effects of tobacco. The older the person, the less likely they are to commence smoking. Marketing activities therefore concentrate on young people in their formative years. There is a pressing need from a public health perspective to discourage young people from taking up the habit.

4.3 The better-off increasingly avoid smoking

A further notable trend is the higher prevalence of smoking in lower socio-economic groups as better educated, better paid and more health conscious individuals increasingly avoid smoking. This has very important socio-economic implications. Persons on lower incomes spend a disproportionate amount on tobacco as, due to its addictive properties, it often takes priority over other household expenditure. Expenditure on other items important to health, such as food and housing, suffers accordingly.

4.4 Non-smokers are increasingly demanding protection from smoking

Many non-smokers object to being exposed to the inconvenience and dangers of other people's smoking. For various reasons, non-smokers traditionally are less well catered for than smokers. Smoking is long established and evidence of the damage caused by passive smoking has only come to light in recent years. There is a period of adjustment therefore as society adapts to these changed circumstances. Nonetheless, non-smokers have every right to expect that their health is not impaired by smokers. This is especially the case for persons with respiratory diseases, pregnant women and children, all of whom are particularly vulnerable to secondary smoking.

5. All the above trends highlight the need for a targeted approach towards combating smoking. The generic message that smoking is bad for you remains valid but needs to be supplemented by measures targeted at sectors especially vulnerable to smoking.

III. WHY A COMMUNITY DIMENSION?

6. The Treaty provides in Article 3(0), that "the activities of the Community shall include a contribution to the attainment of a high level of health protection". Article 129 of the Treaty also provides that Community action shall be directed towards the prevention of diseases, in particular the major health scourges. It also provides that health protection requirements shall form a constituent part of the Community's other policies. This Article also states that Member States shall co-ordinate among themselves their policies and programmes towards ensuring a high level of human health protection and that the Commission may take any useful initiative to promote such co-ordination. The scale of the problem of the damage to health from tobacco consumption calls for the mobilisation of every effort to reduce it.
7. The Community is in a good position to promote a better and more coherent overall strategy to combat smoking. All Member States pursue measures to combat smoking but these strategies differ substantially. Clearly, there are lessons to be learned from these differences. Why do fewer people smoke in some Member States than others? Why are there divergent trends in the incidence of smoking between males and females and amongst young people between Member States? Which strategies have been most successful in reducing the incidence of smoking? What is the appropriate strategy for countering tobacco marketing which continues to attract large numbers

of new consumers? The answers to many of these questions can be effectively, even if not exclusively, addressed at a Community level.

IV. EXISTING COMMUNITY PROVISIONS TO COMBAT SMOKING

8. The Community has already adopted a range of measures which help to counter tobacco consumption. Seven specific initiatives merit attention, namely:

- the Europe against Cancer Programme which has acted as a major focus for measures aimed at reducing tobacco consumption. Surveys of the public, in particular through the Eurobarometer reports, have consistently shown a very positive appreciation of the Community's actions in relation to combating cancer and in prevention of smoking;
 - the recent formal establishment of the Advisory Committee for Cancer Prevention to enable it to strengthen its advisory role to the Commission in its pursuit of anti-smoking measures. The Commission's public health strategy can benefit greatly from the invaluable expertise which is available from the cancer experts as regards combating smoking;
 - the Council directive on television without frontiers (89/552/EEC), which harmonised a ban on television advertising of tobacco products.
 - the Council directives (89/622/EEC and 92/41/EEC) on the approximation of the laws relating to the labelling of tobacco products. These have alerted consumers to certain of the dangers of smoking through the display of health warnings and information on tar and nicotine content;
 - the Council directive (92/41/EEC) which banned the marketing of certain types of tobacco for oral use. This measure was specifically aimed at the protection of young people since oral tobaccos have served as a precursor for other tobacco products;
 - the Council directive (90/239/EEC) on the approximation of the laws concerning the maximum tar yield of cigarettes. This has served to alert consumers to tar content which is a major risk factor for cancer and provides for a progressive reduction in tar content to a maximum of 15 mg per cigarette from 31 December 1992 and 12 mg from 31 December 1997.
 - the Council Resolution of 26.11.96 on reduction of smoking in the European Union, which outlines the various strategies adopted in the Member States to reduce the prevalence of smoking and recognises that, by cooperating and coordinating their policies and programmes to prevent illness and death associated with smoking and addiction to smoking, in liaison with the Commission, the Member States can contribute to the reduction of smoking-induced diseases across the Community. This Resolution calls on the Commission to take particular account, in Community policies, of the detrimental effect of smoking on the health and quality of life of citizens of the Community;
- to carry out surveys on best practices conducted in the Member States towards reducing the prevalence of smoking, and the evaluation of their impact;

- to examine, in the light of its assessment of measures taken by Member States, the possible further measures which might be taken by the Community to support actions taken by Member States directed towards the reduction of smoking;
 - to support the efforts of Member States to reduce smoking and to present reports on a regular basis on the progress achieved by the Community in promoting coordination by Member States of their policies and programmes and on the potential for further initiatives.
9. Most of these measures were introduced under the Community's programme of actions aimed at the harmonisation of the Single Market. Others were adopted under the Treaty provisions governing public health.
 10. Tobacco is a very heavily taxed product in most Member States. This is justified on public health grounds as it helps discourage consumption. High tobacco prices are particularly effective in discouraging young people from smoking due to their limited disposable income. They also serve to raise very substantial revenues which, in several Member States, help finance the health care costs arising from tobacco consumption. However, high taxation policy for tobacco is limited in its effect by several factors: in particular, it does not affect addiction to nicotine of individuals who smoke. Thus, to have a satisfactory preventative effect, a high taxation policy needs to be accompanied by flanking measures, such as smoking cessation assistance provided to consumers, curbs on promotion of tobacco products, health education and information campaigns.

The Community has taken initiatives under the Single Market programme in relation to the taxation of cigarettes and other forms of manufactured tobacco. However, unlike the internal market measures outlined above, these were initiated under Article 99 of the Treaty rather than Article 100a. This is an important distinction as the Council acts on the basis of *unanimity* in relation to the former, whereas decisions in relation to the latter are on the basis of *qualified majority*.

11. At present, three principal forms of taxation are levied on tobacco products in the Member States - value added tax, a fixed specific excise duty and a variable ad valorem excise duty. The relevant Council directives provide for a limited degree of *approximation* of these taxes. Consequently, Member States continue to enjoy a very considerable degree of flexibility in fixing taxes on tobacco. This accounts, together with the differences in ex-factory prices and retailers' margins, for the very substantial variation in the retail prices of cigarettes between Member States.
12. These differences in retail prices are very significant, ranging from a low of ECU 39 per 1000 cigarettes in Greece to a high of ECU 186 in Denmark and with a Community average of ECU 119. Indeed no other common everyday product varies so substantially in price throughout the Community. Price differences are especially pronounced in the case of rolling tobacco.
13. It must be recognised that the comparatively high tax levels on tobacco products make them very susceptible to fraud. The higher the tax levels, the greater the incentive to smuggle. Present estimates are that up to MECU 400 is lost each year in Member State and Community receipts through such activity. This needs to be borne in mind in the context of any possible increases in tax levels.

V. OPTIONS FOR ADDITIONAL FUTURE ACTIONS AT THE COMMUNITY LEVEL

14. Clearly, there are limitations, including the principle of subsidiarity, on the Commission's possibilities to propose further actions to combat tobacco consumption. Nonetheless, it is opportune to consider a new Community strategy aimed at encouraging reduced tobacco consumption. The Commission has already, under Article 129 of the Treaty, secured Council and Parliament approval for a programme of action on cancer prevention. Measures to combat smoking will continue to be a priority objective of this programme, given that one third of all cancer deaths are smoking-related.
15. In addition, the following policy options are open at the Community level. These options can only be realised with the active support of other Community institutions and of the Member States:

15.1 Data Collection and epidemiological studies

- Propose a system to monitor tobacco consumption throughout the Community, using as a basis the programme of action on health monitoring currently before the Council and the Parliament. This would facilitate closer monitoring of trends in consumption and thus better targeting of prevention activities. Information on existing trends is often both inadequate and out-of-date and thus a very serious impediment to an effective strategy.

15.2 Children

- Develop a code of practice on the right to a smoke-free environment for children, based on the existing European Code Against Cancer. Young children are especially vulnerable to the secondary effects of smoking. They are also very vulnerable to the advertising and marketing of tobacco and need to be informed of the harmful health effects of the habit.
- Promote studies and pilot projects in the framework of existing Community public health programmes and under the Community Fund for Research and Information on Tobacco to improve understanding of why young people commence smoking; on the impact of health education programmes on young people in schools; on the factors which motivate young people to smoke and on the development of a comprehensive smoking prevention approach aimed at adolescents. Such measures are considered necessary as it is clear that existing measures are not working sufficiently well to curb smoking incidence among young people.

15.3 Classification

- Propose that nicotine addiction be considered as a dependency, thus allowing it to be tackled through the relevant Community public health programmes.

15.4 *Additives*

- Evaluate possible toxicity and health consequences arising from additives to tobacco products. Community legislation on consumer protection already provides for extensive information on additives and ingredients in a very wide range of products where they have health consequences. Paradoxically, however, there is no such provision in relation to tobacco and this oversight could usefully be reviewed, if certain additives prove harmful to human health.

15.5 *Carcinogenic agents*

- Consider the case for a further progressive reduction in the maximum tar content of 12 mg per cigarette permitted under Council Directive (90/239/EEC). Medical science is virtually unanimous in advocating that further reductions should be introduced¹. Similarly, a maximum level of nicotine in cigarettes could also be considered.

15.6 *Consumer information and protection*

- Review the implementation of the existing labelling directive with a view to the evaluation of its efficacy in informing consumers on the dangers of smoking and whether improvements in the content and form of warnings could be introduced. The possibility of requiring bigger and more visible health warnings already exists in the labelling directive and the Commission could examine this possibility with the Member States.
- Consider definition of the description "light" or "low" tar tobacco products, as such descriptions are presently undefined and may mislead consumers by understating the dangers to health of such products.
- Promote measures to increase awareness among the public and especially pregnant women of the dangers of smoking - both active and passive - to the unborn.
- Update, at regular intervals, the present Council Resolution on smoking in public places, with a view to identifying best and worst practices in the Member States. This could encourage an improvement in the overall level of protection. Discussion could also be initiated in the framework of the Agreement on Social Policy in order to consider this issue in the context of improving the working environment and improving workers' health and safety.
- In the interests of public health protection, encourage Member States to exploit the flexibility available to them to increase their taxation levels on tobacco. The Commission is required to submit to the Council every two

¹ See Recommendations on tobacco, adopted by the High Level Cancer Experts Committee, Helsinki 02.10.96 in annex.

years a report, and where appropriate a proposal, on the operation of the existing Council directives on the approximation of excise duties on tobacco products. The report must take into account not only the proper functioning of the internal market and the actual value of excise taxes *but the wider objectives of the Treaty*. The Commission could pay particular attention to these wider objectives, especially the health dimension, in future reports.

- In the context of its report on the common organisation of the market for raw tobacco, the Commission is indicating certain orientations for substantial reform. Among these is the proposal to increase from 1% to 2% the proportion of the premium reserved for the Tobacco Research and Information Fund, the tasks of which are firstly to search for varieties and cultivation methods which are less harmful to human health, and secondly to inform the public at large about the harmful effects of smoking.

VI. OPTIONS FOR IMPROVING COOPERATION BETWEEN THE MEMBER STATES

16. Given that smoking is the biggest single avoidable cause of death in the developed countries, all Member States afford a high priority to measures aimed at reducing tobacco consumption. The content of these programmes and their future development are of course a matter for the Member States. Nonetheless, the Commission has an obligation under Article 129 of the Treaty to encourage cooperation between the Member States in this area and to lend support to their action. The following measures, which are operated to varying extents in the Member States, appear to offer the best prospects for such cooperation:

16.1 Measures aimed at protecting non-smokers, especially children, pregnant women and persons suffering from respiratory diseases, from the harmful effects of passive smoking. Hospitals, schools, public buildings, public transport and commercial airline flights are increasingly careful to ensure that non-smokers are protected from the harmful effects of smoking.

16.2 The setting of specific targets for a reduction in smoking in the population. The example of Ireland, where the target is for a reduction in smoking to 20% of the population by 2000, has acted as a very positive focus on anti-smoking measures and could usefully be considered by other Member States.

16.3 The reinforcement of national rules aimed at limiting the sale of tobacco products to adults and at restricting access of young people to cigarettes. For example, some Member States have limited sales through automatic vending machines or self-service counters to secure areas.

16.4 Increases in the price of tobacco products in real terms (i.e. in excess of the rate of inflation) as a further means of deterring consumption. The decision of the United Kingdom authorities to raise prices in real terms by 3% annually serves as an example, as does the French approach. Furthermore, the impact of such increases is omitted from price indexation measures in Belgium in order to ensure that they do not have an inflationary effect.

16.5 The encouragement of measures to provide for greater protection for workers who are exposed to above-normal levels of environmental tobacco smoke (ETS). Incentives to install improved ventilation facilities, especially in entertainment premises, are one important element of this strategy.

16.6 The limitation of tobacco sponsorship and merchandising of tobacco products at major sporting, musical or cultural events which are likely to be televised in order to avoid indirect publicity for tobacco products on television.

16.7 The increased funding of health education measures targeted at smokers and of voluntary organisations engaged in protecting the interests of non-smokers and in smoking cessation activities.

16.8 The provision of smoking cessation medications (nicotine chewing gums, nicotine "patches" etc) at minimal or no cost to smokers. Such a measure would represent a progressive aid to smokers to quit the habit. Similarly, the provision of a toll free number to inform and help consumers on the dangers of smoking.

VII. INTERNATIONAL ROLE

17. Article 129, paragraph 3, of the Treaty provides for closer co-operation with third countries and the competent international organisations in the sphere of public health. Clearly, co-operation in the field of combating tobacco consumption offers such scope. Smoking has been endemic in the Community Member States for centuries and the costs are now well known.
18. However, many other countries, especially in the developing world, are only now beginning to suffer the full impact of tobacco consumption. Indeed as smoking rates in the developed world remain stagnant, the principal growth markets for cigarette manufacturers are in developing countries. There are a number of areas where the Community could cooperate with third countries to reduce the impact on public health of tobacco consumption. A reduction in the tar content of tobacco products manufactured in the Community and exported to third countries is one such area.

The Community could also assist in developing anti-cancer strategies, involving measures to combat tobacco consumption, in the context of the existing public health or cooperation programmes.

19. In addition, the Community Member States could boost anti-tobacco campaigns through active support for the World Health Organisation's proposed tobacco Convention. A code of practice on the marketing of tobacco products in developing countries, especially aimed at protecting vulnerable groups, would be a particularly progressive step. The Community could also consider the World Bank approach of refusing aid to tobacco related projects in the context of its own development aid policies.

VIII. FOLLOW-UP

20. The Commission will examine the reactions to this Communication and in the light of it's examination may bring forward appropriate proposals for actions and measures.
21. The Commission proposes to present a report each year on the progress achieved in relation to public health protection from the harmful effects of tobacco consumption. It will include comparative figures on price developments in relation to tobacco products and figures for trends in the incidence of smoking. The report will serve to inform Member States and the public of the Community's progress in combating tobacco consumption.
22. The intention is that the above-mentioned report will provide a highly transparent mechanism for the evaluation of the smoking prevention strategy at both the level of the Community and of the Member States. In particular it will provide policy makers with the options available to reduce tobacco consumption and analyse their effectiveness. The first such report will be presented to the Council in the second half of 1997. The Council and Parliament will have the possibility to examine this report and to suggest further additional measures which could contribute towards the reduction of smoking in the Community.

ANNEX

<p style="text-align: center;">High Level Cancer Experts Committee Recommendations on Tobacco</p>
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Recommendation

The High Level Cancer Experts Committee of the "Europe Against Cancer" Programme of the European Commission (hereafter referred to as the Cancer Experts Committee), taking into account the advice of the Helsinki Tobacco Consensus Conference, unanimously recommends to the European Union that measures to reduce Tobacco Consumption be the top health priority for the European Union for the quinquennium 1997 - 2001.

Recommendation

The Cancer Experts Committee considers that there is no rationale for the promotion of a known carcinogen by any means, direct or indirect. It therefore recommends in the strongest possible terms that the measures, relevant to this issue, already agreed to by the European Parliament be implemented without delay. There is widespread agreement among health education authorities that tobacco advertising plays a role in encouraging the uptake of smoking and should be banned.

Recommendation

Historically, the composition of the cigarette, unlike any other marketed poison, has been basically unregulated. In recent years some limits have been recommended or mandated for tar and nicotine contents of cigarettes. Manufacturers are nevertheless allowed to introduce additives without demonstrating their freedom from toxicity either before or after combustion. Government Departments have avoided taking responsibility for authorising the inclusion of substances to a mixture which changes upon combustion and is carcinogenic. They have had no qualms about controlling manufacturers of diverse agents including antibiotics and soft drinks by formal regulation.

Therefore, the Cancer Experts Committee recommends that cigarette content should be the subject of regulation throughout the European Union. From 31st December 1997 onwards :

- (i) Only tobacco, tobacco paper, filter materials and tobacco extracts should be permitted in cigarettes sold or manufactured in the European Union. Any additives to be included should be demonstrated free of toxicity and other harmful effects on health, in burnt and unburnt form. Additives to cigarettes should be monitored and included on the labelling as with other drugs and foodstuffs on the market. The tar content of cigarettes should be limited to a

maximum of 12mg as currently mandated for 31st December 1997. The nicotine content of cigarettes should be limited to 1mg from 31st December 1997.

- (ii) The maximum allowable limits of the tar (12mgs) and nicotine (1mg) contents of cigarettes sold or manufactured in the European Union should be decreased by 10 per cent per annum until levels of 5mgs tar and 0.5mg nicotine are met.
- (iii) By 31st December 1997, labelling requirements similar to those currently applicable in Australia should be in force. In particular, the health warning should be strengthened, made more prominent and the labelling should include a toll-free, telephone number from which accurate information about smoking, its health consequences and smoking avoidance can be obtained. By 31st December 2000, generic packaging of cigarettes and tobacco products should be mandatory.

Recommendation

The Cancer Experts Committee notes that smoking begins in adolescence or earlier and that reduced availability is an anti-smoking influence. On this basis it is recommended that steps should be taken aiming to reduce the availability of tobacco products to children and adolescents. Self service displays and vending machines should be withdrawn.

Recommendation

In the light of evidence that price increases are a deterrent to smoking, have a greater effect on children and, further, that regular price increases are necessary to maintain the effect, the Cancer Experts Committee recommends that the European Union pursues a tax policy aimed at the upward harmonisation of the retail price of tobacco products

Recommendation

Regardless of the right of the smoker to smoke, non-smokers have the right to breathe air that is as unpolluted as possible. Pollutants such as asbestos and benzene are limited by law to the lowest practical level attainable. The lowest level attainable of tobacco smoke is zero. While cancer risk is not perhaps as immediate as that of triggered asthma attacks, orthodox Public Health practice requires that non-smokers be protected from tobacco smoke in the workplace and public places in the broadest sense. The common-sense of this recommendation is emphasised by various legal precedents which show that employers in some countries are vulnerable at law for breach of the elementary requirement to provide a safe workplace.

To protect the rights of non-smokers and prevent involuntary exposure to environmental tobacco smoke, the Cancer Experts Committee recommends that smoking be banned in public places and in the workplace. Separate smoking sections may be introduced in the workplace, and in places such as restaurants and bars. Smoking should be prohibited on air flights within the European Union.

Recommendation

The Cancer Experts Committee considers there is a clear and obvious need for comprehensive education programs to inform professionals, the public and children of the dangers of smoking, as well as to explain the rationale for the anti-smoking measures recommended here. Education programmes obviously need to be culture and language specific.

With this in mind the Cancer Experts Committee recommend the following general proposals, aware that some have already been adopted and implemented by the European Commission in the context of the on-going "Europe Against Cancer" Programme;

- That each country be encouraged to form a coalition of groups involved in public health and education to be charged with organising appropriate national programmes whose principal aim is to initiate action to reduce tobacco consumption and its serious effects.
- That national groups be encouraged to join in a Europe-wide collaborative network aimed at sharing information and expertise.
- That the European Commission continue to sponsor regular, at least annual, meetings of this collaborative network.
- That relevant public health/education/behavioural research be a function of the national and European groups.
- That surveillance and monitoring of education programmes, behavioural trends, smoking prevalence, knowledge and relevant attitudes be a priority and be funded as part of the comprehensive programme.
- That programmes directed specifically at health professionals be supported and further developed in those countries where smoking prevalence is high in these groups.
- That there be a designated centre whose objectives should include the continual evaluation of the scientific literature of the association between tobacco usage and disease and the patterns of tobacco-related disease within the European Union. This Centre should be mandated to prepare an Annual Report for submission to the European Parliament.

Recommendation

The Cancer Experts Committee welcomes the phasing out of the sale of duty free cigarettes and other tobacco products.

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