

**Revision of the Tobacco Products Directive**

**Vending Machines**

**Statement by Mr. Paul Heinen, President of the European Tobacco Wholesalers Association (E.T.V.), at the meeting with Commissioner John Dalli on 7<sup>th</sup> March 2012**

I would like to put forward the European Tobacco Wholesalers Association's view on further restrictions or a uniform ban on Vending Machines.

Let me first of all emphasise that we do support reasonable and proportionate regulation, particularly have supported and do support regulation concerning the access of minors to such Vending Machines.

As an example, I should mention that in recent years (2007 and 2009) the German Vending Machine operators have implemented an age verification system in all Vending Machines at a total investment of € 300m+.

Other Member States (such as Spain, Italy, Netherlands and others) have implemented systems of their own, also in recent years and at considerable investment. The European Commission have recognised itself in 2009 that the EU Council Recommendation 2003/54/EC had been satisfactorily implemented.

It is our view that the EU is not, under the stipulations of article 168 TFEU, called upon to harmonise Member States' legislation in the relevant area of health. However, an EU-wide prohibition of the sale of tobacco products via Vending Machines would have to be based on such a harmonisation.

Since the Vending Machines catchment areas are limited to the immediate vicinity of the machines, Vending Machines do not have a cross-border relevance. Hence, there is no harmonisation potential of the internal market as outlined in art. 114 TFEU.

A ban on Vending Machines cannot be reconciled with constitutional principles in some Member States (e.g. Germany), since it is not proportionate as long as there are less intrusive measures (as e.g. age verification systems prohibiting the sale to minors) available.

A similar position is adopted by the WHO's FCTC, which does not recommend to its parties to prohibit the sale of tobacco products via Vending Machines, rather recommends to limit access to Vending Machines to legal age customers.

Concluding my statement, I should like to point out that, as long as a channel of distribution is there, it can be regulated (as so happens in Member States), controlled and monitored. As long as it is there, legal operators will operate legally and enforce age verification regulations professionally and responsibly. The same is not true for illicit trade, which is always ready to take up inadvertently created opportunities.