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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 10 October 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No. Cion doc.: C(2014) 7212 final

Subject: COMMISSION DELEGATED DIRECTIVE ../.../EU of 10.10.2014
amending Annex II to Directive 2014/40/EU of the European Parliament
and of the Council by establishing the library of picture warnings to be used
on tobacco products

Delegations will find attached document C(2014) 7212 final.

Encl.: C(2014) 7212 final



Brussels, 10.10.2014
C(2014) 7212 final

COMMISSION DELEGATED DIRECTIVE/.../EU

of 10.10.2014

amending Annex II to Directive 2014/40/EU of the European Parliament and of the Council by establishing the library of picture warnings to be used on tobacco products

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products¹ provides for, in Article 10(1), the mandatory use of combined health warnings on tobacco products for smoking. However, Member States may exempt tobacco products for smoking other than cigarettes, roll your own tobacco and waterpipe tobacco from the obligation to carry the combined health warnings in line with Article 11(1). The combined health warnings should contain, *inter alia*, one of the text warnings listed in Annex I and a corresponding colour photograph specified in the picture library in Annex II. In line with Article 10(2) the combined health warnings should be grouped into three sets as set out in Annex II and each set should be used in a given year and rotated on an annual basis. In line with Article 10(3)(b) the picture library should be established by a delegated act. Subsequently, the picture library should be inserted as Annex II into Directive 2014/40/EU.

In order to use the combined health warnings on tobacco products for smoking, it needs to be ensured that they comply with Article 10 of Directive 2014/40/EU. That article provides for, *inter alia*, the display of smoking cessation information by the Member States. Furthermore, Directive 2014/40/EU empowers the Commission to adopt implementing acts to define the technical specifications for the layout, design and shape of the combined health warnings, taking into account the different packet shapes. Those implementing acts are to be adopted in due course.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission has consulted experts through the Commission Expert Group on Tobacco Policy before adoption of this act.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

According to Article 10(3)(b) of Directive 2014/40/EU, the Commission is empowered to adopt delegated acts in accordance with Article 27 of that Directive to establish and adapt the picture library referred to in Article 10(1)(a) taking into account scientific and market developments.

¹ OJ L 127, 29.04.2014, p. 1.

COMMISSION DELEGATED DIRECTIVE ../../EU

of 10.10.2014

amending Annex II to Directive 2014/40/EU of the European Parliament and of the Council by establishing the library of picture warnings to be used on tobacco products

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC², and in particular Article 10(3)(b) thereof,

Whereas:

- (1) Article 10 of Directive 2014/40/EU provides that each unit packet and any outside packaging of tobacco products for smoking is to carry combined health warnings unless exempted in accordance with Article 11. The combined health warnings are to contain, *inter alia*, one of the text warnings listed in Annex I and a corresponding colour photograph specified in the picture library in Annex II to that Directive.
- (2) Directive 2014/40/EU also empowers the Commission to adopt delegated acts to establish and adapt the picture library in Annex II taking into account scientific and market developments.
- (3) Therefore, Annex II to Directive 2014/40/EU should be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex II to Directive 2014/40/EU is replaced in accordance with the Annex to this Directive.

² OJ L 127, 29.04.2014, p. 1.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 20 May 2016 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 20 May 2016.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 10.10.2014

For the Commission

The President
José Manuel BARROSO