



Northern Ireland
Assembly

Research and Information Service Briefing Paper

Paper 30/04

06 February 2014

NIAR 908-14

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Provisions Contained in the EU Tobacco Products Directive

1 Brief

The purpose of this paper is to provide an overview of the provisions contained within the revised Tobacco Products Directive (TPD).¹ It will assess the implementation and potential impact on Member-States of the proposed revision to the TPD, whilst offering some context for Northern Ireland's tobacco industry.

2 Key Points

- On 18 December 2013 – EU Member States reached agreement with the European Parliament for the revision of the Tobacco Products Directive (TPD).
- Revisions to the TPD seek to regulate tobacco products in a way that reflects their specific addictive characteristics and negative health consequences of their consumption.

¹ Tobacco Retailers Bill is unrelated to the Tobacco Products Directive. See paper: NIAR 229-13 for further details.

- Global tobacco-attributable mortality is estimated to rise from 5.4 million in 2004 to 8.3 million in 2030.
- Of the almost five million total deaths observed within the EU during 2005, nearly 700,000 premature deaths (or 15 per cent of all deaths) can be attributed to smoking.
- In 2010 the total loss caused by premature deaths associated with smoking amounts to an estimated monetised value of €516bn for the EU, which corresponds to 4.7 per cent of GDP.
- Total healthcare expenditure on treating diseases attributable to smoking is estimated to be around €25bn, which corresponds to approximately 2.89 per cent of total healthcare spending within the EU27.
- Total annual costs for the economy in the EU caused by absenteeism due to smoking are estimated at almost €6.1bn.
- The revised TPD foresees that tobacco products with characterising flavours (i.e. fruit flavours or chocolate) are prohibited.
- The proposal calls for mandatory combined health warnings (picture plus text) of 75 per cent to be displayed on both sides of tobacco products packages.
- This revised TPD foresees an EU-wide tracing system at packet level for tobacco products throughout the supply chain (excluding retail).
- This proposal contains a notification obligation for retailers of tobacco products intending to engage in cross-border distance sales, allowing Member States to require the retailer to appoint a natural person to ensure compliance with the Directive.
- Novel tobacco products will be required to respect the requirements of the Directive (i.e. labelling and ingredients).
- Total revenue generated from tobacco duty from 2010 to 2011 was £486 million, which was 5.3 per cent of the overall UK share and 3.8 per cent of Northern Ireland's total revenue.
- According to the Tobacco Manufacturers' Association (TMA), the tobacco sector in Northern Ireland directly supports approximately 1,100 people in high value jobs and indirectly supports around 4,720 jobs.
- TMA state that the tobacco sector in Northern Ireland contributes approximately £370 million Gross Value Added, which amounts to 13 per cent of total manufacturing in Northern Ireland.
- On a European Union basis, as of 2007, the number of persons employed in the manufacturing of tobacco products was 43,416, the number of persons

employed in the retail of tobacco products was 150,945, and the number of persons employed in the wholesale of tobacco products was 48,939.

- Within the EU taxation of tobacco products through excise duties and VAT provides substantial tax revenues, as in 2007 revenues from tobacco consumption accrued just below €67bn.

3 Executive Summary

Over ten years has passed from the European Commission (EC) adopted its initial Tobacco Products Directive (TPD).² During this time, numerous scientific, market and international developments have occurred within the tobacco sector leading the EC to identify that existing legislation proposed a number of weaknesses, gaps and loopholes. A revision was foreseen in Article 11 of the existing TPD, which has been repeatedly called for by the Council and European Parliament.

As part of the Commission's Work Plan 2012, the EC published a proposal for a revised Directive on 19 December 2012, to update and further implement existing elements of the current directive. On 18 December 2013 – EU Member States reached agreement with the European Parliament for the revision of the TPD. The December 2013 agreement currently is awaiting formal approval by plenary of the Parliament and then by the Council. Once the law comes into effect, Member States will have two years to implement the regulations on a national level.³

The negative health impacts of tobacco consumption are well established – linking smoking to several forms of cancer, respiratory diseases, vascular diseases, and so forth.⁴ Consequently, this paper does not wish to discuss the well-trodden subject of a correlation between tobacco usage and health concerns, rather it will highlight elements of cost benefit analyses commissioned by the EC, in order to aid the Committee for Enterprise, Trade and Investment's scrutiny of the Directive. As will be discussed below, tobacco-related illnesses incur considerable direct and indirect costs including direct healthcare costs and indirect costs such as productivity losses.⁵

3.1 Mortality Attributable to Smoking within the European Union

Globally, tobacco-attributable mortality is forecast to rise from 5.4 million in 2004 to 8.3 million in 2030.⁶ Table 1 displays a contrast between total mortality and deaths attributable to smoking within the EU. In total, of the almost five million total deaths

² The initial Tobacco Products Directive is known as Directive 2001/37/EC

³ http://www.tobaccotactics.org/index.php/EU_Tobacco_Products_Directive_Revision

⁴ ASPECT Consortium, 2004; Lopez et al. 1994.

⁵ RAND Europe 2011, Assessing the Impacts of Revising the Tobacco Directive,

⁶ World Health Organisation (WHO) 2008a; World Health Organisation, The Global Burden of Disease, 2004, 23

observed within the EU during 2005, nearly 700,000 premature deaths (or 15 per cent of all deaths) can be attributed to smoking.⁷

Table 1 Overall Estimated Mortality Attributable to Smoking in the EU (2005)

Gender	Total Mortality	Attributable to Smoking	As percentage of mortality
Males	2,404,508	522,267	21.7
Female	2,408,625	176,557	7.3
Total	4,813,133	698,824	14.5

Source: R. Peto, 2011

In terms of life years, Table 2 on the following pages displays the estimated monetary value of years of life lost due to smoking within the EU member-states. Table 2 shows that in total for 2010, almost 9.94 million years were lost prematurely.

The EC impact assessment is based upon surveys and observations of the ExterneE research project, which established a 'typical' range of €50,000 to €100,000 for the value of one life year (VOLY). Applying these estimates, Table 2 also shows that the total loss caused by premature deaths associated with smoking amounts to a monetised value of €516bn for the EU, which corresponds to 4.7 per cent of GDP. For the UK, this data shows that the total loss caused by premature deaths associated with smoking amounts to a monetised value of over €70bn.

Table 2 Estimated Monetary Value of Years of Life Lost (YLL) Due to Smoking

	Total YLL due to smoking	Monetary Value of loss (€m)	As percentage of EU	GDP (€m at PPS ⁸)	Loss as percentage of GDP (at PPS)
Austria	132,411	6,885	1.3	244,796	2.8
Belgium	226,637	11,785	2.3	298,464	3.9
Bulgaria	179,103	9,313	1.8	78,424	11.9
Czech Republic	219,861	11,433	2.2	202,557	5.6

⁷ Peto R, Lopez AD, Boreham J, Thun M. Mortality from Smoking in Developed Countries 1950-2010. 2nd Edn. Imperial Cancer Research Fund, World Health.

⁸ Gross domestic product adjusted for the size of an economy in terms of population and also for differences in price levels across countries

Denmark	157,613	8,196	1.6	159,410	5.1
Estonia	25,989	1,351	0.3	19,993	6.8
Finland	65,266	3,394	0.7	144,259	2.4
France	1,116,577	58,062	11.2	1,639,459	3.5
Germany	1,563,453	81,300	15.7	2,224,648	3.7
Greece	206,717	10,749	2.1	249,870	4.3
Hungary	434,458	22,592	4.4	152,259	14.8
Ireland	67,451	3,507	0.7	133,871	2.6
Italy	992,332	51,601	10.0	1,469,877	3.5
Latvia	48,974	2,547	0.5	27,152	9.4
Lithuania	66,660	3,466	0.7	42,754	8.1
Luxembourg	5,582	290	0.1	31,102	0.9
Malta	4,900	255	0.0	7,978	3.2
Netherlands	365,121	18,986	3.7	511,825	3.7
Poland	1,080,437	56,183	10.9	543,816	10.3
Portugal	130,191	6,770	1.3	199,839	3.4
Romania	511,757	26,611	5.2	237,224	11.2
Slovakia	98,134	5,103	1.0	92,359	5.5
Slovenia	37,966	1,974	0.4	41,781	4.7
Spain	721,281	37,507	7.3	1,112,893	3.4
Sweden	122,421	6,366	1.2	260,683	2.4
U.K	1,355,499	70,486	13.6	1,606,081	4.4
Total	9,936,789	516,713			4.7

Source: GHK (2012)

Table 3 below offers estimates of how losses to society caused by premature deaths would decrease were tobacco consumption to be reduced from one to five per cent.⁹ For instance, Table 3 shows that a five per cent decline in consumption would result in net benefit of €10.3bn per year to the EU.

Table: 3 Overall Estimated Mortality Attributable to Smoking in the EU27 in 2005

	Premature mortality decrease (With different percentage reduction in tobacco reduction)				
	1%	2%	3%	4%	5%
Premature mortality decrease	511,546	506,379	501,212	496,044	490,877
Net benefit (mEUR)	5,167	10,334	15,501	20,669	25,836

Source: GHK (2012)

3.2 Health Care Expenditure

Table 4, on the following page, presents the six main disease categories associated with smoking along with the total cost of treatment per disease within the EU.¹⁰ The total healthcare expenditure on treating diseases attributable to smoking is estimated to be around €25bn, which corresponds to approximately 2.89 per cent of total healthcare spending within the EU27.¹¹

⁹ This approach is merely an attempt by economists to express in monetary terms how much society values life in general and (healthy) life years in particular and portion of benefits associated with reduced tobacco consumption will accrue only in long term (e.g. when a drop in cancer treatments are observed).

¹⁰ Calculation of the expenditure is based on the annual EU public healthcare expenditure for diseases – which might be caused by smoking.

¹¹ European Commission, Impact Assessment, pp20 Available: http://ec.europa.eu/health/tobacco/docs/com_2012_788_ia_en.pdf

Table 4: EU-wide Health Care Expenditures on Treatment of Smoking Attributable Diseases

Disease Category	Costs (€bn)
Cardiovascular diseases	9.113
Chronic Obstructive Pulmonary Disease (COPD)	5.081
Lung cancer	3.641
Other cancers	3.063
Other respiratory diseases	2.662
Upper aerodigestive cancers	1.740
Total	25.300

Source: GHK (2012)

The EC Impact Assessment acknowledges the likelihood that declines in smoking consumption will lead to a reduction in health care costs. However, it recognises that “the extent of the reduction will depend on the success of the envisaged measures.”¹²

Table 5 presents estimated savings in health care expenditures as a result of a different percentage in tobacco reduction. For instance, in the case of a five per cent decline in tobacco consumption, it is estimated that the net benefit would be almost €1bn (€990m).

Table 5: Estimated Savings in Health Care Expenditures

	Health Care Expenditure (With different percentage reduction in tobacco reduction)				
	1%	2%	3%	4%	5%
Projected Total EU health care expenditures (mEUR)	19,628	19,430	19,232	19,034	18,836
Net benefit (mEUR)	198	396	594	792	990

Source: GHK (2012)

¹² European Commission, Impact Assessment, pp20 Available: http://ec.europa.eu/health/tobacco/docs/com_2012_788_ia_en.pdf

3.3 Productivity Losses

Table 6 shows estimates of the loss of productivity caused from premature retirements and deaths within the EU, which are attributable to smoking.¹³ As seen in Table 6, the total annual costs for the economy in the EU caused by absenteeism due to smoking are estimated at almost €6.1 bn.¹⁴

Table 6 Estimated Numbers of Retirements Due to Smoking

Disease Category	Total inactive persons due to long-term sickness or disability	Inactive due to smoking-related diseases	Of which: attributable to smoking	Economic loss due to smoking-related incapacity (€m)
Lung cancer	n.a	11,482	9,664	359
Upper aerodigest. cancers	n.a	5,694	3,027	109
Other cancers	n.a	153,392	10,617	390
Cardiovascular diseases	n.a	214,922	141,131	3,929
COPD	n.a	235,804	22,560	780
Other respirat. disease	n.a	156,868	15,127	514
Total	8,017,872	778,162	202,127	6,081

Source: GHK, 2012

Table 7, on the following page, shows estimates of how economic losses caused by premature retirement and deaths would decline with reductions in tobacco consumption. For example, the net annual benefits from a five per cent decline in consumption would be projected to amount to €305bn.

¹³ The calculations are based on estimates of years lived with disability (YLD), estimated inactivity due to smoking related diseases (number of people in retirement due to smoking) and average labour costs in business economy.

¹⁴ Eurostat data 2009

Table 7: Estimated Productivity Losses Caused by Early Retirements and Deaths Due to Smoking

	Economic losses (caused by early retirement, deaths) with different percentage reduction in tobacco consumption				
	1%	2%	3%	4%	5%
Economic loss from early retirement and deaths due to smoking (mEUR)	6,020	5,959	5,898	5,837	5,776
Net benefit (mEUR)	61	122	183	244	305

European Commission – Impact Assessment (2012)

The estimated overall benefits for Governments and society as a result of decline in tobacco consumption are summarised in table 8 below.

Table 8: Overall benefits for Governments and society (€m)

	Different percentage reduction in tobacco consumption				
	1%	2%	3%	4%	5%
Decrease in health care expenditures	253	506	759	1,012	1,265
Increased productivity	83	165	248	331	413
- Due to less early retirement / deaths	61	122	183	244	305
- Due to less absenteeism	22	43	65	87	108
Decrease in premature mortality costs	5,167	10,334	15,501	20,669	25,836

Source: European Commission – Impact Assessment (2012)

4 Revision of the Tobacco Products Directive

The proposal takes the form of a Directive which will replace as a whole Directive 2001/37/EC. The overall objective of the TPD revision is to improve the functioning of the internal market.

In particular, the revised TPD proposal aims to:

- “Update already harmonised areas to overcome Member State’s obstacles to bring their national legislations in line with new market, scientific and international developments.”
- “Address product related measures not yet covered by the TPD insofar as heterogeneous development in Member States has led to, or is likely to lead to fragmentation of the internal market.”
- “Ensure that provisions of the Directive are not circumvented by placing on the market of products not compliant with the TPD.”

Some of the primary objectives of this Directive involve the approximation of laws, regulations and administrative provisions of the member states concerning:

- A. The ingredients and emissions of tobacco products and related reporting obligations - including the maximum yields for tar, nicotine and carbon monoxide for cigarettes;
- B. The labelling and packaging of tobacco products including the health warnings to appear on unit packets of tobacco products and any outside packaging as well as traceability and security features to ensure compliance with this Directive;
- C. The prohibition to place on the market tobacco for oral use;
- D. Cross-border distance sales of tobacco products;
- E. The notification obligation for novel tobacco products;
- F. The placing on the market and the labelling of certain products, which are related to tobacco products, namely nicotine-containing products and herbal products for smoking;

4.1 Ingredients and Emissions

Across the EU, tobacco has become the leading cause of premature death and it is reported to be responsible for almost 700,000 deaths per year.¹⁵

Accordingly, revisions to the TPD seek to regulate tobacco products (cigarettes, roll-your-own and smokeless tobacco devices) in a way that reflects their specific characteristics by placing emphasis on initiation of tobacco consumption, in particular by young people, as 70 per cent of smokers start before the age of 18 and 94 per cent before the age of 25.¹⁶ Studies have found that the younger a person is when they take up smoking, the higher the risk of habitual smoking during adulthood.¹⁷

¹⁵ <http://ec.europa.eu/health/tobacco/products/revision/>

¹⁶ Special Eurobarometer 385, 2012: http://ec.europa.eu/health/eurobarometers/index_en.htm

¹⁷ Hublet et al 2006

The original directive introduced maximum limits for tar, nicotine and carbon monoxide yields that should be applicable for products which are exported from the EU. Under the revised TPD, those maximum limits will not be amended. However, the proposed TPD recognises the possibility of adapting the yields fixed or to fix maximum thresholds for emissions to take into consideration their toxicity or addictiveness at a later date.

The existing Directive stipulates that Member States require tobacco manufacturers and importers to report on and disclose details of ingredients and additives used in such products, and bans descriptors such as “light” and “mild”. Within the revised Directive, this arrangement is to remain unchanged.¹⁸ The proposal foresees that placing on the market of new or modified tobacco products must not take place before the submission of ingredients data.

Nevertheless, the existing TPD does not harmonise Member States’ regulation on additives. Consequently, some Member States have allowed or prohibited certain ingredients. As a result, some ingredients are banned in certain Member States, but are not banned in others.

The proposal foresees that tobacco products with characterising flavours (i.e. fruit flavours or chocolate) are prohibited, including flavourings within filters, papers or packages.¹⁹ Likewise, additives with associated energy and vitality (such as caffeine and taurine), or health benefits (such as vitamins) are to be prohibited along with tobacco products with increased toxicity or addictiveness.²⁰

Tobacco products other than cigarettes, roll-your-own tobacco and smokeless tobacco products, such as cigars, cigarillos and pipe tobacco, are exempt from some provisions, such as the prohibition of products with characterising flavours.²¹ However, the exemption shall be removed if there is a substantial change in volume or prevalence among young people.

4.2 Labelling and Packaging

The proposal provides an update to current packaging and labelling in relation to scientific and international developments, while addressing current fragmented development in Member States, with an increased focus on pictorial warnings.

Modifications of labelling and packaging provisions were deemed necessary to align the rules at EU level with international developments. For example, Article 11 of the World Health Organisation Framework Convention on Tobacco Control (WHO FCTC)

¹⁸ <http://ec.europa.eu/health/tobacco/products/revision/>

¹⁹ Test panels will assist in the decision making process.

²⁰ Member States shall ensure that provisions or conditions set out under the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) are applied to tobacco products as appropriate.

²¹ The EC justified this exemption by considering that these products are mainly consumed by older consumers, while the focus of this proposal is to regulate tobacco products in such a way as they do not encourage young people to start using tobacco.

calls for large picture warnings on principle display areas, mandatory cessation information and firm regulations on misleading information.

Changes to tobacco product packages under the revised TPD include:

- The existing Directive made text health warnings mandatory and picture warnings optional, however the proposal calls for combined warnings (picture plus text) of 75 per cent²² to be displayed on both sides of tobacco products packages, presented in rotation.^{23 24}
- Levels of nicotine and carbon monoxide as stipulated under the previous Directive are to be replaced with information referring to harmful substances of tobacco.
- Cessation information, such as quit-lines and websites are to be added to the packages.
- Tobacco products packaging will be prohibited from including elements that promote tobacco products or mislead consumers to believe the product is less harmful than others, or refers to flavours and tastes that resemble food products.
- The proposal also includes requirements for packages, including cuboid shape and minimum number of cigarettes per package.

Under the revised TPD, Member States would retain the power to regulate the area of the package not regulated by the revised Directive or other EU legislation, for instance the standardisation of packaging of tobacco products (including colours and font), as long as the provisions are compatible with the Treaty.

The proposal exempts tobacco products other than cigarettes and roll-your-own tobacco (i.e. cigars and pipe tobacco) from larger health warnings; however, these will remain subject to the existing Directive regulation.²⁵ For the purpose of increasing visibility of health warnings on smokeless tobacco products, these will have to be put on both sides of the package according to the proposal, however their size will remain unchanged compared to Directive 2001/37.

²² The size of the warning (75%) has been suggested after thorough analysis of scientific evidence and international experience - e.g. 75% on both sides in Canada, 30% and 90% in Australia and New Zealand, 80% of both sides in Uruguay, 60% and 70% in Mauritius, 30% and 100% in Mexico.

²³ At the time of the proposal's publication, Eight Member States had already taken the initiative to make pictorial warnings obligatory in their territories and two more were expected to follow in 2013.

²⁴ Proposal is based on new evidence showing that bigger and pictorial warnings are more effective, Sambrook Research International, 2009

²⁵ The EC notes that the exemption shall be removed if there is a substantial change of circumstances (in terms of sales volume or prevalence level among young people).

4.3 Traceability and Security Features

Under the existing TPD, the EC is granted power to adopt technical measures relating to traceability and identification. However, to date this power has not been exercised. This proposal foresees an EU-wide tracing system at packet level for tobacco products throughout the supply chain (excluding retail).

Member States will be required to ensure that manufacturers of tobacco products conclude data storage with independent third parties (under the auspicious of an external auditor) for the purpose of full transparency and accessibility for Member States and the EC. In addition, within the EU market, visible security features will be placed on all tobacco products to facilitate identification of authenticity.

Only cigarettes and roll-your-own tobacco, for an initial period, should be subjected to tracking and tracing system, to allow producers of other tobacco products to benefit from the experiences gained. Tobacco products other than cigarettes and roll-your-own tobacco are granted a transitional period of five years.

4.4 Tobacco for Oral Use

As part of the revised-TPD, the ban on placing tobacco for oral use (*snus*) on the market is to remain, as set out within the previous Directive – (with exception to Sweden - which has an exemption in its Accession Treaty).

The Court of Justice of the EU in 2004 found the ban to be proportionate due to harmful effects, the addictive and toxic properties of nicotine, the uncertainty of oral tobacco as a substitute for cigarettes and oral tobacco's risk for potentially attracting young people. The harmful effect of oral tobacco has been confirmed by the Commission's Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR) and other studies.

4.5 Cross-Border Distance Sales of Tobacco Products

Under the current TPD, cross-border distance sales of tobacco products fall outside the scope of the Directive. This proposal contains a notification obligation for retailers of tobacco products intending to engage in cross-border distance sales, allowing Member States to require the retailer to appoint a natural person²⁶ to ensure compliance with the Directive.

This proposal is designed to reinforce the effect on the internal market by preventing the purchasing of products not complying with the provisions of the Directive, including health warnings in the appropriate language, ingredients regulation and under age purchasing. The revised TPD acknowledges the likelihood of the reduced availability of cheaper products, not respecting national price policies.

²⁶ According to the Oxford Dictionary of Law, an entity such as a corporation that is recognized as having legal personality i.e. it is capable of enjoying and being subject to legal rights and duties.

4.6 Novel Tobacco Products

Novel tobacco products²⁷ will be required to respect the requirements of the Directive (i.e. labelling and ingredients) to ensure a level playing field and the applicable rules will depend on whether the product involves a combustion process or not.

The proposal also foresees a notification obligation for such novel tobacco products to increase knowledge base, including a market report on product development to be issued by the EC five years after the transposition deadline of the Directive.

4.7 Nicotine Containing Products (NCP)

Within the existing Directive, Nicotine Containing Products (NCP)²⁸ fall outside of its scope and to date Member States have taken diffuse approaches to regulating these products, including regulation for medicinal purposes, ranging from applying particular provisions to having no specific legislation. The proposal seeks to eliminate existing legislative divergence between Member States and the discrepancy between Nicotine Replacement Therapies (NRT) and NCP, while increasing legal certainty and consolidate on-going development in Member States.

The revised TPD stipulates that:

“NCP that either have a nicotine level exceeding 2 mg, a nicotine concentration exceeding 4 mg per ml or whose intended use results in a mean maximum peak plasma concentration exceeding 4 ng per ml may be placed on the market only if they have been authorised as medicinal products on the basis of their quality, safety and efficacy, and with a positive risk/benefit balance.”²⁹

However, NCP with nicotine levels below the stated threshold may be sold as consumer products provided they feature an adapted health warning. Labelling requirements within this proposal for NCP are designed to enhance consumer’s awareness of health risks with these products.

4.8 Herbal Products for Smoking

Currently herbal products for smoking fall out the remit of the existing Directive and subsequently Member States have regulated these products in different ways. The revised TPD foresees adapted health warnings for such to inform consumer of adverse

²⁷ This proposal considers novel tobacco products those which contain tobacco and do not fall within established categories (i.e. cigarette, roll-your-own tobacco, pipe tobacco, water-pipe tobacco, cigar, cigarillo, chewing tobacco, nasal tobacco or tobacco for oral use) and which are placed on the market after the entry into force of the Directive.

²⁸ Nicotine containing products (NCP)— a product usable for consumption by final consumers via inhalation, ingestion or in other forms and to which nicotine is either added during the manufacturing process or self-administered by the user before or during consumption. Electronic cigarettes appear to be the most commonly available type.

²⁹ The nicotine threshold identified in this proposal has been established by considering the nicotine content of medicinal products (Nicotine Replacement Therapies, NRTs) for smoking cessation which have already received a market authorisation under the medicinal products’ legislation.

health effects caused by these products, while prohibiting promotional or misleading elements.

5 Financial Impact

This section describes the economic underpinnings for how the proposed revision of the directive could impact on macro and micro economic outcomes, such as employment and excise duty collections.

While there are a broad range of activities necessary to supply tobacco products to the market, the literature often identifies the production, distribution and retailing of tobacco products, to be the most significant for economic policy analysis.³⁰

This section will begin with a brief overview of Northern Ireland's tobacco industry. Subsequently it will focus on EC commissioned impact analysis by the RAND Corporation and Matrix Insight.

5.1 Northern Ireland's Tobacco Industry

Previous research into a cost-benefit analysis of tobacco production in Northern Ireland have been conducted by the Action on Smoking and Health Northern Ireland (ASH) and the Health Education Authority; however it is worth noting that these publications are outdated as they were published in 1986 and 1991, respectively.³¹ More recent analysis could not be located.

The Department of Finance and Personnel's (DFP) net fiscal balance report for 2009 to 2010 and 2010 to 2011 shows that the total revenue generated from tobacco duty from 2010 to 2011 was £486 million, which was 5.3 per cent of the overall UK share and 3.8 per cent of Northern Ireland's total revenue.³² To put this into context, this figure is higher than other revenue streams such as alcohol duties (£274 million), betting and gambling duties (£29 million), air passenger duties (£63 million) and insurance premium tax (£73 million).

Tobacco Manufacturers Association (TMA) state that the tobacco sector in Northern Ireland directly supports approximately 1,100 people in high value jobs.³³ Additionally, it is reported by TMA that the tobacco industry indirectly supports around 4,720 jobs elsewhere in the economy – 3,800 in the supply chain, 920 in distribution, retail and forward linkages.³⁴ TMA also report that the tobacco sector in Northern Ireland contributes approximately £370 million Gross Value Added, which amounts to 13 per cent of total manufacturing in Northern Ireland.³⁵ Furthermore, TMA report that the

³⁰ World Bank 1999; Buck et al, 1995

³¹ ASH, The Economic Consequences of Smoking in Northern Ireland, 1986; HEA The Smoking Epidemic 1991

³² DFP, see: <http://www.dfpni.gov.uk/northern-ireland-net-fiscal-balance-report-09-10-10-11.pdf>

³³ TMA – see: <http://www.the-tma.org.uk/~thetma/wp-content/uploads/2014/01/TMA-Factsheet-Northern-Ireland-Final.pdf>

³⁴ TMA – see: <http://www.the-tma.org.uk/~thetma/wp-content/uploads/2014/01/TMA-Factsheet-Northern-Ireland-Final.pdf>

³⁵ TMA – see: <http://www.the-tma.org.uk/~thetma/wp-content/uploads/2014/01/TMA-Factsheet-Northern-Ireland-Final.pdf>

Tobacco industry productivity per employee increased by 45 per cent from 2006 to 2009 to £335,400.

While data for annual turnover, approximate gross value added, share of sales, external sales, exports by industry sector, and jobs³⁶ are publically available through the Department of Enterprise, Trade and Investment (DETI), this data compiles a multitude of manufacturing sectors and does not disaggregate specifically for the manufacturing of tobacco products.³⁷ This data will be requested from the department by the Research and Information Service and once received will be made available upon request.

5.2 Value of Tobacco Industry across the EU

This section of the paper outlines the sectors of the tobacco industry and examines the value of trade in each of the sectors.

Table 9 on the following pages presents data on the 2006 gross income (after adjusting for subsidies and indirect taxes), or value added, within the tobacco manufacturing sector. According to Eurostat data, the EU earns approximately €6.5bn in value added from the manufacturing of tobacco.³⁸ Table 9 also shows that in 2006, Germany, the Netherlands and the UK account for nearly 60 per cent of value added in the manufacture of tobacco products within the EU.

Table 9: Value Added in Manufacturing of Tobacco in 2006

	€m	Per Cent of Total
Belgium	238	3.64%
Bulgaria	75	1.15%
Germany	1,488	22.75%
Spain	350	5.35%
Greece	204	3.11%
Netherlands	1,976	30.22%
Poland	260	3.97%
Portugal	206	3.15%
Romania	59	0.91%

³⁶ SIC 2007

³⁷ This data compiles tobacco manufacturing with alcohol manufacturing.

³⁸ This is based upon the data available for countries reporting to Eurostat, which are included in table 9.

United Kingdom	1,684	25.75%
Total	6,539	100%

Source: Eurostat SBS

Table 10 below shows the turnover of wholesale and retail tobacco across the EU. In 2006, total turnover from these areas was valued at €24.14bn. This shows that for the United Kingdom the total wholesale and retail sales of Tobacco amounted to €1.08bn in 2006.

Table 10: Turnover of Wholesale and Retail of Tobacco in (€m) in 2006

	Wholesale of Tobacco Products	Retail Sale of Tobacco Products	% of Total EU Turnover
Austria	1,682	392	8.59%
Belgium	1,097	27	4.66%
Cyprus	28	1	0.12%
Czech Republic	153	49	0.84%
Germany	803	626	5.92%
Denmark	85	57	0.59%
Estonia	11	.	0.05%
Spain	754	795	6.42%
Finland	62	.	0.26%
France	289	592	3.65%
Greece	220	154	1.55%
Hungary	111	8	0.49%
Italy	10,061	2,744	53.04%
Lithuania	15	.	0.06%
Luxembourg	57	1	0.24%
Latvia	54	1	0.23%
Netherlands	343	238	2.41%

Norway	235	1	0.98%
Poland	559	54	2.54%
Portugal	59	20	0.33%
Romania	203	4	0.86%
Sweden	115	229	1.42%
Slovenia	28	11	0.16%
Slovakia	35	4	0.16%
United Kingdom	827	253	4.47%
Total	17,884	6,260	100%

Source: Eurostat (SBS)

Table 11 on the following pages shows Eurostat data, presenting gross turnover per capita associated with manufacture and sale of tobacco products across the EU and Norway in 2006. From this data, on average retail sale generates the lowest turnover per capita while wholesale of tobacco products generates the highest gross turnover per capita.

Table 11: Gross Turnover Per Capita (€), by Sector and Country, 2006

	Manufacturing	Wholesale of Tobacco Products	Retail Sale of Tobacco Products
Austria	.	283.13	253.81
Belgium	128.62	310.04	31.87
Bulgaria	101.18	.	.
Cyprus	.	274.00	3.91
Czech Republic	.	174.42	29.36
Germany	252.91	158.36	30.87
Denmark	.	47.90	18.79
Estonia	.	50.57	.
Spain	20.00	90.45	195.69

Finland	.	35.77	.
France	.	20.20	18.57
Greece	48.63	257.70	53.30
Hungary	.	157.39	4.47
Italy	.	235.33	55.67
Lithuania	.	28.80	.
Luxembourg	.	2950.42	19.19
Latvia	.	94.13	1.31
Netherlands	355.94	267.23	41.32
Norway	.	61.64	0.65
Poland	100.48	65.41	1.99
Portugal	42.48	159.61	12.49
Romania	42.39	96.85	0.97
Sweden	.	21.66	64.66
Slovenia	.	33.94	36.94
Slovakia	.	81.83	5.01
United Kingdom	222.49	21.71	23.72
Average	131.51	239.14	41.12

Source: Eurostat (SBS)

In terms of the number of enterprises operating in the manufacture, wholesale or retail sales of tobacco products in 2006 Eurostat data states that there were approximately 67,000 within the EU and Norway. In 2006, less than 10 per cent of tobacco firms in the EU were located in the UK and the Netherlands. These regions were, however, responsible for generating over 50 per cent of gross income in the EU for manufacturing tobacco (see Table 11).³⁹

³⁹ Eurostat (SBS)

5.3 Employment within the Tobacco Industry

According to Eurostat data, as of 2006, there were approximately 47,000 persons employed in the manufacturing of tobacco products within the EU.⁴⁰ The largest percentages of these employees resided in Germany (24.5 per cent), Poland (14.9 per cent), the UK (9.7 per cent), and Spain (9.7 per cent).⁴¹ Furthermore, approximately 200,000 people are employed in the sale of tobacco products.⁴² As of 2007, the number of persons employed in the manufacturing of tobacco products in the EU dropped to 43,416.⁴³ Eurostat's most recent dataset shows that in 2007 there were 150,945 persons employed in the retail of tobacco products within the EU.⁴⁴ Additionally, the most recent Eurostat data shows the as of 2007 there were 48,939 persons employed in the wholesale of tobacco products within the EU.⁴⁵

The European Commission Health and Consumer Directorate-General (DG SANCO) commissioned RAND Europe to provide support in assessing the impacts of revising the Tobacco Products Directive 2001/37/EC. According to RAND Corporation's Impact Assessment, revisions to the directive have the potential to alter the attractiveness and increase the costs of tobacco products, however the assessment reports that the impact this may have on employment is uncertain.⁴⁶ RAND state that while a change in attractiveness and costs may not affect profit margins in a way that affects employment, companies may need to start cutting costs (for instance reduce the number of fulltime workers) in order to remain competitive.

Tobacco product regulation incurs administrative costs for tobacco manufacturers, in the form of labelling and reporting requirements. Data reported from the tobacco industry estimate that the current administrative burden amounts to between €33.2m and €55.4m.⁴⁷

The Matrix Insight report was produced under the Health Programme (2008-13) in the frame of a contract with the Executive Agency for Health and Consumers (EAHC) acting on behalf of the European Commission. Matrix Insight found that the reported one-off costs associated with the introduction of pictorial health warnings in Belgium were between €14,500 and €20,000 per Single Stock-Keeping Unit (SKU), whereas in addition to one-off costs the additional manufacturing costs are estimated to be between 1.3 per cent and 1.5 per cent of the total variable costs.⁴⁸

However, industry responses to consultations show that the standardised approach to harmonisation of packing across the EU could reduce the industry's overall cost of

⁴⁰ Eurostat (SBS)

⁴¹ Eurostat (SBS)

⁴² Eurostat (SBS)

⁴³ Eurostat (SBS)

⁴⁴ Eurostat (SBS)

⁴⁵ Eurostat (SBS)

⁴⁶ RAND Europe 2011, Assessing the Impacts of Revising the Tobacco Directive, 72

⁴⁷ RAND Europe 2011, Assessing the Impacts of Revising the Tobacco Directive, xxi

⁴⁸ Matrix Insight, Executive Agency for Health and Consumers, Economic analysis of the EU market of tobacco, nicotine and related products, 2013, pp13

compliance with regulatory change.⁴⁹ As industry representatives recognised that a single point of harmonisation as compared to consecutive changes at national level could save costs for larger producers.

To summarise the RAND Corporations' forecast for impact upon employment due to revisions to the directive, it foresees that the shares of employment may fall across manufacturing, wholesale and retail sales.⁵⁰ However there is some indication of possibilities of increases in the wholesale trading of manufactured tobacco.⁵¹

Table 12 below displays the RAND Corporation's estimates for alteration in employment shares in tobacco due to different measures of labelling and packaging regulation

Table 12: Percentage difference in employment share relative to status quo in 2027, by measure of labelling and packaging

	Manufacturing	Wholesale of manufactured tobacco	Retail
Make pictorial warnings mandatory (no size change)	-0.45% to -0.44%	-1.45% to 0.36%	-2.86% to -1.26%
Update and enlarge warnings to 50% of both sides of the pack and place them towards the top of the pack	-0.45% to -0.44%	-1.45% to 0.36%	-2.86% to -1.26%
Further increase of the size of warnings to 75% of both sides of the pack	-0.45% to -0.44%	-1.45% to 0.36%	-2.86% to -1.26%
Further increase of the size of warnings to 100% of the back of the pack	-0.45% to -0.44%	-1.45% to 0.36%	-2.86% to -1.26%
Introduce generic packaging	-0.45% to -0.44%	-1.45% to 0.36%	-2.86% to -1.26%
Replace TNCO quantitative labelling with qualitative information on contents and emissions and quit-lines	-0.44%	-1.45% to 0.36%	-2.85% to -1.19%
Introduce inserts with supplementary information (e.g. on the potential risks)	-0.46%	-1.44% to 0.37%	-2.95% to -1.23%

Source: RAND Corporation 2011

⁴⁹ Matrix Insight, Executive Agency for Health and Consumers, Economic analysis of the EU market of tobacco, nicotine and related products, 2013, pp13

⁵⁰ RAND Europe 2011, Assessing the Impacts of Revising the Tobacco Directive, 111

⁵¹ Based upon the association between smoking prevalence and employment, controlling for other factors.

5.4 Tax Rates and Revenues in Tobacco

Revenues in tobacco are a function of the quantity and price of tobacco products. Accordingly, the RAND Corporation's Impact Assessment recognises that "any element of a revision in the directive that affects price and demand may impact on governments' budgets and therefore may have an economic implication."⁵²

The economic impact for adjusting ingredient regulations takes the form of increased cost. The RAND Corporation maintain that given the intention of the measure to affect consumers' desire to consume tobacco, this will affect demand and supply, which may alter the tax revenues generated from them.⁵³

Taxation of tobacco products through excise duties and VAT provides substantial tax revenues for Member States within the EU. For instance, in 2007 revenues from tobacco consumption accrued just below €67bn, as seen in Table 13.⁵⁴ Table 13 also shows that while the average each country accrued was €2.5bn, the UK €11bn in 2007.

It is noted by the Impact Assessment, however, that as people shift from purchasing tobacco to other goods and services, or saving their money, government's overall revenues will increase again.⁵⁵

Table 13: Excise duties collected from the consumption of tobacco (€ million), by country, 2007

Country	Excise Duty Collected mEUR
Belgium	1,536.20
Bulgaria	688.55
Czech Republic	1,049.63
Denmark	898.09
Germany	14,108.00
Estonia	133.66
Greece	2,650.00
Spain	7,141.00
Ireland	37.00
Italy	10,195.00

⁵² RAND Europe 2011, Assessing the Impacts of Revising the Tobacco Directive, 73

⁵³ RAND Europe 2011, Assessing the Impacts of Revising the Tobacco Directive, 182

⁵⁴ RAND Europe 2011, Assessing the Impacts of Revising the Tobacco Directive

⁵⁵ RAND Europe 2011, Assessing the Impacts of Revising the Tobacco Directive, 74

Cyprus	180.50
Latvia	92.29
Lithuania	119.11
Luxembourg	49.43
Hungary	910.17
Malta	2.04
Netherlands	1,288.00
Austria	1,446.16
Portugal	684.92
Romania	1,263.72
Slovenia	301.01
Slovakia	782.61
Finland	622.00
Sweden	1053.18
United Kingdom	11,764.62
Switzerland	1,049.63
Norway	6,815.00
Average	2,531.23
Total	66,861.52

Source: DG TAXUD, NTL Tables

The EU cigarette and Roll-Your-Own market is estimated to be worth €130.6bn, of this figure, it is estimated that 76 per cent is driven by taxes on tobacco products.⁵⁶ Table 14, shown on the following page, shows estimates that a 0.5 per cent to 2 per cent reduction in tobacco consumption would mean between €94.2m and €377m reduction in revenue for the tobacco industry.

⁵⁶ Matrix Insight, Executive Agency for Health and Consumers, Economic analysis of the EU market of tobacco, nicotine and related products, 2013, 126

Table 14: Company revenue losses associated with a reduction in tobacco consumption (€m, 2010 prices)

	Company and tax revenue losses with different percentage reduction in tobacco consumption			
	0.5%	1.0%	1.5%	2.0%
Reduced spending on tobacco	€ 652.8	€ 1,305.5	€ 1,958.3	€ 2,611.0
Tax revenue lost	€ 495.8	€ 991.6	€ 1,487.4	€ 1,983.2
Retail and wholesale margins lost	€ 62.8	€ 125.6	€ 188.3	€ 251.1
Company revenue lost	€ 94.2	€ 188.3	€ 282.5	€ 376.7

Source: Matrix Report 2013

Assuming that revisions to labelling and packaging reduces the demand for tobacco products, through increases in costs and passing those through to price, the RAND Corporation estimate that the proposed measures for revising the TPD in labelling and packing could change revenues from tobacco consumption taxation in 2027 by approximately 0.2 per cent to 2 per cent.⁵⁷

5.5 Smuggling of Tobacco Products

Government revenues are reported to fall due to smuggled products. Not only as these are not subject to taxation, but manufacturers, wholesalers and retailers may experience lower revenue and profits as consumers are diverted to the informal economy.⁵⁸

Taxation and Customs Union Directorate-General (DG TAXUD) claims that during 2006, the number of cigarettes seized over this year would have provided the EU and its Member States with over €230m of tax revenue.⁵⁹ Furthermore, European Anti-Fraud Office (OLAF) reports that during 2008, approximately 5.3 billion illegal cigarettes were seized by law enforcement bodies across the EU.⁶⁰ Research in the UK indicates that the illegal market share for cigarettes in 2005 to 2006 was 13 per cent.⁶¹

According to the EC's Impact Assessment, an unintended, but welcome side effect of the measures against trade of products non-complying with the requirements of the Directive may be that the tax revenues of Member States are better protected, as these products often also circumvent national tax legislation.⁶²

⁵⁷ RAND Europe 2011, Assessing the Impacts of Revising the Tobacco Directive., 154

⁵⁸ RAND Europe 2011, Assessing the Impacts of Revising the Tobacco Directive, 74

⁵⁹ European Commission, 2007,

⁶⁰ http://ec.europa.eu/anti_fraud/press_room/pr/2010/01_en.html

⁶¹ Joosens and Raw, 2008, HM Treasury 2006

⁶² <http://ec.europa.eu/health/tobacco/products/revision/>

6 Discussion

Given the lack of available disaggregated data required for forming a complete picture of Northern Ireland's tobacco industry, it is difficult to provide a comprehensive analysis.

Utilising DFP data on the total revenue generated from tobacco duty from 2010 to 2011 (£486 million) along with the RAND Corporation's EU-wide impact assessment, the proposed measures for revising the TPD, in particular due to labelling and packing, could change revenues from tobacco consumption taxation by 2027 be 0.2 per cent to 2 per cent, assuming duty stays consistent.⁶³ Therefore, should these estimates prove accurate; revenue from NI tobacco duty could fall by £972,000 per annum (a 0.2 per cent reduction) and £9.7m per annum (a 2 per cent reduction).

Given the Tobacco Manufacturers Association's claim that the tobacco sector directly supports approximately 1,100 people in high value jobs and indirectly supports around 4,720 jobs in Northern Ireland, and the RAND Corporations forecasts for employment impact due to revisions in the directive, there may be reductions in shares of employment in manufacturing, wholesale and retail sales of tobacco products.⁶⁴

Nevertheless, given the EC's rationale for the proposed revised TPD that changes could include harmonisation of rules, in particular regarding packaging and labelling, industry representatives have recognised that the standardised approach to packaging across the EU may reduce overall cost of compliance with regulatory change. As different labelling regimes exist in different Member States, for example in Belgium pictorial health warnings are mandatory for cigarette packaging but for roll-your-own tobacco packaging, they are not. Additionally, it is argued that a revised TPD could result in savings from a common regulatory regime, in terms of monitoring costs and reduced risk from the removal of unregulated products from the market.⁶⁵

It is worth noting here, that the revised TPD affords Member States that deem it necessary to implement more stringent provisions at a national level, the scope to do so, on the grounds of overriding needs relating to the protection of public health.⁶⁶

⁶³ RAND Europe 2011, *Assessing the Impacts of Revising the Tobacco Directive*, 154

⁶⁴ RAND Europe 2011, *Assessing the Impacts of Revising the Tobacco Directive*, 111

⁶⁵ Matrix Insight, Executive Agency for Health and Consumers, *Economic analysis of the EU market of tobacco, nicotine and related products*, 2013, 15

⁶⁶ Stricter national provisions do however require prior notification to and approval from the EC.