

Message 001

Communication from the Commission - TRIS/(2026) 1393

Directive (EU) 2015/1535

Notification: 2026/0254/BE

Notification of a draft text from a Member State

Notification – Notifikation – Notifizierung – Нотификация – Oznámení – Notifikation – Γνωστοποίηση – Notificación – Teavitamine – Ilmoitus – Obavijest – Bejelentés – Notifica – Pranešimas – Paziņojums – Notifika – Kennisgeving – Zawiadomienie – Notificação – Notificare – Oznámenie – Obvestilo – Anmälan – Fógra a thabhairt

Does not open the delays - N'ouvre pas de délai - Kein Fristbeginn - Не се предвижда период на прекъсване - Nezahajuje prodlení - Fristerne indledes ikke - Καμμία έναρξη προθεσμίας - No abre el plazo - Viivituste perioodi ei avata - Määräaika ei ala tästä - Ne otvara razdoblje kašnjenja - Nem nyitja meg a késések - Non fa decorrere la mora - Atidėjimai nepradedami - Atlikšanas laikposms nesākas - Ma jiftaħx il-perijodi ta' dewmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Nu deschide perioadele de stagnare - Nezačína oneskorenia - Ne uvaja zamud - Inleder ingen frist - Ní osclaíonn sé na moilleanna

MSG: 20261393.EN

1. MSG 001 IND 2026 0254 BE EN 22-05-2026 BE NOTIF

2. Belgium

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4. 2026/0254/BE - X60M - Tobacco

5. Royal Decree amending the Royal Decree of 28 October 2016 on the manufacture and marketing of electronic cigarettes

6. E-liquids with and without nicotine

7.

8. Reduction of flavours in e-liquids with and without nicotine. Only tobacco flavour and flavourless are allowed.

It is prohibited to place on the market technical components that modify the smell, taste or colour of emissions from electronic cigarettes, refill containers and nicotine-free refill containers.

9. The notified measure pursues a legitimate objective of general interest, namely the protection of public health, in particular that of young people, in accordance with Article 36 TFEU.

It is part of the inter-federal strategy aimed at achieving a tobacco-free generation by 2040, including the reduction of the use of electronic cigarettes and related products.

Recent scientific evidence points to a significant and worrying increase in the use of electronic cigarettes among young people, including a tenfold increase in daily use among 15 to 24-year-olds.

In addition, overall nicotine consumption remains stable due to the development of vaping and dual use (cigarettes and electronic cigarettes), which undermines public health objectives.

Scientific evidence demonstrates that flavours play a key role in the appeal of electronic cigarettes and in encouraging people to take them up, particularly by masking the bitterness of nicotine and making the product more appealing.

In light of these findings, and in accordance with the recommendations of the WHO and the Superior Health Council, it is necessary to reduce the appeal of electronic cigarettes by restricting the use of flavours in order to protect public health.

9a. The notified measure is appropriate to achieve the public health objective pursued, namely reducing the appeal of electronic cigarettes, especially to young people.

Scientific and behavioural evidence shows that:

- flavours are a key factor in encouraging people to take up electronic cigarettes, particularly among young people;
- curiosity related to flavours is explicitly identified as a factor driving experimentation;
- the sweet and fruity flavours increase the appeal of products and mask the bitterness of nicotine.

By restricting the available flavours to tobacco flavour only (whilst allowing flavourless products), the measure directly targets the main factor driving their appeal..

This approach is supported at both the scientific and international levels:

- the WHO recommends a ban on flavours in electronic cigarettes;
- the Superior Health Council recommends strict restrictions based on a positive list.

Empirical data from other Member States (notably the Netherlands) show that flavour restrictions lead to a reduction in use and an increase in the number of people giving up smoking, thus confirming the measure's effectiveness.

The measure is therefore capable of contributing effectively, in a consistent and systematic manner, to the protection of public health.

9b. The measure is necessary, as the existing measures are not sufficient to achieve the public health objective.

Despite the current regulatory framework, the data shows a continued increase in the use of electronic cigarettes among young people and persistent exposure to nicotine at the population level.

The appeal of these products remains high due to the wide availability of flavours, which is not sufficiently regulated under the existing legislation.

Less restrictive alternatives (such as consumer information, age restrictions or general marketing rules) have proven to be insufficient, as they do not address the main driving factor of initiation, namely the appeal linked to flavours.

In addition, the measure is targeted and limited in scope:

- it does not prohibit electronic cigarettes as such;
- it is limited to the restriction of flavours;
- it keeps tobacco flavour and flavourless products on the market.

It is therefore the least restrictive means of effectively achieving the objective in question.

9c. The measure does not impose an excessive burden in relation to the importance of the objective pursued.

On the one hand, the objective is of major importance, as it seeks to:

- prevent nicotine addiction among young people;
- protect against the potentially harmful effects of inhalation of aromatic substances and their combinations.

On the other hand, the restriction is limited:

- electronic cigarettes are not banned;
- only one category of flavours is restricted;
- alternatives remain available (tobacco flavour or flavourless).

Furthermore, the measure is accompanied by safeguards designed to mitigate its impact:

- a transitional regime;
- a clear and predictable legal framework (positive list of additives);
- general and non-discriminatory application to all products marketed in Belgium.

Finally, the expected public health benefits (reduction in initiation, dependence and consumption) outweigh the limited restrictions on trade, as indicated by the available scientific and empirical evidence.

The measure thus strikes the right balance between the protection of public health and the free movement of goods, and cannot be regarded as disproportionate.

10. References to the basic texts:

11. No

12.

13. No

14. No

15. No

16.

TBT aspects: No

SPS aspects: No

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