Council of the European Union: Directive on Advertising and Sponsorship of Tobacco Products Adopted

IRIS 2003-5:1/5

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At its meeting of 27-28 March 2003, the Council of the European Union adopted at its first reading a Directive on the advertisement and sponsorship of tobacco products. The Directive is based on the Commission's initial proposal of May 2001 with the addition of the two amendments voted by the European Parliament on 20 November 2002 (see IRIS 2003-1: 6). One of these amendments guarantees that Member States retain Institute for Information Law (IViR) University of Amsterdam the competence to regulate matters not covered by the Directive. These matters are, for instance, indirect advertising or the sponsorship of events or activities without cross-border effects.

The Directive aims at harmonising national regulations on tobacco advertising and sponsorship, in order to ensure the free movement of products and services. At present, the different provisions on advertising and sponsorship in Member States lead to barriers to the functioning of the Internal Market.

This problem has already been tackled as regards advertising on television, which is regulated by the "Television without Frontiers" Directive (the Directive imposes a total ban on tobacco advertising and sponsorship on television).

The new Directive regulates tobacco advertising in print media, radio broadcasting and information society services, imposing a total ban on it (with a few exceptions for print media and information society services). Also the sponsorship by tobacco companies of radio programmes and of events involving or taking place in more than one Member State (cross-boarder sponsorship) is prohibited. This includes the free or discounted distribution of tobacco products.

The new Directive replaces an earlier Directive on the advertising and sponsorship of tobacco products (98/43/EC). This Directive was annulled by the European Court of Justice on 5 October 2000 (see IRIS 2000-9: 4), because some of its provisions were not in conformity with the legal basis on which it had been adopted, namely article 95 of the EC Treaty.

On 2 December 2002, the Council also adopted a Council Recommendation on the prevention of smoking and on initiatives to improve tobacco control. This Recommendation complements the new Directive.

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Press Release no. 7685/03, 2499th Council Meeting (Transport, Telecommunications and Energy), Brussels, 27-28 March 2003

http://consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/trans/75264.pdf

Council Recommendation of 2 December 2002 on the prevention of smoking and on initiatives to improve tobacco control (2003/54/EC), Official Journal L 022 of 25 January 2003

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003H0054:EN:HTML

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