

National parliaments must have their say on the tobacco products directive



Take action - every national parliament should be involved. As we get closer to the 'end-game' for the tobacco products directive, it is important that national parliaments re-engage. Each legislative proposal is scrutinised by member state national parliaments, which can submit 'reasoned opinions' and influence the positions taken by their own governments. You can see the input of national parliaments on the Tobacco Products Directive so far on the [EU Inter-Parliamentary Exchange](#) (IPEX). The [proposals on e-cigs](#) are now completely different and [five times the length of the Commission proposal](#) sent to them in December 2012 for scrutiny, and *national parliaments should expect to see them again - and definitely before the Council votes on it*. I've extracted a list of contact information for national parliaments from the IPEX link above and listed at the end of this post. If you are outside the UK especially, please do make your views known to your own national parliament.

UK parliament developments

What is happening in the UK? The UK parliament is quite demanding in ensuring it retains a 'scrutiny reserve'. I wrote to the relevant committee in November to make the case for more scrutiny and UK parliamentary oversight ([detailed letter](#)) now that effectively an entirely new proposal has been formulated in a closed process. I probably didn't need to bother - the Committee is already quite troubled by this (they produced a very good [report on scrutiny](#) on 28 Nov - see [Conclusions](#) and the section on [secret \('Limité'\) documents and proceedings](#)).

Following its [11 December 2013 meeting](#) the House of Commons European Scrutiny Committee emphasised that it wants continued scrutiny of these proposals.

We note that negotiations are only likely to be concluded if the Council and European Parliament are able to reach a compromise on Article 18, on the regulation of non-tobacco Nicotine-Containing Products (NCPs), such as e-cigarettes, and on the scope for more stringent domestic tobacco control measures under Article 24, and comment that the Minister does not state in terms whether the UK would be willing to abandon the recommendation made by the UK's Medicines and Healthcare products Regulatory Agency (MHRA) to regulate non-tobacco Nicotine-Containing Products as medicines; nor does she set out the minimum safeguards the Government would seek to ensure appropriate and proportionate regulation of these products. We trust that she will be in a position to do so in the forthcoming debate.

We also make clear that we expect Parliament to be informed of any substantial amendments to the Commission's original proposal which emerge from the trilogue negotiations by means of a Supplementary Explanatory Memorandum accompanied by a new depositable text, with sufficient time for Parliament to consider and if necessary, debate it before it is formally agreed by the Council. (emphasis in blue added)

The final sentence of this means that the *UK government cannot agree a position in the Council until this committee has properly considered the proposals and the government has explained its position* (at least without a breach of parliamentary procedure). Every other parliament should expect the same. The Committee also [considered the issue on 4 December](#) and there has been an [exchange of letters between the Committee and Department of Health](#). The UK parliament has been persistently frustrated with the UK government - not least when the previous Minister for Public Health, Anna Soubry MP, agreed a ['General Approach' on the TPD](#) without discussing it with the Commons European Scrutiny Committee and in breach of agreed protocols - leading to an [eye-watering committee appearance](#). Note that she didn't even realise e-cigs were in the directive at the time.

The bigger picture

Why Brussels needs scrutiny. Why is the Tobacco Products Directive in general such a [mess](#) and why in particular are the [ideas for regulating nicotine containing](#)

[products like e-cigarettes](#) so bad - and so stupidly supportive to the cigarette-based business model of Big Tobacco (see [fake PR memo](#))? This has arisen largely because of *the way* decisions are made, and I have set [some reasons why this process is particularly poor](#). But there is also a deep diffusion and dilution of responsibility in the way decisions are made in the EU institutions - everyone has a say, no-one is accountable and anyone can blame everyone else. Many are quick to evoke the lame excuse about achieving “the art of the politically possible” as if this is some sort of worldly wisdom to explain away poor policy-making, but in this case all they need to do is have a new legislative process. This isn't exclusively the fault of the Commission - but more the way that elected representatives (MEPs) and member states (the Council) pursue their interests through negotiation and deal-making - the result is a deal, and what the deal actually does is a secondary concern, if it is a concern at all.

The role of national parliaments. In his [speech on the future of the European Union](#), the UK Prime Minister David Cameron put it pretty well...

My fourth principle is democratic accountability: we need to have a bigger and more significant role for national parliaments. There is not, in my view, a single European demos. It is national parliaments, which are, and will remain, the true source of real democratic legitimacy and accountability in the EU.

It is to the Bundestag that Angela Merkel has to answer. It is through the Greek Parliament that Antonis Samaras has to pass his Government's austerity measures. It is to the British Parliament that I must account on the EU budget negotiations, or on the safeguarding of our place in the single market.

Those are the Parliaments which instil proper respect - even fear - into national leaders. We need to recognise that in the way the EU does business.

Contacting national parliaments - for EU scrutiny

You can communicate with your national parliamentary scrutiny function to ask them to get more involved, if they aren't already. Possible messages:

- The e-cigarettes part of the directive is by far the most important part - affecting millions of users and thousands of small businesses in Europe with huge potential to reduce smoking
- The proposal has changed beyond recognition - it is now five times as

long and completely new text

- Many of the measures are very poor and counterproductive - lacking scientific evidence and adequate legal base [see previous posts: [here](#), [here](#) and [here](#)]
- The policy-making and legislative process through amendment and closed trilogue negotiation is very opaque and unsatisfactory - [see [here](#)]
- National Parliaments have not had an opportunity scrutinise the new text, yet it is exactly like a proposal for a completely new directive
- There has been no evidence-based justification; no impact assessment; and no consultation with the users and businesses affected or with experts

Contact information

Austria

[Austrian Federal Council](#)

Belgium

[Belgian Senate](#)

[Belgian Chamber of Representatives](#)

Bulgaria

[Bulgarian National Assembly](#)

Czech Republic

[Czech Senate](#)

[Czech Chamber of Deputies](#)

Denmark

[Danish Parliament](#)

Finland

[Finnish Parliament](#)

France

[French National Assembly](#)

Germany

[German Bundestag](#)

[German Bundesrat](#)

Greece

[Hellenic Parliament](#)

Hungary

[Hungarian National Assembly](#)

Italy

[Italian Senate](#)

[Italian Chamber of Deputies](#)

Malta

[Maltese House of Representatives](#)

Poland

[Polish Senate](#)

[Polish Sejm](#)

Portugal

[Assembleia da República](#)

Romania

[Romanian Senate](#)

[Romanian Chamber of Deputies](#)

Slovenia

[Slovenian National Assembly](#)

Spain

[Cortes Generales](#)

Sweden

[Swedish Parliament](#)

The Netherlands

[Dutch Senate](#)

[Dutch House of Representatives](#)

United Kingdom

[UK House of Lords](#)

[UK House of Commons](#)