

## **Excise duties/Minimum retail sale prices for cigarettes: Commission takes Italy to the Court of Justice**

***The European Commission has decided to take Italy to the Court of Justice for fixing minimum retail prices for cigarettes. The Commission takes the view, based on well-established case law of the Court of Justice of the European Communities, that such minimum prices infringe Community law, distort competition and benefit only manufacturers, by safeguarding their profit margins. To achieve the objective of reducing tobacco consumption, the Commission advocates increasing the excise duty on cigarettes.***

The Commission recognises that price and tax measures are effective means for reducing tobacco consumption. Such measures must, however, be in line with obligations under Community law.

In this respect, the Court of Justice of the European Communities has already ruled that:

- imposing minimum prices is incompatible with the current legal framework (Article 9(1) of Directive 95/59/EC), since the setting, by the public authorities, of such prices inevitably has the effect of limiting the freedom of producers and importers to determine their selling prices (see in particular Case C-302/00 Commission v France);
- such minimum prices are not necessary, since the public health objectives may be attained by increased taxation of tobacco products (Case C-216/98 Commission v Greece).

The Commission fully supports Member States' designing of tobacco control measures in order to ensure a high level of public health protection.

Among the measures that could be used, the Commission recommends increasing excise duty and minimum taxes to tackle cigarette consumption. These measures have the same effects on prices as setting minimum prices but do not reduce price-based competition to the sole benefit of manufacturers by protecting their profit margins.

Belgium has complied with the Commission's opinion and has amended its legislation to bring it into line with Community law (see [IP/07/373](#)). This has made it possible to increase State budget revenue and to ensure a dissuasive increase in the price of tobacco.

In July 2007, the Commission sent a reasoned opinion to Italy (see [IP/07/995](#)) followed by a supplementary reasoned opinion.

Since Italy did not amend its legislation within the requested deadline, the Commission has decided to submit the case to the Court of Justice. The reference number of the case is: 2005/2107.

For the latest information on infringement proceedings, go to:

[http://ec.europa.eu/community\\_law/index\\_en.htm](http://ec.europa.eu/community_law/index_en.htm)

Further information on current legislation on tobacco products is available at:

[http://ec.europa.eu/taxation\\_customs/taxation/excise\\_duties/tobacco\\_products/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/excise_duties/tobacco_products/index_en.htm)

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