

European Commission
DG Health and Consumer Protection
Unit C 6 – Health Measures
B – 1040 Brussels
Sanco-smoke-free-consultation@ec.europa.eu

CC: Mr Tapani Piha, Head of Unit C6

Brussels, Wednesday the 25th April 2007

Also sent by post

Dear Madam, Sir,

The European Smoking Tobacco Association (ESTA) welcomes the opportunity to comment on the consultation regarding the Green Paper “Towards a Europe free from tobacco smoke: policy options at EU level” published on the 30th January 2007.

ESTA represents the interests of the European manufacturers, distributors and importers of fine-cut (rolling) tobacco, pipe tobacco, chewing tobacco and nasal snuff tobacco. The 49 members of ESTA are mainly small and medium sized companies and include member associations from the European Union and the European Economic Area. Smoking tobacco comprises approximately 9% of the total market for tobacco products in the EU, around 8% for fine-cut tobacco and less than 1% for pipe tobacco.

We have studied with much interest the Green Paper in which you propose several options with regard to the possible introduction of smoke free regulations. ESTA fully agrees with the position presented by the Confederation of European Community Cigarette Manufacturers (CECCM), and is of the opinion that option two “smoke free regulation with exemptions” provides for the most appropriate route to address the issue from an EU perspective.

- (1) Which of the two approaches suggested in Section IV would be more desirable in terms of its scope for smoke-free initiative: a total ban on smoking in all enclosed public spaces and workplaces or a ban with exemptions granted to selected categories of venues? Please indicate the reason(s) for your choice.**

ESTA advocates tailored, practical and effective solutions that can accommodate the legitimate interests of those who do not wish to be exposed to environmental tobacco smoke (ETS), those who wish to smoke in comfort in socially appropriate or traditionally adult venues and business owners who want a role in deciding how to implement solutions that work for their customers and their employees.

In answer to the above question, ESTA supports the adoption of an EU-wide smoking ban with exemptions. Based on the best practice of workable solutions already in place around the world, we support Option 2: “Smoke Free Regulations with Exemptions”. We believe any restrictions should include the following key features:

ESTA Secretariat

Smoking is banned in all enclosed public places and workplaces; the following exemptions apply:

- Any employer or responsible person, including owners or managers within the hospitality sector (e.g. restaurants, pubs and bars), should be able to elect to set aside physically separated, ventilated designated parts of their premises, where adults who choose to smoke may continue to do so.
- Special rules apply to the hospitality sector (e.g. restaurants, pubs and bars) with a primarily adult clientele and with a useable area less than 100 sq. m., where the person with overall responsibility can choose to make such an establishment fully non-smoking or fully smoking. The use of ventilation should be considered by the legislator when the establishment allows smoking throughout.
- Permanent or temporary residential places should be explicitly exempted from the restrictions (including e.g. prisons, residential care homes, percentage of hotel rooms).
- Private membership clubs should be able to allow their members to choose whether to allow smoking or to be smoke free.
- A specific exemption for research, development and testing of products should be required, to enable the continuation of existing regulatory testing, quality control and research activities.

Only consenting employees would be expected to work in designated parts of the premises where smoking is allowed.

Smoking is not banned in outdoor areas including those that comprise part of public places and workplaces and in partially enclosed public places and workplaces.

Furthermore, exemptions should not apply to educational facilities for minors, healthcare facilities and places providing services primarily to minors.

Signage is mandatory when the place or part of it is exempted from the ban so that the public can determine where smoking is permitted.

In summary, ESTA supports a ban on smoking in enclosed work places and public places, with exemptions; and believe that, as stated among the options of the Green Paper, this can be best achieved through proportionate, coherent and workable regulation.

Furthermore, in line with the EU policy of Better Regulation, ESTA believes that any measure should be developed through dialogue and consultation with all interested stakeholders, including the tobacco sector. ESTA supports whole-heartedly the establishment of a wide platform process to facilitate discussion and to aid identification of practical approaches, such as the use of ventilation as advocated in specific exemptions. As such, ESTA would like to engage in further discussions on this issue.

ESTA believes that this is a proportionate response, which for all practical purposes avoids involuntary exposure to environmental tobacco smoke in enclosed public places and workplaces in the EU, while accommodating the legitimate interest of all stakeholders.



- (2) **Which of the policy options described in Section V would be more desirable and appropriate for promoting smoke-free environments? What form of EU intervention do you consider necessary to achieve the smoke free objectives?**

ESTA supports binding legislation covering both enclosed workplaces and public places. At the EU level, we are unsure of what legal basis could be used to achieve this. ESTA therefore believe that the most efficient policy option is a Commission or Council Recommendation, which sets out the minimum requirements for Member States. The members of ESTA commit to working with individual Member States on the rapid and efficient implementation of such a recommendation in the form of binding legislation at national level.

In conclusion, ESTA's reiterates its support for option two of the Green Paper, which calls for "smoke free regulations with exemptions". ESTA would very much welcome the opportunity to be consulted on the follow-up to the Green paper.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Peter van den Driest', written in a cursive style.

Peter van den Driest
Managing Director
(on behalf of the ESTA Board)

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