Brussels, 22 March 2021

TNPC COMMENTS ON THE FRENCH DECREE ON THE PROVISION OF INFORMATION TO IDENTIFY ENDOCRINE DISRUPTORS IN A PRODUCT

The Tobacco and Nicotine Products Chemicals Group ('TNPC') is an industry association representing some of the major manufacturers, distributors and brand owners in the tobacco and nicotine products industry.

TNPC's objectives are to:

(i) develop a common and agreed understanding of the EU and global chemicals legislation and technical regulations that is relevant for cigarettes, heated tobacco products, oral and other tobacco products, vapour products and other nicotine based products, and

(ii) to support and address the legitimate interests and concerns of its members.[1]

TNPC would like to raise concerns related to the draft French Decree on the provision of information to identify endocrine disruptors in a product, notified in the EU TRIS database on 21 December 2020 under n°2020/832/F. It is our view that the draft does not support the European harmonised approach envisaged in the EU "Chemicals Strategy for Sustainability".

Key points to consider to avoid double regulation, duplication of obligations and legal uncertainty are:

- Harmonised criteria for defining what is an Endocrine Disruptor.
    - Any national regulation should align with the definitions proposed for the new Endocrine Disruption hazard classifications for Human Health and the Environment according to CLP, as proposed by the Commission and currently discussed in the Competent Authorities Sub-Group on Endocrine Disruptors.
    - The additional criteria related to Endocrine Disruption proposed to be added to the qualifying criteria for addition to the candidate list of substances of very high concern according to REACH must also be considered.

- Reasonable and practical declaration limits.
    - Any reporting and labelling requirement should be supported by practical and scientifically credible thresholds.
    - Selecting a threshold limit would eliminate the risk of different test methods being used with different detection limits and subsequent difficulties in monitoring.
    - Exemptions should be in place for substances not intentionally added to products.

[1] TNPC is registered under n° 102135939541-25 in the European Transparency Register

    - Where possible existing frameworks such as REACH, CLP and the Substances of Concern in Products database should be leveraged to gather data, rather than creating a new duplicating platform.

- Providing appropriate information to consumers.

    - Labelling of a product containing endocrine disruptors does not align with the EU "Chemicals Strategy for Sustainability" which envisages information being supplied to regulators for market control to be exerted.
    - The average consumer should not be expected to be able to differentiate between presumed and suspected endocrine disruptors. The proposal to incorporate a hazard class in CLP giving clear hazard and precautionary instructions in the event of a quantifiable hazard should be seen as preferable.
    - For product categories not in scope of CLP, amendments to sector specific legislation arising from the data gathered by the strategy to give consumer friendly information should be prioritised over generic content labelling highlighting presence rather than hazard or mitigation.
    - For articles, SCIP database notifications are to be made publicly available, explaining the SVHC content and risk posed. This more detailed information would allow consumers to make an informed decision.

- Credible science to identify Endocrine Disruptors.

    - Any list of substances must be based not only on the harmonised definitions referred to above, but must also apply credible science. An adverse effect must be shown or reasonably predicted before a substance is subjected to regulation.

Any regulation should also consider the harmful effects on industry from disruption of the single market, the competitiveness of the industries that have to fulfil regulations that are implemented differently in each Member State, the labelling of products having to comply to a specific national regulation (and costs associated with) and the transport of goods with different specifications will be adversely impacted.

It should also be noted that other Member States have paused their own plans to manage endocrine disruptors awaiting more information on EU level proposals.