



**Study assessing articles 32 and 36 of  
Council Directive 2008/118/EC concerning  
the general arrangements for excise duty**

***Final Report***

Written by:

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**FOR THE EUROPEAN COMMISSION**

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## List of abbreviations used in this report

<b>ABV</b>	Alcohol By Volume
<b>ARC</b>	Administrative Reference Code
<b>B2B</b>	Business to Business
<b>B2C</b>	Business to Consumer
<b>CAP</b>	Common Agricultural Policy
<b>CGE</b>	Computable General Equilibrium
<b>CNAPA</b>	Committee on National Alcohol Policy and Action
<b>CJEU</b>	Court of Justice of the European Union
<b>DG AGRI</b>	Directorate-General for Agriculture and Rural Development
<b>DG ENER</b>	Directorate-General for Energy
<b>DG TAXUD</b>	Directorate-General Taxation and Customs Union
<b>DG SANTE</b>	Directorate-General for Health and Food Safety
<b>DS</b>	Distance Selling
<b>e-AD</b>	Electronic Administrative Document
<b>EC</b>	European Commission
<b>ECB</b>	European Central Bank
<b>ECOFIN</b>	European Union Council of Economic and Finance Ministers
<b>EEA</b>	European Economic Area
<b>EMCS</b>	Excise Movement and Control System
<b>EPRS</b>	European Parliamentary Research Service
<b>ERP</b>	Enterprise Resource Planning
<b>EU</b>	European Union
<b>EU-28</b>	28 Member States of the European Union
<b>HICP</b>	Harmonised Index of Consumer Prices
<b>IT</b>	Information Technology
<b>LHS</b>	Left Hand Side
<b>MOSS</b>	Mini One Stop Shop
<b>MS</b>	Member State
<b>NGO</b>	Non-Governmental Organisation
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OFDT</b>	French Monitoring Centre for Drugs and Drug Addiction
<b>OSS</b>	One Stop Shop
<b>PA</b>	Personal Acquisition
<b>POD</b>	Proof Of Delivery
<b>PPP</b>	Purchasing Power Parity
<b>PwC</b>	PricewaterhouseCoopers LLP
<b>RHS</b>	Right Hand Side
<b>SAAD</b>	Simplified Administrative Accompanying Document
<b>SDG</b>	Sustainable Development Goal
<b>SEED</b>	System for Exchange of Excise Data
<b>SEPA</b>	Single Euro Payments Area
<b>SME</b>	Small and Medium-sized Enterprises
<b>TFEU</b>	Treaty on the Functioning of the European Union
<b>UK</b>	United Kingdom
<b>VAT</b>	Value Added Tax
<b>WAP</b>	Weighted Average Price

<b>WHO</b>	World Health Organization
<b>W2R</b>	Wholesale to Retail

### **Member State Abbreviations**

<b>AT</b>	Austria
<b>BE</b>	Belgium
<b>BG</b>	Bulgaria
<b>CY</b>	Cyprus
<b>CZ</b>	Czechia
<b>DE</b>	Germany
<b>DK</b>	Denmark
<b>EE</b>	Estonia
<b>EL</b>	Greece
<b>ES</b>	Spain
<b>FI</b>	Finland
<b>FR</b>	France
<b>HR</b>	Croatia
<b>HU</b>	Hungary
<b>IE</b>	Ireland
<b>IT</b>	Italy
<b>LT</b>	Lithuania
<b>LU</b>	Luxembourg
<b>LV</b>	Latvia
<b>MT</b>	Malta
<b>NL</b>	Netherlands
<b>PL</b>	Poland
<b>PT</b>	Portugal
<b>RO</b>	Romania
<b>SE</b>	Sweden
<b>SI</b>	Slovenia
<b>SK</b>	Slovakia
<b>UK</b>	United Kingdom



## **Abstract**

This study, commissioned by the Directorate-General Taxation and Customs Union (DG TAXUD) and the Directorate-General for Health and Food Safety (DG SANTE) of the European Commission, assesses Articles 32 and 36 of Council Directive 2008/118/EC concerning the general arrangements for excise duty.

The study focuses on areas that were highlighted for further improvement in recent European Commission evaluations; the cross-border acquisition of excise products by private individuals, the cross-border distance selling of excise products by businesses to consumers, and the wholesale to retail sales of excise goods by a business in one Member State to a business in another.

The study collects data from consumers, businesses and national authorities from across the European Union. This information is combined with other analysis to estimate the size and magnitude of the problems relating to the current arrangements. Potential policy responses are then identified and assessed using cost-benefit analysis. The study finds that further EU-Level action is justified in each area.

## **Résumé**

Cette étude, réalisée à la demande de la Direction Générale de la fiscalité et de l'Union douanière (DG TAXUD) et de la Direction Générale de la santé et de la sécurité alimentaire (DG SANTE) de la Commission européenne, évalue les articles 32 et 36 de la Directive 2008/118/EC du Conseil concernant le régime général d'accise.

L'étude se concentre sur les domaines qui ont été pointés par les récentes études d'incidences de la Commission européenne comme nécessitant des améliorations : l'acquisition transfrontalière de produits soumis à accise par des particuliers, la vente à distance transfrontalière de produits soumis à accise par des entreprises aux consommateurs et la vente d'un grossiste à un détaillant de produits soumis à accise par une entreprise d'un État membre à une entreprise située dans un autre.

L'étude se base sur des données recueillies auprès des consommateurs, des entreprises et de autorités nationales à travers l'Union européenne. Ces informations sont combinées à d'autres analyses dans le but d'estimer l'importance et l'envergure des problèmes liés au régime en vigueur. Des potentielles réponses politiques appropriées sont alors identifiées et évaluées sur base d'une analyse coûts-bénéfices. L'étude montre que toute action supplémentaire au niveau de l'Union européenne est justifiée dans chacun des domaines identifiés.

## **Zusammenfassung**

Diese Studie, die von der Generaldirektion Steuern und Zollunion (DG TAXUD) und der Generaldirektion Gesundheit und Lebensmittelsicherheit (DG SANTE) der Europäischen Kommission in Auftrag gegeben wurde, bewertet die Artikel 32 und 36 der Richtlinie 2008/118/EG des Rates über das allgemeine Verbrauchsteuersystem.

Die Studie konzentriert sich auf Bereiche, die in jüngsten Bewertungen der Europäischen Kommission für eine weitere Verbesserung hervorgehoben wurden; den grenzüberschreitenden Erwerb von Verbrauchssteuern Produkten durch Privatpersonen, den grenzüberschreitenden Fernverkauf von Verbrauchsteuerprodukten durch Unternehmen an Verbraucher und den Großhandelsverkauf von Verbrauchsteuerprodukten durch ein Unternehmen in einem Mitgliedstaat an ein Unternehmen in einem anderen.

Die Studie sammelt Daten von Verbrauchern, Unternehmen und nationalen Behörden aus der gesamten Europäischen Union. Diese Informationen werden mit anderen Analysen kombiniert, um Umfang und Ausmaß der Probleme im Zusammenhang mit den derzeitigen Vereinbarungen abzuschätzen. Mögliche politische Reaktionen werden dann identifiziert und mittels Kosten-Nutzen-Analysen bewertet. Die Studie stellt fest, dass weitere Maßnahmen auf EU-Ebene in jedem Bereich gerechtfertigt sind.

## 1. Introduction, context and scope

### 1.1. About this study

Directorate-General Taxation and Customs Union (DG TAXUD) and the Directorate-General for Health and Food Safety (DG SANTE) commissioned PwC and its consortium partners to assess Council Directive 2008/118/EC concerning the general arrangements for excise duty<sup>1</sup>, Articles 32 and 36, and other associated legislation. This study was carried out between October 2018 and November 2019.

Member State authorities and economic operators generally consider Directive 2008/118/EC (also referred to throughout this report as “the Directive”) to function well in applying common provisions to all products subject to excise duty across Member States (European Commission, 2018a)<sup>2</sup>. Therefore, this study does not assess potential changes to the scope of the Directive or review it in its entirety. Instead, it focuses on several areas highlighted for further improvement in the recent evaluation process (European Commission, 2015a & 2015c). Specifically, this study focuses on the cross-border aspects (intra-EU and, to a lesser extent, imports) of the following distinct transaction types:

- **Acquisition by private individuals (cross-border):** the purchase of excise goods by a private individual for their own use and personally transported from one Member State to another. Article 32 of Directive 2008/118/EC covers these movements and excise duty is due in the Member State of purchase.
- **Distance selling (B2C):** the sale of excise goods by businesses in one Member State (or non-EU country) directly to consumers in another Member State, where the business making the sale and the consumer are not physically present simultaneously. Article 36 of Directive 2008/118/EC covers intra-EU distance sales that take place under duty-paid (distance selling) arrangements, with excise duty ultimately due in the Member State of destination.
- **Wholesale to retail (B2B):** the commercial sale of excise goods by a business in one Member State to a business in another. This may take place under either duty suspension or duty-paid arrangements, covered by Chapters IV and V of Directive 2008/118/EC, and excise duty is ultimately due in the Member State of destination. The focus of this study is movements from wholesalers in one Member State to smaller retailers in another.

The consortium was tasked with establishing an overview of the nature and scale of the current problems related to these areas, mapping the evolution of these problems over time if no further EU-level action is taken, and analysing and assessing the potential impacts of several different policy options that could be introduced to address these issues.

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<sup>1</sup> Council Directive 2008/118/EC concerning the general arrangements for excise duty and repealing Directive 92/12/EEC. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02008L0118-20140101>

<sup>2</sup> This report adopts an in-text citation style. Full references can be found in the bibliography.

Excise duty varies greatly across the European Union as Member States have the right to apply excise duty at any level above the minima set out in EU legislation. While changes to the excise minima are not in scope for this study, these excise differentials cause notable complications and issues that this study examines. It also examines the administrative burdens placed on businesses under the current system, including difficulties for businesses wanting to sell directly to consumers in other Member States.

This report sets out detailed analysis of these issues based on an extensive data collection exercise, modelling of the identified problems and a cost-benefit analysis of various policy options.

## **1.2. Excise duty, excise goods and fiscal risk**

Excise duties are indirect taxes levied upon the consumption of certain types of goods. Only excise on alcoholic beverages, manufactured tobacco and energy products are harmonised across the EU, although Member States may levy excise on other goods (Belgium levies excise on coffee, for example). Common legislation applies to harmonised excise goods and ensures their production, holding and movement is subject to consistent rules.

The general rule within the EU is that these duties are applied in the Member State of consumption. However, in the case of goods that are acquired by private individuals and transported by themselves for their own consumption in a different Member State, excise duty is due in the Member State of purchase rather than in the Member State of destination. Member States use excise duty to generate public revenue and to achieve public interest objectives, such as supporting their health, social or environmental policies.

However, the flexibility inherent in the fact that Member States may impose excise duty rates at any level at or above the minima contributes to a high potential fiscal risk for several reasons, including:

1. The duty rates of some excise goods (e.g. cigarettes and some energy products) exceed the net value of the goods in some Member States;
2. Significant variation in duty rates acts as a strong incentive for consumers to make purchases in person across Member State borders, and for fraudsters to divert excise goods from low-rate Member States to the illicit markets of high-rate Member States;
3. The full amount of excise duty due on each set of excise goods is collected from one taxpayer at a single time and location, which makes excise duty more vulnerable to fraud than other indirect taxes where the tax is collected at multiple points; and
4. Under the destination principle, excise duty is due in the Member State of consumption in almost all circumstances, but the goods themselves are often produced or imported elsewhere, giving rise to the need for specific procedures to defer the payment of tax, or cumbersome tax refund arrangements (European Commission, 2015a).

The development of two main trans-European IT systems began in 2003 in order to automate the monitoring of the movements of excise goods under duty suspension. The first was dedicated to the registration of Economic Operators (SEED, which was put into service in 2006), and the second for monitoring movements of excise goods (EMCS, which was introduced in the EU in three stages from April 2010). To control duty-suspended movements by validating data and providing real time notification of dispatch and receipt of goods within the EU, these systems established an electronic register of economic operators and provided real time notification of dispatch and receipt of goods within the EU. In November 2019 the European Council provisionally agreed to extend EMCS to cover duty-paid movements from 13 February 2023 (European Council, 2019).

Fiscal risks relating to legitimate and illegitimate trade in excise goods remain, despite the automation that has occurred. The scale of legal cross-border purchases of excise goods, where excise revenues accrue to the Member State of purchase rather than the Member State where the goods are consumed, is explored in this study. While excise fraud is inherently difficult to measure and data is very scarce, this study also explores the scale of fiscal risks related to fraud.

### **1.3. Excise duty and public health**

Excise duty on alcohol and tobacco products are used extensively around the world as a cost-effective measure to protect public health. Institutions such as the World Health Organization (WHO) have consistently argued for the use of excise duty for many years and consider their implementation crucial for successful national public health policies (WHO, 2010).

Alcohol and tobacco consumption are well known risk factors for a series of conditions and diseases<sup>3</sup>. While price isn't the only determinant of demand, the combination of substantial (tax driven) price differences and the absence of border controls in the internal market does create a strong economic incentive for individuals to purchase excise goods in lower taxing Member States, particularly in locations where cheaper markets are relatively accessible. This can undermine national health policies designed to reduce domestic consumption, and/or raise revenues through higher excise duty rates.

At an EU level, Articles 34 and 35 of the Treaty on the Functioning of the European Union (TFEU) provide for the unrestricted movement of goods within the single market. However, Article 36 of the TFEU restricts this right in certain situations, which includes limiting movements of certain goods on the grounds of "protection of health and life of humans". There are further references within the TFEU, which reinforce the importance of health impacts for EU policy. Article 168 states that "a high level of human health protection shall be ensured in the definition and implementation of all Union policies". Similarly, Article 9 states: "In defining and implementing its policies and activities, the Union shall take into account requirements linked to the...protection of human health". As the next section outlines, in practice the ability of Member States to apply these provisions in the context of excise goods remains challenging.

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<sup>3</sup> See, for example, World Health Organization (2019a) for tobacco and World Health Organization (2018a) on the harmful use of alcohol.

In order to implement effective measures regarding public health, Member States may also wish to keep track of the movement of excise goods to support the development of policies to protect public health, but monitoring these movements is difficult in practice. Acquisitions by private individuals in another Member State follow general rules where no documents or proof of sale are required, and movements from one business to its hub in another Member State (after duty payment in the dispatching Member State) currently fall under Articles 33 to 35 of Directive 2008/118/EC, which are widely considered too burdensome and inefficient to apply in practice.

#### **1.4. The purpose of Directive 2008/118/EC**

To allow the free movement of goods while ensuring that the correct tax revenues are ultimately collected by Member States, EU legislation (in the form of Council Directive 2008/118/EC) sets out general arrangements for goods subject to excise duty, with emphasis on the production, storage and movement of excise goods between Member States. Directive 2008/118/EC defines two types of procedures for moving excise goods between Member States:

- **Duty Suspension:** this procedure provides relief to economic operators from having to advance excise duty on production, processing, holding or movement of excise goods not covered by a customs suspension procedure<sup>4</sup> and before dispatch of the goods, improving cash flow. It also ensures that excise duty is only paid once in the Member State where the goods will be released for consumption. Member States impose strict conditions on the granting of authorisations for duty suspension, and it is a mandatory requirement that the excise liability of the goods being moved is covered by a financial guarantee to secure the revenue in the case that the goods do not reach their destination.
- **Duty-Paid:** this procedure covers circumstances when the goods have left a duty suspension arrangement in the country of dispatch and the excise has been paid. For these movements, the excise must also be paid in the country of destination. The excise duty paid in the country of dispatch can be claimed back when evidence shows the goods have arrived, and the duty has been paid in the country of destination. As the duty has already been paid, national registration or authorisation procedures tend to be simpler than for duty suspension. However, this process can lead to logistical costs and complexities, in addition to the cash flow impacts of having to pay the excise twice before the refund of the first duty payment.

The sale of excise goods from businesses in one EU Member State to consumers in another (Distance Selling) are governed under the general rules provided under Article 36 of the Directive. As the goods have been released for consumption in the Member State of dispatch, the duty-paid procedures described above apply, with the vendor responsible for ensuring they are completed.

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<sup>4</sup> A customs suspension procedure can allow customs duty, excise duty and/or import VAT to be suspended on goods imported in the EU from Non-EU countries when undertaking certain operations (e.g. storage for subsequent shipment to a non-EU country).

Under Article 32 of the Directive, excise duty on excise goods acquired by a “private individual for their own use and transported from one Member State to another by them”, shall be charged only in the Member State in which the excise goods are acquired. To provide further clarity, the Article sets out guide level amounts of excise goods that authorities may use as a form of evidence in determining whether or not goods are legitimately for “own use”.

The Directive itself lays down the fiscal provisions detailed above, and the legal basis of the Directive is Article 113 TFEU. The Article allows for the harmonisation of legislation concerning indirect taxation insofar as it is necessary for the proper functioning of the internal market and to avoid distortions of competition. While Article 168(1) TFEU states that a high level of human health protection is to be ensured in the definition and implementation of all Union policies and activities, it is not a legal basis on its own and does not allow for the insertion of purely health-focussed measures into a tax directive. This is an important consideration for the policy options presented in this study.

### **1.5. Previous analysis and proposed changes**

Member States have increasingly called on the European Commission to take action regarding the issues surrounding the current arrangements in recent years, prompting two independent studies on cross-border movements of excise goods:

- A 2015 evaluation of the cross-border movements of excise goods that have been released for consumption (European Commission 2015b); and
- Another in 2016 focussed on the holding and moving of excise goods under excise duty suspension, conducted for the purposes of the evaluation of effectiveness, efficiency, coherence, relevance and value added of intervention at an EU-level (European Commission 2016a).

The 2015 evaluation concluded that, overall, the use of duty-paid procedures for B2B movements of excise goods was marginal in terms of the volume of intra-EU movements. However, it did find that small businesses used these arrangements as an alternative to become an authorised excise operator for EMCS due to the associated cost. Regarding the distance selling of alcohol, the evaluation concluded that there was a high, untapped market for sales of alcohol, as many economic operators considered the associated costs of appointing tax representatives in the Member State of destination too burdensome.

The 2016 study concluded that the EMCS reduced the overall administrative costs for authorities in Member States, with average savings of between €27.5 and €37 million in 2014 alone. With the exception of the obligations relating to the set-up and management of guarantees (an issue for SMEs), the economic operators surveyed did not consider the authorisation requirements to be particularly burdensome. The 2016 study also included analysis of acquisition by private individuals, covered in Article 32 of Directive 2008/118/EC.

The studies highlight that for duty-paid movements there is no harmonised method used across Member States for the declaration of the movement, payment, and reimbursement of excise duty, with particularly significant impacts for SMEs. While the



current arrangements for combating fraud contribute to the protection of the financial interests of Member States, there is a limited capacity to monitor and track movements. This can mean that there is limited capacity to perform the risk analysis necessary to prevent fraudulent abuse of the paper-based arrangements used for either duty-paid B2B or intra-EU distance selling.

An impact assessment of different options for modernising VAT for cross-border B2C ecommerce was published in 2016, which led to a legislative proposal being adopted in December 2017 (European Commission, 2016).

Collectively, these studies draw attention to the significant issues caused by the current arrangements for excise goods, especially in relation to cross-border distance selling, and highlight potential scope for further review and revision.

## **1.6. Scope and objectives of this study**

The purpose of this study is to support the development of improvements to Directive 2008/118/EC. The specific objectives of the study are to:

- Undertake a detailed analysis of the current situation concerning Articles 32 and 36 and wholesale to retail movements;
- Identify weaknesses or gaps in Articles 32 and 36, including their impact on public health policies;
- Estimate how the current situation could develop over time in the absence of any further EU-level action in this area;
- Identify several potential policy responses that could effectively address any identified issues or gaps in Articles 32 and 36; and
- Undertake a cost-benefit analysis of the identified policy options with the end purpose of evaluating which potential response(s) could be the most effective at reducing or eradicating the identified issues.

To achieve this, a multidisciplinary team of excise, customs, economics, health, and social research experts engaged with a wide range of stakeholders and prepared analysis using primary and secondary data sources; including surveys of consumers, economic operators and national authorities, interviews with Member State authority experts and numerous existing databases.

## **1.7. Structure of this report**

The remainder of this report presents this analysis, and is structured as follows:

- **Chapter 2:** sets out the analytical approach of the study;
- **Chapter 3:** outlines the discrepancies in excise duty across Member States, highlighting borders with large differences;
- **Chapters 4, 5 and 6:** assess each of the specific transaction types (acquisition by private individuals, distance selling, and wholesale to retail) in detail, outlining the current situation and the nature and magnitude of specific problems, and then assessing a range of potential policy responses; and
- **Chapter 7:** presents overall analysis and conclusions.

Several annexes provide further detail on specific elements of the analysis. A full list of annexes is provided in the Table of Contents.

## **2. Analytical approach**

This chapter sets out the various analytical methods that have been employed in the study. It first describes the approach that was undertaken to gather the various primary and secondary data sources, and then describes the different analytical methodologies that have been used to estimate the magnitude of the current problems and to assess the potential policy options.

### **2.1. Approach to data gathering**

Throughout the project, quantitative and qualitative data was gathered from a range of sources. For certain aspects of the analysis, particularly for information relating to fraud, data was at times missing or unreliable, so the analysis triangulates multiple data sources wherever possible.

Data and statistics were gathered through four main channels: desk-based analysis of existing studies, reports, articles and legal cases; face-to-face and verbal consultation with stakeholders in the industry, national administrations and tax experts; two large surveys of consumers and businesses; and existing public and subscription-based databases.

#### **2.1.1. Desk-based research**

During the early stages of the study, an extensive desk-based research exercise gathered information and insights from a broad range of relevant literature and journals. Over 100 documents were directly obtained for review, with over 50 submissions from national authorities and over 40 from external stakeholders also assessed. The research covered both EU and national documents, and included policy reports, relevant legislation, legal cases, and previous research studies and impact assessments. This covered all three of the transaction types in scope for this study (personal acquisition, distance selling and wholesale to retail) and all three product types (alcohol, tobacco and energy products).

A key source of data and information for the study was the collection of recent impact assessments and evaluations in relation to Directive 2008/118/EC by the European Commission (2015b, 2016a and 2017a). These studies analysed and reviewed some of the existing issues related to the current arrangements and propose a set of potential policy responses, albeit with a narrower focus than this current study. These previous assessments were influential in developing the overarching methodological approach used in this study, and to validate the existence and nature of the current problems.

The insights gathered through the desk-based research were integral to the analysis that follows. Individual reports and studies are referenced throughout, with a full list provided in the bibliography.

### **2.1.2. Consultation**

A detailed stakeholder consultation process was undertaken during the early stages of the project, given the importance of this study and the wide range of stakeholders affected by the current arrangements.

This consultation included representatives from Member States, the Commission, NGO's and relevant industry bodies, and was designed to ensure that the analysis and policy development process reflected the realities faced by consumers, businesses and authorities. This process played a key role in:

- Ensuring our database of relevant documents, reports and previous studies was as exhaustive as possible;
- Gathering evidence and insights into the specific needs of relevant industries;
- Collecting important data and intelligence from Member State representatives and Commission experts;
- Understanding the views and insights of relevant NGOs;
- Establishing an initial view on the most feasible potential policy options; and
- Developing, testing and refining these policy options.

This consultation revolved around two main processes, in addition to receiving position papers:

#### ***Member State Workshops***

The Commission organised and hosted two workshops with tax and health representatives of Member States and relevant industry specialists to discuss and analyse the current legislative situation and to present some initial potential policy options. These workshops took place on 30 and 31 January 2019, with the former focussing on private individuals and Article 32, and the latter on distance selling and wholesale to retail transactions.

The insights obtained from these workshops have been incorporated into the analysis throughout this report, and into the development of the policy options. The detailed minutes of these workshops, along with the key messages and information, are included in the Annex to this report.

#### ***External stakeholder engagement***

In addition to the above workshops, a further nine engagements were hosted by PwC in Belgium. These meetings were held with a wide variety of organisations, including several different NGOs, private institutions and relevant industry representatives. Seven meetings were held with representatives from across the alcohol and energy product sectors, followed by a further two workshops with relevant NGOs<sup>5</sup>. The meetings provided the opportunity to gather data and qualitative evidence to support the assessment of the current issues facing these different organisations. Potential

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<sup>5</sup> The dates and locations of these engagement are provided in the Annex.

policy responses were also discussed, with stakeholders given the opportunity to put forward their own ideas for reform.

### **2.1.3. Questionnaires and surveys**

Stakeholders were also involved in the gathering of primary data used to support this analysis. This comes from four main inputs, each developed specifically for this study:

1. A survey of 6,254 consumers resident in the EU;
2. A survey of 521 businesses operating in the EU;
3. A questionnaire sent to all 28 Member State tax authorities (25 responses were received); and
4. A questionnaire sent to all 28 Member State health authorities (22 responses were received).

An additional survey was sent to the PwC network of excise experts to help inform some of the country-specific analysis. The primary purpose of these tools was to form an up-to-date picture of the current situation and verify the existence, nature and magnitude of problems identified through desk-based research and stakeholder consultation.

#### ***Consumer Survey***

Using an online link that was translated into 22 local languages<sup>6</sup> and sent to suitable consumers identified by local panel research providers, the consumer survey was carried out in all 28 EU Member States. For 25 Member States it was possible to reach a suitable number of consumers (around 250 in each) in this way, but for Cyprus, Luxembourg and Malta the absence of suitable panel companies meant that this was not feasible.

The key focus of the consumer survey was cross-border personal acquisition, with questions targeted to understand the extent and nature of cross-border shopping for excise products across the EU. A smaller part of the survey was dedicated to distance selling, with questions focusing on purchase history and motivations. Data from the survey was carefully screened for anomalous responses and then used to inform the wider analysis.

Despite the rich data received through the consumer survey, there were some limitations that it is important to highlight. Our fieldwork was designed to collect 250 responses from each Member State which, although broadly statistically significant at an EU-level ( $\pm 6.2$  at a 95% level of confidence<sup>7</sup>), is indicative at a Member State level. In addition, we were only able to acquire very limited responses from Luxembourg, Malta and Cyprus where responses were 24, 23 and 6, respectively. Our understanding of consumer behaviour in these three countries is therefore less well

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<sup>6</sup> Of the 24 official languages of the EU, the survey was translated in all languages except for Gaeilge and Swedish. These were not included as a significant majority of target consumers in the respective countries speak another official EU language.

<sup>7</sup> This relates to data for which the underlying population is evenly distributed.

defined and based primarily on desk-based research and already available data and analysis.

### **Business Survey**

The business survey targeted 500 economic operators trading in excise goods by way of an online link. Businesses across the EU were invited to be involved, either via local panel research providers (in 10 countries<sup>8</sup>) or via a link circulated by national and pan-European industry organisations. When looking at all businesses that responded, 324 sold alcohol products, 220 sold tobacco products and 267 sold energy products, while 328 were classed as SMEs.

The survey screened businesses into various categories designed to understand the experiences of businesses in a range of circumstances; including those primarily selling to businesses in another Member State, those primarily buying from businesses in another Member State, and those primarily selling direct to consumers in another Member State. In this way, the survey informed the analysis of both distance selling and wholesale to retail transactions across the EU, providing insights into aspects like trade patterns, administrative burdens and fraud.

Like the consumer responses, the business survey results also have important limitations. Although the survey was disseminated in all Member States, panel providers were only used in 10 countries. This means that response rates outside of these countries are low, and the findings may not accurately reflect the situation for businesses in other Member States. In addition, although we achieved our targeted response rate of approximately 50 business in each of the 10 countries where panel providers were used, this number is not statistically representative. Further commentary is provided throughout the report.

Where the data from the surveys is limited, we have used triangulation and wider research to support the analysis throughout the study. Further commentary on individual assessments is provided throughout the following sections, and further information covering both the consumer and business survey is included in the relevant annex.

### **Member State Authority Questionnaires**

Two distinct but related spreadsheet-based questionnaires were sent to authorities in each Member State: one to the authority responsible for the collection of excise duty (the tax authority or corresponding agency), and another to the national health authority. These questionnaires were sent to the relevant contacts in each organisation in tandem, to allow for coordination of responses if desired. The health authority questionnaire was focussed primarily on personal acquisition, with some questions around distance sales, and asked for views on the size of issues and potential policy options. The tax authority questionnaire was more extensive, covering all three transaction types and asking for available data on movements in addition to seeking the authorities' views and opinions.

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<sup>8</sup> Denmark, France, Germany, Hungary, Ireland, Italy, Netherland, Poland, Romania and Spain.

While the response rate for these questionnaires was relatively high, the quality and coverage of the data was patchy, with many Member States either unable or unwilling to share certain data. To mitigate this, telephone-based interviews were offered to all Member State authorities. In total, 8 authorities<sup>9</sup> agreed to provide further information via an interview, and this further intelligence is included throughout the report.

More detail about each of these primary data gathering tools is provided in the Annex, including the full surveys and questionnaires that were sent to authorities across the European Union.

#### 2.1.4. Databases and other secondary sources

A range of databases and secondary sources were used to complement the primary data collection tools. The majority were publicly available, with a small number of private databases being procured for specific parts of the analysis.

**Table 1: List of key databases/providers**

Key Database/Provider	Purpose
Eurostat	Primary source for official population and macroeconomic data, including trade, consumption and prices.
European Commission	Primary source for Member State level excise duty rates (Taxes in Europe Database), related statistics and central EMCS movement data.
OECD Consumption Tax Trends 2018	A secondary source for excise duty rates and macroeconomic statistics.
World Health Organisation databases	A primary source for health-related indicators and consumption statistics.
World Bank	A secondary source for alcohol consumption statistics at a Member State level.
IWSR - Global Database	Primary source for alcohol price data.
Member State authorities	A secondary source for a range of data covering: tax revenues, EMCS movements, relevant studies and cross-border shopping.
DG ENER - Weekly Oil Price Bulletin	Primary source for tax and price data for unleaded petrol.

These databases provided data not readily available through primary sources and helped to verify the accuracy of other information. The data was used primarily for analysis of price and tax differentials between Member States and for estimating the magnitude of the problems associated with the current arrangements.

<sup>9</sup> Health Authorities: Belgium, France, Denmark and Estonia. Tax Authorities: Czechia, Finland, Lithuania and Sweden.

Further detail on how these secondary sources were used is provided in the following chapters.

## **2.2. Analytical approach**

This section outlines the methods that have been used for the core analysis that is set out in the later parts of this report. Further detail on these can be found in the Annex.

### **2.2.1. Analysis of excise differentials across the European Union**

To better understand the impact of taxes on the behaviour of consumers and businesses, excise and VAT rates on a selection of standardised products (e.g. a 750ml bottle of 11.5% ABV still wine) were converted into absolute values and the differences between Member States was examined. This analysis paints an insightful picture of the situation across the EU and helps to set the context for the wider analysis. Chapter 3 provides more detail on the approach and presents the excise rate differentials for a small range of common excise products.

### **2.2.2. Estimating the magnitude of the problems**

Problem trees were initially developed as a logical framework for understanding the current problems, assessing their drivers and analysing the consequences for each of the three key transaction types. These trees, which are presented in the Annex, highlight the following nine key problems identified in the study:

Private acquisition:

- Economic and fiscal distortions;
- Fraud; and
- Public health impacts of increased consumption.

Distance selling:

- Regulatory burdens;
- Fraud on intra-EU transactions;
- Fraud on imports to the EU; and
- National measures that hamper or prevent distance sales.

Wholesale to retail:

- Regulatory burdens; and
- Fraud on intra-EU transactions.

To provide the necessary context for the analysis of the size of these problems, descriptive statistics and estimates of the scale of each activity were assessed first. For example, to understand the scale of the issues relating to cross-border private acquisition, the number of individuals making cross-border purchases and the frequency, volume and value of those purchases were first estimated.



In most cases these problems are better represented by a range of figures, rather than a single estimate. For example, to understand the regulatory burden faced by businesses making distance sales, four key metrics were estimated: the average cost of appointing a tax representative, the time taken for a business to comply with the administrative side of a distance sale, the time taken for Member State authorities to process a transaction, and the value and volume of distance sales businesses said they did not make due to the current regulatory burden.

The data gathering process was designed to ensure participants could provide data in the easiest way possible, including questions in the business and consumer surveys and the questionnaires sent to Member State authorities. While some estimates are a simple presentation of survey findings or Member State responses, most are derived using a combination of data sources.

These estimates are primarily at an EU level, although wherever possible this is broken down by Member State, product type or another useful disaggregation. In some cases, an aggregate figure is presented alongside an SME-only figure to better understand the situation facing smaller firms. Many of these estimates are based on average responses from the consumer or business surveys, combined with data on prices, excise and VAT rates and scaled to an EU level.

The approach for each figure has been tailored to be as insightful as possible without drawing inferences that the data cannot robustly support. For example, the approximately 250 responses for each Member State in the consumer survey allow for sensible indications of the differences between Member States, but care must be taken not to interpret these as detailed estimates for each country.

Certain aspects were more difficult to estimate due to a lack of suitable data, and this is particularly the case when assessing wholesale to retail movements and fraud. Data on duty suspension movements is collected centrally via EMCS but only accessible at a Member State level, and fraud data is only collected by some authorities and not in a consistent manner.

To mitigate this issue, the analysis is supplemented with other analytical approaches based on publicly accessible data. For fraud, discrepancies between recorded bilateral movements of excise goods in national statistics (mirror statistics) were used to identify potential locations where fraud is more common. To support the analysis of economic distortions, business prevalence (the ratio of retail outlets to population) in border towns was assessed to test for evidence of retailers clustering in low-rate Member States near borders with higher-rate Member States. More detail on both approaches can be found in the Annex.

Estimates of the magnitude of each of the nine key problems set out above are provided in the relevant sections of Chapters 4, 5 and 6, alongside a more detailed description of each problem. A full explanation of the estimation method for each metric, including data sources and assumptions, can also be found in the Annex.

### **2.2.3. Projecting the evolution of these problems over time**

Having estimated the size and scale of the current problems, the next step in the analysis was to assess how these issues are likely to develop over time in the absence of any further EU level action in this area (beyond what is already planned or expected).

The creation of an accurate and robust baseline/counterfactual scenario is paramount when undertaking detailed cost-benefit analysis across policy options, as it provides a basis by which the options can be measured and an assessment of change in wider market effects.

#### ***Analysis of current and future EU legislation and relevant policies***

Analysing the current and future EU legislative environment for changes with the potential to impact the evolution of problems over time was the first step in establishing a baseline. This process included a thorough literature review of recently adopted proposals and strategies and included an analysis of previous impact assessments that have sought to identify the impact and effects on fraudulent trade, administrative costs, enforcement costs, regulatory costs, SMEs and public health of specific legislative proposals.

#### ***Assessment of the impact of illicit trade***

Relevant trends impacting the illicit trade in excise products were identified through further analysis. Insights were drawn primarily from a qualitative assessment, focussing on the recent trends and developments concerning illicit trade. This process, which included the time series analysis of a few key variables including alcohol and tobacco consumption and cross-border shopping, provided valuable insights into the likely evolution of illicit flows affected by the general arrangements for excise duty.

#### ***Establishing the baseline***

To assess how the problems would evolve in the absence of further policy interventions, we employed a combination of time-series analysis of key variables and qualitative analysis. This approach minimised the uncertainty of the various forecasts and added a further layer of credibility and robustness to the baseline scenarios.

The baseline scenarios are presented in the subsequent chapters of this report, along with further information on the tailored approach taken for each transaction type.

### **2.2.4. Cost-benefit analysis of the policy options**

Once the estimates of the magnitude of the current problems and baseline projections were complete, each of the potential policy options were analysed in detail. An overview of the methodology for the cost-benefit analysis is set out below, with more specific detail provided in Chapters 4, 5 and 6 and the Annex.

The impact assessment contained within this report uses three different partial equilibrium models, one for each of the three transaction types. Partial equilibrium

modelling was the best suited form of analysis for this study for several reasons, including:

- Excise duty can be narrowly scoped for specific product categories. This reflects the reality that excise duty vary within narrow product groups, which makes it difficult for more aggregate methods like Computable General Equilibrium (CGE) models to capture the relevant details;
- The impact of the policy options is limited to a specific subset of economic operators and is unlikely to be substantial enough to create any significant dynamic effects; and
- Differences in production across products.

The outputs of each model provided an estimated range for the key costs and benefits across all policy options. The results were compared to the baseline (counterfactual) scenario to analyse their likely efficacy in resolving the identified problems.

The approach and models that were used for this cost-benefit analysis were tailored to reflect the individual nature of the problems for each transaction type. The analysis of personal acquisition focussed on the following aspects:

- Regulatory costs and benefits, split between enforcement impacts for Member States, and compliance costs for consumers;
- Health impacts, focusing on the ability of Member States to keep their autonomy in defining their own public health policies and the impact on overall consumption; and
- Effectiveness and efficiency, focusing on whether policy options are sufficiently targeted to resolve the relevant problems identified in this study (an overall assessment of all the assessment criteria).

The analysis of distance selling focussed on impacts on economic operators and Member State authorities. The analysis primarily focussed on alcohol products, as the distance selling of tobacco is banned in most Member States and the logistics of shipping energy products to consumers is not financially viable for most producers. Given this context, the analysis covered the following:

- Impacts on the key markets and SMEs, focusing on how increased distance selling might affect existing distribution channels;
- Health impacts, focusing on impacts on overall consumption;
- Regulatory costs and benefits, split between authorities and economic operators, and IT costs and time savings; and
- Effectiveness and efficiency.

The cost-benefit analysis of the wholesale to retail policy options also primarily focussed on the impacts on economic operators and Member State authorities. Reflecting on the output from the primary and secondary data collection tools, the policy options are focused around the compliance procedures and processes for the current arrangements. The analysis therefore focussed on the following:

- Regulatory costs and benefits, split between authorities and economic operators, and IT costs and time savings;

- Impacts on the key markets and SMEs, focusing on affected businesses and private enterprises; and
- Effectiveness and efficiency.

The detailed results of the cost-benefit analysis are presented in the respective chapters for each transaction type. Each policy option is considered individually within the assessment, and the overall conclusions and recommendations are presented in Chapter 7.

### 3. Excise differentials across the European Union

Many of the overriding problems with the current arrangements are driven, in whole or in part, by differences in excise duty applied by Member States. Since the 1970s, there have been several unsuccessful attempts to harmonise excise duty across the EU (European Parliament, 2019) and Member States have scope to set their own rates on excise products subject to the minimum levels set out in various Council directives<sup>10</sup>. For this reason, this study focuses on the general arrangements for excise duty. To set the scene for this analysis, however, this chapter presents the different levels of excise (and VAT) that are due on certain excise products and compares these across Member States.

As there are a wide variety of excise goods, for the purposes of this chapter we present six products which reflect goods that are typically purchased across the three categories. This provides an insightful picture of the tax-driven price differences facing consumers across the internal market. The six standardised consumer products we present here are:

- Beer (a 4.5% ABV 330ml can or bottle);
- Still wine (a 11.5% ABV 750ml bottle);
- Sparkling wine (a 13% ABV 750ml bottle);
- Spirits (a 37.5% ABV 700ml bottle);
- Cigarettes (20 pack); and
- Unleaded petrol (55 litres of Euro 95).

To do this, we calculated the different components of the retail price for each product: the tax exclusive price, excise, VAT and other indirect taxes (where relevant). Price data for the alcohol products is used in the VAT calculations and comes from the IWSR Global Database (2018), and tax data comes from the Taxes in Europe Database (European Commission, 2018b). The analysis of cigarettes uses weighted-average prices and tax rates from the Taxes in Europe Database. Our figures for unleaded petrol are derived also from the DG ENER Weekly Bulletin (European Commission, 2018c), which provides detailed data on both price and taxation. The data was checked against independent sources, including OECD Consumption Tax Trends (2018) and, in some cases, data published by Member State authorities.

The sections that follow present two figures for each of these six products. The first figure focuses on excise duty only and compares this across Member States for the product. The second figure comprises a table with retail price differentials (the differences in pre-tax price plus excise and VAT) for every Member State pair. The table is split into two, with the top right triangle highlighting the differences between neighbouring Member States only (see the Annex for a full list of bordering Member States and how these have been defined). The Annex includes a comparison of the relative retail prices for these excise products, which is useful for setting these retail price differences in context.

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<sup>10</sup> Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages; Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity; and Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco.

The wide variety in excise duty applied to these products across the EU, with implications for consumer and business behaviour, is demonstrated in this analysis. It also identifies potential 'hotspot' areas, where excise-driven, cross-border price differentials are likely to lead to a particularly high volume of transactions.

For cigarettes and alcohol, the excise duty used in this analysis are those in force on 1 July 2018, and for unleaded petrol we use the values as at 1 January 2018<sup>11</sup>. We acknowledge that over the intervening period the taxation of specific products may have changed, notably in Estonia, Finland, Latvia and Lithuania, but this allows for sensible comparison with the 2018 price data. Member States with higher excise duty have historically always levied high rates, even prior to joining the EU. While the exact rates applied on products has changed, the broad ranking of Member States has not changed considerably.

### 3.1. Beer

**Standardised consumer product presented here:** A 330ml can or bottle.

**ABV:** 4.5%, Plato conversion 11.25 degrees.

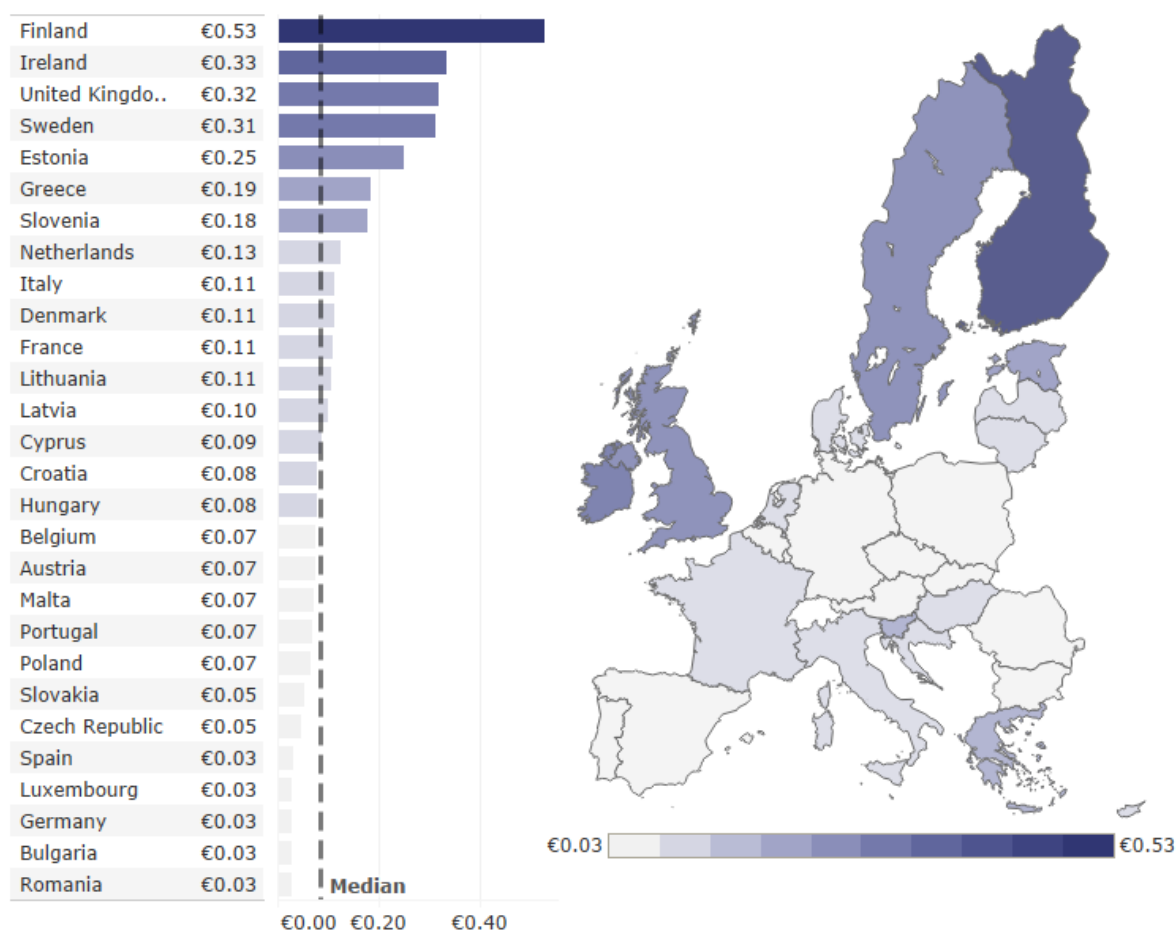
**Data sources:** Taxes in Europe Database; IWSR Global Price database; OECD Consumption Tax Trends 2018 (as at 1 July 2018).

The *ad quantum* excise duty on beer is determined by a specific rate of excise applied to the alcoholic content of the final product, measured either in ABV or degrees Plato, calculated per hectolitre of product. Figure 1 below highlights the significant variation in beer excise taxation across the EU.

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<sup>11</sup> Unleaded petrol data was taken from several sources due to data gaps. 1 January 2018 was the most recent entry for all relevant sources.

**Figure 1: Excise due on a 330ml can or bottle of 4.5% beer across the EU**



**Source:** Taxes in Europe Database; IWSR Global Price database; OECD Consumption Tax Trends 2018.

The excise duties collected by Member States at the lower end of the spectrum are only marginally above the minimum requirements, while Finland, Ireland, the United Kingdom and Sweden charge significantly higher rates.

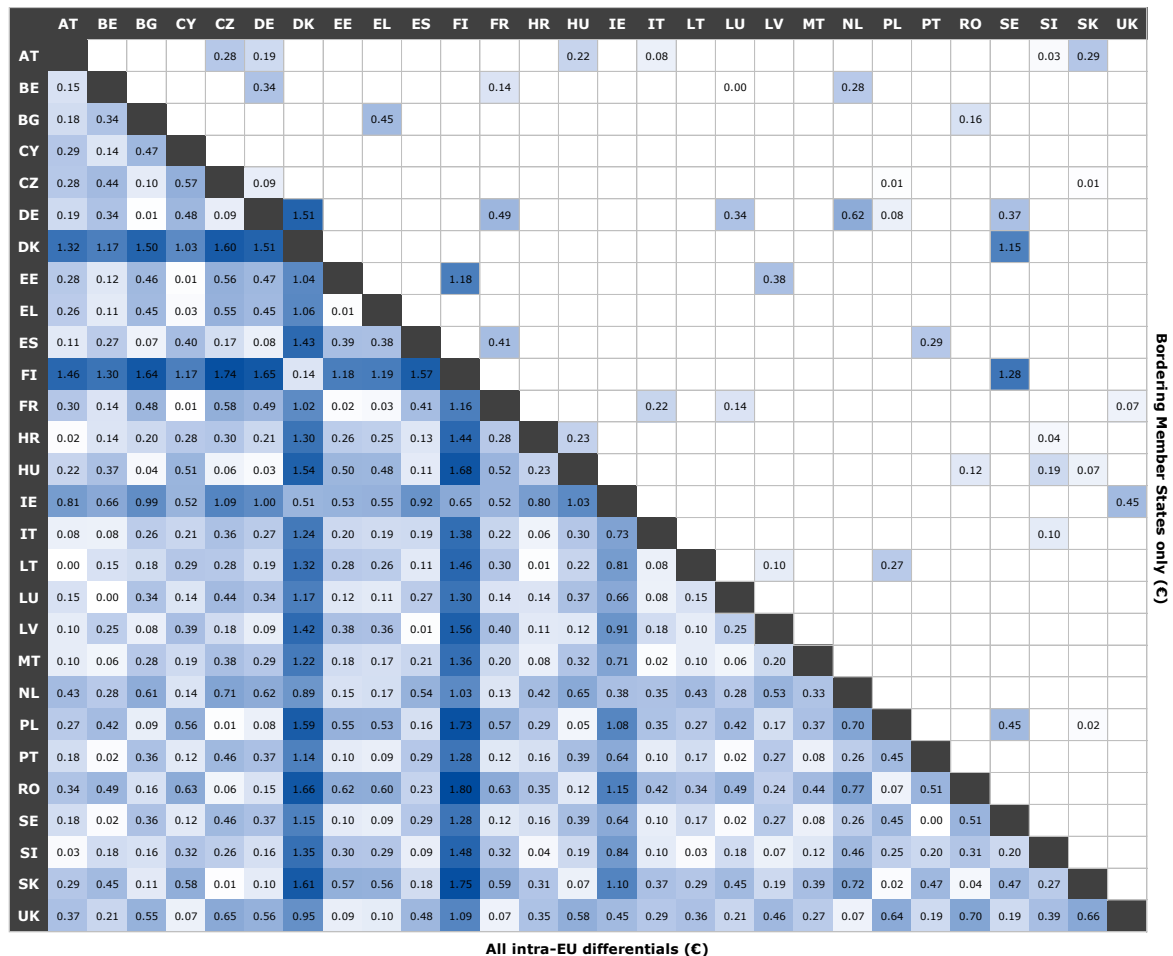
Unlike for other products, particularly still and sparkling wine, beer production is comparably less concentrated in Member States with low excise duty. While two-thirds of beer production is concentrated in seven Member States (Germany, the United Kingdom, Poland, Spain, the Netherlands, France and Belgium), in relative terms production accounts for at least half of consumption in all Member States and is significantly higher in many cases<sup>12</sup>.

A peculiarity for beer is that reduced excise duties are provided for small breweries in 24 Member States, with a maximum reduction of 50% for independent breweries with annual production not exceeding 200,000 hectolitres (European Commission, 2018b). The number of microbreweries in the EU has grown significantly in recent years, particularly in the United Kingdom, France, Germany and Italy, with the number of microbreweries in the UK having grown by 115% (to 2378) between 2011 to 2017.

<sup>12</sup> Comparison drawn between Brewers of Europe (2018) total production and consumption data in 2017 to illustrate the size of domestic supply to domestic demand. Actual consumption from domestic production will vary depending on the level of imports and exports.

The growth is driven in part by the reduced rate system but also by consumer preference for variety (Brewers of Europe, 2018). The actual differentials facing consumers in different Member States may therefore be more complex in practice, although a recent survey of Austria, Belgium, France, Poland and the UK indicated that the impact of reduced rates for small brewers on revenues was relatively small in practice (around 0.5 to 1.8% of excise revenue from beer; European Commission, 2018f).

**Figure 2: Intra-EU tax inclusive price differentials for a 330ml can/bottle of 4.5% beer**



**Source:** Taxes in Europe Database; IWSR Global Price database; OECD Consumption Tax Trends 2018. The Annex provides a comparison of relative retail prices for beer.

Figure 2 highlights an important point: the largest intra-EU retail price differentials are not generally between bordering Member States. Germany and Denmark have the largest differential between bordering Member States, at €1.51, however there are 14 price differentials between non-bordering Member States which are higher.

A further complication exists between Finland and Sweden. Both Member States operate state-owned alcohol monopolies for strong beer (and other alcohol) but allow low strength beer to be sold in regular supermarkets. However, in Finland beer up to 5.5% ABV can be sold through supermarkets while in Sweden anything over 3.5% must be sold in the monopoly (Systembaloget). As a result, supermarket prices tend to be lower, which affects the prices faced by consumers in practice.



### 3.2. Still wine

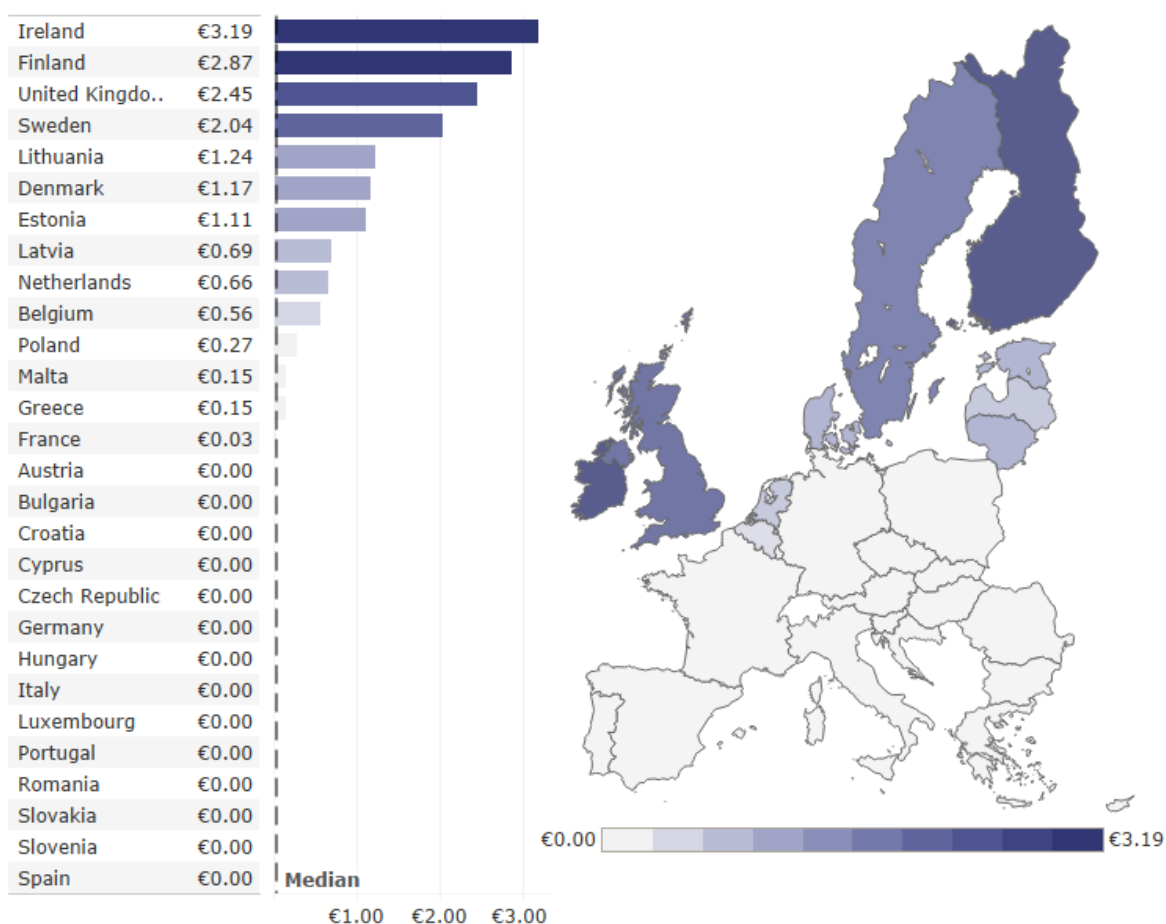
**Standardised consumer product presented here:** A 750ml bottle.

**ABV:** 11.5%.

**Data sources:** Taxes in Europe Database; IWSR Global Price database; OECD Consumption Tax Trends 2018 (as at 1 July 2018).

The *ad quantum* excise duty on still wine is levied on hectolitres of finished product up to, but not exceeding, 15% ABV. However, the minimum taxation on wine across the EU set out in Directive 92/84/EEC is €0 per hectolitre, in part due to its classification as an agricultural product rather than an industrial product<sup>13</sup>. Where Member States have not applied a zero-standard rate, they may apply reduced rates to still wine with an ABV less than 8.5%.

**Figure 3: Excise due on a 750ml bottle of 11.5% still wine across the EU**



**Source:** Taxes in Europe Database; IWSR Global Price database; OECD Consumption Tax Trends 2018.

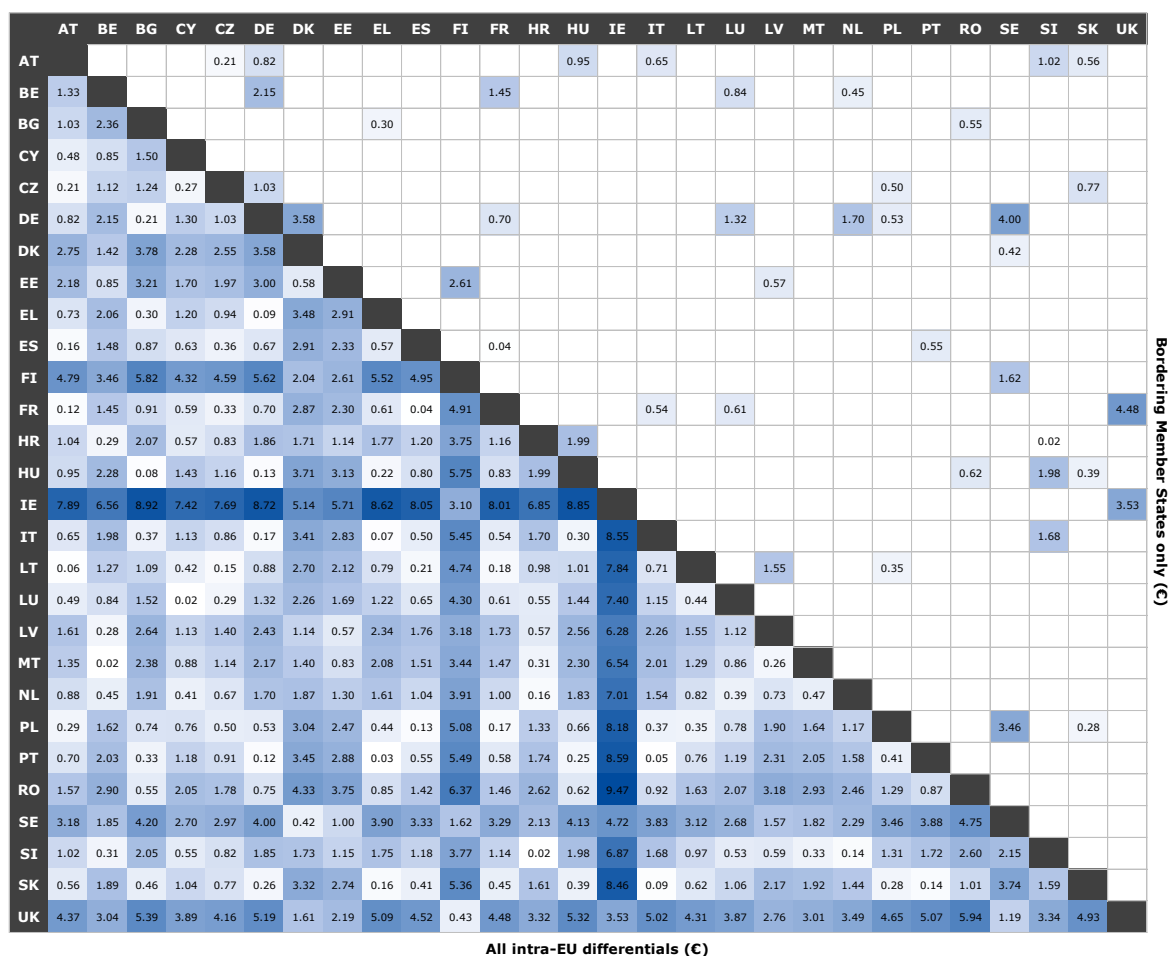
As Figure 3 shows, there is a very clear north-south divide when it comes to still wine. Member States in the north of the EU apply relatively high excise duty while those in the south, where the climate is more favourable for wine production, apply very low

<sup>13</sup> Of all the alcohol products covered by Directive 2008/118/EC, wine is the only one classified as an agricultural product in Article 38 and Annex I of the TFEU, and the only alcohol product covered by the EU's Common Agricultural Policy (CAP).

excise duty or none at all. The highest rates are again in Ireland, Finland, the United Kingdom and Sweden.

Approximately 71% of the 182 million hectolitres of still wine produced in the EU in 2018 was produced in Member States applying zero rates and a further 28% was produced in Member States applying excise duties only marginally above zero. Over 80% of production by volume was concentrated in three Member States: France, Italy and Spain (European Commission, 2019d).

**Figure 4: Intra-EU tax inclusive price differentials for a 750ml bottle of 11.5% still wine**



Source: Taxes in Europe Database; IWSR Global Price database; OECD Consumption Tax Trends 2018. The Annex provides a comparison of relative retail prices for still wine.

Except for Denmark and Germany, the largest differentials for bordering Member States are for Member States with maritime borders. This includes the United Kingdom and France, Sweden and Germany, Sweden and Poland, and Finland and Estonia.

### 3.3. Sparkling Wine

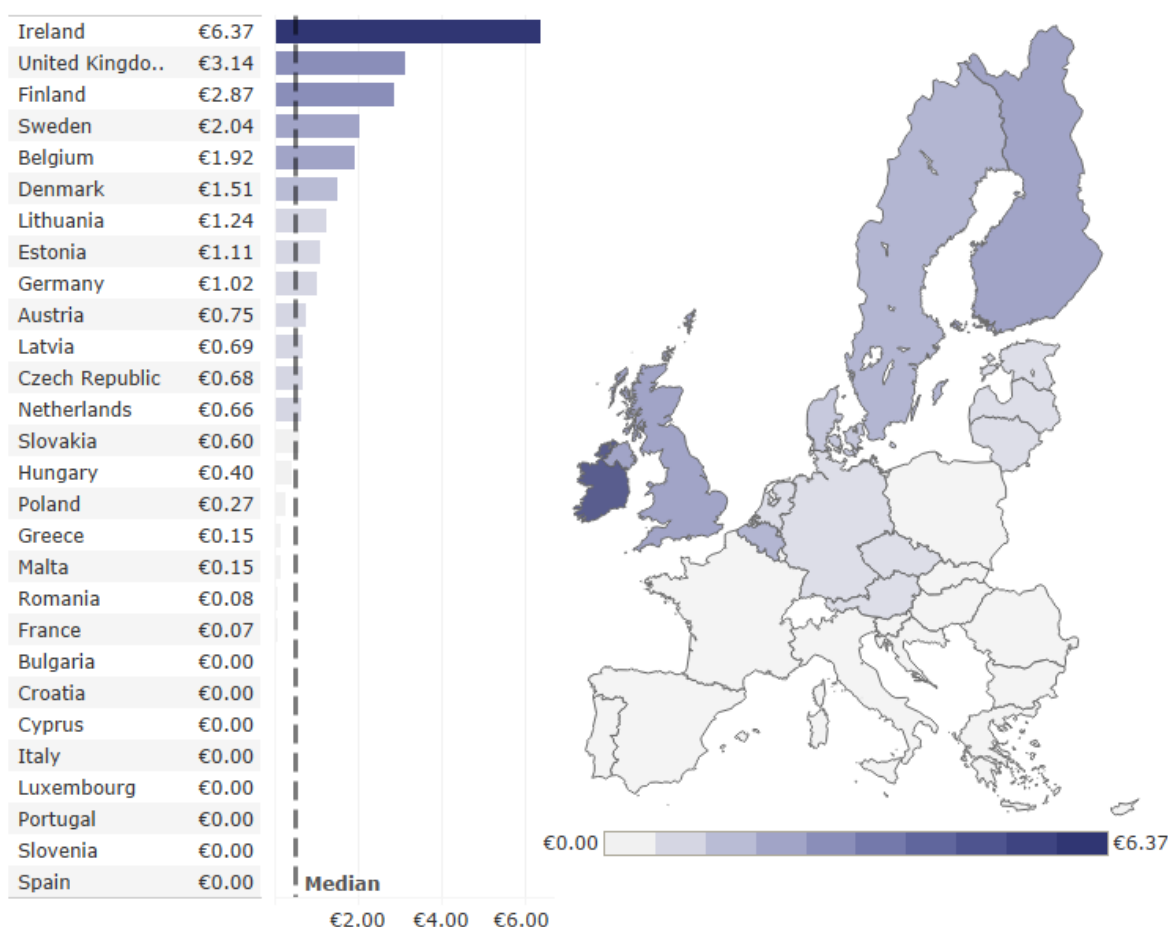
**Standardised consumer product presented here:** A 750ml bottle.

**ABV:** 13%.

**Data sources:** Taxes in Europe Database; IWSR Global Price database; OECD Consumption Tax Trends 2018 (as at 1 July 2018).

Similar to still wine, the *ad quantum* excise duty on sparkling wine is levied on hectolitres of finished product up to, but not exceeding, 15% ABV and the minimum taxation, set out in Directive 92/84/EEC, is €0 per hectolitre.

**Figure 5: Excise duty on a 750ml 13% bottle of sparkling wine**



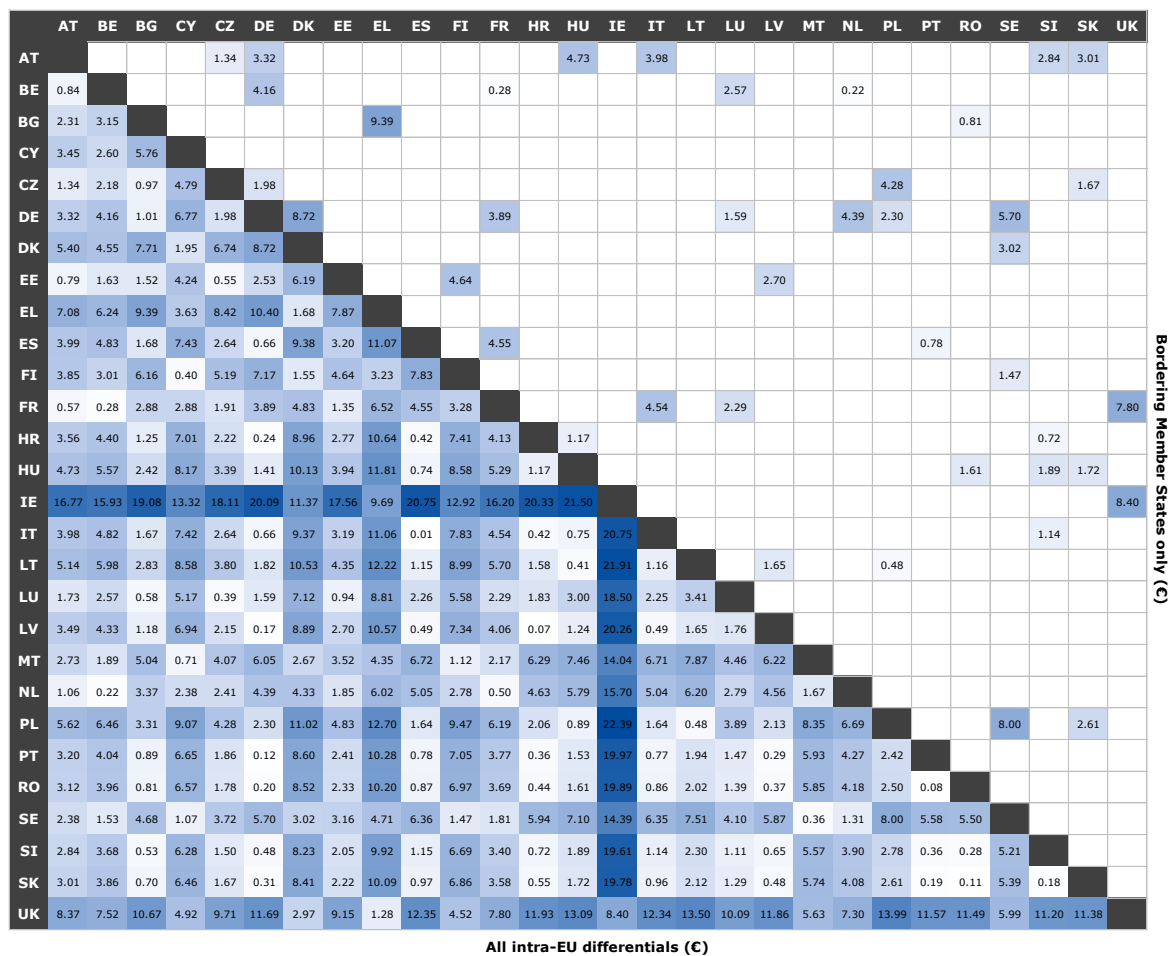
**Source:** Taxes in Europe Database; IWSR Global Price database; OECD Consumption Tax Trends 2018.

Comparatively few Member States choose not to apply an excise duty on sparkling wine compared to still wine. A total of eight Member States do not apply excise to sparkling wine, including two of the largest producers: Italy and Spain. Interestingly, France applies a rate marginally above the minimum, which is very low in comparison to the high price of many French sparkling wine products, such as champagne. 17 Member States have aligned excise duties on still and sparkling wine.

Ireland has the highest excise duty on a bottle of sparkling wine by a significant margin at €6.37, compared to €3.14 in the United Kingdom; the next highest Member State. On top of the excise rate, the Irish Government is also pursuing a minimum

alcohol pricing strategy. This was included in its Public Health (Alcohol) Bill, enacted in October 2018, although the minimum unit pricing sections of the Bill are still subject to a further Government decision before they come into force (Irish Government, 2019). While proposed largely to curb binge drinking, the increase in price differences could encourage cross-border shopping, particularly as the Irish Government is continuing with the strategy ahead of Northern Ireland (Farsaci, 2019). While cross-border shopping in Ireland is largely focused on the United Kingdom (Northern Ireland in particular), such significant differences in the excise rate for sparkling wine and other products may incentivise fraud in relation to distance sales or B2B transactions.

**Figure 6: Intra-EU tax inclusive price differentials for a 750ml 13% bottle of sparkling wine**



**Source:** Taxes in Europe Database; IWSR Global Price database; OECD Consumption Tax Trends 2018. The Annex provides a comparison of relative retail prices for sparkling wine.

Excise-driven cross-border shopping from neighbouring France is encouraged by the United Kingdom having the second highest excise duty. The number of passengers travelling on the Channel Tunnel was 20.7 million in 2017, while the busiest ferry route between the United Kingdom and France, the crossing between Dover and Calais, transported 9 million passengers in the same year (United Kingdom Department for Transport, 2018). Belgium also applies a significantly higher excise rate than France, which, combined with the high population density along the Franco-Belgian border, is likely to incentivise excise-driven cross-border shopping.

### 3.4. Spirits

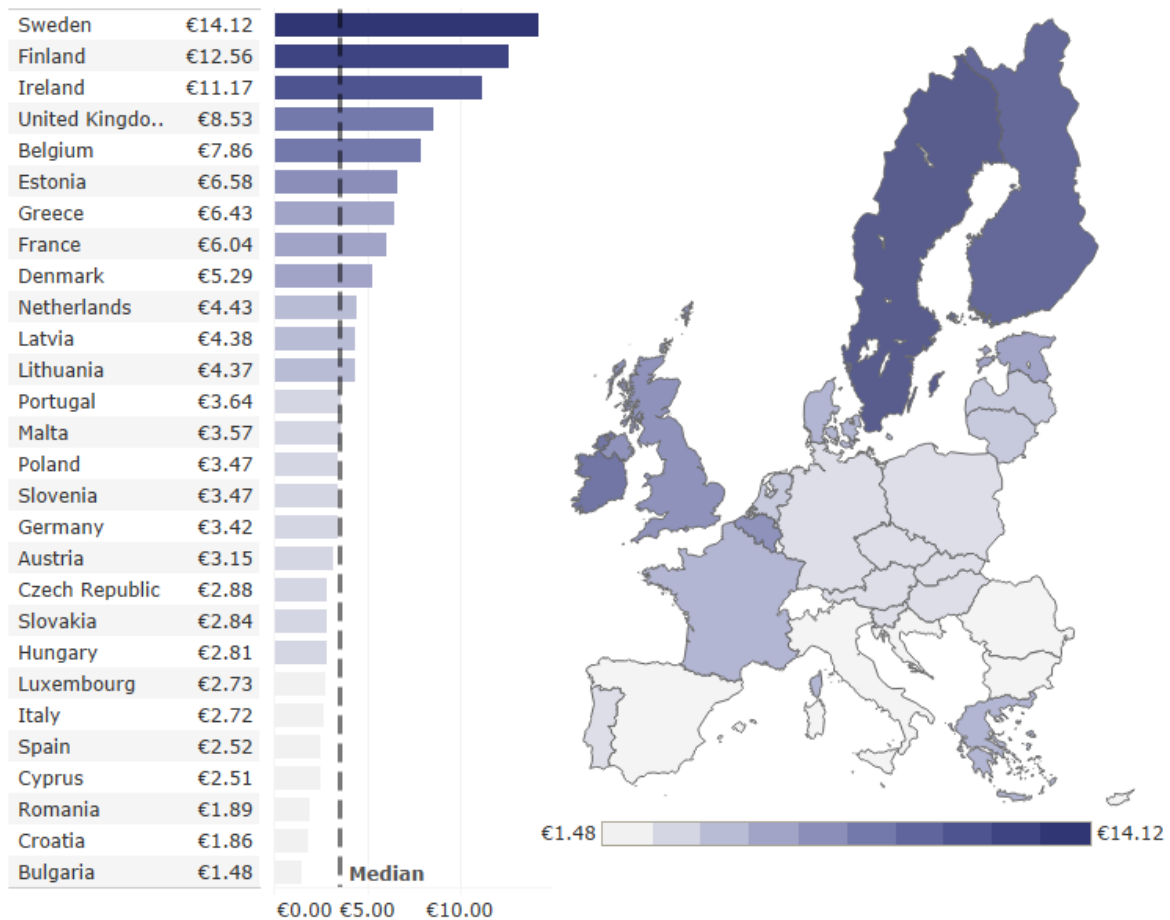
**Standardised consumer product presented here:** A 700ml bottle.

**ABV:** 37.5%.

**Data sources:** Taxes in Europe Database; IWSR Global Price database; OECD Consumption Tax Trends 2018 (as at 1 July 2018).

The *ad quantum* excise duty on spirits is imposed on hectolitres of pure alcohol in the final product. According to Directive 92/84/EEC the minimum taxation on spirits is €550 per hectolitre of pure alcohol for those Member States applying a rate below this on 1 January 1993, and €1000 per hectolitre of pure alcohol all other Member States<sup>14</sup>. There are also targeted derogations for products which can apply a reduced duty, such as traditional rum produced in the French outermost regions. Reduced rates can also be applied to small distilleries, but these cannot be less than 50% of the standard national rate of excise duty.

**Figure 7: Excise duty on a 700ml 37.5% bottle of spirits**



**Source:** Taxes in Europe Database; IWSR Global Price database; OECD Consumption Tax Trends 2018.

The Member States with the highest excise duties are once again Sweden, Finland, Ireland and the United Kingdom. However, there is a less obvious north-south divide

<sup>14</sup> Specifically, those with rates below €1000 per hectolitre of pure alcohol are not allowed to reduce their rates, and those above this are not allowed to reduce their rates below €1000.

than for other products, as Belgium, France and Greece also apply relatively high rates.

Compared to other alcoholic beverages, France is ranked relatively higher for spirits. Since January 2012 France has imposed an additional social security contribution on alcoholic beverages with an ABV above 18% for public health reasons. This additional tax of €559.02 per hectolitre of pure alcohol is included in the analysis presented here.

**Figure 8: Intra-EU tax inclusive price differentials for a 700ml 37.5% bottle of spirits**

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK	
AT					1.13	3.38								1.54	2.90											0.12	3.58		
BE	2.64					6.02						2.13						6.54			1.08								
BG	7.68	10.33							9.71															0.30					
CY	0.75	1.89	8.44																										
CZ	1.13	1.52	8.81	0.37		4.50																7.01					4.71		
DE	3.38	6.02	4.31	4.13	4.50		10.77					3.89						0.52			4.94	2.51			17.26				
DK	7.39	4.75	15.07	6.64	6.27	10.77																			6.49				
EE	1.77	0.87	9.45	1.02	0.65	5.15	5.62				7.30								1.62										
EL	2.03	0.61	9.71	1.27	0.90	5.41	5.36	0.26																					
ES	2.80	5.44	4.88	3.55	3.92	0.58	10.19	4.57	4.83			3.31										4.96							
FI	9.07	6.43	16.75	8.31	7.94	12.45	1.68	7.30	7.04	11.87															4.81				
FR	0.52	2.13	8.20	0.24	0.61	3.89	6.88	1.26	1.51	3.31	8.55					3.41		4.41										8.02	
HR	3.44	6.08	4.24	4.19	4.57	0.06	10.83	5.21	5.47	0.64	12.51	3.96		1.90												3.32			
HU	1.54	4.19	6.14	2.30	2.67	1.83	8.94	3.32	3.57	1.25	10.61	2.06	1.90											6.44	1.43	2.04			
IE	13.70	11.06	21.39	12.95	12.58	17.08	6.31	11.93	11.67	16.50	4.63	13.19	17.14	15.25														5.17	
IT	2.90	5.54	4.79	3.65	4.02	0.48	10.29	4.67	4.92	0.10	11.96	3.41	0.55	1.35	16.60											2.78			
LT	5.10	7.74	2.58	5.85	6.22	1.72	12.49	6.87	7.13	2.30	14.17	5.61	1.66	3.55	18.80	2.20			5.25			0.79							
LU	3.90	6.54	3.78	4.65	5.02	0.52	11.29	5.67	5.93	1.10	12.97	4.41	0.46	2.35	17.60	1.00	1.20												
LV	0.16	2.49	7.84	0.60	0.97	3.53	7.24	1.62	1.87	2.95	8.91	0.36	3.60	1.70	13.55	3.05	5.25	4.05											
MT	2.01	0.64	9.69	1.25	0.88	5.39	5.38	0.24	0.02	4.81	7.06	1.49	5.45	3.55	11.70	4.90	7.11	5.91	1.85										
NL	1.57	1.08	9.25	0.81	0.44	4.94	5.83	0.21	0.46	4.36	7.50	1.05	5.01	3.11	12.14	4.46	6.67	5.47	1.41	0.44									
PL	5.89	8.53	1.79	6.64	7.01	2.51	13.28	7.66	7.92	3.09	14.96	6.41	2.45	4.34	19.59	2.99	0.79	1.99	6.05	7.90	7.46				19.77		2.31		
PT	2.17	0.48	9.85	1.41	1.04	5.54	5.23	0.39	0.14	4.96	6.90	1.65	5.61	3.71	11.54	5.06	7.26	6.06	2.01	0.16	0.60	8.05							
RO	7.98	10.62	0.30	8.74	9.11	4.60	15.37	9.75	10.01	5.18	17.05	8.50	4.54	6.44	21.68	5.09	2.88	4.08	8.14	9.99	9.55	2.09	10.15						
SE	13.88	11.24	21.96	13.12	12.75	17.26	6.49	12.11	11.85	16.68	4.81	13.36	17.32	15.42	0.18	16.77	18.98	17.78	13.72	11.87	12.31	19.77	11.71	21.86					
SI	0.12	2.76	7.57	0.87	1.24	3.26	7.51	1.89	2.15	2.68	9.19	0.63	3.32	1.43	13.82	2.78	4.98	3.78	0.27	2.12	1.68	5.77	2.28	7.86	14.00				
SK	3.58	6.23	4.10	4.34	4.71	0.21	10.98	5.36	5.61	0.79	12.65	4.10	0.14	2.04	17.29	0.69	1.51	0.31	3.74	5.59	5.15	2.31	5.75	4.40	17.46	3.47			
UK	8.54	5.89	16.22	7.78	7.41	11.92	1.15	6.77	6.51	11.34	0.53	8.02	11.98	10.08	5.17	11.43	13.64	12.44	8.38	6.53	6.97	14.43	6.37	16.52	5.34	8.65	12.12		

Bordering Member States only (C)

All intra-EU differentials (€)

**Source:** Taxes in Europe Database; IWSR Global Price database; OECD Consumption Tax Trends 2018. The Annex provides a comparison of relative retail prices for spirits.

The relatively high value-to-volume ratio of spirits makes it easier for consumers to transport high value products across borders compared with other products (e.g. beer) and makes it easier to achieve savings from cross-border purchases. However, as discussed in Chapter 4, this is partly offset by the guide levels being lower than for other products, for example spirits is 10 litres while beer is 110 litres.

There are two particularly large differentials between bordering Member States. These are between Sweden and Poland, and Sweden and Germany, and are driven by Sweden's particularly high rates. Around half of privately imported alcohol in Sweden is estimated to come from Germany, with towns such as Puttgarden offering liqueur stores specialised for Scandinavian 'alcohol-tourists' (Kamann, 2013). There are 15 ferry crossings each day from Sweden to Germany and 72 sailings per week from

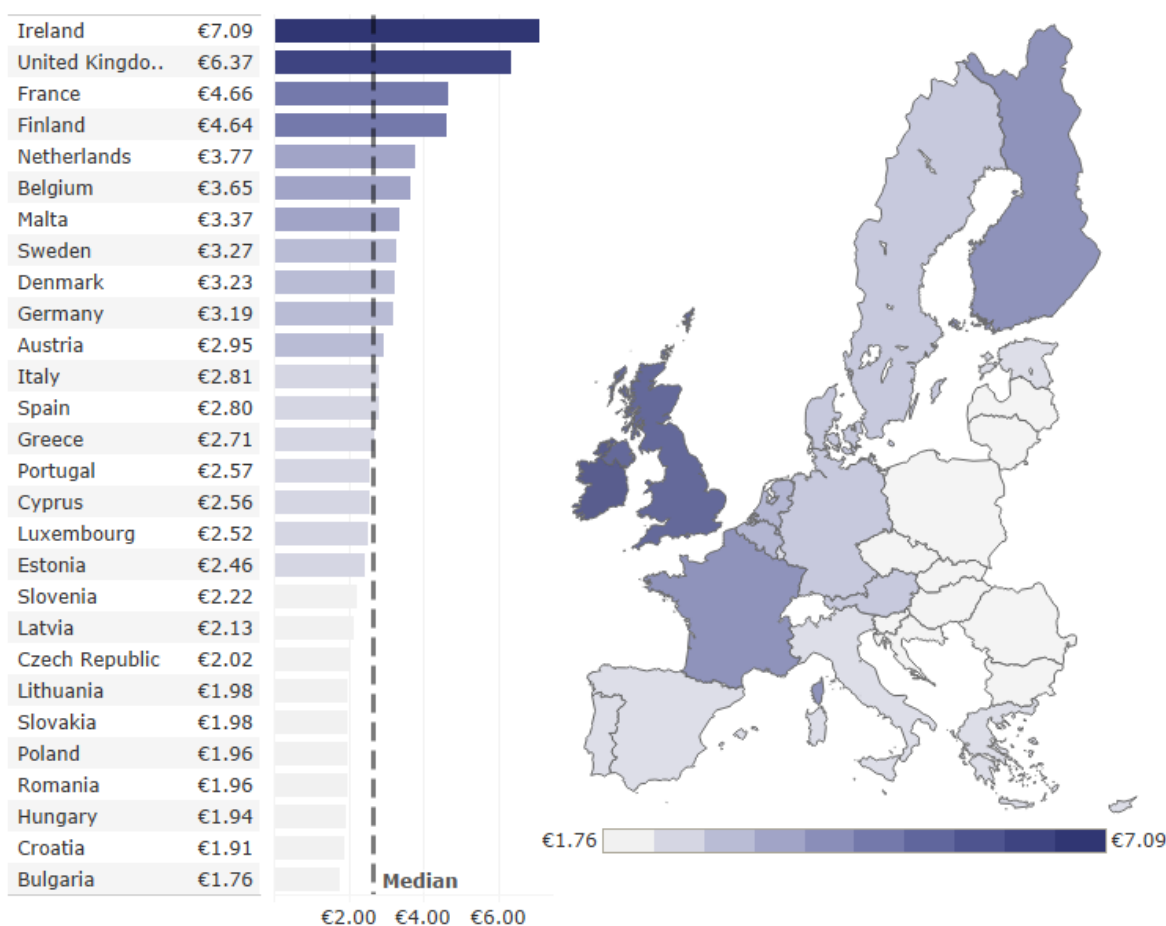
Sweden to Poland (Direct Ferries, 2019b). The largest differential between land bordering Member States is between Greece and Bulgaria.

### 3.5. Cigarettes

**Standardised consumer product presented here:** packet of 20 cigarettes.  
**Data sources:** Taxes in Europe Database; OECD Consumption Tax Trends 2018 (as at 1 July 2018).

Member States must levy a minimum excise duty on cigarettes consisting of a specific component and an ad valorem component, as specified in Directive 2011/64/EU. The overall excise duty must be at least €90 per 1000 cigarettes and 60% of the weighted average retail selling price (unless Member States apply an excise duty of €115 or more).

**Figure 9: Excise duty on a packet of 20 cigarettes**



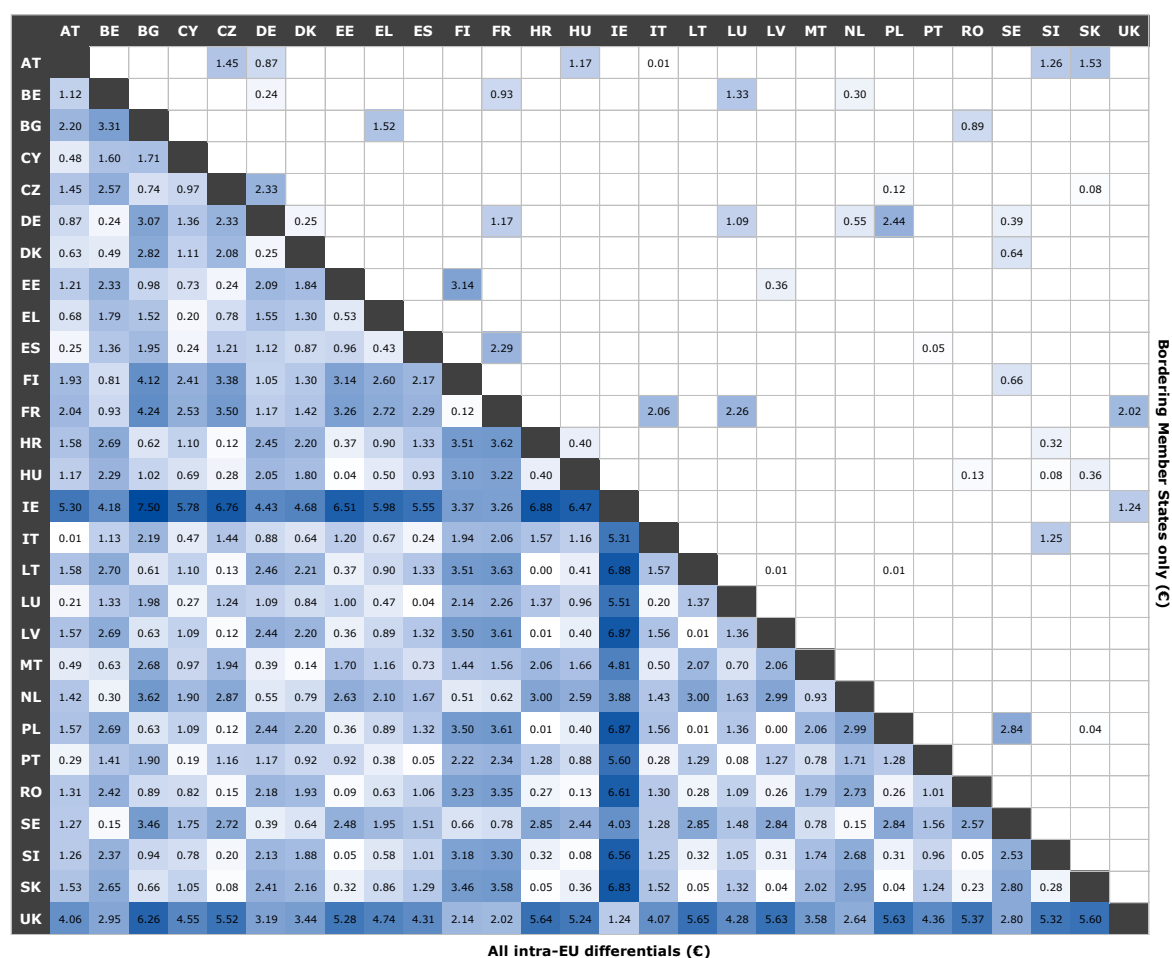
**Source:** Taxes in Europe Database; OECD Consumption Tax Trends 2018 (as at 1 July 2018).

Figure 9 shows that Ireland and the United Kingdom both apply an excise duty around one and a half times that of the next highest Member States: France and Finland. Central eastern Member States apply lower duties than those in the west. These Member States border third countries, and while customs procedures should help to prevent illicit activity, high differentials may encourage smuggling of cigarettes from third countries.



The relationship between excise rates and smoking prevalence is mixed. According to the European Commission (2017c), the Member State with the lowest excise (Bulgaria) was also the Member State with the second highest prevalence of smoking (36%). However, adjusted for purchasing power (PPP), Bulgaria applies one of the highest amounts of excise on a 20 pack of cigarettes (€3.49). In Ireland and the United Kingdom, where the rates of smoking are among the lowest in the EU, the PPP-adjusted excise amounts on a 20 pack are also among the highest in the EU (€5.51 and €5.47, respectively)<sup>15</sup>.

**Figure 10: Intra-EU tax inclusive price differentials for a packet of 20 cigarettes**



**Notes:** Weighted-average prices are used in this calculation are from the Taxes in Europe Database. The Annex provides a comparison of relative retail prices for cigarettes.  
**Source:** Taxes in Europe Database; OECD Consumption Tax Trends 2018 (as at 1 July 2018).

For cigarettes, there are few significant differences between bordering Member States. As Figure 10 shows, the biggest differentials are between Ireland and the United Kingdom, driven by their high excise duties. These Member States are relatively isolated geographically, with the highest bordering differentials being caused by high rates in France compared to Luxembourg, Spain and Italy.

<sup>15</sup> Authors' calculations based on EU-28 2018 Purchasing Power Parity data (Eurostat, 2019) and the excise rates used in this study.



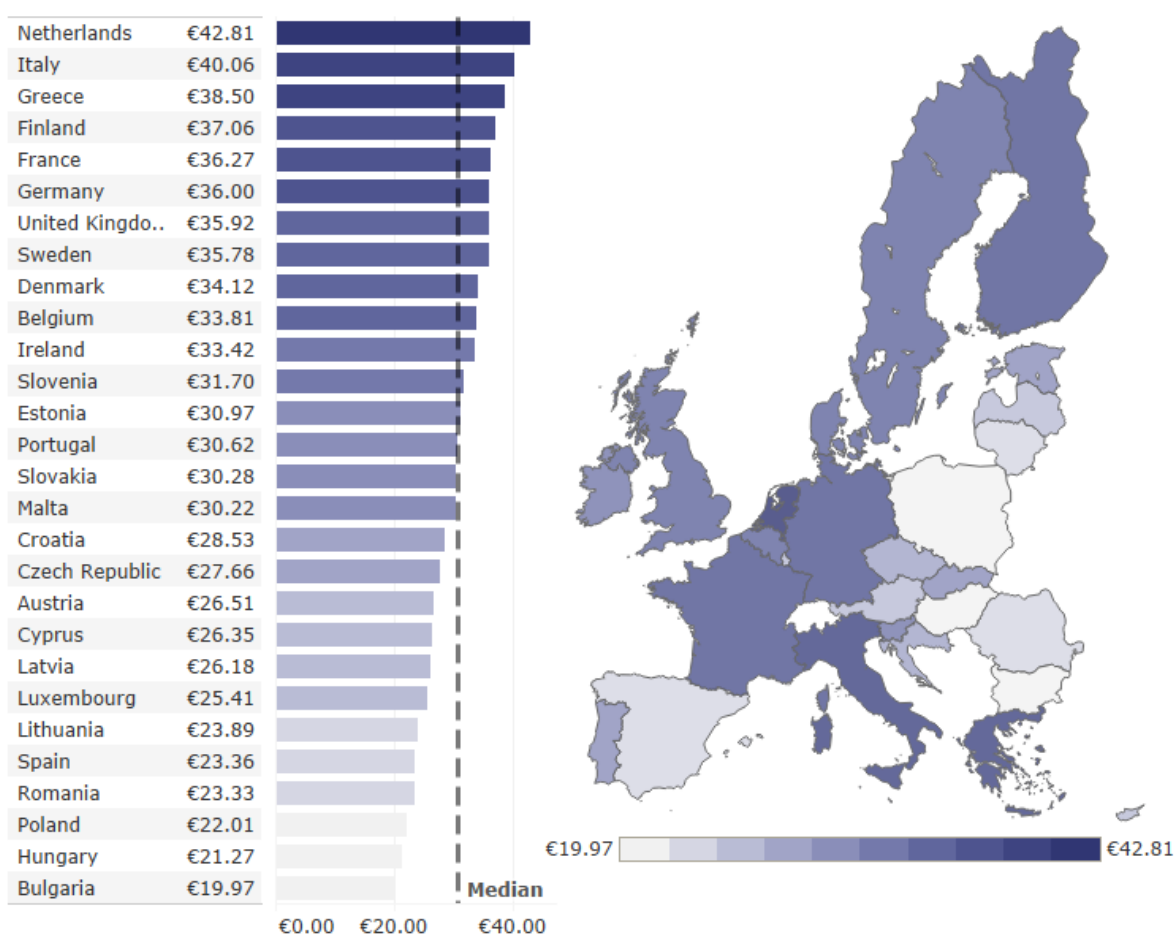
### 3.6. Unleaded petrol

**Standardised consumer product presented here:** 55 litres of Euro 95.

**Data sources:** DG ENER Weekly Oil Bulletin, Taxes in Europe Database, OECD Consumption Tax Trends 2018 (as at 1 January 2018).

The minimum excise rate on unleaded petrol, as set out in Directive 2003/96/EC, is €389 per 1,000 litres. In many Member States the applicable rate varies with the nature and characteristics of the fuel. This is predominantly linked to the biofuel content, the octane number or the sulphur content. For this analysis we have used 55 litres of premium unleaded gasoline (RON 95) to reflect the average fuel tank size, which ranges from 45 to 65 litres (Azuma, 2018).

**Figure 11: Excise duty on 55 litres of Euro 95 unleaded petrol**



**Source:** DG ENER Weekly Oil Bulletin, Taxes in Europe Database, OECD Consumption Tax Trends 2018 (as at 1 January 2018).

The highest excise duties for unleaded petrol are situated around central and southern Europe, particularly in the Netherlands, Italy and Greece. Despite this, the generally higher-rated Member States such as Finland, the United Kingdom and Sweden continue to charge rates in the top eight.

Although there are significant excise-driven price differentials for certain energy products, particularly unleaded petrol and diesel, there is comparatively less literature on cross-border shopping than for alcohol or tobacco products. In Luxembourg – one

of the more popular locations for cross-border fuel purchases - it is primarily cross-border commuters, rather than cross-border shoppers, who take advantage of arbitrage opportunities for fuel. Approximately 42% of Luxembourg's workforce commute from Belgium, Germany and France (Eurostat, 2018d). As the product is consumed while travelling, consumers may be more sensitive to travel distances for unleaded petrol compared to other products.

The level of expenditure is related to individual and household characteristics, including total household income, travel distance, price differential and number of cross-border commuters. A ECB (2014) study identified the Grande-Region at the intersection of France, Germany, Luxembourg and Belgium as the primary hotspot for cross-border commuting, estimating that approximately 200,000 of the total 750,000 cross-border commuters in the EU15/European Economic Area are based here.

A recent study by the Irish Economic and Social Research Institute (2017) found strong evidence for significant cross-border fuel purchases from Northern Ireland, attributing this partly to vehicles making long-distance trips. The European Federation for Transport & Environment (2011) suggested that there may be effects on the behaviour of trans-European logistics companies, for whom a fleet refuelling strategy focused on lower rate Member States would be more cost-effective.

**Figure 12: Intra-EU tax inclusive price differentials for 55 litres of Euro 95 unleaded petrol**

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
AT					0.67	9.52								2.75		19.23										4.63	5.51	
BE	7.95					1.58						3.22						9.32			12.46							
BG	8.90	16.85							27.00															4.05				
CY	1.03	6.92	9.93																									
CZ	0.67	8.61	8.24	1.70		10.19																3.62					6.17	
DE	9.52	1.58	18.43	8.49	10.19		9.31					1.65					10.90				10.89	13.81		6.42				
DK	18.83	10.89	27.73	17.80	19.50	9.31																		2.88				
EE	1.77	6.17	10.67	0.74	2.44	7.75	17.06			12.04									2.78									
EL	18.10	10.15	27.00	17.07	18.77	8.57	0.73	16.33																				
ES	2.08	5.87	10.98	1.05	2.74	7.45	16.76	0.30	16.02			9.09											14.71					
FI	13.81	5.86	22.71	12.78	14.48	4.29	5.02	12.04	4.29	11.73															2.14			
FR	11.17	3.22	20.07	10.14	11.84	1.65	7.66	9.40	6.93	9.09	2.64					8.06		12.55									2.94	
HR	5.48	2.47	14.38	4.45	6.14	4.05	13.36	3.70	12.62	3.40	8.33	5.69			8.22											0.85		
HU	2.75	10.69	6.16	3.78	2.08	12.27	21.58	4.52	20.85	4.82	16.56	13.92	8.22											2.10	7.37	8.25		
IE	10.12	2.17	19.02	9.09	10.79	0.60	8.71	8.35	7.98	8.04	3.69	1.05	4.64	12.87													1.89	
IT	19.23	11.28	28.13	18.20	19.90	9.70	0.40	17.46	1.13	17.15	5.42	8.06	13.75	21.98	9.11											14.60		
LT	2.49	10.43	6.42	3.52	1.82	12.01	21.32	4.26	20.58	4.56	16.30	13.66	7.96	0.26	12.61	21.71			1.48			1.80						
LU	1.38	9.32	7.53	2.41	0.71	10.90	20.21	3.15	19.47	3.45	15.19	12.55	6.85	1.37	11.50	20.60	1.11											
LV	1.01	8.95	7.90	2.04	0.34	10.53	19.84	2.78	19.10	3.08	14.82	12.18	6.48	1.74	11.13	20.23	1.48	0.37										
MT	5.79	2.16	14.69	4.75	6.45	3.74	13.05	4.01	12.31	3.71	8.02	5.39	0.31	8.53	4.33	13.44	8.27	7.16	6.79									
NL	20.41	12.46	29.31	19.38	21.08	10.89	1.58	18.64	2.31	18.33	6.60	9.24	14.93	23.16	10.29	1.18	22.89	21.78	21.41	14.62								
PL	4.29	12.23	4.62	5.32	3.62	13.81	23.12	6.06	22.38	6.36	18.10	15.46	9.76	1.54	14.41	23.51	1.80	2.91	3.28	10.07	24.69			20.23		9.79		
PT	16.79	8.84	25.69	15.75	17.45	7.26	2.05	15.01	1.31	14.71	2.98	5.61	11.31	19.53	6.67	2.44	19.27	18.16	17.79	11.00	3.62	21.07						
RO	4.85	12.80	4.05	5.88	4.18	14.38	23.68	6.62	22.95	6.93	18.66	16.02	10.33	2.10	14.97	24.08	2.37	3.48	3.85	10.64	25.26	0.57	21.64					
SE	15.95	8.00	24.85	14.92	16.62	6.42	2.88	14.18	2.15	13.87	2.14	4.78	10.47	18.70	5.83	3.28	18.43	17.32	16.95	10.16	4.46	20.23	0.84	20.80				
SI	4.63	3.32	13.53	3.59	5.29	4.90	14.21	2.85	13.47	2.55	9.18	6.55	0.85	7.37	5.49	14.60	7.11	6.00	5.63	1.16	15.78	8.91	12.16	9.48	11.32			
SK	5.51	2.44	14.41	4.48	6.17	4.02	13.33	3.74	12.59	3.43	8.30	5.66	0.03	8.25	4.61	13.72	7.99	6.88	6.51	0.28	14.90	9.79	11.28	10.36	10.44	0.88		
UK	8.23	0.28	17.13	7.20	8.90	1.29	10.60	6.46	9.87	6.15	5.58	2.94	2.75	10.98	1.89	11.00	10.71	9.60	9.23	2.44	12.18	12.52	8.56	13.08	7.72	3.60	2.72	

Bordering Member States only (C)

All intra-EU differentials (C)

**Source:** DG ENER Weekly Oil Bulletin, Taxes in Europe Database, OECD Consumption Tax Trends 2018 (as at 1 January 2018). The Annex provides a comparison of relative retail prices for unleaded petrol.

There are 12 cross-border tax inclusive price differentials greater than €10.00, with the highest being Greece-Bulgaria, at €27. Differentials of this magnitude are highly significant relative to the average retail price of unleaded petrol. We would expect the largest hotspots for cross-border purchases to be at relatively populous borders between Member States with large cross-border commuting populations.

### 3.7. Conclusions

Certain Member States apply consistently high excise duty on all the standard products presented here. This includes the Nordic Member States - Denmark, Finland and Sweden - as well as Ireland and the United Kingdom, and is likely to be partly driven by higher incomes in these countries. Petrol is something of an outlier as although the aforementioned countries still have above average rates, the Netherlands, Italy and Greece feature at the very top.

Other Member States (notably Bulgaria and Romania) apply consistently low excise duties across all products, relative to other Member States. The excise rate is linked to a complex range of policy objectives, around areas like tax, health and the environment. Low or reduced rates may be used to support domestic markets, as is

particularly the case for wine and beer, but this may not always be the reason. Adjusted for purchasing power even the lowest rates may be high for domestic consumers, and having lower rates than neighbouring countries may simply reflect differences in income levels rather than policies to support a particular excise industry or attract cross-border shoppers. Member States bordering third countries, such as those in the central-eastern parts of the EU, may also consider potential impacts on illegal flows from outside the EU when setting their rates.

Many of the most significant differentials between bordering Member States are between two countries with relatively high excise duty for a product, rather than between high and low rate Member States. Common pairs include Finland and Estonia, Sweden and Denmark, and the United Kingdom and Ireland.

The largest differentials for sparkling and still wine are driven by zero or low rate Member States and high rate Member States, although relatively few of these share borders. Zero or low rate Member States, which accounted for 98.8% of sparkling and still wine production in 2018 (European Commission, 2019d), are the main exporting countries. While the excise differentials between zero and high rating Member States may present limited in-person cross-border shopping opportunities, these differences may have a greater impact on other problem areas like distance selling, where significant differences can provide an incentive for fraud.

The rates set by Member States in key hotspots are often set with reference to consumer cross-border activity and rates in bordering territories. In certain cases, the EU single market is believed to have incentivised tax competition as governments attempt to prevent loss of tax revenue and trade from increased cross-border shopping in countries with lower taxation (Rabinovich, 2009). The most prominent instance of this are in Finland, Estonia and Latvia, where changes in one Member State have explicitly led to policy changes in another. Chapter 4 discusses this issue in more detail.

## **4. Acquisition by private individuals**

Addressed in this chapter is the purchase of excise goods by a private individual for their own use and personally transported from one Member State to another, which is covered by Article 32 of Directive 2008/118/EC.

This chapter first outlines the legal framework for personal acquisition, then describes the current situation (including estimates of the magnitude of the three key problems, an overview of hotspots, and an assessment against the principles of coherence, relevance, effectiveness, EU added value and efficiency), and finally presents and assesses several potential policy options.

### **4.1. The EU legal framework for personal acquisition**

#### **4.1.1. Article 32 of Directive 2008/118/EC**

The European Commission initially established a legal framework for cross-border acquisitions of excise goods by private individuals within Council Directive 92/12/EEC on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products. This was subsequently replaced by Directive 2008/118/EC.

The internal market was created with effect from 1 January 1993, the date that Directive 92/12/EEC came into force. In planning for this, each area of the EU market was researched, and status reports were published each year with the title "Completing the Internal Market: The Elimination of Frontier Controls". These documents covered the full spectrum of frontier controls impacting both businesses and private individuals. Travellers allowances were already in place for travellers moving from a third country into the EU and therefore similar allowances had to be extended for travellers moving between Member States.

The discussion in these documents covered the intention to allow products to circulate freely while protecting tax revenues, trade, people and the environment. Given the nature of excise goods and the scope for them to be sold illegally, frontier controls were required for certain movements and under certain criteria, and limits on movements by individual travellers were to be raised progressively. The 1990 status report (Commission of the European Communities, 1990) described the proposal to double the limits for excise products for individuals travelling between Member States, which at the time were 300 cigarettes, 1.5 litres of spirits, 3 litres of fortified wine and 5 litres of still wine. By the time the internal market commenced in 1993, these limits had grown significantly into the guide levels set out in Directive 92/12/EEC (from 300 to 800 cigarettes and from 9.5 to 230 litres of alcoholic beverages).

Articles 8 and 9 of Directive 92/12/EEC were subsequently replaced with Article 32 in Directive 2008/118/EC. Article 32 mirrors Article 8 of Directive 92/12/EEC and maintains the principle that excise duty on excise goods acquired by a "private individual for his own use and transported from one Member State to another by him", shall be charged only in the Member State in which the excise goods are acquired.

In recognition of the need to provide a form of benchmark or test by which the authorities may objectively assess the validity of a private individual and their own-use criteria, Article 32 in Directive 2008/118/EC lists some areas that may be examined when there is a reasonable doubt that the goods are for private individual use, including:

- The commercial status of the holder of the excise goods and their reasons for holding them;
- The place where the excise goods are located;
- Any document relating to the goods; and
- The nature and quantity of the goods.

The guide levels in Directive 2008/118/EC were taken directly from Directive 92/12/EEC and have not changed in the three decades since that Directive came into force. These assist authorities in determining what may be acceptable levels for a single movement, and are to be used “solely as a form of evidence”:

- 800 cigarettes, 400 cigarillos, 200 cigars, and 1 kg of smoking tobacco; and
- 10 litres of spirit drinks, 20 litres of intermediate products, 90 litres of wines with a maximum of 60 litres of sparkling wine, and 110 litres of beer.

Although issues with alcohol and tobacco products attract most attention, the potential for loss of revenue in relation to energy products is also covered in Article 32. Sub-section (4) allows Member States to provide that excise duty shall become due in the Member State of consumption on the acquisition of mineral oils already released for consumption in another Member State “if such products are transported using atypical modes of transport by a private individual or on his behalf.” Because of the nature by which a vehicle is fuelled, a specific definition is provided for atypical modes of transport which is unambiguous – i.e. any fuel not in the main fuel tank must be excise duty-paid on entry to the destination Member State.

Therefore, contrary to the commercial acquisition of excise goods (defined in Article 33 of the Directive) for which excise duty must be paid in the Member State of consumption, excise duty on the purchase of excise goods by private individuals is paid and charged in the Member State of purchase, provided the private individuals physically transport the goods themselves.

Furthermore, in accordance with the principles of the internal market, private individuals are not subject to the administrative formalities described in Article 34 of Directive 2008/118/EC, such as completing a Simplified Accompanying Administrative Document (SAAD) and providing financial security while excise goods are moved to another Member State. This is because there should be no revenue risk when these goods are being transported, as the excise has been paid in the country of departure and is not due in the country of destination/consumption.

In order to establish what constitutes an “acquisition by a private individual for own use” rather than a purchase for commercial use, two criteria must be taken into consideration:

- The acquisition is made for own use; and
- The buyer must personally transport the excise product from the Member State of Purchase to the Member State of Consumption.

In addition to the excise duty and VAT being waived in the country of destination, other excise obligations normally expected of certain alcoholic beverages entering a Member State are also waived. For example, should the product contain a tax stamp or fiscal mark, it need not be obliterated on leaving the country of purchase, and similarly, should the country of destination have a tax stamp/fiscal mark obligation, this is also waived.

### ***The concept of "own use" and the effectiveness of the guide levels***

Two aspects of Article 32 of the Directive are worth noting here. The first is that the concept of "own use" is not clearly defined. "Own use" and "own consumption" are not the same, and the Directive leaves it to Member States to determine whether purchases for households, as gifts or for large events like weddings should be included. Most Member States do not define this, however. The examples below demonstrate the variation in national interpretation of "own use":

**Table 2: Examples of variation in national interpretation of "own use"**

<b>Variant</b>	<b>Example</b>	<b>Description</b>
Gifts	UK	Personal gifts are explicitly allowed (UK Government, 2010)
Family members and large events	Sweden	Purchases made on behalf of immediate family or for weddings and birthdays are explicitly allowed (Swedish Customs Service, 2019)
Gifts, family members and large events	Finland	Purchases for family members and as gifts are explicitly allowed. Family members include all those living in the same household, and those living at another address if in direct lineage and for a family celebration. In contrast, for snus and chewing tobacco purchases for family members or as gifts are expressly prohibited (Finnish Customs, 2019a; 2019b)

The second notable aspect of Article 32 is that the guide levels serve as a form of evidence only and do not relate to a specified time period. Member States are not bound to set guide levels in their national legislation, but if they do, they are required to set them at levels not lower than those set out in the Directive. With a few exceptions<sup>16</sup>, most Member States have used the guide levels set by Article 32 as the minimum thresholds in their national legislation. The absence of a timeframe means that private individuals living close to a border may be able to make frequent (even daily) cross-border purchases without exceeding the guide levels.

<sup>16</sup> Croatia and Lithuania apply higher guide levels across most products. Finland applies lower thresholds for tobacco in packets that do not contain the necessary health warnings in Finnish and Swedish.

Most Member States do not attempt to define the frequency of movements to which the guide levels apply, although Denmark specifies that two or more relevant movements within 24 hours should not be considered occasional (Danish Government, 2012). There are examples of other movements to which frequencies are successfully attached to guide levels in practice; for other products moving within the EU and also for movements of alcohol and tobacco from non-EU countries. These examples are discussed in Section 4.11.4.

#### **4.1.2. Key rulings of the Court of Justice of the European Union**

The requirement for excise products acquired by a private individual to be personally transported from the Member State of Purchase to the Member State of Consumption for their own use under Article 32 of Directive has been the subject of a few CJEU rulings. The key cases (including Judgement of 2 April 1998, *EMU Tabac*, C-296/95, EU:C:1998:152 and Judgement of 23 November 2006, *B.F. Joustra*, C-5/05, EU:C:2006:733) upheld the overriding principle that Article 32 of the Directive (formerly Article 8 of Council Directive 92/12/EEC) applies to excise products which have been acquired by private individuals for their own use and transported by them. This excludes, for example, buyers arranging transport of excise goods by another person or company on their behalf.

The question of 'own use' under paragraph 2 of Article 32 of Directive is more subjective. Whilst this is limited to a private individual acting in a non-business capacity, consideration must be given to several factors (including for example an individual's reason for possessing the goods, the mode of transport used to bring the products into the Member State of consumption and the nature of the goods) and this will depend on a case by case analysis.

In *Stanislav Gross*, the CJEU ruled that the reasons for the buyer holding excise goods may subsequently disqualify the transaction from being designated as an acquisition by a private individual (Judgement of 3 July 2014, *Stanislav Gross*, C-165/13, EU:C:2014:2042). This means that Member States of consumption can ask for the payment of excise duty from a person that holds manufactured tobacco products for commercial purposes, even if these products were acquired by a private individual in the first place and transported by them from another Member State. The CJEU has an extensive interpretation of Article 32, disqualifying the acquisition of excise goods by a private individual while the conditions set out in Article 32 were met at the time of the purchase.

In the Judgement of 18 July 2013, *Metro Cash and Carry Denmark* (C-315-12, EU:C:2013:503), the CJEU explicitly endorsed the issue of price differentials being a main driver of cross-border shopping by private individuals<sup>17</sup>. Moreover, it addressed the challenges that Member States face in identifying the private or commercial status of the holder of the excise goods. In this particular case, despite the context of the acquisition (i.e. in a shop dedicated to business use, where the members have to present a professional card demonstrating that they are registered in a central

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<sup>17</sup> CJEU, C-315/12, *Metro Cash & Carry Danmark ApS/Skatteministeriet*, 18 July 2013, §12: "This means that there is a financial incentive to purchase spirits on which Danish excise duty has been paid and to import them into Sweden."



business register), the CJEU ruled that the authorities were not permitted to require the seller (i.e. Metro Cash & Carry) to “*check whether purchasers from other Member States intend to import products subject to excise duty into another Member State and, where relevant, whether such importation is for private or commercial use*”, which would effectively create a presumption that excise goods held by certain purchasers are held for commercial purposes. The CJEU made it clear that the conditions for disqualifying an acquisition by a private individual must be checked on a case-by-case basis by the competent national authorities<sup>18</sup>.

#### *Other relevant rulings*

An important precedent was set in France by the French Court of Cassation, which decided that an economic operator, established in Spain, who legally sold manufactured tobacco in large quantities to a buyer, could not be held jointly liable for the fraudulent activity by the French buyer of the products (Judgement of 30 October 2013, *Court of Cassation*, Criminal Chamber, n° 12-83.995). It is only because the economic operator took an active role in the set-up of the fraudulent operation (tearing up sale tickets, hiring another individual in order to set up the sale), that the Court of Appeal convicted them. This decision reflects how difficult the enforcement of Article 32 can be for national authorities; proving the existence of fraud might require evidence they may not be able to access.

A decision by the Swedish Court (case number B1407-17) demonstrates the complexity of enforcing the distinction between ‘own use’ and ‘commercial use’. This case concerned two individuals who engaged in four cross-border trips in less than three months to bring back 119 litres of spirits, 191 litres of wine and 1,997 litres of beer to Sweden. The Court ruled in favour of the defendants, in the absence of any consideration contradicting the defendants’ explanations to justify that the alcoholic beverages they acquired were intended for their own use only.

## **4.2. Overview of the current situation**

The current rules around personal acquisition do little to restrict the purchase and movement of excise goods by private individuals for their own use. In many ways this reflects the healthy functioning of the internal market, supporting the unhindered movement of goods between Member States. However, the specific nature of excise goods means that in some cases this has also created issues, particularly for certain Member States.

### **4.2.1. The scale and evolution of cross-border personal acquisition**

As noted above, the guide levels in Article 32 of Directive 2008/118/EC have not changed since the establishment of the internal market in 1993. Much has changed since then however, and how these provisions apply in practice has evolved.

In 1992, most consumers had far less access to real-time information on price differences in other markets, as the internet was in its infancy and price comparison

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<sup>18</sup> CJEU, C-315/12, *op. cit.*, paragraph 48

websites did not first appear until 1995 (Al-Qirim, 2005). Consumer mobility and disposable income were lower than they are today and the EU itself comprised only 12 Member States, primarily covering Southern and Western Europe.

Since then there have been major advancements in technology, notable shifts in the attitudes and behaviours of consumers and a significant expansion of the internal market, which now comprises the domestic markets of 28 Member States. With the development of the low-cost airline model, travel routes have expanded, and air travel has become much cheaper, making even the most remote corners of the EU more accessible to travellers. These factors have undoubtedly influenced the extent to which the provisions in Article 32 have affected the purchase of excise goods across Member State lines.

In recognition of the ease with which consumers can now identify and take advantage of price differences, some Member States have even explicitly set their alcohol excise policies relative to those of their neighbours. Ireland and the Baltic states are key examples where decision makers have openly linked excise policies to those of neighbouring Member States<sup>19</sup>, yet these countries still have some of the highest rates in the EU. This suggests that while neighbouring policies may be important, tax competition has been sufficiently counterbalanced by other considerations (such as fiscal and social objectives) to prevent a “race to the bottom” in alcohol excise rates. There is less evidence of competition in tobacco excise rates, given the strong political commitments to reducing tobacco use (see Section 4.5.3).

### ***The extent to which this phenomenon is monitored is limited***

It is inherently difficult to monitor the cross-border purchase of excise goods in the internal market, as retailers have no way of knowing whether consumers are travellers or domestic residents and there are no border controls. There are several studies looking at this issue at an EU level, but the extent to which Member States monitor this issue is limited. The key exceptions to this are all in the northernmost States, which use surveys to monitor movements:

- **Sweden** has been collecting detailed data on cross-border purchases of alcohol and tobacco since 1994 and publishing this annually for Sweden as a whole, and by region since 2000 (CAN, 2019a, 2019b);
- **Finland** has also been collecting detailed data for alcohol and tobacco on a monthly basis since 2000 and publishing this as a 12-month moving average (Finnish Institute for Health and Welfare, 2019);
- **Denmark** has collected and published estimates on the volume of cross-border shopping on an annual basis since 2004 (Danish Ministry of Taxation, 2017); and
- **Estonia** has recently started monitoring cross-border shopping, producing annual estimates for 2016-2018 to date (Estonian Institute of Economic Research & National Institute for Health Development, 2018).

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<sup>19</sup> See Section **Error! Reference source not found.** for examples from Finland, Estonia and Ireland. Denmark also adjusted its rates in 2013 in response to lower rates in Germany: <http://www.panimoliitto.fi/en/denmark-tackles-dramatic-growth-in-cross-border-beer-trade-with-tax-reductions/>

France has also begun studying this for tobacco products. In 2016, the French Monitoring Centre for Drugs and Drug Addiction analysed cross-border purchases as part of its ATLAS study (OFDT, 2017), which is based on an online survey of 12,000 individuals aged 15 or older. The study focussed on the location and frequency of purchases of tobacco by French residents, but also included data on the motivations of purchasers and on illegal purchases. Although this study was intended to be conducted more regularly, it is yet to be updated since the 2016 survey was undertaken.

Other Member States only measure this behaviour occasionally or for related issues, if at all. For example, the UK has looked more closely at cross-border movements of individuals between the UK and Ireland in the context of the UK’s withdrawal from the EU (UK Government, 2017). This study provided insights into cross-border shopping for general retail products and services around this border, but not specifically for excise goods.

Directive 2014/40/EU was established to facilitate the smooth functioning of the internal market for tobacco products, with explicit reference to the protection of human health and the WHO Framework Convention for Tobacco Control. It provides for an EU-wide system of traceability and security features for tobacco products to address the issue of illicit trade, which established in May 2019 for cigarettes and roll-your-own tobacco, and by 20 May 2024 will be extended to all remaining tobacco products (European Commission, 2017f). This system is not designed to provide data on movements after a product has been purchased by an individual, but may enhance estimates of cross-border shopping and illicit trade based on empty pack surveys.

There have been a small number of studies of the magnitude of cross-border purchases of alcohol and tobacco by individuals across the EU, including the following:

**Table 3: Key studies of the magnitude and/or nature of cross-border personal acquisition across the EU**

Alcohol	
Leifman, 2001	European Comparative Alcohol Study (ECAS) 1998-2001, a general population alcohol survey carried out in Finland, France, Germany, Italy, Sweden and the UK. This survey is focused on unrecorded consumption, only a portion of which relates to alcohol purchased in another Member State.
RAHRA, 2016	A study funded as part of the European Union Health Programme (2008-2013), which included limited data on cross-border purchases made by residents from six Member States in 2015 (Croatia, Finland, Hungary, Poland, Portugal and Spain). These questionnaire based estimates were focussed on alcohol “which probably has not been recorded in official statistics of recorded alcohol consumption”, and their interpretation for cross-border shopping is limited by respondents’ interpretations of this question.

Tobacco	
European Commission, 2012	Special Eurobarometer 385, which collected data on the prevalence (but not quantity) of cross-border purchases in 2012 for all 27 EU Member States at the time (excluding Croatia). This contains responses from around 1000 individuals in most Member States, but questions on cross-border shopping were not included in surveys after 2012.
Driezen et al, 2018	This study made use of the EUREST-PLUS ITC Europe Survey, which looked at the prevalence of cross-border purchases of tobacco for six Member States (Germany, Greece, Hungary, Poland, Romania and Spain). This incorporated granular location information to estimate the prevalence of cross-border shopping for cigarettes in border vs. non-border regions. This data could not identify the country of purchase, however, and was gathered during summer months, which may have biased the results.
Agaku et al., 2016	A study based on data from Special Eurobarometer 385. This provides a comparable estimate of the number of people engaged in cross-border tobacco purchases, but is based primarily on data from 2012.
Nagelhout et al., 2013	A study based on the 2006-2008 International Tobacco Control Surveys in France, Germany, Ireland, the Netherlands, and the UK. This finds a higher prevalence of cross-border shoppers in regions bordering lower priced countries, but is based on a six-month period using data that is over ten years old.
General	
European Central Bank, 2014	A study of the cross-border consumption behaviour of commuters from Belgium, France and Germany working in Luxembourg. Based on a representative survey, this study finds that excise products (including fuel, tobacco and alcohol) comprise approximately one third of all cross-border expenditure made in Luxembourg. While providing useful insights, this study covers only unidirectional cross-border shopping into one Member State, making it difficult to generalise.

Although the geographic scope and estimation techniques employed in these studies varies, there is a shared acknowledgement of the challenges associated with monitoring cross-border shopping.

### ***New estimates from this study***

Although there is not enough data to provide a comprehensive picture, the combination of previous estimates and the consumer survey data from this study does provide some useful insights into the evolution of cross-border shopping for excise products.

The table below presents new estimates of the proportion of scale of cross-border shopping for alcohol and tobacco in the EU. Member State estimates are based on either proportions or median values from the consumer survey, checked and

calibrated against independent estimates and data on the prevalence of drinking, smoking and international travel. EU-level estimates are calculated using the Member State estimates, weighted by adult population.

**Table 4: Estimated volume of cross-border shopping for alcohol and tobacco products**

Member State	Population undertaking cross-border shopping		Annual quantity of alcohol and tobacco products purchased cross-border								
	Alcohol	Tobac.	Pure alc.	Beer/Cider	Still Wine	Spark. Wine	Fort. wine	Spirits	Cigarettes	Fine cut	Cigars
	Million adults (18+)		Million litres						20 pack (m)	30g pack (m)	Millions
<b>EU Total</b>	<b>59</b>	<b>49</b>	<b>204</b>	<b>348</b>	<b>305</b>	<b>228</b>	<b>269</b>	<b>200</b>	<b>711</b>	<b>143</b>	<b>141</b>
	% of adult pop.		Litres, packs or units per capita (18+)								
Estonia	24%	9%	0.5	2.8	0.7	0.5	0.2	0.5	1.5	0.2	0.2
Finland	24%	15%	0.7	2.8	0.8	1.3	0.8	0.5	1.2	0.2	0.1
Ireland	24%	15%	0.4	0.7	0.6	0.4	0.3	0.6	2.2	0.4	0.1
Denmark	22%	17%	1.0	3.6	1.5	1.3	1.2	0.8	2.2	1.0	0.7
Poland	22%	10%	0.5	0.7	0.8	0.5	0.5	0.5	1.1	0.2	0.2
Sweden	22%	8%	0.8	3.1	1.0	0.8	1.0	0.8	1.3	0.1	0.2
Italy	17%	9%	0.5	0.4	0.6	0.5	0.7	0.4	0.8	0.2	0.2
Czechia	16%	7%	0.3	0.3	0.5	0.2	0.3	0.4	0.9	0.1	0.1
Lithuania	16%	6%	0.2	0.3	0.2	0.1	0.0	0.3	0.2	0.1	0.0
Belgium	14%	13%	0.5	0.5	1.0	0.9	0.5	0.6	2.0	0.8	0.4
<b>EU Avg.</b>	<b>14%</b>	<b>12%</b>	<b>0.5</b>	<b>0.8</b>	<b>0.7</b>	<b>0.5</b>	<b>0.6</b>	<b>0.5</b>	<b>1.7</b>	<b>0.3</b>	<b>0.3</b>
Latvia	14%	6%	0.1	0.1	0.4	0.1	0.1	0.2	0.6	0.1	0.3
Slovenia	14%	8%	0.2	0.5	0.4	0.3	0.2	0.2	0.5	0.1	0.3
Spain	14%	8%	0.7	1.2	1.0	0.9	0.7	0.8	1.5	0.2	0.3
Austria	13%	19%	0.8	1.3	1.5	1.4	1.0	0.6	2.9	0.3	0.1
Germany	13%	15%	0.6	1.1	1.0	0.6	0.6	0.6	2.9	0.4	0.4
Portugal	13%	6%	0.4	0.9	0.7	0.6	0.5	0.4	0.7	0.1	0.0
Slovakia	13%	9%	0.2	0.3	0.4	0.3	0.2	0.3	0.9	0.1	0.1
UK	13%	12%	0.5	0.8	0.8	0.6	1.1	0.3	1.4	0.5	0.1
France	12%	18%	0.4	0.6	0.5	0.3	0.6	0.4	3.0	0.7	1.0
Hungary	12%	4%	0.2	0.4	0.3	0.2	0.2	0.3	0.4	0.2	0.1
Netherlands	12%	14%	0.4	0.7	0.4	0.3	0.6	0.6	2.3	0.2	0.5
Croatia	11%	15%	0.2	0.4	0.2	0.1	0.1	0.3	1.4	0.2	0.2
Greece	10%	8%	0.1	0.1	0.2	0.1	0.1	0.2	0.6	0.3	0.1
Bulgaria	8%	6%	0.3	0.4	0.6	0.2	0.2	0.4	0.9	0.1	0.1
Romania	6%	4%	0.2	0.2	0.3	0.2	0.1	0.2	0.3	0.1	0.2

**Notes:** 2018/19; per annum; EU estimates rounded to the nearest million and exclude Cyprus, Luxembourg and Malta.

**Sources:** Author's calculations derived from consumer survey, Eurostat population and trips data, and Special Eurobarometer 385

We estimate that around 14% of the total adult population purchased alcohol products in another Member State over the previous 12 months, and 12% purchased tobacco products. As these estimates make use of the consumer survey of over 6,250 respondents care must be taken not to overinterpret the Member State level estimates, however they do indicate significant variation between Member States, with high-rate, high-price countries like Ireland and Finland tending to have a higher proportion of cross-border shoppers than low-rate countries like Bulgaria and Romania.

At the EU level this amounts to around 1.4 billion litres of alcoholic beverages (204 million litres of pure alcohol) and around 15 thousand tonnes of tobacco<sup>20</sup>. On a per capita basis the average volumes are still significant, amounting to 0.5 litres of pure alcohol equivalent (summing all alcohol products), 1.7 packets of cigarettes, 1/3 of a packet of fine cut tobacco and 1/3 of a cigar. For comparison, at the EU level this amounts to approximately 5% of per capita alcohol consumption (WHO, 2018a), and 2.8% of cigarette consumption (European Commission, 2017c<sup>21</sup>). As we demonstrate later in this section, for certain segments of the population this is much more significant.

By value (excluding excise duty and VAT), the excise products most commonly purchased by individuals in this way are spirits (€1.9 billion each year), sparkling wine (€1.8 billion) and still wine (€1.7 billion). Total alcohol products were estimated at €7.4 billion, and total tobacco products at €1 billion (€700 million of which comes from sales of cigarettes). Once taxes are included, however, turnover on tobacco becomes more significant owing to the higher relative excise taxation of tobacco products.

These estimates suggest that consumers living in the higher-taxing Member States, with high consumption of a particular product, tend to engage in the highest volume cross-border shopping for those products. France, for example, has the highest per capita cross-border purchases of cigarettes and cigars, and Denmark, Sweden and Finland have among the highest estimated alcohol purchases.

Spain has a relatively high estimated volumes of alcohol purchases cross-border, given its land borders – albeit large – are with two countries which have higher average prices. The results of the survey suggest that this stems from relatively large purchases made by a relatively small proportion of the Spanish population. This may be an anomaly due to a relatively small sample size, or may reflect non-price factors such as convenience and product selection. Although average prices are higher in these two Member States, in some cases specific products are cheaper in Portugal or France<sup>22</sup>.

Austria also has relatively high estimated volumes of cross-border shopping. Given Austria's relatively small landmass, central position in the EU and generally higher tax-inclusive prices compared with its neighbours, it is not surprising that this is the case.

### ***How do these numbers compare with independent estimates?***

#### *Alcohol*

Regarding alcohol, the more detailed data collected by the northern Member States confirms a high volume of cross-border traffic, particularly for alcohol. Finland, Sweden, Denmark and Estonia all impose high or relatively high excise duty rates, which creates incentives for private individuals to engage in cross-border shopping:

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<sup>20</sup> Assuming an average cigarette contains 0.75g of tobacco and an average cigar/cigarillo contains 1.5g.

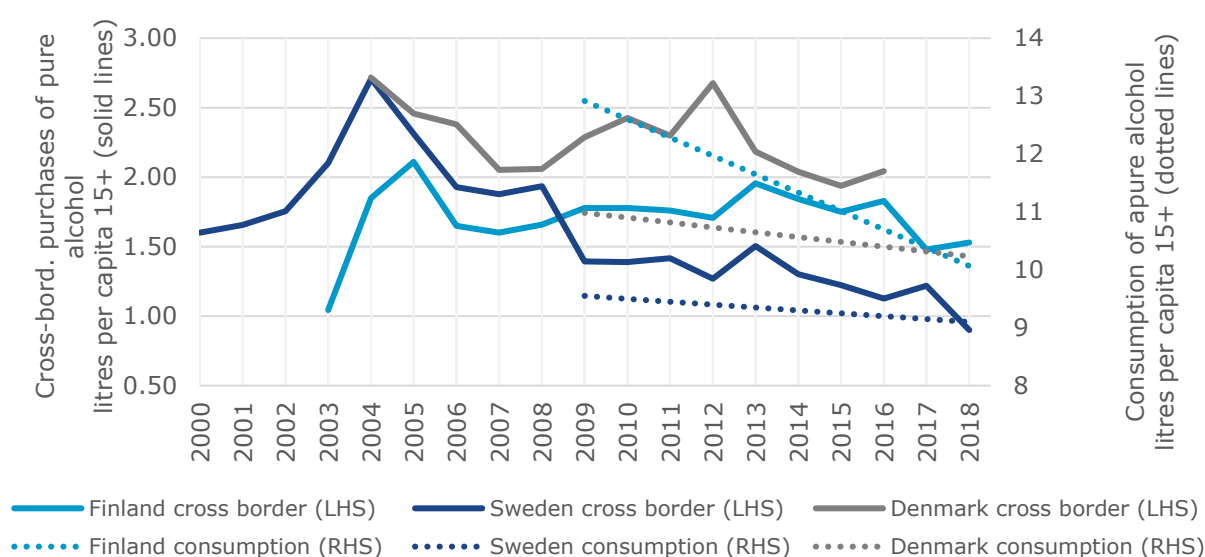
<sup>21</sup> Based on Special Eurobarometer 458 estimate of daily smokers only, who comprise 90% of all cigarette smokers and consume an estimated 14.1 cigarettes per day. Statistics on consumption of non-daily smokers are not published in Special Eurobarometer 458 but are assumed to be negligible compared to this group.

<sup>22</sup> For example, average retail prices of still wine in Portugal, and cider in France, are lower than in Spain (IWSR, 2019 combined with excise and VAT data).

for Swedes primarily in Denmark and Germany; for Danes primarily in Germany; for Finns primarily in Estonia and Latvia; and for Estonians primarily in Latvia. In these Member States cross-border purchases are relatively common, accounting for a large proportion of per capita alcohol consumption and a significant, but lower, proportion of per capita cigarette consumption (CAN (2019a), Danish Ministry of Taxation (2017), Finnish Institute for Health and Welfare (2019) and Estonian Institute of Economic Research & National Institute for Health Development (2018)).

The figure below presents the longer time-series data available for Finland, Sweden and Denmark, which have all fluctuated around 1.5 to 2 litres of pure alcohol in recent years, with a notable decline since 2012.

**Figure 13: Annual cross-border alcohol purchases made by residents of Denmark, Finland and Sweden**



**Sources:** Cross-border purchases come from national government data (see list above); consumption data comes from WHO (2018a) estimates for 2009-2017

**Notes:** LHS = left-hand side; RHS = right-hand side.

For comparison, the figure also includes (on the right hand side) consumption trends. Although consumption has declined during the same period that cross-border shopping declined in all three Member States, the relationship between consumption and cross-border shopping trends is not clear cut. Finland experienced the sharpest fall in consumption over this period while cross-border shopping only marginally declined, and in Denmark consumption declined only slightly while cross-border shopping dropped significantly. This is evidence that cross-border shopping is not just being driven by changes in consumption, but that other factors (including price differentials) play an important role.

The table below compares these figures with the findings of this study:

**Table 5: Comparison of cross-border estimates for alcohol (annual litres of pure alcohol)**

Member State	Source	Estimate and year	Our estimate (2018/19)
Denmark	Danish Ministry of Taxation (2017)	2.04 (2016)	1.0
Sweden	Swedish government (CAN, 2019a)	0.92 (2018)	0.84
Finland	Finnish Institute for Health and Welfare (2019)	1.53 (2018)	0.71
Estonia	Estonian Institute of Economic Research & National Institute for Health Development (2018)	0.77 (2016) 2.62 (2017) 3.65 (2018)	0.51

**Note:** In some cases these sources provide the estimate in the form listed above. In other cases they are derived from aggregate figures (e.g. million litres per year).

Data from the 2001 European Comparative Alcohol Study (ECAS; Leifman 2001) is not included in the table above as it is outdated and likely to be understated, given it does not include cross-border purchases that exceeded the guide levels. However, it does demonstrate a significant variation from 0.04 to 1.4 litres between Italy, France, Germany, Sweden, Finland and the UK (in ascending order) and indicates that cross-border volumes were much lower in 2001 than they are now.

The more comparable estimates in the table above come from government sources in the northern Member States. For Sweden, our estimate is very close to the Swedish government estimate for 2018. For Finland, Denmark and Estonia, however, our estimates are notably lower than other estimates, although for Denmark a projection of the 2016 estimate on the basis of the growth rate in recent years would lower the comparable figure to around 1.7 litres of pure alcohol.

Each of these estimates is undertaken on a slightly different basis, which may explain some of the difference. The Finnish figure includes all cross-border purchases, including those from smuggling, and applies higher ABVs for each product category than our estimates, which explains some of the difference. The Danish Ministry of Taxation’s report compares its estimates with three others to highlight the range of possible estimates, which range from 12%-106% of the government estimate (Danish Ministry of Taxation, 2017).

The Estonian estimates have increased significantly each year over the three years they have been produced and it is not clear the extent to which this reflects changes in relative excise rates between Estonia and Latvia or methodological changes as the new surveys are established. In any case, 3.65 litres of pure alcohol represents over 36% of all alcohol consumed by Estonian inhabitants, which is an exceptionally high number and out of line with estimates for the other northern Member States.

The Member States presented above are particularly significant cross-border shoppers for alcohol and it may be the case that our estimates, which are calibrated to reflect the EU proportion of cross-border shoppers, understate the values for these outlying cases. For these Member States, we conclude that our estimates likely understate the

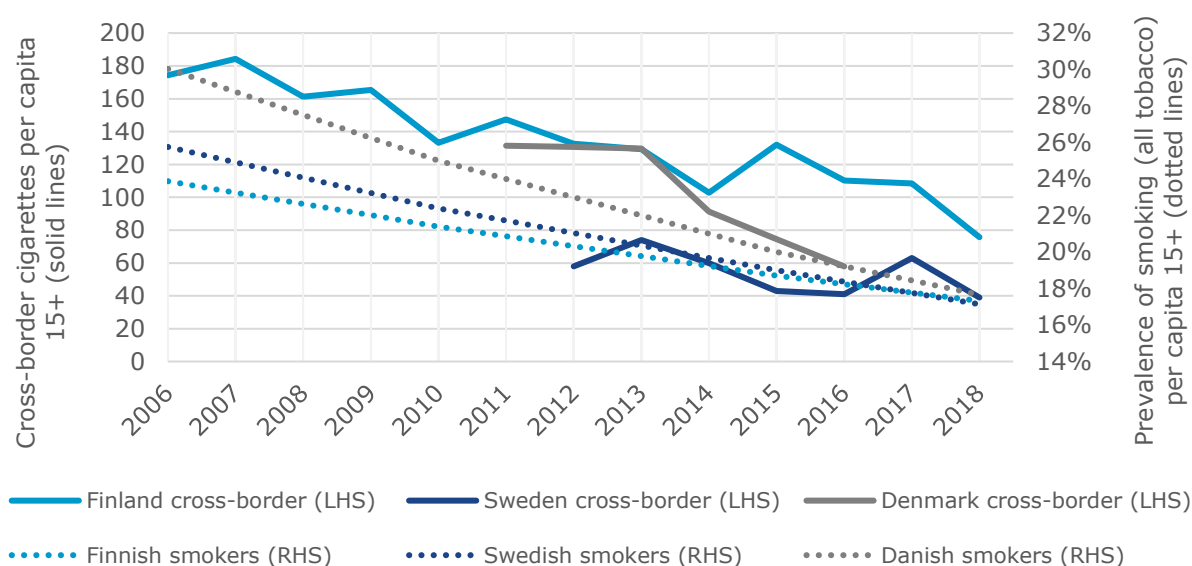


true volume of cross-border purchases of alcohol slightly, although not by as much as the headline figures might suggest.

### Tobacco

As the figure below demonstrates, the Member States for which time series data is available display a similar decline in cross-border purchases. The volume of cigarettes purchased by residents of Sweden appears particularly low, in line with the very low prevalence of smoking in Sweden (European Commission, 2017c). For many Swedes, however, tobacco is not consumed by smoking but via *snus* – an oral use tobacco that is not inhaled or chewed - which is consumed by 11% of the population (Public Health Agency of Sweden, 2019). Directive 2014/40/EU bans the sale of this type of tobacco in all other Member States.

**Figure 14: Annual cross-border cigarette purchases made by residents of Denmark, Finland and Sweden**



**Sources:** National government data (see list above), WHO (2018c).

**Notes:** To ensure comparable time-series data, smoking prevalence rates includes all tobacco types. LHS = left-hand side; RHS = right-hand side.

The table below compares these figures with the findings of this study:

**Table 6: Comparison of cross-border estimates for cigarettes (individual)**

Member State	Source	Estimate and year	Our estimate (2018/19)
Denmark	Danish Ministry of Taxation (2017)	58 (2016)	45
Sweden	Swedish government (CAN, 2019a)	39 (2018)	26
Finland	Finnish Institute for Health and Welfare (2019)	76 (2018)	23

Unlike alcohol, no published estimates of cross-border cigarette purchases were available for Estonia. Our estimates are slightly lower than the estimates for Denmark and Sweden, and significantly lower than the estimates for Finland. As with alcohol, this may partly be driven by the unusually high level of cross-border shopping in these countries, and our estimates being representative at the EU level but only indicative for individual Member States.

Other independent estimates are lower than those in this study. Agaku et al. (2016) estimate that 27.5 million people made cross-border purchases of tobacco purchases in 2012, compared with the estimate of 49 million people presented here.

Independent studies may not be directly comparable, but do support the finding of significant variation between Member States. Nagelhout et al. (2013) used data from surveys undertaken in 2006 to 2008 to examine differences in the behaviour of smokers in border vs non-border regions, with estimates ranging from 17.3% (of the smoking population) in the Netherlands to 51.4% in the border provinces of France. The EUREST-PLUS surveys also provided evidence that smokers living near a border were significantly more likely to make cross-border cigarette purchases (Driezen et al., 2018).

It is clear that, although the volume of alcohol and tobacco obtained via personal acquisition may be relatively insignificant for some parts of the EU it is much more significant for other Member States, with implications for revenue, the economy and public health which are explored later in this chapter.

### ***Key segments of the market for personal acquisition***

The analysis above presents EU-wide and MS-level estimates on an average per-capita basis. However, it is important to consider the behaviours and characteristics of different segments within the cross-border shopping market. Not only do different groups exhibit different patterns of cross-border shopping, but their responses to the proposed policy options are likely to vary.

Two key segments in the cross-border shopping market are occasional travellers and price-sensitive consumers. The former includes consumers who travel infrequently and for whom cross-border shopping is incidental to the main purpose of their trip. For the price-sensitive consumer group, however, the arbitrage opportunity may be sufficient in itself to incentivise cross-border shopping.

Along with price-sensitivity, the time and cost required to travel to another Member State to purchase excise products has an important bearing on the responsiveness of each consumer to cross-border shopping opportunities. The impact will vary consumer to consumer, based on their sensitivity to travel time and cost.

Leal et al.'s (2010) meta-study of cross-border shopping covers an extensive range of theoretical models and empirical analyses, from which a general picture emerges of a negative relationship between the level of cross-border shopping and distance from the border. Of the studies surveyed, the most pertinent results for the purposes of this study are found in Asplund et al.'s (2005) analysis of the sensitivity of Swedish beer, wine and spirits sales in different municipalities to foreign prices and the distance to

the border of Denmark and Germany. Their estimates indicate elasticities in relation to foreign prices of -0.3 in border regions, which reduces to -0.2 for regions 100 kilometres further inland.

Other studies examine the price elasticities of alcoholic beverages, captured in meta-analyses by Fogarty (2006), Gallet (2007) and Wagenaar et al. (2009), although not specifically with regard to cross-border shopping. The table below, from Österberg (2012), shows the results from these three meta-analyses.

**Table 7: Own-price elasticities for alcoholic beverages in three meta-analyses**

Source	Own-price elasticities for alcoholic beverages in three meta-analyses			
	Distilled spirits	Wine	Beer	All alcoholic beverages
Fogarty (2006)	-0.70	-0.77	-0.38	N/A
Gallet (2007)	-0.68	-0.70	-0.36	-0.50
Wagenaar, Salois & Komro (2009)	-0.80	-0.69	-0.46	-0.51

The results of these meta-analyses, which have a wider geographic scope than the EU, show that distilled spirits, wine and beer all have negative own-price elasticities and are inelastic to varying degrees. Beer, which is a more common beverage in some countries, is more price inelastic than distilled spirits or wine, which are sometimes categorised as luxury items. Although these studies analyse domestic markets, the cross-border price elasticities of these products are likely to be similar in relative terms. As with Asplund et al.'s (2005) study, we expect the sensitivity to foreign prices to decrease as the distance to the border increases.

While it has not be possible to disaggregate our sample into distinct groups that reflect both price-sensitivity and distance from the border, we have estimated market share and volume purchased per capita based for four key segments:

- **All cross-border shoppers:** Respondents who went on a minimum of 1 cross-border shopping trip for alcohol or tobacco (the reference point for the subgroups listed below);
- **Cross-border shoppers who state price savings as their only reason for cross-border shopping:** Respondents who identified price as the only reason for purchasing alcohol or tobacco products across-border in the past twelve months, and went on a minimum of one cross-border shopping trip for alcohol or tobacco;
- **Cross-border shoppers who make only one cross-border shopping trip per year:** Respondents who only went on one cross-border shopping trip over the past twelve months, for alcohol or tobacco; and
- **Cross-border shoppers who live 30 minutes or less from the nearest border:** Respondents who can drive to the nearest Member State in 30 minutes or less and who went on a minimum of one cross-border shopping trip for alcohol or tobacco in the past twelve months.

The figure below presents per capita estimates of purchases by cross-border shoppers, split by market segment<sup>23</sup>. Per capita market segment estimates are based on median values from the consumer survey. The figure also includes estimates of market share as a percentage of total volume for 'cross-border shoppers who state price savings as their only reason for cross-border shopping', 'cross-border shoppers who make only one cross-border shopping trip per year' and 'cross-border shoppers who live 30 minutes or less from the nearest border'.

**Table 8: Estimated volume of cross-border shopping for alcohol and tobacco products annually, by key segment**

Market segment	Annual quantity of alcohol and tobacco products purchased cross-border								
	Pure alc.	Beer/Cider	Still Wine	Spark. Wine	Fort. wine	Spirits	Cigarettes	Fine cut	Cigars
	<b>% of total volume purchased across border</b>								
Price savings only reason	34.8%	42.2%	31.3%	41.0%	33.0%	33.4%	37.9%	32.3%	19.8%
One cross-border shopping trip	10.5%	4.8%	14.2%	4.2%	4.0%	15.1%	7.6%	6.3%	2.9%
30 mins or less from the border	12.9%	10.9%	11.9%	13.7%	18.8%	10.9%	6.4%	12.0%	4.1%
	<b>Litres, packs or units per capita</b>								
Average cross-border shopper	2.1	4.1	3.2	2.3	2.1	2.3	13.4	1.6	1.8
Price savings only reason	3.3	7.8	4.6	4.3	3.1	3.5	16.9	1.7	1.2
One cross-border shopping trip	0.7	0.6	1.4	0.3	0.2	1.0	4.0	0.4	0.2
30 mins or less from the border	3.6	5.9	5.1	4.2	5.1	3.3	16.2	3.6	1.4

This analysis of market share (*% of total volume purchased across border*) indicates that price-sensitive consumers are particularly inclined to purchase beer/cider (42.2%), sparkling wine (41.0%) and cigarettes (37.9%) when cross-border shopping. It is not surprising that such a large share of the market (around one third, on average) is comprised of highly price-sensitive consumers, given they are likely to be the most responsive to cross-border price differentials. The combination of: i) relatively low price elasticities for beer; and ii) a high market share for this group, suggests that cross-border price differentials may incentivise significant cross-border shopping for beer but with a lower impact on the total volume purchased.

Occasional travellers are particularly inclined to purchase spirits (15.1%) and still wine (14.2%) when shopping cross-border. This is consistent with the notion that this segment make sentimental purchases (e.g. purchases that are particularly characteristic of a place they were holidaying to), but also with the notion that some may shop only once but with the primary intention of cross-border shopping for more expensive products.

Our analysis of volumes per capita shows that both price-sensitive consumers and those living close to the border buy significantly more of all products than the average cross-border shopper. However, price-sensitive cross-border shoppers took an average of 4.3 trips for alcohol and 3.9 trips for tobacco over a 12 month period, compared to 6.7 trips for alcohol and 8.2 trips for alcohol for those living close to the border. This conforms to the notion that those living close to the border buy smaller

<sup>23</sup> Note that these segments may overlap (i.e. an individual may feature in more than one).

amounts more frequently than price-sensitive consumers, who may travel from further afield and buy more on a single trip.

The per capita estimates for those who made one trip are interesting because they reflect the average basket of goods purchased from a single-trip. This consists of approximately 4 packs of cigarettes, 2 bottles of still wine, 1 litre of spirits, 2 small bottles/cans of beer and smaller amounts of the other products, on average. As noted above, this may be a combination of purchasers buying one or two bottles of sentimental value, and those who made one purchase but with the intention of buying larger amounts.

These estimates are static, based on the answers provided by respondents in the consumer survey. What this doesn't tell us is how different segments of the market respond to changes in cross-border price differentials. The cost-benefit analysis of some options presented later in this chapter explores the dynamic impacts of various policy options on the most relevant market segments.

#### **4.2.2. How the guide levels compare to typical consumption patterns**

The guide levels in the Directive used to help assess whether a purchase has been made for 'own use' are not tied to a time period, but it is useful to compare them to annual per capita consumption levels as a measure of their potential restrictiveness.

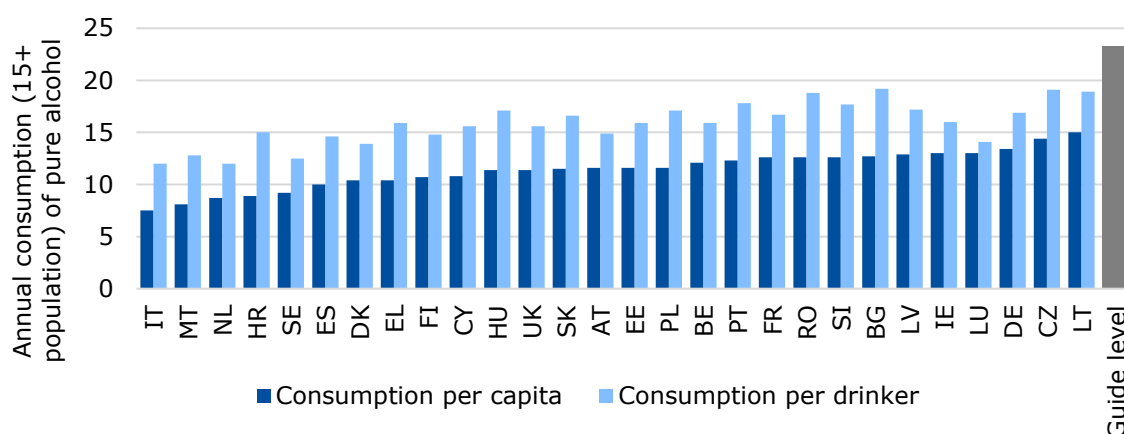
As the figure below shows, in pure alcohol terms and based on standard products, the guide levels for alcohol amount to approximately 23 litres of pure alcohol; around one and a half times higher than the annual per capita consumption in the Member State with the highest levels (Lithuania). Considering that 40.1% of the European population do not drink alcohol products (WHO, 2018a), the guide levels are still around 4 litres of pure alcohol higher than the Member States with the highest annual consumption per drinker of alcohol, Lithuania, Czechia and Bulgaria. Of course, for any given product the guide levels are more restrictive, but this does indicate that the guide levels for alcohol are very unrestrictive, especially given the average alcohol cross-border shopper makes between 2-4 trips per year<sup>24</sup>.

The biggest difference between the guide levels and annual consumption in the EU is for wine. 3.7 litres of wine (in pure alcohol terms) were consumed per capita in the EU in 2014, nearly 3 times less than the guide level equivalent of 11 litres. However, wine is somewhat unique in that it benefits from ageing, so purchases are often made for future, not immediate consumption. The guide level for spirits is also nearly double the annual consumption of 2.2 litres (in pure alcohol terms). However, the guide levels for beer are closer to the annual consumption. In 2014, 4.1 litres of beer (in pure alcohol terms) was consumed, just below the guide level of 4.95 litres (WHO, 2014b).

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<sup>24</sup> These are the median (2) and mean (4) values of all respondents who purchased alcohol products in another Member State, from the consumer survey.

**Figure 15: Annual consumption of pure alcohol per capita, 2016**



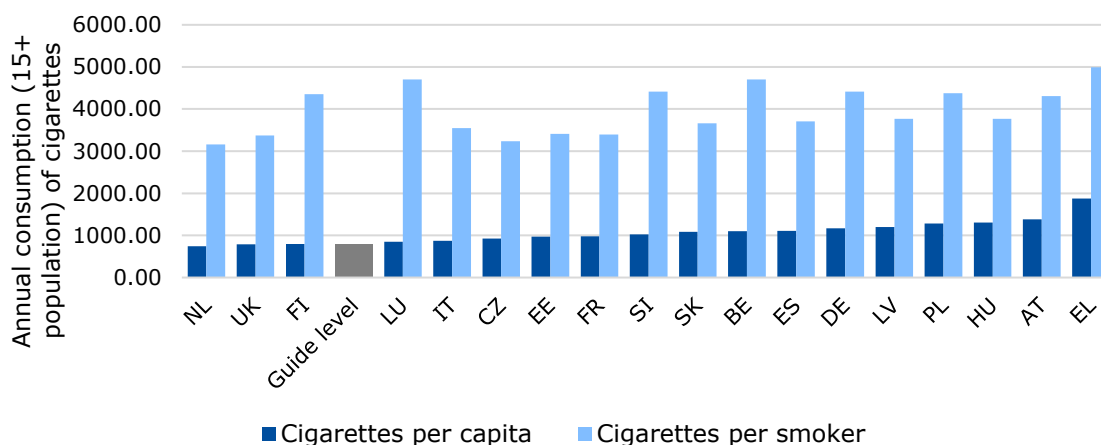
**Source:** WHO (2018a) and authors' calculations based on standard ABV assumptions

There is a general downward trend in total alcohol consumption across the EU (WHO, 2018a), which will widen this disparity between the guide levels and actual alcohol consumption. Between 2010 and 2016, there was a median decrease of 0.2 litres of pure alcohol per capita across the EU. Romania experienced the greatest fall in pure alcohol consumption per capita (2.4 litres), closely followed by Croatia (2.3 litres) and Finland (1.9 litres). In contrast, a small number of Member States had significant increases in their consumption of pure alcohol per capita, the largest being in Latvia (1.3 litres) followed by Slovenia and Malta (both 1.1 litres) (WHO, 2010; 2016).

The guide levels do not consider the frequency of cross-border personal acquisition. Individuals can travel several times a year, or as much as several times a day, and each trip the quantity of excise goods are assessed for 'own use' against the same guide levels. As an illustration of the scale of this, an individual could be transporting 23 litres of pure alcohol from Poland to Germany four times a day (92 litres in total), nearly seven times the annual consumption of pure alcohol in Germany.

As shown in the following figure, the guide level for cigarettes is much closer to average annual consumption across the EU than for alcohol. The guide level is around six months' worth of per capita consumption in Greece and thirteen months in the Netherlands. Only 18% of EU residents smoke cigarettes (Eurostat, 2014), however, the guide level is even lower relative to the average consumption of smokers. For smokers, the guide levels equate to around one and a half months of average consumption in Greece and two and a half months in the Netherlands.

**Figure 16: Annual consumption of cigarettes, 2014 (population 15+)**



**Source:** OECD Stat (2019b); for some Member States 2014 data was not available or only available for another year, including Belgium (2013) and Germany (2013).

Like alcohol, the consumption of cigarettes is falling across the EU, shifting the guide levels closer towards the median annual per capita consumption over time.

### 4.3. Impacts on economic decisions and public revenues

#### ***The economic decisions of consumers and businesses***

The price differences caused - in whole or in part - by excise and VAT rate differentials between bordering Member States create an incentive for consumers to make purchases in locations that might otherwise be economically inefficient, for example travelling long distances to purchase products that are available locally. They also incentivise businesses to locate in places that might also be economically inefficient in the absence of a tax-driven price differential.

There are several well-known examples of this kind of consumer and business behaviour where road or maritime links are particularly strong and excise rate differentials are high. Some of these are covered in the case studies later in the chapter, and they include:

- The so-called “booze cruise” phenomenon between the UK and France, Finland and Estonia, and Sweden and Denmark, consisting of individual or organised trips primarily for buying cheaper alcoholic beverages or tobacco products for consumption back home;
- The large German-based supermarkets at the Danish-German border, which attract a substantial number of Danish consumers each year (Danish Ministry of Taxation, 2017), and retailers based around ferry landings from Sweden<sup>25</sup>;
- The *venta* shops at the French-Spanish border in Basque Country, where French residents can buy alcoholic beverages and manufactured tobacco at a much cheaper price; and

<sup>25</sup> This practice is often referred to in news media, for example: <https://www.thelocal.se/20111014/36536>

- Fuel, alcohol and tobacco tourism in Luxembourg, primarily driven by commuters from Belgium, France and Germany.

In addition to consumers travelling greater distances to make these purchases, retail stores end up clustering in these locations. This may not be because they are near a large local consumer base or supply chains, but because they allow them to take advantage of cheaper local excise (and/or VAT) rates while remaining accessible to consumers in higher rate Member States across the border. For example, Calais, the closest French town to the UK, has a population of just over 75,000 (National Statistics Bureau of France, 2019) but boasts a very large collection of hypermarkets, some of which openly advertise to UK consumers based on excise rate differentials<sup>26</sup>.

Chapter 3 provides a detailed analysis of price differences for key alcohol and tobacco products in these regions, and others. The differences in the excise duty for these products provide an incentive not just for legitimate businesses to attract legitimate private individuals, but also offer opportunities for fraudulent businesses to operate illegally (see the next section for more detail on this).

In many cases it may, of course, be economically efficient for consumers to purchase excise goods in another Member State to where it is consumed, despite any excise-driven price differentials. For example, the closest retail outlet with a product may be across a national border.

### ***Distortions to public revenue***

Where excise-driven price differentials are the primary driver for cross-border shopping, excise revenues are artificially directed away from the Member State responsible for providing services to the consumer of that product. For example, a smoker who purchases cigarettes across the border to access lower excise duty will generate excise revenues for the Member State in which they made the purchase, while any public health treatments related to the consumption of those cigarettes will be paid for by their home Member State. This is particularly pertinent for Member States with high excise duty and relatively low rate neighbours, especially where those high rates are part of wider health policies (European Commission, 2017b).

The size of the fiscal distortion caused by excise rate differentials is difficult to measure, since most authorities responsible for excise duty in Member States do not collect official statistics regarding the extent of acquisition of excise goods by private individuals (see Section 4.2.1).

It is clear, however, that a few Member States are concerned about the impact of excise duty differentials on their revenues. In its new government programme of June 2019, the Finnish government hinted at the importance of neighbouring country policies for its own excise rate decisions, declaring that it “will continue the policy of moderately increasing alcohol tax by 50 million euro, having regard to changes in the

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<sup>26</sup> See, for example: “About us”, from the website of the Calais Wine Superstore, ([www.calaiswine.co.uk/about-us](http://www.calaiswine.co.uk/about-us)): “As we are in France we don't pay UK duty, meaning we can pass on savings of up to 60% on UK retail prices”



operating environment by monitoring the impact on passenger imports” (Finnish Government, 2019).

Estonia’s recent decision to decrease excise duty rates on certain alcoholic beverages, by 25% from 1 July 2019, has undoubtedly had impacts on policies in the region. Shortly after the Estonian announcements, the government of Latvia announced a reduction in its own excise duty rates on strong alcohol by 15%, stating explicitly that the decision had been in response to the Estonian announcements (Public Broadcasting of Latvia, 2019).

While this problem is perhaps most acute in the EU’s north and north-eastern area, however, it is by no means an issue isolated to the Baltic and Nordic states. The Irish Minister of Finance said, in 2017, that “relative price levels between Ireland and Northern Ireland for excisable products are an important factor in determining budgetary policy every year” (Houses of the Oireachtas, 2017).

This highlights some of the problems that the current provisions of Directive 2008/118/EC create for economic efficiency and public revenues, problems that are assessed in more detail in later sections of this chapter.

#### **4.4. Fraud related to cross-border personal acquisition**

Excise goods have been the target of smuggling and fraudulent activity since excise duty were first introduced. Disparities in excise duty and insufficient resources allocated by Member States to the detection and prevention of fraud can combine to provide a fruitful environment for fraudulent behaviour. This may consist of fraudulent movements from other Member States or illicit smuggling into the EU.

For both tobacco and alcohol, intra-EU fraud related to personal acquisition typically involves private individuals purchasing large volumes of excise goods in one Member State for ‘personal use’ and then distributing or selling the excise goods in another. The combination of no border controls, the absence of frequency restrictions in the Directive, and generous guide levels means that individuals can engage in this sort of fraudulent activity in a significant way and with minimal difficulty. The most recent Commission study of the Directive noted that consumers in some Nordic countries are targeted for this purpose by organised crime groups (European Commission, 2017a).

Substantial price differentials, combined with the absence of clear binding and quantitative restrictions for cross-border acquisition by private individuals, create an economic incentive not only to purchase large volumes of alcoholic beverages and manufactured tobacco in cheaper priced Member States, but also to illegally resell these products where prices are higher. End consumers may be those with limited or no legal access to alcoholic beverages and manufactured tobacco, for example young people below the legal age limit. Besides being a criminal act, selling to these vulnerable groups in this way exacerbates public health and social problems.

According to the WHO (2019e), Europe has led the way globally in tobacco tax increases in recent years. This has driven up retail prices (half of all European countries had tax shares representing over 75% of retail prices for the most popular

brand of cigarettes in 2016), but also strengthened the incentive for consumers to look for alternative ways to purchase tobacco products.

There are indications that the nature of this illicit activity has evolved in recent years and that fraudsters are continually changing their operational model to escape controls (OLAF, 2019). With respect to tobacco, the UK government noted a decline in the volume of genuine UK-branded products sold on the illicit EU market that were purchased in another Member State *relative to* the smuggling of counterfeit products into Member States from non-EU countries, but that both practices remained prevalent (HMRC, 2011). A more recent report by HMRC (2015) noted that the bulk of illicit cigarettes on the UK market are unregulated products manufactured outside the EU. Both reports noted that the illicit market share of fine cut tobacco, which has a relatively high value-to-volume ratio, is particularly high. In 2013/14, the illicit market for fine cut tobacco was estimated at 39% of the market, compared with 10% for cigarettes (HMRC, 2015).

There are also examples of an evolution in fraudulent intra-EU alcohol movements by individuals. According to the Swedish Retail Institute (2015), for example, increases in excise duty in Sweden led to an increase in quantities being moved across borders by fewer individuals, a trend which has been a sign of increased professionalism in the smuggling of alcohol. The same report also highlights the notable shift towards ecommerce and the challenges this presents for fraud prevention. The next chapter explores this further in the context of distance sales.

Some Member States may be both the destination and origin of illegal cross-border purchases by private individuals. In Denmark, for example, high excise duty and domestic prices provide incentives for Danish residents to purchase goods across the border in Germany, while at the same time Swedish residents have historically faced similar incentives to cross the border to purchase excise goods in both Denmark and Germany (Rabinovich et al, 2009). Similar observations can be made for the UK, which attracts consumers from Ireland and in turn sees British consumers travel to France, and Estonia, which attracts consumers from Finland while its residents travel to Latvia.

The highest differences in tobacco excise duty are between France and its continental neighbours, although it has lower rates than the UK. Most Member States with very high rates on alcoholic beverages are in the north of Europe, particularly in Scandinavia, but other EU Member States with high excise differentials, such as France and the UK, are also the target of such illegal activities.

Section 4.6.2 examines estimates of the size of this problem across the EU and highlights several Member States where the problem is particularly acute.

#### **4.5. Public health impacts of cross-border personal acquisition**

Under the current arrangements, the movement of excise goods by private individuals has the potential to undermine national health policies in Member States with relatively high excise duty. National authorities may opt for high rates as part of a strategy to reduce consumption and/or fund treatment related to overconsumption,

but residents (particularly those with easy access to a neighbouring Member State with lower rates) may undermine this by buying large volumes across the border.

#### **4.5.1. Alcohol and tobacco related harm**

The EU is the region of the world with the highest per capita consumption of alcohol, and EU citizens drink twice the world average (WHO, 2016). Excessive alcohol consumption has been identified as a major risk factor for premature mortality, and as a result the overall level of alcohol-attributable mortality in the EU, particularly from cancer, liver cirrhosis and alcohol-related injuries, is high (WHO, 2019a).

The latest in-depth study of health risks and drinking levels, conducted by Wood et al. (2018), took data from nearly 600,000 current drinkers from 83 prospective studies and found that the threshold for lowest-risk drinking is 100 grams per week (6.6 litres of pure alcohol per year). For cardiovascular disease subtypes other than myocardial infarction, no clear risk thresholds were found. The RAHRA (2016) study found that an average lifetime consumption of 10 grams of pure alcohol per day (equivalent to 4.6 litres of pure alcohol per year), led to a lifetime risk of death due to alcohol of less than 1/100 in all seven countries covered by the study, which was considered low-risk. Both these studies thus point at low-risk consumption levels for alcohol well below the EU-average but rather in line with the EU-median value.

Tobacco, on the other hand, is the single most preventable cause of illness and death in the world and is responsible for nearly 700,000 deaths every year in the EU. Smokers are also more likely to suffer from a range of illnesses related to their tobacco use, including cardiovascular and respiratory diseases. Around 50% of smokers die prematurely, on average 14 years earlier than expected (European Parliament, 2016).

#### ***The impact of cross-border personal acquisition on alcohol-related harm***

Evidence of the impact of cross-border personal acquisition of alcohol on public health is scarce, and only available for the four northern Member States who actively monitor this issue closely (Finland, Sweden, Denmark and Estonia). This evidence consistently supports the notion that cross-border purchases have had a net effect on alcohol consumption; that increased access to alcohol through the internal market has contributed to a higher total alcohol consumption than otherwise would be the case (See Ramstedt & Gustafsson, 2007; Leifman & Trolldal, 2014; Karlsson, et al., 2012; Estonian Institute of Economic Research, 2019).

The link between increased consumption due to cross-border purchases and related health impacts has also been made. A study by Mäkelä and Österberg (2009) concluded that the removal of travellers' import quotas at the border, following the EU accession of the Baltic countries, and the impact on excise duty rates had serious consequences for public health in Finland. According to this study the increase in total alcohol consumption in Finland after 2004 was associated with increases in arrests for drunkenness, non-aggravated drink driving, alcohol-related deaths and hospitalisations. The overall number of alcohol-related deaths increased by 23% from the period 2001-2003 to the period 2004-2006, and the number of alcohol-induced liver disease deaths by 46% during the same period. Demographic analysis of the

impact of these changes highlighted the impact on different socio-economic groups; men and those with lower educational attainment were among those particularly affected (Karlsson, 2014).

In southern Sweden, the number of alcohol-related deaths increased by 21% from 1994/1995 to 2002. This coincided with a significant relative change in cross-border acquisitions in the region. Northern Sweden, far from a border where cheap alcohol could be bought, witnessed a decrease in the number of alcohol related deaths (Statens Offentliga Utredningar, 2004). Similarly, the Finnish cut in alcohol excise in 2004, as the Baltic countries joined the internal market, led to cheaper alcohol prices on the Finnish side of the Sweden/Finland border and a significant increase in absenteeism in Swedish border regions (Johansson et al., 2014).

In summary, the evidence from these Member States suggests that cross-border acquisition by private individuals has negatively impacted public health through an increase in total consumption and alcohol-related harm rates. Evidence of impacts on other areas of the EU are not available, however.

### ***The impact of cross-border personal acquisition on tobacco-related harm***

Unlike the link between tobacco consumption and public health, the link between cross-border shopping for tobacco products and public health has not been as widely researched. Studies suggest that this activity is much more prevalent in certain border regions in Member States like France, Austria, Germany and Finland (Nagelhout, 2014), which is consistent with the finding that overall sales in the EU are not strongly linked to cross-border shopping (Stoklosa, 2018). According to (Agaku et al., 2014) a very small proportion of EU smokers purchased most of their tobacco products via cross-border purchases, which is consistent with the primary analysis conducted in this study (with the average per capita cross-border purchase of tobacco products estimated at 1.71 packets of cigarettes, 1/3 of a packet of fine cut tobacco and 1/3 of a cigar – see Section 4.2.1). Because this is more intensive in certain areas, the impact on some groups is likely to be more significant.

According to an assessment conducted by the French Observatory of Drugs and Drug Addiction (OFDT) - one of the few studies that draws this link explicitly - 51.4% of regular smokers in France have acquired manufactured tobacco in neighbouring Member States, but only occasionally (once or twice) for half of them. The most frequently cited countries for these purchases were Spain (45.8%), Belgium (24.9%), Luxembourg (18.5%) and Andorra (17.4%), and the study notes the relatively high average frequency of purchases made by those shopping in Germany, Belgium and Luxembourg due to the ease of crossing the border. One in five smokers reported in the same study that they often or almost always get their supply from purchases abroad. They concluded that cross-border shopping for manufactured tobacco does exacerbate the health and other social costs of tobacco consumption and increases organised criminal activities and individual fraud (OFDT, 2017).

### **4.5.2. Public health policies in the EU**

High excise duty rates on alcoholic beverages, particularly on distilled spirits, have been a major element of the alcohol policy of some Member States. For these

countries the free movement of excise goods in the internal market has made the levy of higher excise duty significantly more difficult. Given that price and taxation instruments are among the most effective health policies, this had negative public health consequences.

The European Commission is committed to achieving the Sustainable Development Goals (SDGs) launched in 2015, notably SDG 3.5 on strengthening the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol (United Nations, 2019), and to working with the WHO to support health in the region. The Annex provides more details on the public health policies recommended by the WHO and their implementation in the EU.

However, it is the primary responsibility of individual Member States to set national public health policies and to organise and deliver health services to their residents, and the objective of EU policies is to complement these national policies and ensure public health is protected (European Commission, 2019b). In the case of health implications associated with the consumption of excise goods, the effectiveness of taxation as a health policy instrument for Member States is constrained by the policies of their neighbouring countries.

#### **4.5.3. Differing public health approaches to alcohol and tobacco across the EU**

The combination of differences in public attitudes towards alcohol and tobacco and differences in regulation lead to very different treatment of these two products in public health policies. The Commission itself describes tobacco as the “single largest avoidable health risk, and the most significant cause of premature death in the EU” (European Commission, 2018d) a sentiment that is reflected in both EU and national public health policies.

Minimum excise duty for alcoholic beverages, set out in Directive 92/84/EEC, include zero minimum rates for still and sparkling wine, and several derogations apply. The policy environment for tobacco, however, is significantly more prohibitive than this, in part due to Directive 2011/64/EU (on the structure and rates of excise duty applied to manufactured tobacco) and Directive 2014/40/EU (on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products; hereafter the “Tobacco Products Directive”). Specifically, Directive 2011/64/EU specifies that excise duty must account for at least 60% of the weighted average price (WAP) and be at least €90 per 1000 cigarettes.

Directive 2011/64/EU replaced three earlier Directives covering taxes on different tobacco products (92/79/EEC, 92/80/EEC and 95/59/EC). The increase in the excise tax floor between Directive 2011/64/EU and its predecessors lifted the lowest excise duty rates applied to manufactured tobacco, eventually bringing rates in all Member States up to a consistent minimum.

The Tobacco Products Directive also provides a mandate for stronger regulations concerning the manufacture, marketing and sales of tobacco products, including cross-border distance sales. The preamble to the Directive lists several reasons for allowing

Member States to prohibit cross-border distance sales of tobacco products, including the risk that underage consumers have access to tobacco products via this channel.

No such binding documents exist concerning alcohol consumption in the EU, however, and the EU alcohol strategy came to an end in 2012 (EPRS, 2019), although the Commission maintains that the objectives of the former strategy are still valid. In September 2014, European Union Member States, represented by the Committee on National Alcohol Policy and Action (CNAPA), endorsed the Action Plan on Youth Drinking and on Heavy Episodic Drinking (Binge Drinking) (2014–2016). The Action Plan was intended to complement the EU Strategy to Support Member States in Reducing Alcohol-related Harm and to provide a means to strengthen long-standing alcohol policy implementation in Member States while addressing key identified areas – namely, youth drinking and heavy episodic drinking. As agreed by CNAPA on 22 March 2017, the Action Plan was extended until 2020.

Although less binding for Member States, the WHO European Alcohol Action Plan (2012-2020) to reduce the harmful use of alcohol is still in force and is supported by the WHO global strategy to reduce the harmful use of alcohol (2010) and the WHO 2008-2013 Action Plan for the Global Strategy for the Prevention and Control of Noncommunicable Diseases (2008).

#### **4.5.4. The trade-off between the free movement of excise goods and public health protection**

The main objective of Directive 2008/118/EC is to ensure the proper functioning of the internal market and the free movement of goods in the EU<sup>27</sup>. Its primary aim is not to ensure a high level of human health protection, although this is an important consideration.

This distinction is important to bear in mind when analysing the impacts that the Directive has on the public health policies set by the Member States. Because Directive 2008/118/EC is a taxation directive, there is little room for amending it based solely on public health protection, pursuant to Article 168 of the TFEU. Any changes to the directive could restrict the free movement of goods, which is supposed to be protected by this Directive.

Public health protection and the free movement of goods are, however, both predominant objectives for the EU, as outlined in Articles 168 and 113 TFEU (among others), and the excessive consumption of excise goods creates health risks that most other goods do not. In the context of alcohol and tobacco policy these two objectives are, to some degree, a trade-off; any restrictions on private acquisitions of alcoholic beverages or manufactured tobacco will naturally result in negative impacts on the free movement of goods.

This highlights that while Directive 2008/118/EC has a legal basis in Article 113 of the TFEU and a focus on harmonisation of legislation to ensure the proper functioning of

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<sup>27</sup> See Recital 2 and Recital 5, respectively (European Commission, 2018a)



the internal market, health considerations based on Article 168 are still important for any changes that might be made to the Directive. In so doing:

- The legal basis for such measures is determined having regard to its purpose and content (Judgement of 12 February 2015, *European Parliament v Council of the European Union*, C-48-14, EU:C:2015:91);
- The Directives must not include any harmonisation of the laws and regulations of the Member States based on these health considerations (Article 168 paragraph 5, of the TFEU); and
- "Health in all Policies" is a concept that underpins work on health at the European Level. Article 35 of the Charter of Fundamental Rights affirms "a high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities".

#### **4.6. How significant are the problems with acquisition by private individuals?**

The previous sections introduced the three main problems related to the current arrangements for the acquisition of excise goods by private individuals in another Member State: economic and fiscal distortions, fraud, and public health impacts. This section presents the available evidence on the magnitude of these problems in the EU, including previous estimates (where available) and new analysis conducted as part of this study.

##### **4.6.1. Problem 1: The magnitude of economic and fiscal distortions**

###### ***Economic distortions***

It is difficult to measure the extent to which excise differentials between Member States, combined with the ability of consumers to purchase large quantities of excise goods across borders for their own use, lead businesses to take decisions that might otherwise be inefficient. To test for this, we looked for the clustering of retailers on the low-excise side of hotspot borders, making use of an approach developed for a previous European Commission study of the VAT regime (European Commission, 2017a).

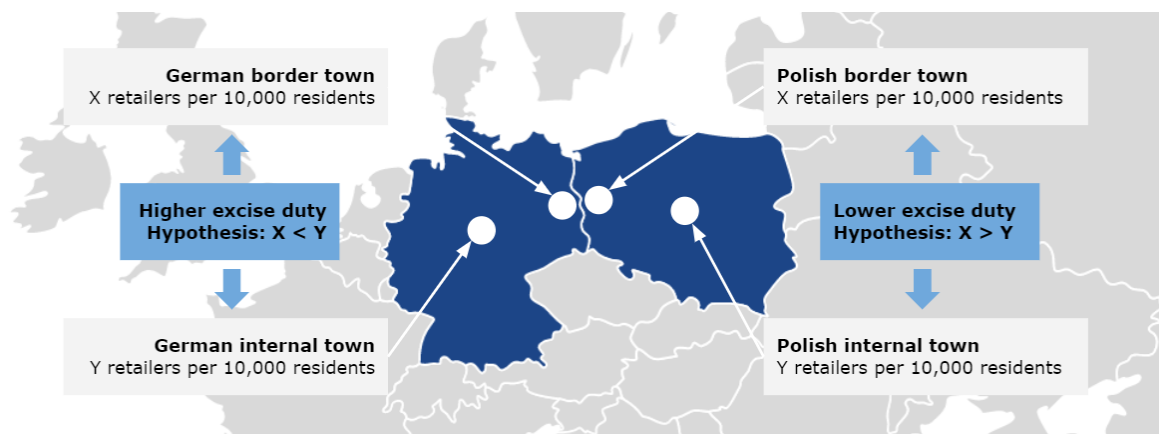
The basic premise of this approach is to examine whether the presence of a high difference in excise duty (and retail prices) is correlated with an unusually high concentration of retailers on the low-excise side of the border and an unusually low concentration on the high-excise side. This meant comparing the number of retailers in specific border towns with population data to estimate business density (the number of retailers per 10,000 residents).

To control for Member State specific factors that might affect business density, for example the presence of a state-owned monopoly retailer, the business density of the border town was compared to an internal control town (rather than comparing towns in different Member States on either side of the border).

Each control town was chosen using strict criteria, with a similar population to its respective border town, located sufficiently far from the Member State border, and,

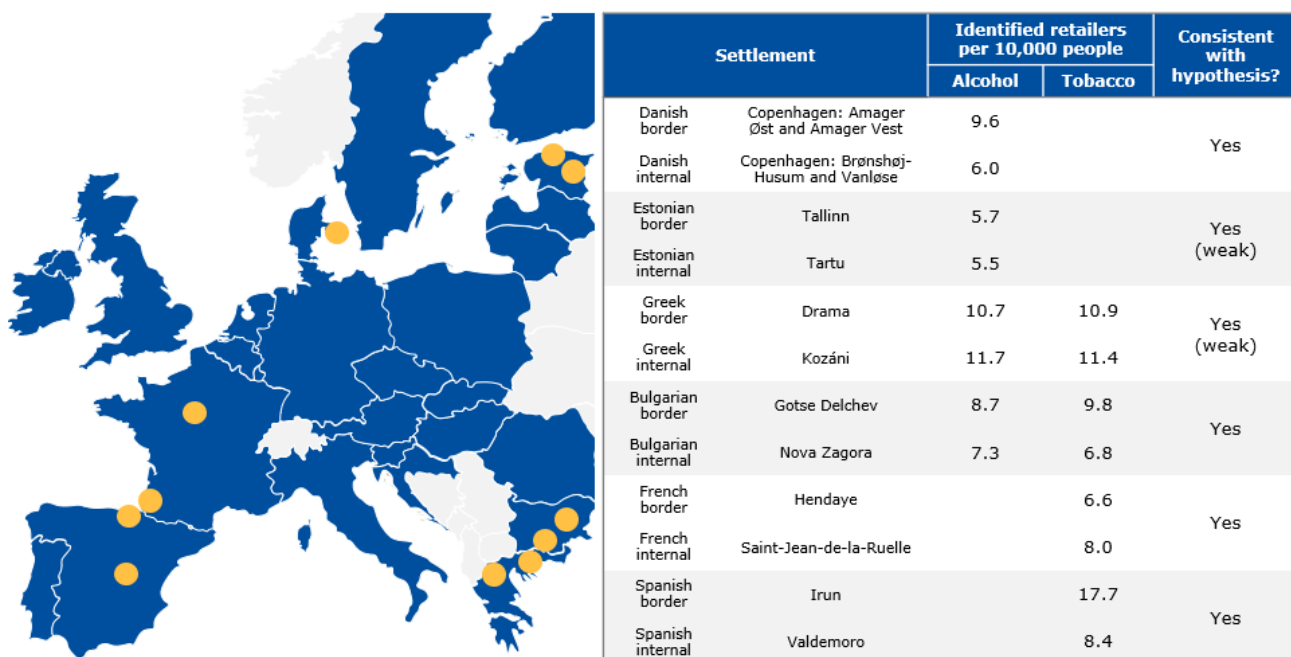
wherever possible, with a similar per capita income. To protect the results from bias, these objective criteria were applied as closely as possible, subject to limitations on the availability of comparable towns in a given Member State. This approach is illustrated below:

**Figure 17: Illustrative example of business density analysis**



As data on the location of retailers selling excise products is not readily available, this was estimated by combining population data with data from a major online search provider’s business mapping software. This did not provide an exhaustive list of all stores retailing these products, but the use of identical search terms in English and local languages allowed for consistent comparison *within* each Member State. The results of this analysis are presented below:

**Figure 18: Business density analysis (retailers per 10,000 residents)**



**Source:** Authors’ calculations based on data from City Population, Google Earth. Includes alcohol off-licences and tobacco retailers.



This analysis provides a useful insight into the behaviour of firms around borders with high excise rate differentials. In almost all the cases above, the density of businesses was found to be higher in towns on the low-excise side of an international border (compared with an internal control town) and lower on the high-excise side of the same border (again, compared with an internal control town). This is consistent with our hypothesis that significant excise differentials and retail prices drive a high volume of cross-border purchases, which in turn incentivises retailers to locate close to the border (or disincentivises them from locating close to the border on the more expensive side).

The alcohol cases used above could not be replicated for Sweden and Finland, as the location decisions of the state-owned monopoly retailers do not follow the same incentives as private businesses.

### ***Fiscal distortions***

As described in earlier in this chapter, fiscal distortions arise due to cross-border purchases of excise goods (under Article 32 of the Directive) being taxed in the Member State of purchase, rather than the Member State of consumption/destination. In the context of a primarily destination-based tax system, this means every Member State effectively 'loses' revenue when its residents undertake personal acquisition and 'gains' revenue when non-residents make purchases there. For the analysis that follows, we focus on *gross* revenue losses, rather than the net revenue losses/gains. It would have been infeasible to ask consumers for detailed data on the purchases made in each Member State in the past 12 months, and without this a robust estimation of net losses/gains would not have been possible.

There are very few public estimates of the value of revenues foregone by Member States as a result of cross-border personal acquisition. In 1998, the UK government was estimated to have lost a gross figure of £285 million of VAT and excise duty revenue as a result of cross-border shopping for alcohol and £85 million from tobacco. This amounted to 5.0% of alcohol excise revenue and 1.0% of tobacco revenue (UK Parliament, 2000)<sup>28</sup>.

More recent estimates for 2013-2014 show that this has reduced for alcohol (to £250 million, in nominal prices), and increased significantly for tobacco to £400 million (approximately £250 million in 1998 terms<sup>29</sup>). This equated to 2.4% of excise revenue and 5.4% of tobacco revenue. £160 million of this was attributed to the cross-border shopping of wine, whereas the tax revenues lost on spirits (£80 million) and beer (£10 million) were considerably lower (Levell et al, 2016).

A study on the Nordic Member States, commissioned by The Brewers of Europe industry organisation, estimated considerable VAT and excise duty losses from the cross-border shopping of beer. In 2014, gross losses were estimated at:

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<sup>28</sup> Note that in this paragraph and the following one, these estimates presented excise and VAT revenue loss as a proportion of excise revenue only, not excise and VAT (consistent with their presentation in the reports themselves).

<sup>29</sup> <https://www.bankofengland.co.uk/monetary-policy/inflation/inflation-calculator>

- Sweden: €135m excise (36% of excise actually collected on beer in Sweden); €217m total;
- Finland: €110m excise (18%); €164m total; and
- Denmark: €42m excise (34%); €81m total  
(EY & Regioplan, 2014; total excise from European Commission, 2019e)

These estimates are biased upwards, however, as they do not take into account the increase in purchases due to cheaper prices across the border<sup>30</sup>.

Here, we estimate the impacts on gross tax revenue foregone, based primarily on consumer survey data. Table 3 presented estimates of the *volume* of total cross-border shopping in the EU, but for comparison with tax revenues we present this below in value terms. This includes all purchases (i.e. not just those that would have been made at home), and values are based on the average pre-tax price of each product in the Member State of purchase.

**Table 9: Value of personal acquisition of alcohol and tobacco products (total for EU, per capita for Member States)**

Member State	Beer/Cider	Still Wine	Spark. Wine	Fort. wine	Spirits	Cigarettes	Fine cut	Cigars	Alcohol products	Tobacco products	Alc. & Tobacco
	€m									€m	
<b>EU Total</b>	<b>610</b>	<b>1,338</b>	<b>1,830</b>	<b>1,732</b>	<b>1,876</b>	<b>707</b>	<b>227</b>	<b>34</b>	<b>7,386</b>	<b>968</b>	<b>8,354</b>
	€ per capita									€ per capita	
Denmark	5.3	7.0	10.2	7.5	6.7	3.2	1.2	0.2	36.8	4.6	41.4
Finland	4.7	3.9	11.1	7.4	4.6	1.1	0.4	0.0	31.7	1.5	33.2
Sweden	7.4	4.5	6.5	5.5	8.0	1.0	0.1	0.1	31.9	1.2	33.1
Austria	2.3	6.6	10.4	4.3	5.3	2.2	0.3	0.0	28.9	2.6	31.5
Spain	2.3	4.2	8.0	3.9	7.9	1.7	0.3	0.1	26.3	2.0	28.4
Germany	1.8	4.2	4.5	5.0	6.2	2.3	0.4	0.1	21.7	2.9	24.6
Belgium	1.1	4.7	7.3	2.2	4.6	2.3	1.3	0.1	19.9	3.7	23.6
UK	1.6	3.8	5.1	7.4	2.7	1.4	1.3	0.0	20.6	2.7	23.3
<b>EU Avg.</b>	<b>1.5</b>	<b>3.2</b>	<b>4.4</b>	<b>4.2</b>	<b>4.5</b>	<b>1.7</b>	<b>0.5</b>	<b>0.1</b>	<b>17.8</b>	<b>2.3</b>	<b>20.1</b>
Ireland	1.1	3.0	3.8	3.1	6.0	1.6	0.7	0.0	17.1	2.2	19.3
Estonia	3.7	3.6	3.5	1.0	5.4	0.8	0.2	0.1	17.3	1.1	18.4
Italy	0.7	3.1	4.5	4.8	4.0	0.8	0.3	0.0	17.0	1.1	18.1
France	1.1	2.2	2.9	3.2	3.8	3.3	1.1	0.2	13.2	4.6	17.8
Poland	1.0	3.1	3.4	3.6	4.7	1.4	0.2	0.1	15.8	1.6	17.5
Portugal	1.5	3.0	4.8	2.7	4.1	0.7	0.1	0.0	16.1	0.8	16.9
Netherlands	1.0	1.6	2.0	3.1	4.6	3.0	0.2	0.1	12.3	3.4	15.7
Slovakia	0.4	1.7	2.2	2.2	3.2	0.8	0.1	0.0	9.7	0.9	10.6
Bulgaria	0.4	2.3	2.2	1.9	3.0	0.7	0.1	0.0	9.7	0.8	10.6
Hungary	0.5	1.1	1.1	2.8	2.9	0.4	0.3	0.0	8.5	0.8	9.2
Czechia	0.4	2.1	1.1	1.5	3.1	0.9	0.1	0.0	8.2	1.0	9.2
Slovenia	0.8	1.7	2.0	1.3	2.0	0.6	0.1	0.1	7.8	0.8	8.5
Croatia	0.5	0.8	0.6	1.0	2.5	1.3	0.3	0.1	5.3	1.7	7.0
Romania	0.3	1.3	1.6	1.0	1.3	0.4	0.1	0.0	5.4	0.5	5.9
Greece	0.2	0.7	0.9	0.7	1.4	0.6	0.4	0.0	4.0	1.1	5.1
Lithuania	0.3	1.0	0.6	0.2	2.0	0.2	0.1	0.0	4.1	0.3	4.4
Latvia	0.2	1.6	0.8	0.4	0.9	0.4	0.1	0.1	3.9	0.5	4.4

**Notes:** 2018/19; per annum; tax exclusive values; EU estimates exclude Cyprus, Luxembourg and Malta

**Sources:** Calculations derived from consumer survey, IWSR and Eurostat data

Estimating the value of foregone tax revenue on these purchases is not as simple as applying excise and VAT rates to our volume estimates, because the amount purchased by an individual is not necessarily entirely *foregone* by their Member State

<sup>30</sup> There are inconsistencies in these values in the report. The values presented here come from Annex III.

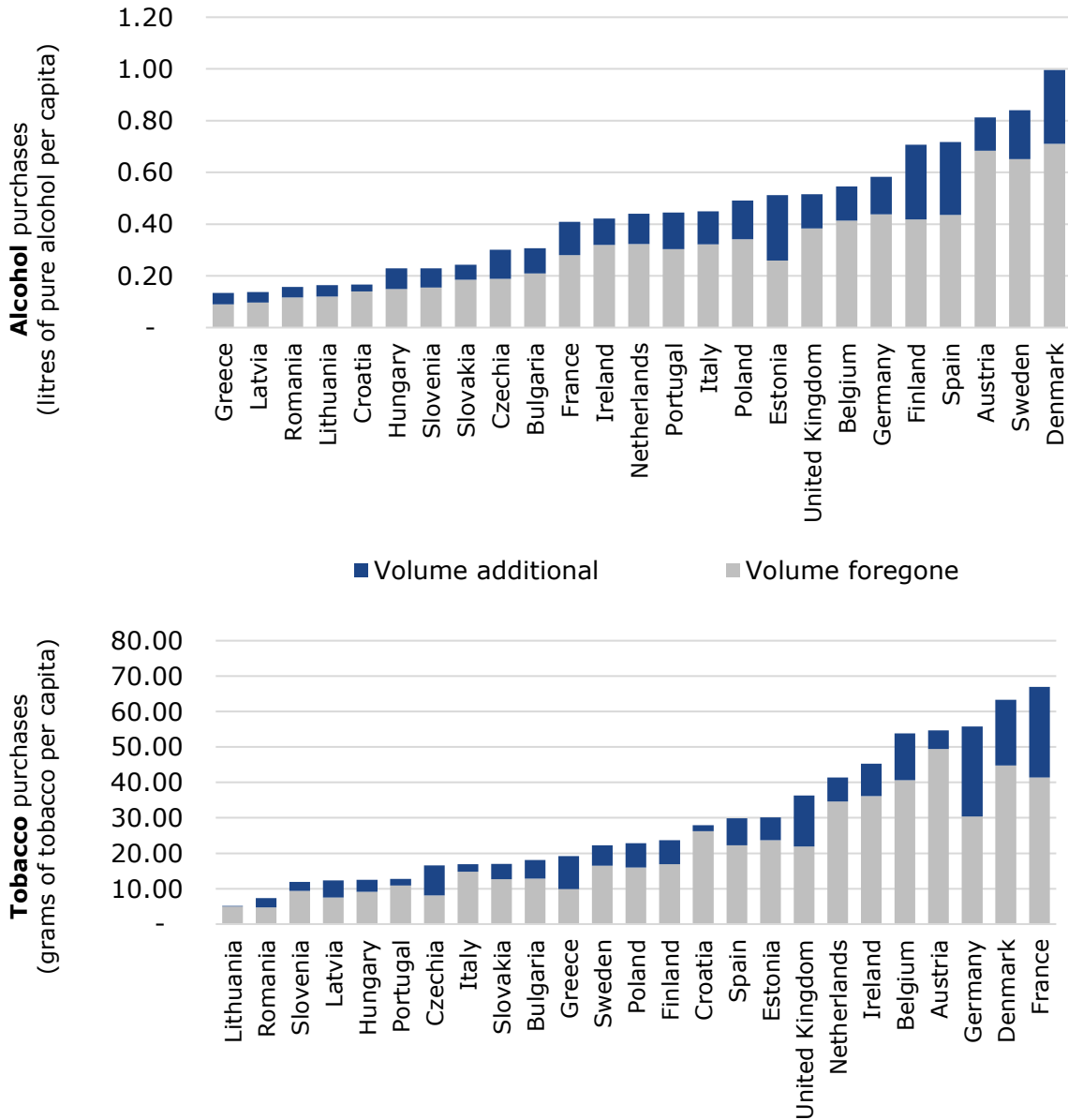
of residence. Cheaper prices or better availability of products, for example, may cause consumers to purchase more than they would have otherwise.

For this reason, the consumer survey asked respondents to indicate how much of their cross-border purchases they would have made anyway if they had not been able to make their purchases in another Member State. This was then combined with data on the volumes each individual purchased cross-border, to estimate the reduction in sales for retailers in their Member State of residence. The price and tax rates in their Member State of residence were then used to estimate foregone revenue.

This approach relies on consumers reliably reporting how their behaviour would have changed in a hypothetical scenario (a world where they had not been able to shop cross-border for these products for a given trip). While a specific individual may not produce an accurate response to this hypothetical question, at the aggregate level we assume that this produces a feasible, unbiased estimate. Acknowledging that other approaches may be possible in theory, alternative data is not available that would allow us to do this reliably for the EU. The technique of asking survey respondents to provide answers to hypothetical questions is well established in conjoint analysis and other forms of social research.

The figure below shows the volume of excise products, grouped by alcohol (in litres of pure alcohol) and tobacco (grams), that are purchased across border in each Member State. This is split by the estimated proportion that would have been purchased at home anyway (volume foregone) and the amount that constitutes new, or additional, consumption.

**Figure 19: Estimated volume of goods foregone by a Member State due to its residents undertaking cross-border shopping (per capita)**



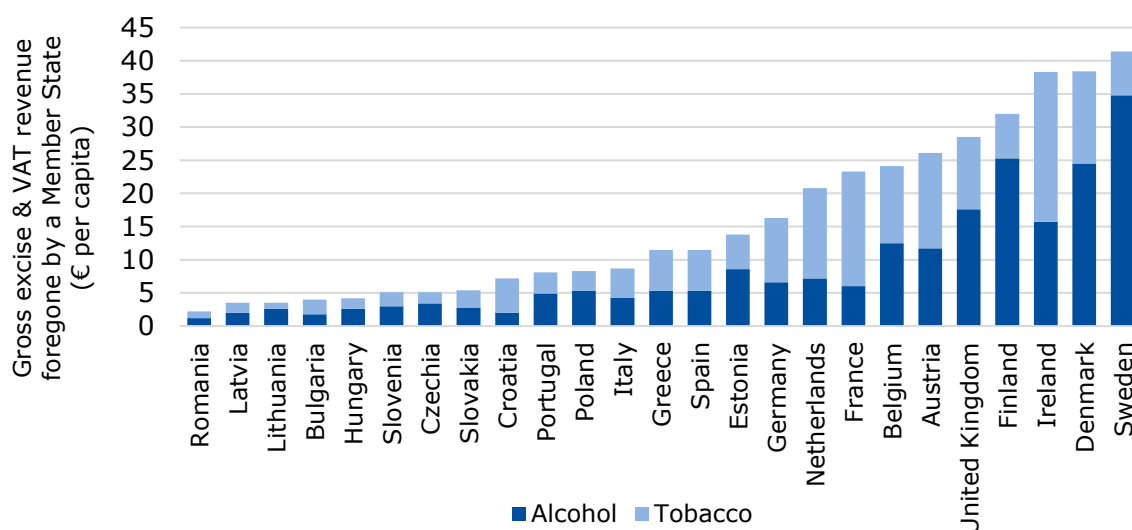
**Source:** Authors' estimates for 2018/19 based on data from the consumer survey.

The figure below presents these estimates in terms of gross tax revenue foregone by each Member State. It is important to note that these estimates are only for the revenue forgone by a government as a result of its residents making cross-border purchases in another Member State. Revenues gained by a Member State from foreign residents' cross-border shopping for excise products (the other side of the equation) are not included as the data required to estimate this would be particularly difficult to collect<sup>31</sup>. The net position of Member States receiving high levels of inbound cross-border shopping, but which also have a low level of outbound cross-border shopping, will likely be positive. As the figure below demonstrates, Latvia, for example, is a

<sup>31</sup> This would have required consumer survey respondents to provide disaggregated data on each of the Member States they purchased excise products in the past 12 months.

common cross-border shopping destination for Estonian and Finnish consumers but has a very low proportion of outbound shoppers.

**Figure 20: Gross tax revenue foregone as a result of residents undertaking cross-border shopping (per capita)**



**Source:** Authors' estimates for 2018/19 based on data from the consumer survey, Eurostat, and European Commission.

**Note:** this does not include tax revenue gained by a Member State from cross-border purchases by foreign consumers. Revenue gains may make this net-positive for some Member States.

The figure above highlights significant differences across the EU: per capita tax revenue foregone by Sweden was nearly 19 times larger than in Romania. The Member States with the highest foregone revenue are those with relatively high excise duty, including Sweden, Denmark, Ireland, Finland and the United Kingdom. The previous figure shows that on volume terms the story is slightly different. Austria is not among the top few Member States for loss of revenue but ranks high in terms of volume, driven by relatively high volumes of cross-border shopping and excise rates in Austria being relatively modest compared with the likes of Finland or Ireland. The Member States with the lowest revenue losses (including Romania, Latvia and Lithuania) were among those with the lowest volume losses as well.

For most Member States one product type is the dominant driver of foregone revenue. For example, Sweden, with the greatest gross loss in alcohol revenue per capita (€34.8), lost only €6.6 per capita in tobacco tax revenue. This can partly be attributed to a key tobacco product – snus – only being available for purchase in Sweden. However Finland displays the same characteristic, with estimated gross losses of €25.3 per capita for alcohol and €6.7 for tobacco. On the other hand, countries like France and the Netherlands experienced significantly more gross losses from tobacco than from alcohol. Italy is the only Member State with approximately the same losses from alcohol and tobacco products (€4.3 and €4.4, respectively).

These estimates support the notion that Member States with lower excise rates forego less revenue per capita due to their residents cross-border shopping than Member States with high excise duty. This is the explicit driver for some of the excise rate

competition we observe between the Baltic Member States. At the EU level we estimate this gross distortion to be just over €6.8 billion, comprising €3.3 billion from alcohol (€1.8 billion excise and €1.5 billion VAT) and €3.5 billion from tobacco (€2.2 billion excise and €1.3 billion VAT)<sup>32</sup>. Of course, revenue foregone by one Member State is captured by another, and across the EU some Member States will receive net gains from these arrangements and others net losses. The net impact of cross-border shopping for the EU as a whole depends on the degree to which lower tax rates on items purchased in another Member State outweigh the increase in consumption. The variation in amounts foregone, however, indicates that a substantial number of Member States are likely to have experienced net negative impacts on tax revenue.

The estimates above are based on a single point in time, but what happens to revenue distortions when governments adjust excise (or VAT) rates and change the cross-border price differentials facing consumers? As we have already noted, the response is different for different segments of the market, including for those with different levels of access to retailers in other Member States. Even price-sensitive consumers who face a costly journey to reach the border may not adjust their consumption in response to foreign prices that are insufficiently lower. As Asplund et al. (2005) find in the case of Sweden, the cross-border price elasticities for alcohol products range from -0.3 for those close to the border to -0.2 for those further away. As demonstrated earlier in this chapter, and in the Annex, elasticities vary by product and by characteristics of the individual consumer. Authorities looking to adjust excise and/or VAT rates to limit distortions to revenues must therefore first understand the characteristics of their residents - their preferences for particular alcohol types, where they are located, sensitivities to price, etc - as well as the likely reaction of neighbouring governments.

#### **4.6.2. Problem 2: The magnitude of fraud related to cross-border personal acquisition**

Section 4.4 described the nature of fraud relating to cross-border personal acquisition and some of the difficulties with monitoring and mitigating it. By its nature, the magnitude of fraud is inherently difficult to measure, and the estimates that do exist focus on individual Member States. The table below outlines the estimates made available by national authorities for this study:

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<sup>32</sup> Authors' estimates for 2018/19 based on data from the consumer survey, Eurostat, and European Commission.

**Table 10: Fraud estimates provided by tax authorities**

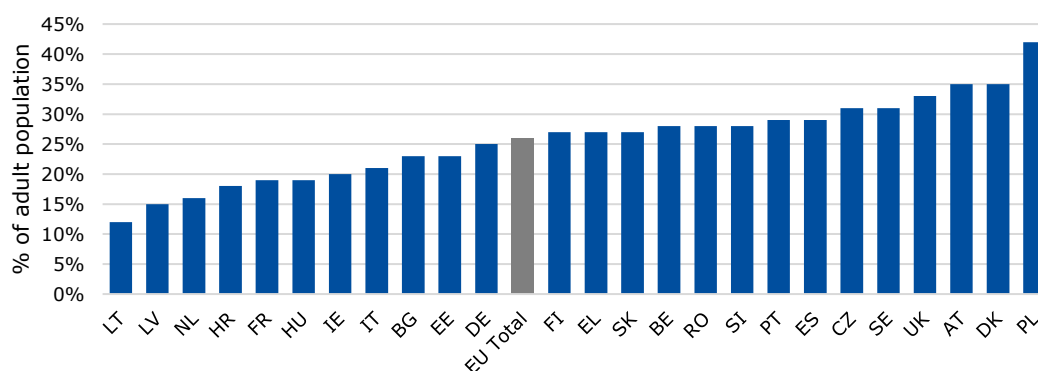
Member State	Report	Summary of key information
Denmark	Status of Border Trade 2017 (Danish Ministry of Taxation, 2017).	Illegal trade for beer was estimated to be 30 million litres, while illegal trade in wine and spirits and wine was not considered to be significant.
Estonia	Alcohol market, consumption and harms (Estonian Institute of Economic Research & National Institute for Health Development, 2018).	Consumption from illegal sales of alcohol in 2017 represented 4.5% of total consumption by Estonian inhabitants, at 0.46 litres of pure alcohol per capita (15+).
Finland	Yearbook of alcohol and drug statistics 2018 (National Institute for Health and Welfare, 2018).	Unrecorded consumption of alcoholic beverages by illegal distillation and smuggling was 0.08 litres of pure alcohol per capita (15+) in 2017. No smuggling-only figure was available.
Sweden	Swedish Health Authority Questionnaire	In 2018, 4.4% of consumption of all alcoholic beverages, 8% of beer consumption and 7.2% of spirits consumption in Sweden is smuggled alcohol. It is only 1.3% of consumption for cigarettes.
France	2016 ATLAS survey by the French Monitoring Centre for Drugs and Drug Addiction (OFDT)	Internet purchases of tobacco are marginal (less than 5% of smokers admit to making internet purchases in the past year), although this is more prevalent in those under 35. 10.4% of smokers admitted to having made purchases from unlicensed sellers (although this rises to 19.8% for those under 35). Overall, 12% of smokers admitted to having purchased tobacco via one of these illegal channels.

The information in the table above highlights a slightly decreasing trend in fraudulent cross-border trade in recent years, at least in the few Member States covered. According to these studies, which do not focus solely on fraudulent cross-border movements: illegal trade in beer in Denmark fell from 45 million litres in 2012 to 30 million in 2016; while illegal sales of alcohol in Estonia increased from 0.51 litres of pure alcohol per capita in 2007 to 0.88 litres per capita in 2011, they subsequently declined over 2013-2017 to 0.46 litres per capita; and from 2000 to 2010, the consumption of alcohol from illegal distillation and smuggling in Finland fell from 0.28 litres of pure alcohol per capita to 0.08 and has stayed at broadly the same level since.

A Crime&tech (2016) study into the illicit fine cut tobacco market in 15 countries in Europe, which covered nine EU Member States<sup>33</sup>, analysed the market size, drivers and tax revenue implications of the illicit cut tobacco market<sup>34</sup>. Bulk tobacco is “cut tobacco, normally priced by weight or packed in bags without proper labelling, sold outside the legitimate channels” (Crime&tech, 2016, p.10). The study found that in 2015 61.9% of total cut tobacco consumption in Slovakia was bulk tobacco, 67.0% in Poland and 84.3% in Croatia. Cross-border price differentials was identified as a key driver in specific locations, such as Czechia, along with other factors, including affordability, availability and high price differentials between illicit and legal products.

To supplement sparse existing studies, our survey asked consumers about their perceptions of fraud in two respects: the sale of excise goods that were purchased by individuals, and the purchase of excise goods on behalf of others.

**Figure 21: Proportion of consumers who are aware of retailers selling excise goods that were purchased by individuals**



**Source:** Consumer survey

A relatively large proportion of consumers surveyed from each Member State stated that they were aware of retailers selling excise goods which had been purchased by individuals. One in every four respondents said they were aware of this.

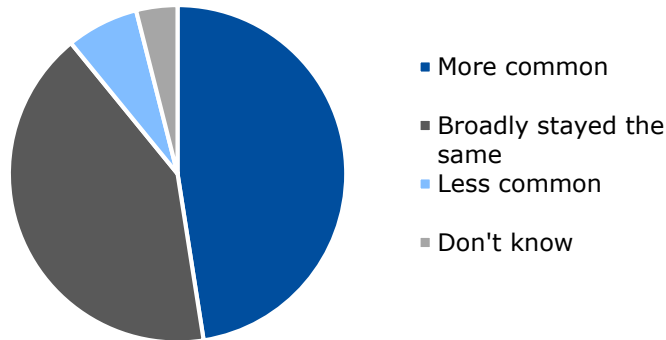
As shown in the figure below, nearly half of these respondents believed that this practice has become more common over the past five years. Respondents from Estonia were the most likely to believe this (67%), followed by Denmark and Austria (69% and 65% respectively). Interestingly Latvia, with one of the lowest proportions of respondents stating they were aware of retailers selling excise goods in this way, also had the highest concentration of respondents believing it had become less common (25%).

<sup>33</sup> Bulgaria, Croatia, Czechia, Greece, Hungary, Poland, Romania, Slovakia and Slovenia.

<sup>34</sup> The Crime&tech (2016) ‘Bulk Tobacco Study’ was carried by Crime&tech on behalf of the tobacco industry. As this study is not independent, caution is advised.



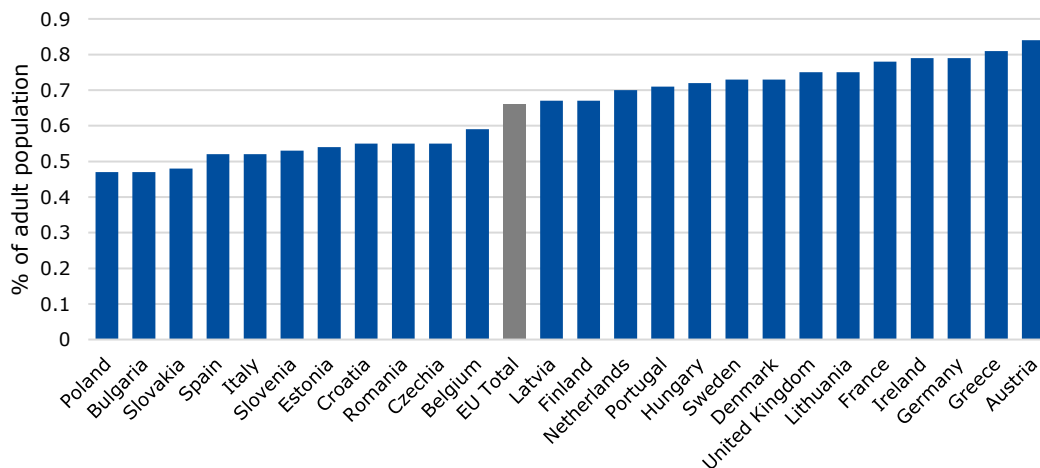
**Figure 22: Retailers selling excise goods that were purchased by individuals: how consumers believe this has changed in the past five years**



**Source:** Consumer survey

Member States with higher excise duty may be expected to have a higher prevalence of retailers selling excise goods purchased by individuals. However, there is no obvious correlation between high excise duty and the perception of this type of fraud being common. For example, Ireland has relatively high excise duty but only 20% of respondents said they were aware of this behaviour - among the very lowest of the Member States in the survey. At the other extreme, more than 40% of Polish respondents said they were aware of this behaviour, despite Poland having relatively low excise duty across alcoholic beverages and tobacco products.

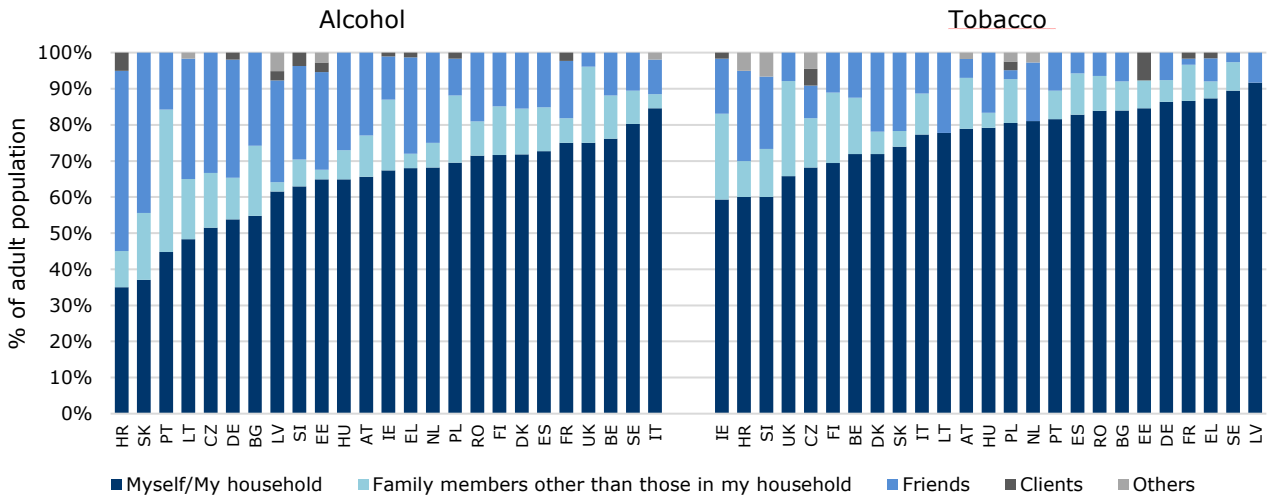
**Figure 23: Proportion of consumers who consider it common for individuals to purchase excise goods on behalf of others**



**Source:** Consumer survey

An even higher prevalence of consumers considers it common for individuals to purchase excise goods on behalf of others. In almost all the 25 Member States included in the analysis more than half of the respondents said they considered it common. To better understand this behaviour, the survey also asked respondents who consumed most of the products they purchased in another Member State. The results are presented in the figure below:

**Figure 24: Responses to the survey question “who consumes the majority of the alcohol/tobacco products you buy?”**



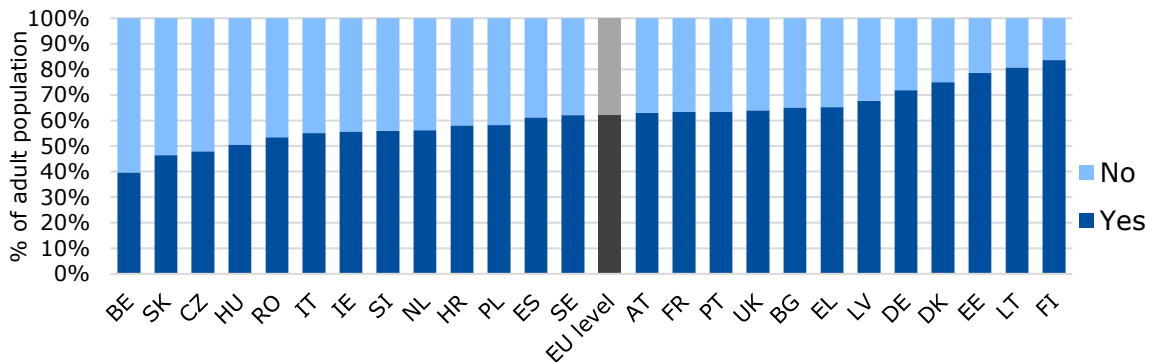
**Source:** Unweighted responses from consumer survey

These results reveal that a large proportion of individuals appear to be purchasing alcohol and tobacco products primarily for the consumption of others outside their own household, which is surprising given the restriction of “own use” in the Directive. This is particularly acute for alcohol, where in the extreme case 65% of respondents from Croatia said most of their cross-border alcohol purchases were consumed by clients, friends or family members they didn’t live with.

This apparent tendency to make purchases on behalf of others may be partly due to the ambiguous definition of ‘own use’ in the Directive, and the variety of interpretations placed upon it in the absence of a consistent and well-understood definition. Section 4.1.1 discusses this in more detail.

Unless comprised entirely of gifts, this is something clearly not intended by Article 32 and may reflect substantial fraud, even if those committing it are not entirely aware, they are doing so. The figure below presents the results of a further question in the survey asking whether cross-border purchasers were aware of the guide levels:

**Figure 25: Proportion of cross-border shoppers for alcohol and/or tobacco who are aware of the guide levels in their Member State of residence**



**Source:** Consumer survey

A large proportion of respondents from most Member States (between 16-60%) were unaware of the guide levels in place in their Member State, despite most having incorporated these explicitly into their national legislation. Although the question did not ask about other parameters of Article 32 (e.g. 'own use'), this is an indication that many consumers are not aware of the wider rules around cross-border purchases of excise products. In fact, 82% subsequently said the reason they weren't aware of the guide levels was because they'd never even thought about it as an issue (and of course for most non-excise products purchased across borders, it isn't).

Although inherently difficult to measure, this analysis suggests that fraud related to cross-border personal acquisition is relatively common across the EU, even if it may not be intentional. At the EU level, a quarter of consumers are aware of retailers selling excise goods that were purchased by individuals, with around half thinking that it is becoming increasingly common. A large proportion of individuals from all Member States appear to purchase excise goods cross-border which are then consumed by others outside their own household.

#### **4.6.3. Problem 3: The magnitude of public health impacts of cross-border personal acquisition**

The key mechanism by which cross-border shopping impacts public health is by increasing the volume of excise products purchased by individuals, who generally respond to lower prices and better product availability by buying and consuming more than they would otherwise. This section therefore focuses on the additional consumption generated by cross-border personal acquisition.

Our primary estimate relies on data from the consumer survey. Consumers were asked what proportion of their cross-border purchases they would have made anyway if they were unable to shop in another EU Member State, which was used to determine the additional quantity purchased due to access in internal market. The limitations and benefits of this approach are outlined in the previous section. Of course, in many ways this market access is a positive thing for consumers as it provides greater choice and lower prices. But for some individuals it also facilitates increased consumption of tobacco products and excessive alcohol consumption, exacerbating the negative health impacts described earlier in this chapter.

**Table 11: Estimated volume of additional excise goods purchased by individuals due to the availability of products cross-border**

Member State	Pure alcohol	Beer/ Cider	Still Wine	Spark. Wine	Fort. wine	Spirits	Cigarettes	Fine cut	Cigars
	Million litres						20 pack (m)	30g pack (m)	Millions
<b>EU Total</b>	<b>59</b>	<b>102</b>	<b>91</b>	<b>66</b>	<b>71</b>	<b>60</b>	<b>240</b>	<b>51</b>	<b>62</b>
<b>Litres, packs or units per capita</b>									
Finland	0.29	1.14	0.27	0.51	0.38	0.19	0.32	0.07	0.02
Denmark	0.29	1.19	0.34	0.47	0.26	0.23	0.62	0.30	0.24
Spain	0.28	0.41	0.37	0.39	0.29	0.32	0.38	0.06	0.10
Estonia	0.25	1.23	0.42	0.31	0.11	0.23	0.39	0.02	0.00
Sweden	0.19	0.65	0.22	0.16	0.19	0.22	0.33	0.02	0.03
<b>EU Avg.</b>	<b>0.15</b>	<b>0.25</b>	<b>0.22</b>	<b>0.17</b>	<b>0.20</b>	<b>0.15</b>	<b>0.48</b>	<b>0.11</b>	<b>0.10</b>
Poland	0.15	0.22	0.27	0.18	0.17	0.14	0.30	0.07	0.08
Germany	0.14	0.28	0.26	0.11	0.12	0.17	1.33	0.17	0.20
Portugal	0.14	0.24	0.22	0.20	0.17	0.13	0.10	0.01	0.01
Belgium	0.13	0.10	0.25	0.21	0.16	0.12	0.66	0.10	0.07
UK	0.13	0.27	0.24	0.17	0.22	0.08	0.45	0.25	0.05
Italy	0.13	0.11	0.20	0.17	0.19	0.12	0.11	0.01	0.01
Austria	0.13	0.25	0.22	0.21	0.11	0.12	0.31	0.02	0.04
France	0.13	0.19	0.18	0.10	0.21	0.13	1.12	0.26	0.61
Netherlands	0.12	0.25	0.07	0.06	0.16	0.16	0.34	0.05	0.11
Czechia	0.11	0.11	0.22	0.09	0.11	0.14	0.48	0.04	0.02
Ireland	0.10	0.20	0.09	0.09	0.08	0.16	0.45	0.08	0.02
Bulgaria	0.10	0.06	0.18	0.07	0.11	0.12	0.22	0.06	0.04
Hungary	0.08	0.13	0.10	0.05	0.08	0.11	0.13	0.05	0.03
Slovenia	0.08	0.16	0.12	0.12	0.09	0.06	0.11	0.02	0.10
Slovakia	0.06	0.07	0.10	0.06	0.05	0.08	0.27	0.01	0.03
Lithuania	0.05	0.11	0.06	0.03	0.01	0.07	0.01	0.00	0.00
Latvia	0.04	0.03	0.15	0.05	0.02	0.04	0.28	0.02	0.16
Romania	0.04	0.06	0.08	0.05	0.03	0.05	0.12	0.02	0.08
Greece	0.04	0.04	0.06	0.05	0.04	0.05	0.25	0.18	0.03
Croatia	0.03	0.08	0.03	0.01	0.02	0.04	0.07	0.02	0.01
<b>EU per capita figures, for reference</b>									
EU avg. total cross border	0.5	0.8	0.7	0.5	0.6	0.5	1.7	0.3	0.3
EU avg. consumption	9.8	-	-	-	-	-	-	-	-

**Source:** Authors' estimates based on consumer survey, WHO (2018a).

At the EU level this equates to approximately 0.15 litres of pure alcohol, 10 cigarettes, a relatively small amount of smoking tobacco (3g) and one-tenth of a cigar consumed per capita in addition to what would otherwise have been consumed in the absence of access to the markets of other Member States.

For alcohol, this is equivalent to approximately 1.5% of the EU average per capita consumption of alcohol (9.8 litres in pure alcohol terms; WHO, 2016). However, this is more significant for some Member States than others, and also for certain segments of the population, especially young people, heavy drinkers and people from lower socioeconomic groups. For Finland, with the highest proportion of additional alcohol consumption per capita from our survey, the additional consumption of 0.29 litres in pure alcohol terms equates to just under 3% of Finnish consumption of 10.7 litres per capita in 2016. For Croatia, with the lowest proportion, the additional consumption of 0.03 litres equates to just 0.35% of Croatian consumption (8.6 litres per capita). Both the figures above and the consumption figures are on per capita terms across the

whole population of each Member State, but for particular groups – for example, young people, heavy drinkers/smokers, those with a low socio-economic status – this may represent an even higher proportion of additional alcohol and tobacco products being consumed as a result of cross-border shopping.

On a product level, this proportion is even greater, particularly for wine and spirits. For spirits this represents approximately 2.7% of per capita consumption (2.2 litres of pure alcohol), and the additional consumption of wine due to cross-border shopping represents approximately 2.0% of consumption per capita (2.3 litres of pure alcohol). Additional consumption of beer, on the other hand, represents only 0.4% of per capita consumption (3.1 litres of pure alcohol; WHO, 2014b; based on WHO European Region). For tobacco products, the average additional consumption of cigarettes due to cross-border shopping is approximately 0.78% of the EU average per capita consumption of cigarettes, although this is larger for some Member States (approximately 2.2% in Germany and 1.8% in France, for example)<sup>35</sup>.

This has important implications for public health, especially where the increase is concentrated with individuals who may already consume large amounts of particular products. The Swedish health authority noted in their survey response that it is often the individuals with heavy drinking habits who are most likely to cross-border shop, particularly for spirits.

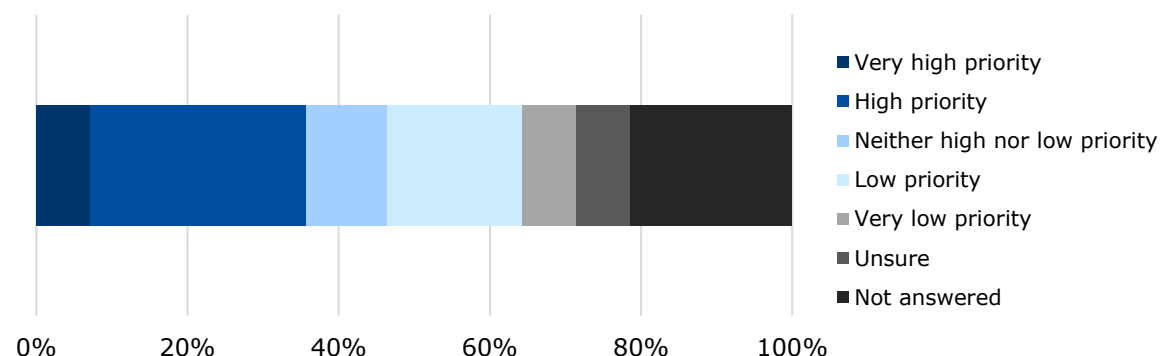
This analysis has focussed on the additional consumption resulting from cross-border shopping by private individuals, but what does this mean for public health? The link between health and consumption has been made earlier in this chapter, but it is difficult to quantify this. Cross-border shopping in the EU is significant enough to have public health impacts, which may be significant in certain areas. Fiscal distortions (revenue accruing to the Member State of purchase rather than the Member State of consumption) may also undermine public health by reducing the revenue available to Member States to fund public health services, although excise revenues are seldom ring-fenced for health expenditure.

As the figure below shows, almost half (10/22) of the Member State health authorities who responded to the relevant question in our survey said that they considered personal acquisition of excise products to be a very high or high priority area for government policy. This does highlight some differences between Member States, however, as seven Member States considered it to be a low or very low priority. For the most part, the Member States who consider it a high or very high priority are those whose residents often participate in cross-border shopping, and none of these Member States considered it a low or very low priority.

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<sup>35</sup>Authors' estimation based on European Commission (2017c) and Special Eurobarometer 458.

**Figure 26: Member State health authority views on the importance of personal acquisition for government policy<sup>36</sup>**



**Source:** Health Authority Questionnaire

While it is difficult to measure the extent to which cross-border shopping undermines national health policies, the above analysis indicates that consumers in all Member States consume, on average, more alcohol and tobacco as a result of the availability of these products in the internal market. While not particularly significant at the EU level, for certain Member States, and products, this has a more substantial impact on consumption levels.

#### 4.7. Which areas are hotspots for personal acquisition?

This section further explores the issues relating to personal acquisition by way of four short case studies of some of the most common 'hotspots' for personal acquisition.

In each of these cases the three problems outlined above are relevant, although these short case studies each focus on slightly different aspects. Other hotspots not covered in the case study examples are noted in Section 4.7.5.

##### 4.7.1. Finnish consumers shopping in Estonia and Latvia



The tight control of alcohol in Finland is linked to market and cultural factors that existed prior to any influence the EU may have had upon their joining (Brewers of Europe, 2004). Before joining the EU, both Finland and Sweden centred their alcohol control systems around the following three pillars:

1. Minimising private profits from alcohol production and sales;
2. Restricting the physical availability of alcohol, including a prohibition in Finland between 1912-1932; and

<sup>36</sup> Tax authorities were also asked this question but given the focus on health they are not presented here.

3. Regulating the economic availability of alcohol through high taxes and prices, reducing the incentive to buy drinks while providing a source of tax revenue (Stahl, 2006).

Like Sweden, Norway and Iceland, Finland operates a state monopoly (Alko) for the sale of alcohol for public health reasons. Before January 2018, drinks with above 4.7% ABV could only be sold at Alko, however in December 2017 the Finnish Parliament raised the limit of alcohol that can be purchased at grocery stores and supermarkets to 5.5% ABV and extended the weekday opening hours for Alko from 8pm to 9pm. By restricting the availability of alcohol, the health authority tries to mitigate the adverse effects of excessive alcohol consumption, an approach which may be undermined by a high degree of cross-border shopping.

The price of alcoholic beverages is significantly higher in Finland than in many other EU Member States largely due to high excise duty and monopoly pricing coefficients, and there is a substantial price differential between Finland and its southern neighbours Estonia and Latvia. In 2018 the health authority estimated that approximately 1.53 litres of pure alcohol (Figure 13) and 76 cigarettes per adult (Figure 14) were purchased in other EU Member States with the intent of consuming them in Finland, primarily from Estonia and Latvia<sup>37</sup>.

**Table 12: Excise duty in Finland, Estonia and Latvia**

Member State	Beer	Still Wine	Sparkling Wine	Spirits	Cigarettes
	330ml 4.5% ABV	750ml 11.5% ABV	750ml 13.5% ABV	700ml 37.5% ABV	20 Pack
<b>Finland</b>	€0.53	€2.87	€2.87	€12.56	€4.64
<b>Estonia</b>	€0.25	€1.11	€1.11	€6.58	€2.46
<b>Latvia</b>	€0.10	€0.69	€0.69	€4.38	€2.13

**Note:** As at 1 July 2018.

**Source:** Taxes in Europe Database.

In January 2004, legislation removing restrictions on the private acquisition of alcoholic beverages by travellers from the EU came into force, marking the complete transition of Finland to the internal market. According to a study by the National Institute for Health and Welfare (2009), this had the potential for a significant impact on Finland, since Estonia was set to join the EU in May that year.

In 2004, the retail price of beer in Estonia was only one-third of that in Finland and the price of wine was only two-thirds (Korolainen & Osterberg, 2004). Because approximately 20% of the Finnish population resides in the Finnish metropolitan area, where Estonia can be reached in as little as two hours by ferry and there are approximately 5.8 million border crossings per year (Karlsson & Österberg, 2009), the Finnish government anticipated that with no change to domestic excise duty there

<sup>37</sup> Volumes according to the Health Authority Questionnaire per adult population (15+) according to Eurostat 2011 census.

would be a large increase in cross-border sales, with associated impacts on government revenue and the black market economy (Mäkelä & Österberg, 2009). In response, the government lowered excise duty by one-third in March 2004. As a result of both removing restrictions and lowering excise duties, recorded alcohol consumption in Finland increased by 10%; from 9.4 litres in 2003 to 10.3 litres in 2004; reaching an all-time high in 2005 of 10.5 litres per inhabitant (Mäkelä & Österberg, 2009; Karlsson et al., 2010)

In 2017, excise duties on alcohol were increased by the Estonian government. This is reported to have encouraged more Finnish consumers to bypass Estonia and travel to Latvia to purchase alcohol products instead (ERR.EE, 2017). In response, Estonia reduced its excise duty on average by 25% in 2019. Latvia subsequently reduced excise duty rates by 15%, which was widely reported to have been in order to minimise the negative effect on the Latvian alcohol market, particularly on the border with Estonia<sup>38</sup>.

This demonstrates not only implications for public health, but also for public finance. The estimates presented in Section 4.6 indicate outward cross-border shopping reduces public revenues by approximately €32 per capita (€142m) annually (the fourth highest in the EU in per capita terms), and there is evidence of businesses concentrating in the northern parts of Estonia to service Finnish customers.

Our tax authority questionnaire underlines the importance of this issue for the Finnish government, with a focus on the consequences for revenues, public health and black-market activity (particularly the way cross-border shopping facilitates the provision of excise products to minors). Although alcohol is the primary focus, tobacco products like the smokeless tobacco *snus* - only available through personal acquisition from Sweden - are also of concern.

#### 4.7.2. Swedish consumers shopping in Denmark, Germany and Poland



Limiting alcohol and tobacco consumption has been one of the cornerstones of Sweden's public health policy for many decades, but the combination of strict controls and readily accessible excise goods in neighbouring Member States has made cross-border purchases of alcohol and tobacco products more common among Swedes. Typically, Swedish cross-border purchasers travel to neighbouring Member States such as Denmark, Poland and particularly to Germany to take advantage of lower excise rates.

<sup>38</sup> See, for example, ERR.EE (2019), Baltic Times (2019).



**Table 13: Excise duty in Sweden, Denmark, Germany and Poland**

Member State	Beer	Still Wine	Sparkling Wine	Spirits	Cigarettes	Unleaded Petrol
	330ml 4.5% ABV	750ml 11.5% ABV	750ml 13.5% ABV	700ml 37.5% ABV	20 Pack	55 litre Euro 95
<b>Sweden</b>	€0.31	€2.04	€2.04	€14.12	€3.27	€35.78
<b>Denmark</b>	€0.11	€1.17	€1.51	€5.29	€3.23	€34.12
<b>Germany</b>	€0.03	€0.00	€1.02	€3.42	€3.19	€36.00
<b>Poland</b>	€0.07	€0.27	€0.27	€3.47	€1.96	€22.01

**Note:** As at 1 July 2018 for alcohol and tobacco products, and 1 January 2018 for petrol.

**Sources:** Taxes in Europe Database (alcohol and tobacco); OECD Consumption Tax Trends 2018 (petrol).

A study by Karlsson and Österberg (2009) estimated there were approximately 35 million people-crossings of the Swedish-Danish annually by ferry, road and railway. Over the period from 2009 to 2018, the number of individual vehicle crossings on Øresund Bridge has increased slightly from 7,103,706 to 7,502,306 (Øresundbron, 2018). While it is unclear what proportion of people-crossings are via Øresund Bridge, or how this increase has affected the total number of people-crossings since 2009, Karlsson and Österberg noted that the bridge was increasingly the favoured method of travel.

The Public Health Agency of Sweden has noted that the practice of cross-border shopping of alcohol results in unrecorded consumption of alcohol and reduces the effectiveness of the government's alcohol policy. Historically, a combination of retail monopoly and high prices has been used to limit alcohol consumption in Sweden. The state-owned Systembolaget has exclusivity over the retail sale of alcoholic beverages with an alcoholic strength of more than 3.5%. The Government also controls the price of most alcoholic products, the number of outlets and opening hours. The legal age for buying alcohol is 20 years in a Systembolaget outlet and 18 years in a restaurant or bar, which is higher than in bordering Member States such as Denmark, Germany and Poland (16, 16 and 18, respectively).

After joining the EU in 1995, both Sweden and Finland were allowed to temporarily derogate from the EU free trade policy and maintain quotas on travellers' imports of alcoholic beverages until 2004 (National Institute of Health and Welfare, 2014). Once Sweden and Finland removed the quotas for travellers' imports of alcoholic beverages there was an increased availability of inexpensive alcohol from neighbouring Member States. Contrary to Finland's approach, where the Government responded by significantly lowering the excise duty on alcoholic beverages, Sweden did not make any changes to its excise duty. In the years that followed, whilst alcohol consumption in Finland increased substantially and reached an all-time high of 12.7 litres in 2007 due to increased availability of alcohol both within the country and from neighbouring Member States, consumption in Sweden rose from 10 litres per capita in 2003 to 10.6 litres in 2004 and then declined to 9.8 litres in 2007 (National Institute of Health and Welfare, 2014).

Despite Sweden consistently maintaining high excise duty and alcohol prices since 2004, alcohol-related health and social harm continues to be a concern for the Swedish Government. In 2017, cross-border purchases comprised 13.5% of alcohol consumption in Sweden, more than the total consumption resulting from restaurants and bars (CAN, 2017). Government investigations even found criminals organising bus trips to other Member States where individuals were being paid to bring back large volumes of alcohol and claim it was for their own use (Swedish Ministry of Health and Social Affairs, 2019).

This has impacts not just on public health, but also on fraud, economic activity and public revenues. The estimates presented in Section 4.6 indicate that Sweden foregoes the highest amount of excise and VAT revenue on outbound cross-border shopping of any Member State, both in absolute and price-adjusted terms, amounting to approximately €41 per capita (€331m) annually. According to CAN (2017), a significant proportion of alcohol entering Sweden for “personal use” is in practice being sold to those under the legal age of 20. The same study estimated that in 2016 smuggled alcohol accounted for about 35% of alcohol consumption by students aged 15 and 16, and 18% of the total consumption by students aged 17 and 18.

Limiting the consumption of alcohol in Sweden has been on the Government’s agenda for the last few decades and is further reinforced in the recently adopted strategy for alcohol, narcotic substances and tobacco (ANDT strategy) for the period 2016-2020 (Swedish Government, 2019). According to the Swedish health authority, high guide levels, the absence of binding limits on alcohol purchases and an unclear definition of “personal use” all contribute towards increased cross-border shopping and unrecorded alcohol consumption in Sweden. Reducing unrecorded consumption and the availability of alcohol to underage Swedes continues to be one of the focus areas focus of the Government.

### 4.7.3. Greek consumers shopping in Bulgaria



Greece and Bulgaria apply significantly different duty rates on excise products, and these differences provide a strong financial incentive for Greek consumers to undertake cross-border shopping activity in their northern neighbour. Bulgaria, which joined the Union in 2007, consistently applies some of the lowest excise duty in the EU across a range of excise products. As demonstrated in

Table 14 below, Greece's excise duty for beer is around six and a half times that of Bulgaria's and there are also considerable differences in the rates placed upon spirits, cigarettes and petrol:

**Table 14: Excise duty in Greece and Bulgaria**

Member State	Beer	Still Wine	Sparkling Wine	Spirits	Cigarettes	Unleaded Petrol
	330ml 4.5% ABV	750ml 11.5% ABV	750ml 13.5% ABV	700ml 37.5% ABV	20 Pack	55 litre Euro 95
<b>Greece</b>	€0.19	€0.15	€0.15	€6.43	€2.71	€38.50
<b>Bulgaria</b>	€0.03	€0.00	€0.00	€1.48	€1.76	€19.97

**Note:** As at 1 July 2018 for alcohol and tobacco products, and 1 January 2018 for petrol.

**Sources:** Taxes in Europe Database (alcohol and tobacco); OECD Consumption Tax Trends 2018 (petrol).

In recent years, the Greek government has made notable increases to excise duty, to support the raising of public revenues in the aftermath of the Greek sovereign debt crisis and subsequent bailout. This further widened existing differentials between the two countries. In 2016, an excise duty on wine (€0.15 per 750ml) was first introduced, with expectations that it would raise around €60 million per annum. However, in practice only €14 million was collected, in part attributed to increases in the black market and illicit trade, including with Bulgaria, being cited as reasons for the shortfall (Michalopoulos, 2017).

The different approach to the setting of excise duty, and the consequential impact it has on the real prices faced by consumers, has had impacts on the behaviour of both Greek and Bulgarian citizens, particularly those living near the northern border. For example, the weighted-average price for a 20 pack of cigarettes in Bulgaria is €2.57, compared to €4.09 in Greece, with the bulk of the difference being excise driven (Taxes in Europe Database, 2019). Similarly, there are significant tax inclusive price differentials on certain alcohol products: Greece exceeds Bulgaria by €0.45 for a 330ml can of 4.5% abv beer, €9.39 for a 750ml bottle of sparkling wine and €9.71 on a 700ml bottle of 37.5% abv sprits. With an estimated hour labour cost of €16.10, these differences are not insubstantial for consumers of these products (Eurostat, 2018c).

Analysis undertaken for this study highlights three 'hotspot' settlements in Greece where a high density of cross-border shoppers originates: Promachonas Serro, Exochi Drama and Ormenio Evros. These towns, all in northern Greece, are situated on key roads and transport links that cross into Bulgaria. Similarly, there is a high density of tobacco farms and stores in southern Bulgaria, particularly around border towns like Ablanitsa<sup>39</sup>. Although this is partly the result of the beneficial agricultural terrain and climate, since 2007 it has increasingly been impacted by the cross-border demand for cigarettes from Greek citizens.

Greece and Bulgaria have the highest prevalence of smokers in the EU-28 (Eurostat, 2014) and both the Greek health authority and the OECD and European Observatory on Health Systems and Policies (2017) have indicated that tobacco consumption is one of the most significant issues facing public health services in Greece.

<sup>39</sup> See, for example, BBC (2013).

#### 4.7.4. French consumers shopping in Luxembourg and Spain



France has eight land borders, five of which are with fellow EU members, and has a further distinct maritime border with the United Kingdom. Given it also has some of the highest excise duty in Europe, it is not surprising that French consumers are relatively frequent cross-border shoppers. The differentials with Luxembourg and Spain highlight considerable excise savings available for French consumers shopping across the border:

**Table 15: Excise duty in France, Luxembourg and Spain**

Member State	Beer	Still Wine	Sparkling Wine	Spirits	Cigarettes	Unleaded Petrol
	330ml 4.5% ABV	750ml 11.5% ABV	750ml 13.5% ABV	700ml 37.5% ABV	20 Pack	55 litre Euro 95
<b>France</b>	€0.11	€0.03	€0.07	€6.04	€4.66	€36.27
<b>Lux.</b>	€0.03	€0.00	€0.00	€2.73	€2.52	€25.41
<b>Spain</b>	€0.03	€0.00	€0.00	€2.52	€2.80	€23.36

**Note:** As at 1 July 2018 for alcohol and tobacco products, and 1 January 2018 for petrol.

**Sources:** Taxes in Europe Database (alcohol and tobacco); OECD Consumption Tax Trends 2018 (petrol).

Fuel tourism is common in Luxembourg, with the country's relatively low excise duty and central location meaning that approximately 75% of all road fuel bought in Luxembourg is consumed in other European countries (RTL & STATEC, 2019). Although it is difficult to estimate the exact proportion consumed by French citizens, a significant amount of petrol and diesel are transported back across the south-western border.

French citizens, particularly those living in the Grand Est region, regularly take advantage of the cheaper fuel prices that are on offer in Luxembourg. Over 90,000 French workers regularly commute into the country, more than double the number from any other Member State (STATEC, 2017). Fuel sellers in Luxembourg deliberately target these consumers.

Indeed, the world's largest petrol station (by volume), the 'Shell Berchem', is in Luxembourg, on a major commuter route a short distance from the French border. The station sells over 260 million litres of petrol a year and, where most big petrol stations in Europe receive several petrol deliveries a week, Berchem receives up to 20-30 a day (Delano, 2019). Although impossible to estimate exactly, a significant

proportion of these sales are to foreigners (RTL & STATEC, 2019), including a high number of French citizens.

Low tobacco prices in Spain, Belgium and Luxembourg also attract high numbers of French consumers. According to OFDT (2017), 46% of smokers who made at least one cross-border tobacco purchase in 2016 shopped in Spain, 25% in Belgium and 19% in Luxembourg<sup>40</sup>. These price differences can be significant, with excise on a standard pack of 20 cigarettes being almost €2 lower across the southern border in 2018. The French government continues to pursue an effective target of €10 per packet of cigarettes domestically by 2020 (Government of France, 2017), but the ability for French citizens, particularly near the borders, to circumvent domestic price rises reduces the policy's intended impact.

These price differences have had a significant impact on certain businesses in France. Although only reported in media coverage, in 2012 there were strikes at the southern border to raise awareness of the negative impacts on their businesses of cheaper Spanish tobacco prices (see, for example BMFTV, 2012; France 3, 2012; La Dépêche, 2012; L'indépendant, 2012). While cross-border shopping may pose challenges to tobacconists in locations like this, it is important to note that the challenges facing tobacconists are driven primarily by reasons other than cross-border shopping. Since 2000, 8,500 French tobacconists have closed, which amounts to a reduction of approximately 25% (Financial Times, 2019).

To mitigate these challenges, while maintaining strong tobacco control policy, the French Government introduced Décret n° 2018-895 in 2018 to provide subsidies to support tobacconists diversify their businesses away from tobacco sales (Government of France, 2018).

#### **4.7.5. Other hotspots for personal acquisition**

The hotspots discussed in the four case studies above are by no means the only locations where cross-border personal acquisition for excise goods is commonplace. Although many Member States may experience high volumes of cross-border activity for isolated products, four other particularly popular hotspots are worth highlighting here.

The German state of Schleswig-Holstein is a common destination for Danish residents, with many companies operating large retail stores there in the towns closest to the Danish border (for alcohol, tobacco and other products). Luxembourg, with a very high proportion of non-resident commuters, attracts cross-border shoppers from Belgium and Germany, in addition to the French shoppers described in the case study above.

The UK's closest borders have also been popular areas for the cross-border shopping of excise products, with Irish consumers driving to Northern Ireland and UK residents travelling to France via either train or ferry. Cross-border shopping from the Republic of Ireland into Northern Ireland has a long history, but since the United Kingdom's

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<sup>40</sup> Although it is not in the internal market, it is interesting to note that 17% said they had made a tobacco purchase in Andorra.

decision to leave the European Union in 2016, and the resulting depreciation of the pound, cross-border shopping has increased (Foley, 2017). Following the UK's decision to leave the EU the future availability of products via these routes is uncertain, although in September 2019 the UK government announced that it intended to allow cross-border purchases of the nature set out in Article 32 following the UK's departure, at least for those entering the UK (UK Government, 2019a).

#### **4.8. Assessment of the current situation against the principles of coherence, relevance, effectiveness, EU added value, and efficiency**

Drawing on the evidence outlined in earlier sections, this section addresses the key analysis criteria of coherence, relevance, effectiveness, EU added value and efficiency, as outlined in the Terms of Reference to the study.

##### **4.8.1. Coherence**

**Core research questions:** Are the rules regarding the acquisition by private individuals coherent with other EU and international policies?

Our analysis indicates that the rules regarding the acquisition by private individuals are more coherent with policies on the internal market, but less so with fiscal and health policies designed to raise revenue, limit economic distortions and protect public health.

Directive 2008/118/EC is an indirect tax directive adopted in accordance with Article 113 of the TFEU. Such measures can be adopted if they are necessary to ensure the proper functioning of the internal market, equal opportunity to trade in goods and to avoid distortion of competition. Given the propensity of certain Member States to potentially inhibit the cross-border flow of excise goods in the absence of the Directive, the Directive continues to be coherent with other legislation regarding the internal market.

Article 32 of the Directive applies a form of origin-based taxation, as excise is due in the Member State in which the purchase itself is made. This is not aligned with the general shift in the EU (and elsewhere) to apply taxes on a *destination* basis. Recent advancements have made the adoption of a definitive destination-based VAT system within the EU possible, for example, and excise duty for distance-selling and wholesale to retail are all destination-based.

However, it is not obvious how the destination-based principle could currently be applied to cross-border shopping without overly restricting the movement of goods in the internal market and/or adding significant burden to consumers or economic operators. Furthermore, even if a technological solution was available, requiring consumers to adhere to it (by, for example, supplying their details when making a purchase in another Member State) may not be proportionate to the problem they are trying to solve.

This raises questions about the internal coherence of the Directive. An objective of the Directive was to safeguard the financial interests of the Member States, by ensuring

that excise duty is properly and efficiently collected to support national budgets. Cross-border shopping driven by high excise rate differentials, relatively liberal guide level quantities and few other restrictions set in the Directive results in 'lost' excise revenue, which can undermine the budgetary integrity of the Member State of destination.

Our analysis suggests that in specific areas of the EU there is a tension between the functioning of the internal market, as upheld by the Directive, and the ability of Member States to use excise taxation as a health policy tool. While the scope of the Directive is excise duty, it should neither conflict or hamper the high level of human health protection in the definition and implementation of all EU policies and activities, nor with the health policies defined by Member States. This undermines the coherence of the Directive with other EU or international policies to reduce the negative effects of excessive alcohol and tobacco consumption.

The Directive also creates an incentive for firms in certain Member States to locate and market themselves directly for consumers in another Member State (e.g. Calais-based hypermarkets marketing to British consumers). This tax-driven behaviour reduces the competitiveness of retailers in the higher-rate Member State, who may otherwise be more competitive, undermining the EU's major focus on maintaining a friendly business environment.

#### 4.8.2. Relevance

**Core research questions:** *Do the current rules regarding acquisition by private individuals still correspond to the objectives of the Directive? Do they still correspond to the needs of the national tax administrations, ministries of health, and subsequently other stakeholders?*

Our analysis suggests that the current rules still correspond to the principal objective of allowing the free movement of excise goods for personal use, but not necessarily to the needs to national tax administrations and ministries of health. The emerging gap between the needs of stakeholders and the Directive reflects the enlargement of the EU, national health policy programs, the availability of real-time price information and the increasing sophistication of fraud.

The minimum guide levels set out in Article 32 of the Directive prevent Member States from setting guide levels in their own legislation that might overly restrict the movement of excise goods between Member States. In this sense the Directive remains relevant for the principle of the free movement of goods within the single market, as these guide levels - particularly for alcohol products - are set at a level far higher than average annual consumption levels, and consumers are free to purchase amounts beyond the guide levels if they are genuinely for their own use.

For this same reason, however, the analysis in the previous sections has demonstrated that the Directive may not still be relevant for certain Member States' fiscal and public health policies. Member States seeking to strengthen public health policies via high excise duty may be undermined by the comparatively high guide levels. Similarly, where those Member States experience high levels of outbound cross-border personal acquisition, revenue policies can be undermined.



The Directive may also be less relevant than it once was in tackling fraud, considering the increasingly organised nature of cross-border fraud (exemplified by the Swedish example of buses run by organised crime groups to facilitate smuggling via personal acquisition). Article 32 provides comparatively few tools (e.g. bright-line rules such as specific thresholds or readily measurable characteristics) for Member State authorities looking to identify and prosecute individuals purchasing goods for resale under the guise of 'personal acquisition'.

#### 4.8.3. Effectiveness

**Core research questions:** *To what extent have the current rules regarding the acquisition by private individuals helped and supported in:*

- a) Reducing the regulatory costs;*
- b) Ensuring the proper functioning of the internal market;*
- c) Providing a high level of health protection; and,*
- d) Fighting against tax fraud, tax evasion and illegal cross-border shopping.*

As discussed in our assessment of relevance, the minimum guide levels have acted to support the proper functioning of the internal market by preventing Member States from setting guide levels that overly restrict the free movement of excise goods. The application of the excise and VAT rates of the Member State of purchase (origin-based taxation) under Article 32 of the Directive allows individuals and businesses to avoid significant regulatory costs. Alternatively, applying the rates of the Member State of consumption (destination-based taxation) for these purchases would require a distinction to be made between residents and non-residents, as well as a mechanism for transferring revenues between Member States.

Although positive in this regard, the analysis in this chapter indicates that the current rules have been less effective in providing a high level of health protection, and fighting fraud, tax evasion and illegal cross-border shopping.

The guide levels can restrict the ability of certain Member States to use taxation policy to achieve health and fiscal objectives, primarily because of the links between price and cross-border shopping. The active use of excise rate differentials by some Member States to influence cross-border shopping border behaviour is entirely allowable but nevertheless may undermine the effectiveness of these policies in other Member States. The effects of this are greater in northern Member States, where excise rate differentials tend to be the largest. Where this has led to additional consumption, this may have contributed to alcohol and tobacco related harm in these Member States.

Member States also face difficulties enforcing the legal dispositions included in Article 32 of the Directive because the guide levels are not binding and there are no time limits. While CJEU rulings provide a clearer interpretation of the definition of 'own use', overall the Directive does not equip Member State authorities with the certainty that might be necessary to effectively tackle illegal cross-border shopping. Section 4.1.2 provides examples of aspects of the Directive local judiciaries have had to interpret. .

#### 4.8.4. EU added value

**Research question:** *What is the additional value of the current rules regarding the acquisition by private individuals, compared to what could have been expected from Member States acting on a national level? Is EU intervention in this area still justified?*

The ability of consumers to purchase goods in person from other Member States, combined with the fiscal and health policy autonomy of Member States, essentially creates a strategic problem: achieving desired tax and health policy outcomes through excise taxation depends on the tax policy decisions of other governments. In the absence of EU level action, it is unlikely that the coordination necessary to mitigate this problem would have been achieved by Member States acting at the national level.

However, the benefits of EU-level action in ensuring some consistency in the procedures around cross-border personal acquisition must be balanced against the constraints it places on Member States' national health and taxation policies. By preventing Member States from restricting volumes further, the Directive allows consumers to behave in a way that may lead to revenue losses and health impacts and incentivise illicit trade. Certain Member States are therefore concerned about the additional value of the current rules in place to govern acquisitions of excise goods by private individuals. French authorities, for example, have noted the scarce enforcement measures available to them to limit the high levels of cross-border shopping for manufacturing tobacco.

As the guide levels are not binding nor accompanied by time limits, this forces national legislatures to make use of subjective criteria, tied to individual circumstances, to determine whether cross-border purchases in excise goods are for private individuals' own use or not. As outlined in Section 4.9 below, EU-level intervention is still justified, but further policy changes could enhance the value of this intervention. Stronger, less ambiguous, provisions in the Directive may add greater value by assisting Member States to apply a common set of criteria when making these decisions. However, this must be balanced against the need to ensure minimal restrictions on the free movement of private individuals.

#### 4.8.5. Efficiency

**Core research question:** *To what extent are the current rules regarding the acquisition by private individuals cost effective in achieving the desired results? Would it be possible to achieve the same results (benefits) at lower cost?*

Considering the analysis above, the central efficiency issue is how EU policy can maintain the internal market benefits of the Directive while lowering the economic, fiscal and health costs. It is not clear that the current arrangements achieve these benefits as efficiently as they could.

The primary benefits that accrue to businesses via the internal market are financial. Our estimates indicate that the current arrangements generate additional consumption of around €2.5 billion of alcohol and tobacco products, which primarily benefits

businesses located in the Member State where these goods are purchased.<sup>41</sup> The costs driven by economic distortion in the Member State of consumption are indirectly borne by businesses experiencing an artificial distortion to competitiveness. The business density analysis of border and internal settlements (Section 4.6.1.) found evidence of distortionary impacts in Denmark, Estonia, Greece, Bulgaria, France and Spain.

For consumers, the terms of Article 32 facilitate access to the internal market, bringing access to better choice, both in terms of price and quality, and in some cases greater convenience. The costs to consumers associated with cross-border shopping stem from the deleterious effects of additional tobacco or alcohol consumption, and the economic costs associated with travelling longer distances to benefit from tax-driven price differences<sup>42</sup>.

At the Member State level, this impacts the quantum of excise revenue collected and the allocation of excise revenue between Member States. This results in a mismatch between the excise revenue raised and the costs associated with the additional consumption of excise products.

This preceding analysis suggests that there is capacity to alter the current arrangements so that the benefits accrued to consumers and business of access to the internal market can be attained while mitigating some of the undesirable impacts on economic, fiscal and health outcomes.

#### **4.9. Are further EU-level interventions justified?**

Article 113 of the Treaty on the Functioning of the European Union permits the EU to set and administer harmonised rules for excise duty, in order to ensure the proper functioning of the internal market. Although this article provides the required legislative authority for change, all EU actions are governed by the overarching principles of subsidiarity and proportionality.

In the section below, we assess whether, when compared against these overarching principles, further EU-level intervention is justified to help mitigate problems relating to cross-border acquisitions by private individuals. This draws on the best-practice approach set out in the EU Better Regulation Toolbox (European Commission, 2017d).

##### **4.9.1. Subsidiarity**

The principle of subsidiarity ensures that policy measures not falling under the exclusive competence of the Union are decided at a level which is as close as possible to the individual citizen, and at an EU-level only when necessary.

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<sup>41</sup> This is the value of excise goods purchased across border that is additional to the amount that would have been purchased domestically. Additional consumption is discussed in Section 4.6.3 and was estimated using the consumer survey, as outlined in the Annex.

<sup>42</sup> While it is not necessarily economically inefficient for consumers to travel further to purchase goods, it is economically inefficient for the EU as a whole when the underlying reason for this is differences in tax rates.

***Does the European Union have exclusive competences?***

Exclusive competence applies in the areas defined in Article 3 of the TFEU. The legal basis for general arrangements for excise duty does not fall within the exclusive competence areas as set in this article, so cannot be used as justification for EU-level intervention.

***Can the objectives of the proposed actions be achieved sufficiently by Member States acting alone?***

The problems highlighted in earlier sections of this chapter are not isolated issues confined to a small number of Member States. Although some of the issues relating to consumer health are more prevalent in the Nordic and Baltic states, most Member States experience significant trade with at least one other Member State (either as the place of purchase or consumption) via cross-border personal acquisition.

To a large degree, the problems set out in this chapter are caused by differences (in excise duty, legal ages for consumption, etc) between Member States. This makes it very difficult for individual countries to resolve issues unilaterally. A Member State might consider aligning its policies to its neighbouring Member States to mitigate these problems, but this might require a divergence from its own domestic health, tax or other national policies. In the case of Member States with multiple neighbours, alignment on all borders may not be possible at all.

In order to tackle the problems identified earlier in this chapter, and to maximise the overall social benefits across the EU, there is therefore a strong justification for action at the EU-level.

***Can the objectives of the proposed action be better achieved at Union-level by reason of the scale or effects of that action?***

The sovereign ability of individual Member States to set their own excise duty offers incentives for some countries to use rates as a form of competition, reducing the relative prices of their products to encourage business and the cross-border purchasing of excise products in their country. Although this may be optimal for the country in question, this can lead to significant overall losses at an EU level.

For example, tobacco retailers in France may struggle to compete effectively with equivalent companies based in the border-region with Spain or Luxembourg (where equivalent prices are, on average, significantly lower) without domestic excise duty being lowered. The French Government is pursuing a real domestic minimum price for cigarettes of €10 per pack by 2020 (Government of France, 2017), but the intended benefits of a €10 minimum per pack will be undermined in regions where consumers can easily purchase cheaper cigarettes. This type of problem is common across the EU, even more so for countries with multiple borders or high excise differentials.

This suggests that EU-level action is required in order to ensure public intervention in fiscal, economic and social policies is not undermined.

#### **4.9.2. Proportionality**

Proposed action at an EU-level should not go beyond what is reasonable and necessary in order to tackle the problems that have been identified and evidenced in earlier chapters of this study.

Article 32 of Directive 2008/118/EC aims to encourage cross-border purchases by individual consumers, whilst also providing enough protection for the individual domestic policy priorities of all Member States. The current arrangements appear generally effective in facilitating the first of these aims, but insufficient in providing individual Member States with effective, clear and readily enforceable powers and protection to maximise the effectiveness and social benefits of both the core directive and their own key domestic priorities.

The policy options below are specifically designed to reduce the overall levels of fiscal and economic distortion that result from tax-driven price differentials and consider any special circumstances for individual Member States.

#### **4.10. Objectives of any change**

The suite of potential policy changes set out in the next section of this study have been developed to achieve the following core objectives:

1. To safeguard the financial interests of the Member States, by ensuring that excise duty is properly and efficiently collected to support national budgets. This includes reducing and combating illicit trade, evasion and fraudulent activity through the proper monitoring of the purchasing, movement and holding of excise goods.
2. To safeguard public health objectives of the Member States by ensuring a high level of human health protection in the implementation of the general arrangements for excise duty (in line with Article 168 TFEU). This includes supporting clearer common rules or national adaptations governing the acquisition of excise products by private individuals, considering the diversity of situations in the various regions of the EU.

In effect, the policy options have been designed to combat the key problems identified and assessed earlier in this chapter. In pursuing these objectives, the analysis and assessment of the policy options will balance the need to facilitate cross-border trade and economic growth on the one hand, and the need to ensure that effective controls are in place to protect citizen welfare on the other.

#### **4.11. Policy options**

A number of policy options have been developed to address the issues raised in relation to Article 32 of Directive 2008/118/EC. Acknowledging that in some cases these are geographically limited, and in line with the approach taken by earlier impact assessments (European Commission, 2017b), any solution to these problems should be as targeted as possible to those Member States most affected.

These policy options would require changes the provisions of Article 32 and can broadly be grouped into:

1. Options that primarily seek to mitigate enforcement and fraud related concerns that result from the current wording of Article 32 (Option 3, 4, 6 & 8);
2. Options that primarily seek to address economic and fiscal distortions (Option 2 & 6); and
3. A combination of the above (Option 8).

**Table 16: Personal acquisition policy options**

Policy Option	Details
Option 1: No change (dynamic baseline)	No policy change to the situation as it is currently.
Option 2: Reducing the minimum guide levels	Reducing the guide levels to better reflect the average consumption of private individuals.
Option 3: Amending the definition of "own use"	Replacing the term "own use" with "own consumption" or similar, to better limit the scope for unintended purchases.
Option 4: Adding a frequency to the guide levels	Specifying a timeframe within which a consumer could make purchases before exceeding the guide levels.
Option 5: Replacing the guide levels with (lower) binding thresholds	Purchases over these reduced limits would either need to be surrendered at the border or treated as a commercial B2B transaction.
Option 6: Allowing Member States to derogate from current guide levels and making them binding	Allowing a Member State to derogate from the current guide levels and make them binding, to prevent disproportionate negative effects, if they remain compliant with Article 36 TFEU and the derogation is approved by all Member States.
Option 7: Reversing the burden of proof	Requiring private individuals, rather than the customs officer, to prove that the goods are for their own use.
Option 8: A combination of these policy options	Combining a reduction in the minimum guide levels, amending the definition of "own use", adding a frequency to the guide levels, and reversing the burden of proof (options 2,3,4 and 7).

#### **4.11.1. Policy Option 1: No change (dynamic baseline)**

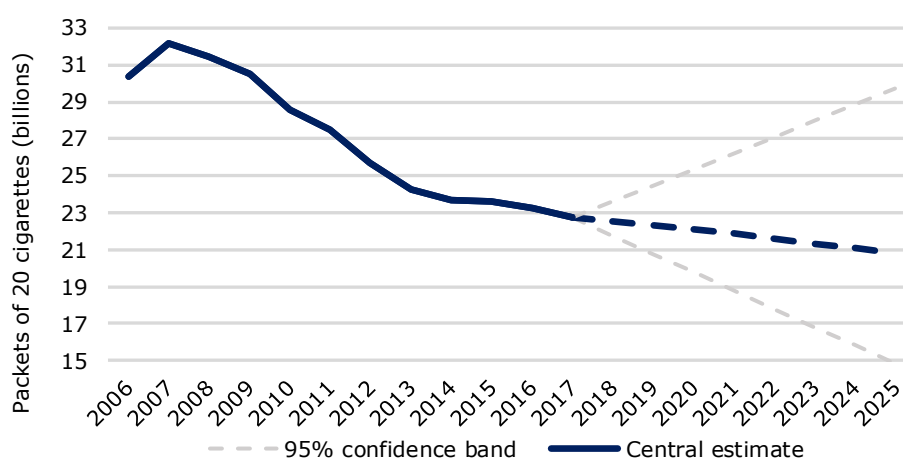
No major changes are currently envisaged that will have a significant impact on the current situation when it comes to cross-border shopping by European citizens. We expect the problems that have been identified and analysed in earlier chapters to remain highly relevant, and, in most cases, to increase in line with overall growth in activity and wider spending.

## Economic and fiscal impacts

The current economic and fiscal impacts of cross-border personal acquisition for excise products is expected to remain broadly constant over the next five years. Little change is expected in excise duty rates, so Member States who currently set high excise duty are forecast to continue doing so and will continue to experience a loss of tax revenue due to tax-driven cross-border shopping. Similarly, businesses currently selling excise products in border regions will continue to preserve their artificial (tax-driven) competitive advantage and the inefficient concentration of excise vendors in these areas will continue. This is underpinned by sustained cross-border shopping behaviour.

For tobacco products, a reduction in consumption appears to have been partly offset by an increase in the prevalence of cross-border shopping in recent years. The overall EU consumption of cigarettes declined from 31 billion (in packets of 20 cigarettes) in 2006 to 24 billion in 2017 (KPMG, 2010; 2017)<sup>43</sup>, and according to the WHO (2018c) is projected to decrease further to 23 billion in 2020 and 22 billion in 2025. Intra-EU cross-border shopping remained relatively stable despite this, however, at approximately 0.75-1.25 billion from 2006 to 2017 (KPMG, 2010; 2017).

**Figure 27: Consumption trends for tobacco products (cigarettes)**



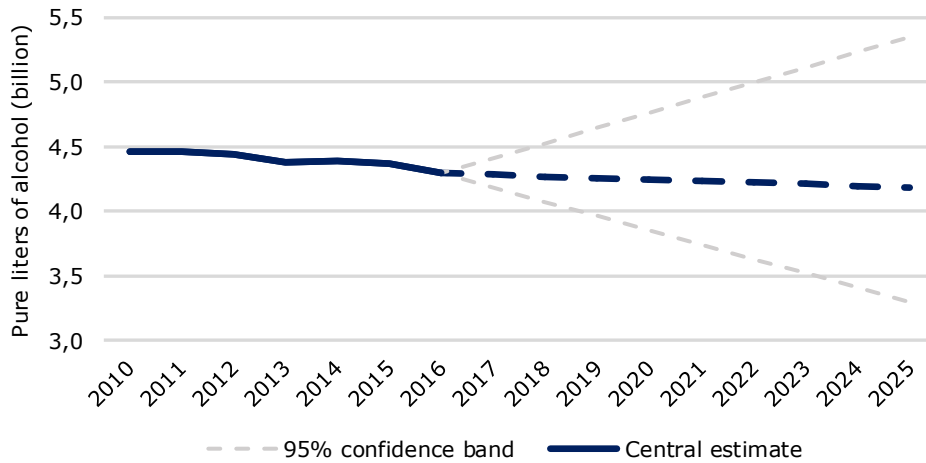
**Notes:** Projected values are based on WHO forecasts for the prevalence of smoking in the WHO European region. 95% confidence interval provided by WHO. Numbers are normalised into packets of 20 cigarettes for comparative purposes, but some may be bought in different sized packets.

Sources: KPMG (2010; 2013; 2017), WHO (2018c).

For alcoholic beverages, EU consumption has remained stable in recent years, at around 5 billion litres of pure alcohol between 2010 and 2016 (WHO, 2018a). A decomposition of total alcohol consumption into beer, wine and spirits reveals a small, but almost negligible, increase in the sales of beer between 2010 to 2019 (European Commission, 2018f). However, the evidence for trends in cross-border shopping of alcohol products at an EU level is very sparse, which generally adds uncertainty to our forecasts of cross-border shopping in alcohol products.

<sup>43</sup> The KPMG 'project sun' reports are annual studies conducted by KPMG on behalf of the tobacco industry. Although these studies provide insightful data, they are not independent of the industry.

**Figure 28: Consumption trends for alcoholic beverages**



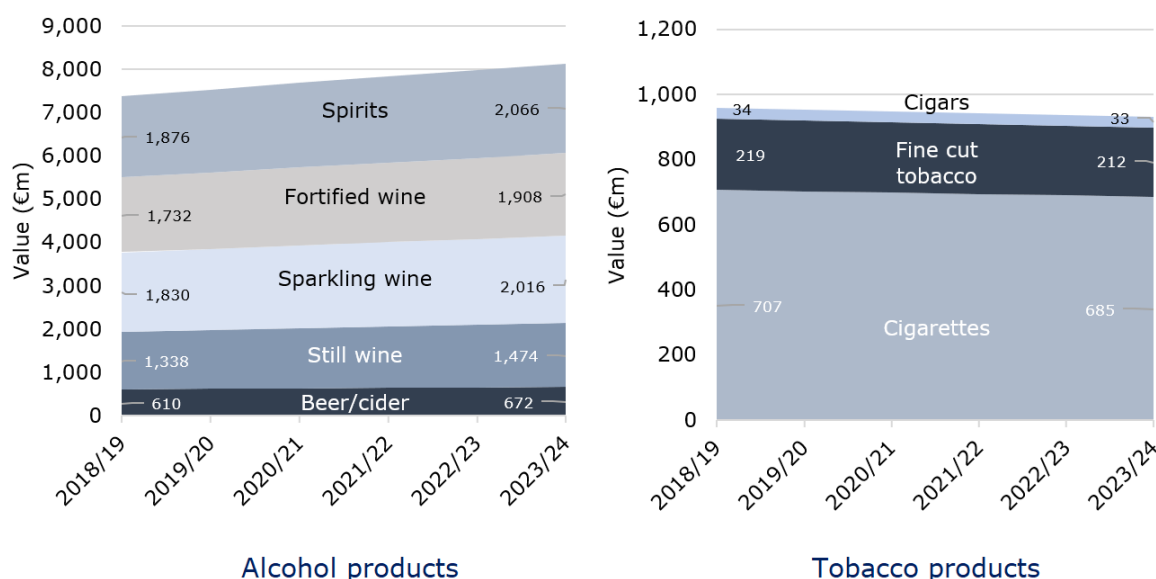
**Notes:** Projected values for 2020 and 2025 are based on WHO forecasts; EU-28 excludes Estonia; values between 2010 and 2016 are not available and are thus linearly interpolated.  
Source: WHO (2018c)

Specific Member State estimates of cross-border shopping have been produced for several countries (notably Denmark, Estonia, Finland and Sweden), however time series data from which to derive the long-term trend is not always available. Additionally, as cross-border shopping is particularly high in these Member States, it is not a suitable basis for EU level forecasts. Therefore, the evolution of cross-border shopping for alcohol products is modelled on the long-term trend in unrecorded alcohol consumption (WHO, 2018c).

These consumption projections translate into a moderate decrease in cross-border purchases of tobacco and a slight increase in cross-border shopping of alcohol by 2023, as presented in the figure below:



**Figure 29: Forecasts of cross-border personal acquisition for alcohol and tobacco products from 2018/19 - 2023/24**

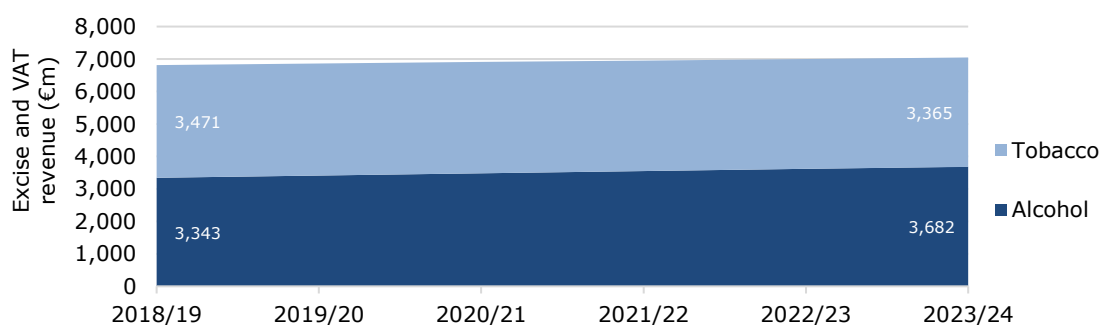


**Notes:** Projected values for alcohol follow the trend observed historically from 2010 to 2016 for unrecorded alcohol consumption cf. WHO (2018c), and for tobacco the historical trend observed from 2007 to 2017 for intra-EU cross-border consumption cf. KPMG (2010; 2015; 2017).

**Sources:** Authors' calculations from consumer survey, WHO (2018c) KPMG (2010; 2015; 2017)

Forecasting the impact of these changes in cross-border personal acquisition on tax revenue, using the estimates in Figure 20, this implies a slight increase in the revenue shifted from Member States of consumption to Member State of purchase due to cross-border personal acquisition. This equates to €234 million (3.5%) in total over the five years, in real terms:

**Figure 30: Forecast of revenues redirected from Member State of consumption to Member State of purchase as a result of cross-border personal acquisition**



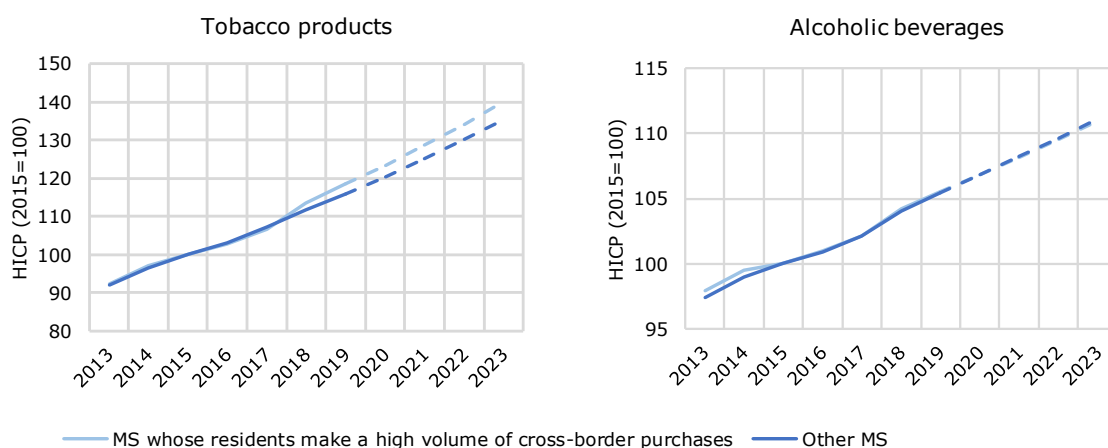
**Notes:** The forecast presented is based on scarce data and should be treated as indicative. The forecast is based on the tax revenue foregone as a result of residents undertaking cross-border shopping (see Figure 20) combined with the projected value of cross-border shopping (see Figure 29) and assuming excise and VAT rates remain constant over the forecast period. As this is tax revenue foregone, the excise and VAT rates applied used are for the Member State of consumption.

**Sources:** Authors' calculations from consumer survey, WHO (2018c) KPMG (2010; 2015; 2017)

As price differentials underpin the problems with personal acquisition, it is also important to understand the likely evolution of consumer prices over the forecast

period. The figure below projects the change in consumer prices for alcohol and tobacco products based on trend analysis of Harmonised Index of Consumer Prices (HICP) data, disaggregated by Member States whose residents make a particularly high volume of cross-border purchases and those who do not:

**Figure 31: Projected consumer prices for alcohol and tobacco products**



**Notes:** Based on the Harmonised Index of Consumer Prices (HICP). MS whose residents make a particularly high volume of cross-border purchases are Belgium, Denmark, Finland, Germany, Sweden and the United Kingdom for alcohol, and Belgium, Denmark, France, Germany and the United Kingdom for tobacco.

**Source:** Eurostat

Analysis of the HICP for tobacco and alcohol products in the figure above shows no evidence of future convergence in consumer prices between Member States. For alcoholic beverages the prices in higher priced Member States (whose residents make a particularly high volume of cross-border alcohol purchases) are expected to increase in line with prices in other Member States, maintaining existing differentials. Tobacco prices, which increased at the same pace from 2013-2017, are even expected to diverge further as Member States whose residents make a high volume of cross-border purchases have experienced a larger increase in prices than other MS. If this trend continues into the future, it will exacerbate excise and price driven cross-border purchases.

### **Fraud impacts**

According to the *Project Sun* studies undertaken by KPMG for the tobacco industry each year, the illicit trade in tobacco products related to intra-EU cross-border movements registered in the EU for tax purposes has been declining in recent years. According to KPMG (2010; 2017) this is the product of three underlying trends: a general decline in illicit trade from 3.3 billion packages in 2012 to 2.3 billion in 2017; growth in other forms of illicit cigarette trade not covered by Article 32<sup>44</sup>; and an increasing trend for illicit trade to come from third countries (approximately 80% of all illicit trade in 2017). Some of this can be attributed to active EU intervention to

<sup>44</sup> Illicit trade in tobacco product can be divided into contraband, illicit whites and counterfeit. Generally, illicit whites are making up a larger and larger share of overall illicit trade in tobacco while counterfeit, as a share of illicit trade, has remained constant. Given that neither illicit whites nor counterfeit tobacco products are registered for tax purposes in the EU, they are not affected by article 32.

tackle illicit tobacco trade, but in the absence of changes to Article 32 it is unlikely that fraud related to cross-border personal acquisition of tobacco products will reduce significantly.

Section 4.6.2 highlighted that there is very limited evidence on the evolution of fraud relating to cross-border personal acquisition for alcohol products. WHO (2018a) estimates of unrecorded alcohol consumption in the EU suggest that it has been slightly increasing over time, but this includes the consumption of homemade alcohol, smuggled alcohol, and alcohol obtained through legitimate cross-border shopping, so serves only as an approximation.

The projections above, however, suggest that ongoing tax and price differentials will continue to incentivise fraud related to cross-border personal acquisition for both tobacco and alcohol products in the absence of any further policy change.

### **Public health impacts**

The analysis above underpins the impacts on public health. A continued divergence in consumer prices, and increased cross-border purchases will, in the absence of any other policy change, lead to a continuation of the public health impacts described earlier in this chapter. Given the available data, no major change in the magnitude of this problem is expected going forward, and these impacts are expected to continue to be most acute in specific regions. Specifically, cross-border shopping will continue to hamper the ability of Member States to pursue health objectives and individuals will continue to respond to lower prices and better product availability by buying and consuming more than they would otherwise.

#### **4.11.2. Policy Option 2: Reducing the minimum guide levels**

##### **Outline of policy option**

The present guide levels affect the ability of Member States to independently set effective national policies aimed at reducing tobacco use and alcohol-related harm. As outlined above, the current guide levels, inherited from the previous directive, have been in place for the better part of three decades and do not necessarily meet the wider objectives of the Directive.

This policy option would involve a reduction in the minimum guide levels able to be set by Member States in their national legislation, set out in Article 32(3) of the Directive, but without any change to the other parameters of the guide levels. This means that Member States would continue to be able to set higher levels in their national legislation and would still be limited to applying the guide levels solely as a form of evidence (not as a binding threshold).

The reduction in guide levels could be applied to all the alcohol and tobacco products currently set out in Article 32, or to a selection of them. As outlined in Section 4.2.2, the current guide levels for alcohol products amount to well over a year of average per capita consumption for all Member States in pure alcohol terms, whereas the guide levels for tobacco amount to several months of average cigarette consumption for a smoker. A reduction in the alcohol guide levels would mean they more closely align

with the average consumption period for tobacco products, but this would not necessarily reflect the difference in harms caused by tobacco and alcohol use. For the purposes of this analysis, therefore, we model a constant percentage reduction in all guide levels.

This policy option would decrease the minimum guide levels for all Member States, but still allow Member States who wished to apply higher guide levels to do so. In that sense it is less targeted than Policy Option 6, which would allow Member States with a strong case to apply for a derogation from the minimum guide levels in order to set lower, binding thresholds. In theory, these two options could be implemented together (lower guide levels in the Directive, with a derogation available to those Member States who can make a case for requiring even lower binding thresholds), although this is not a combination assessed here.

A reduction in the guide levels would nevertheless be more effective in combination with other policy options outlined here, the addition of a frequency and amendments to the term "own use". A combination option with these three elements, in addition to reversing the burden of proof, is presented as part of policy option 7 below.

### **Analysis**

For this policy option to have any notable impact on the overall consumption of alcohol and tobacco, any reductions in the guide levels would have to be significant. This is primarily because cross-border shopping makes up a relatively small proportion of overall consumption at the EU level. However, where cross-border shopping is a more significant component of overall consumption, the reduction in guide levels will be more impactful. The hotspots selected for the purposes of the cost-benefit analysis refer to specific Member States, not specific regions within each Member State, that have been identified as having a significant cross-border shopping for alcohol and tobacco products. Although the cost-benefit analysis draws on the estimates produced as part of this study, the selection of hotspots for analysis were identified in the relevant literature and stakeholder consultation.

Table 17 below compares cross-border shopping as a proportion of total consumption of alcohol and tobacco products, disaggregated by those Member States whose residents cross-border shop relatively frequently for excise products ("hotspots"):

**Table 17: Cross-border purchases of alcohol and tobacco products as a share of total consumption**

Hotspots		Non-hotspots		EU total*	
Alcohol	Tobacco	Alcohol	Tobacco	Alcohol	Tobacco
5.45%	5.37%	4.32%	1.80%	4.74%	3.13%

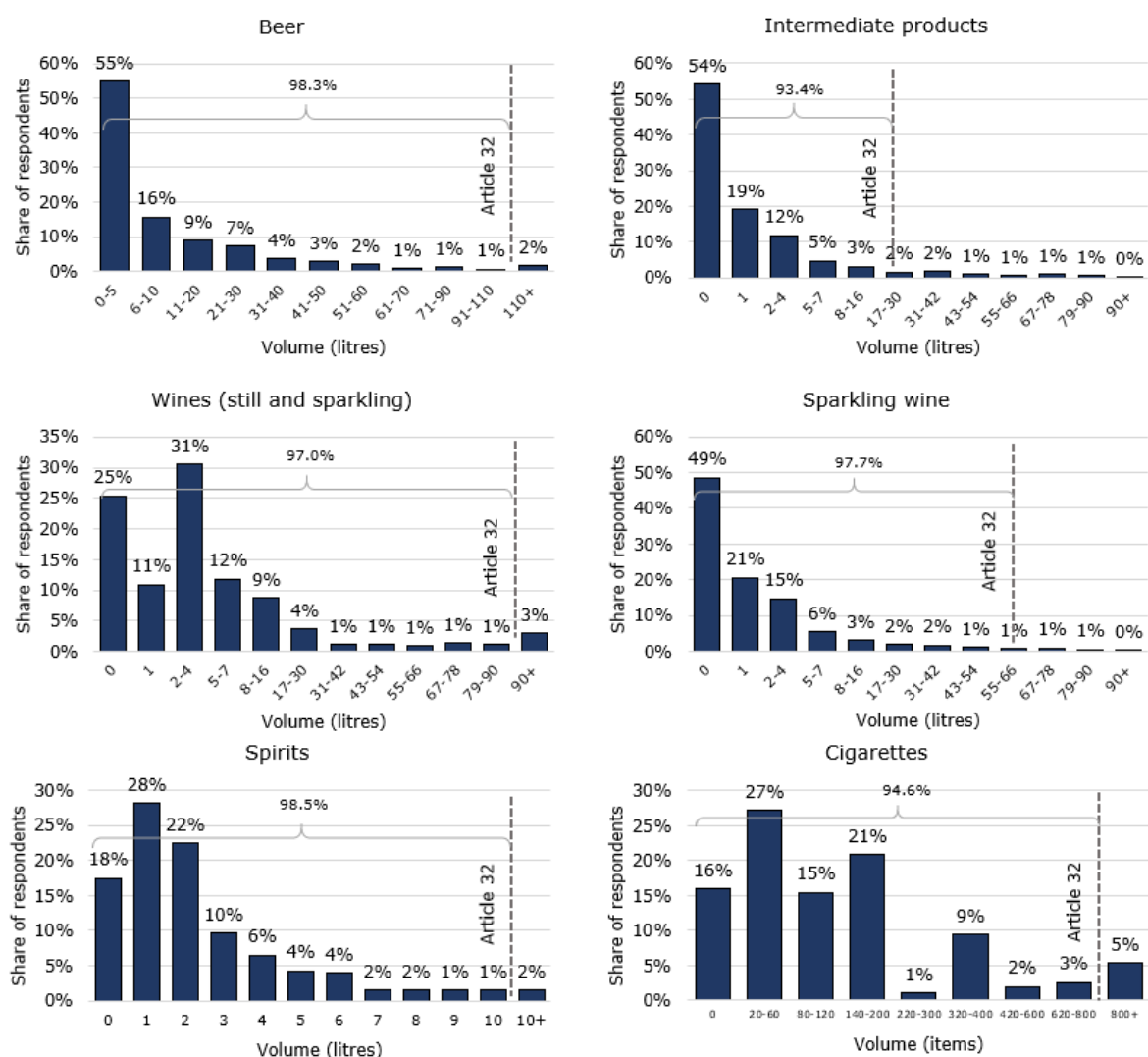
**Notes:** Member States whose residents make a high volume of cross-border purchases are Belgium, Denmark, Finland, Germany, Sweden and United Kingdom for alcohol and Belgium, Denmark, France, Germany and United Kingdom for tobacco; Total consumption consists of legal domestic consumption and non-domestic legal consumption; \*EU total excludes Cyprus, Luxembourg and Malta.

**Sources:** Consumer survey; WHO (2018); KPMG (2017).

As the table above highlights, cross-border shopping for alcohol makes up less than 5% for alcohol and just over 3% for tobacco across the EU, although for certain Member States this is higher. It is important to note that this is not additional consumption, as according to the consumer survey data the approximately 71% of alcohol and between 56-66% of tobacco products would be replaced by local purchases if cross-border shopping became too restrictive.

The second reason a notable impact on overall consumption would require a large decrease in the guide levels is because many purchases are well below the current guide levels. The figure below presents the distribution of the volume of excise goods, for key products, from the consumer survey:

**Figure 32: Volume of excise goods acquired by cross-border shoppers on an average trip**



**Source:** Authors' calculations based on consumer survey.

According to the consumer survey, only 3% of all purchases involving alcohol exceeded the current guide levels in Article 32(3), equivalent to 31 million litres of pure alcohol. Approximately 5% of cigarette purchases exceeded the current guide

levels, despite these being considerably more restrictive than for alcohol, equivalent to approximately 351 million 20 standard packs of cigarettes.

As the exact reduction in the guide levels would be subject to a detailed policy discussion and may be different for different products, the analysis here estimates the impacts based on a range of uniform reduction across all products.<sup>45</sup> Given current purchases are not entirely within the current guide levels, for the purposes of this analysis we assume that all individuals currently below guide levels will continue to be with the lower levels (if their purchases exceed the reduced levels, they reduce their purchases accordingly) and that individuals currently above guide levels reduce their consumption by 50% of the change in guide levels (partial reduction). The table below presents these estimates:

**Table 18: Estimated impact of a reduction in minimum guide levels on cross-border private acquisition of alcohol and tobacco products**

Reduction in minimum guide levels in Article 32(3)		0%	10%	25%	50%	75%
Share of current cross-border purchases below guide levels per trip	Alcohol	94,6%	93,6%	92,0%	87,5%	78,8%
	Tobacco	93,6%	90,8%	90,6%	88,2%	75,6%
Reduction in volume of cross-border shopping	Alcohol (litres)	-	5 l m	13 l m	36 l m	74 l m
	Cigarettes (20 pack)	-	25 m	62 m	132 m	240 m
Reduction in value of cross-border shopping (€m)	Alcohol	-	168 €m	482 €m	1294 €m	2662 €m
	Tobacco	-	33 €m	84 €m	178 €m	324 €m
Reduction in volume of cross-border shopping as share of total cons.	Alcohol	-	0,10%	0,28%	0,75%	1,55%
	Tobacco	-	0,11%	0,28%	0,60%	1,09%
Reduction in gross revenue loss	Alcohol	-	76 €m	218 €m	586 €m	1205 €m
	Tobacco	-	120 €m	300 €m	637 €m	1160 €m

**Sources:** Authors' estimates based on consumer survey, WHO (2018c), KPMG (2017)

<sup>45</sup> For example, a 10% reduction in guide levels is equivalent to article 32 minimum guide levels being: 99 litres of beer/cider, 81 litres of wine (still and sparkling), 18 litres of intermediates, 54 litres of sparkling wine, 9 litres of spirits, 720 cigarettes (items).

Even substantial reductions in the guide levels have only a modest impact on cross-border purchases. If guide levels were reduced by 10%, approximately 95 and 94% of all cross-border purchases of alcohol and tobacco products, respectively would still be below the guide levels. Even with a reduction of guide levels by as much as 75% in total, most of these purchases would remain below guide levels: 79% for alcohol and 76% for tobacco.

The estimated impact on cross-border personal acquisition and general consumption is therefore marginal. A 10% reduction would only reduce cross-border alcohol purchases by 2.2% (€168m) and 3.1% (€33 million) for cigarettes in this scenario. Reducing the guide levels down to just one quarter of their current levels would still only reduce cross-border alcohol purchases by 36.0% (€2,662 million) and 30.5% (€324 million) for cigarettes, because the distribution of cross-border purchases is so heavily skewed towards lower amounts.

The reduction in cross-border purchases is also expected to be substituted, at least partly, by domestic consumption. This means that overall consumption will fall by a smaller level, tempering the overall impact on public health. This would, however, shift more tax revenue towards the Member States of consumption. Our estimates suggest that the tax revenue shifted from Member State of consumption to Member State of purchase would reduce by around €518 million following a 25% reduction in the guide levels. The net revenue impact is generally positive for high excise rate Member States (with significant cross-border purchases by its residents) and negative for low excise rate countries.

The costs of implementing a reduction in the guide levels can be relatively small, amounting to the costs of updating EU and national legislation and publications, and any associated campaigns to inform consumers. We have assumed that, because the guide levels would not be binding and consumers could continue to purchase higher levels provided this was legitimately for their own use, the costs to consumers and businesses would be negligible.

The analysis above indicates that the benefit of this change would amount to a relatively small overall impact on consumption. However, this impact is concentrated around individuals who may not be able to legitimately access these products themselves (e.g. underage consumers and those who consume excessive amounts). For these reasons a reduction in guide levels may, therefore, have a higher positive impact on health outcomes and fraud than would otherwise be expected.

### **Overall assessment of option**

Based on the analysis presented in this chapter, each of the policy options have been assessed against the five general assessment criteria (coherence, relevance, effectiveness, EU added value and efficiency), and four additional criteria:

- Proportionality;
- The administrative burden the option would place on national administrations, businesses and individuals;

- Economic and social impacts, including those on fiscal, health and agricultural policies; and
- The practicality of implementation.

The criteria are assessed in relation to the baseline (do nothing) option, and in some cases, there may be some overlap between them.

The most positive aspect of reducing the guide levels would be the impact on relevance. This chapter has demonstrated the current guide levels are too high to effectively support national fiscal and health policies Member States, and far higher than the levels being purchased cross-border by most individuals. The analysis above indicates that the associated impacts on revenue distortions and public health outcomes would be limited, however. As most individuals currently purchase significantly less than the current guide levels on a given trip, and the sheer volume of alcohol products implied by the current levels (up to 230 litres) is prohibitive for most travelers to transport easily, we do not anticipate any significant impact on agri-tourism.

It would be relatively simple and inexpensive to reduce the guide levels, compared with the other options presented in this chapter. There would be no implementation costs for businesses or consumers, and the costs to national administrations would be limited to updating national legislation and guidance and communicating the changes. The administrative burden on authorities would not change noticeably, unless a stronger compliance strategy was adopted in parallel.

The key downside of this option is that it may not be considered proportional, given the key problems it addresses are not as acute in all areas of the EU. Although they would remain solely a form of evidence (not binding) under this option, reducing the guide levels would reduce the ease with which some individuals can make cross-border purchases, including those who do so for reasons that are not tax driven (e.g. those living close to the border for whom the most convenient option is in another Member State). In this sense a reduction in the guide levels partially conflicts with the principles of the internal market.

There is also a risk that Member States choose to apply quite different levels following any reduction in the guide levels in Article 32. Most Member States include the current levels in their national legislation, but as the Directive allows them to set higher levels than those set out in the Directive, some Member States may choose to keep the current (higher) levels, creating uncertainty for individuals who purchase excise goods in multiple territories. This coherence problem is not reflected in the summary of this option below, however, as it is not clear Member States would react in this way.



Assessment summary (PA Option 2)			
Proportionality	-	Coherence	+
Economic and social impacts	+	Relevance	++
Administrative burden	0	Effectiveness	+
Practicality of implementation	++	EU added value	+
		Efficiency	++

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---). These are based on the analysis presented in this report and with reference to the other policy options, to ensure the relative differences are correctly reflected in the assessment.

This is compared against the other personal acquisition policy options in Chapter 7.

#### 4.11.3. Policy Option 3: Amending the definition of “own use”

##### **Outline of policy option**

As outlined in Section 4.1.1, the current wording of “own use” in Article 32(2) is too open to interpretation to effectively limit who cross-border excise purchases are for. In the current Directive, there is no clear demarcation as to what is understood as “own use” and what is not, and this lack of a clear boundary can lead to uncertainty and opportunities for fraud and abuse. Common areas of uncertainty include purchases made for large events (e.g. alcohol purchased for a birthday party or wedding) or to be gifted to another individual.

In Germany, for example, “Goods are for personal use if they are intended to meet the personal needs of the private individual who acquired them. This is not the case if goods are also or exclusively acquired for the needs of other private individuals (e.g. for the neighbourhood); see judgment of the ECJ of 23 November 2006 - Case C-5/05.” This can be contrasted with the position in the UK where “own use” includes use as a personal gift but does not include the transfer of the goods to another person for money or money’s worth (including any reimbursement of expenses incurred in connection with obtaining them).

A number of EU countries do not have a legal definition of “own use” and consideration must instead be given either to the guide levels in Article 32 of the Directive 2008/118/EC or the circumstances surrounding the personal acquisition. In Ireland, for example, the factors for determining whether an excise product may be for commercial use are specified in the legislation. In addition to the requirements set out in Article 32(2) of the Directive, under Irish legislation consideration should also be given as to whether the purchase price of the excisable products includes value-added tax of the Member State in which the excisable products were acquired, the premises or place where the excisable products are held, the frequency by which the person brings products into Ireland and the conduct of the person bringing excisable products into Ireland<sup>46</sup>.

<sup>46</sup> Statutory Instrument No.146 of 2010: Control of Excisable Products Regulations 2010. Part 4, Regulation 25 (h). See: <http://www.irishstatutebook.ie/eli/2010/si/146/made/en/pdf>

In recognition that “own use” can be subject to interpretation and vary across individual Member States, under this policy option the concept of “own use” in Directive 2008/118/EC would be changed to “own consumption” or a similar term that more clearly specifies the allowable uses of the goods purchased. Consumers would be spared the uncertainty of ambiguity or definitions that vary across Member States, and authorities would have a clearer test for determining whether a purchase should be classified as a private acquisition or a commercial purchase.

### Analysis

The quantitative analysis of this option assumes that changing “own use” to “own consumption” would allow individuals to make purchases for their households, but not to use for gifts or to supply private events (or similar).

It is unclear to which extent individuals who exceed the current guide levels are doing so for the benefit of those outside their household. In the absence of any data on this issue we have modelled a range of possible scenarios with estimates of the gifts or events proportion of purchases above the guide levels ranging from 5-75%, in anticipation of the true value lying somewhere in between these two extremes. The figure below presents these estimates:

**Table 19: Estimated impacts of amending “own use” under different assumptions**

Share of purchases for gifts or large events	Reduction in volume of cross-border shopping		Reduction in value of cross-border shopping (€m)		Reduction in volume of cross-border shopping as a % of total consumption		Reduction in gross revenue loss	
	Alcohol (litres)	Cigs. (20 pack)	Alcohol	Tobacco	Alcohol	Tobacco	Alcohol	Tobacco
5%	2 l m	17 m	58 €m	23 €m	0,03%	0,08%	26 €m	83 €m
10%	3 l m	34 m	115 €m	46 €m	0,07%	0,16%	52 €m	166 €m
20%	6 l m	69 m	231 €m	93 €m	0,13%	0,31%	104 €m	332 €m
25%	8 l m	86 m	288 €m	116 €m	0,17%	0,39%	130 €m	415 €m
50%	16 l m	171 m	576 €m	231 €m	0,34%	0,78%	261 €m	829 €m
75%	24 l m	257 m	864 €m	347 €m	0,50%	1,17%	391 €m	1244 €m

**Notes:** Assumes full compliance with the revised definition.

**Sources:** Authors’ analysis based on consumer survey, WHO (2018c) and KPMG (2017).

These estimates are calculated based on the assumption that purchases for gifts and large events above the guide levels will be eliminated and furthermore that purchases for gifts and large events below guide levels are partially eliminated (50%). Partial compliance is assumed as it may be difficult or impractical for customs authorities to question purchases below the guide levels.

It is apparent from the estimates above that the overall impact of restricting cross-border purchases for “own consumption” is relatively small. Even if 50% of excise goods purchased were for gifts and personal events, cross-border purchases of alcohol would fall by approximately 16 million litres of pure alcohol equivalent (because the indicative limits for alcohol are very high, as explained earlier in this report), and cigarettes by 171 million packets. As with the previous analysis, this reduction in cross-border shopping does not translate into a one-for-one reduction in general consumption due to an increase in domestic purchases. For gifts, the substitution to domestic purchases may be low, but for purchases for large events like weddings most (if not all) of the purchases may be made locally instead.

To give effect to this change, all Member States would be required to make changes in their local legislation and guidance and to inform their residents about them. Even those who already elaborate a definition in their own legislation or guidance would need to update this to align to the agreed EU-wide definition.

### **Overall assessment of option**

The analysis above suggests that changing the definition of “own use” is likely to have a relatively small impact on overall cross-border personal acquisition and an even smaller impact on overall consumption of excise goods. The impacts of this option are relatively modest but fixing this commonly acknowledged issue with the current Directive would also be relatively simple.

The primary benefits of this option are to remove ambiguity and inconsistency for individuals and authorities, and support enforcement efforts. As described above, several Member States already define “own use” in their own legislation or guidance, but this is inconsistent across the EU. A clearer definition centred around the consumer of the goods would help officials to identify and deter cross-border purchases being directed to other uses, helping to reduce fraud and negative public health impacts. This would be more coherent with the policy intent to restrict cross-border purchases to the private consumption of the purchaser.

Because this option would require a simple change to the wording in Article 32(2), it would be an efficient and straightforward change to implement. Rather than increasing administrative costs, national authorities may find the clarity of definition makes it less costly to monitor and enforce adherence with the Directive.

Although this analysis suggests the effectiveness of this change would be modestly positive, 24 of the 41 (59%) of EU tax and health authorities who responded to our survey said they felt amending the definition of “own use” would be an effective or very effective policy option.

Assessment summary (PA Option 3)			
Proportionality	+	Coherence	++
Economic and social impacts	+	Relevance	+
Administrative burden	+	Effectiveness	+
Practicality of implementation	++	EU added value	+
		Efficiency	++

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---)

This is compared with the other personal acquisition policy options in Chapter 7.

#### 4.11.4. Policy Option 4: Adding a frequency to the guide levels

##### **Outline of policy option**

This would involve changing and supplementing the parameters in place to determine the indicative guide levels outlined in Directive 2008/118/EC, augmenting the levels with a frequency of acquisition. At present the guide levels cover an ambiguous time frame, leaving scope for consumers to remain within the guide levels for any given purchase or trip, but far exceed them over a short period. It is feasible that this could even be within the same day for consumers located very near a border.

In some Member States there is a provision in national legislation which adds the frequency to the list of criteria to be considered when establishing what constitutes an “acquisition by a private individual for own use”. In Ireland, for example, the frequency by which a person brings excise products into the country should be considered by the authorities as part of the bundle of evidence when determining whether the products are for the individual’s “own use”<sup>47</sup>. However, the legislation does not go so far as to specify an exact frequency, and this is left open to interpretation. A number of Member States either note frequency as a consideration in their law or guidelines (according to our surveys this is the case in Belgium, Denmark, Finland, Ireland, Lithuania, Malta and Slovenia), although without setting a specific timeframe. Other Member States may also include something like this in their internal instructions to customs authorities.

For chewing tobacco and snus (not covered by the Directive), Finland specifies limits that apply within one calendar day (Finnish Customs, 2019b). There is also precedent with setting time limits for imports from third countries. For example, Estonia specifies that the thresholds for tobacco may be applied twice in a calendar month, and for alcohol once in a calendar month, unless the traveller can prove that the import was of an occasional nature (Estonian Tax and Customs Board, 2019). Denmark requires that its imports must be “occasional”, defining this as no more than once in a 24 hour period (Danish Government, 2012). A different approach is taken in Finland, which requires its residents to have left the country for at least 24 hours before they can

<sup>47</sup> Statutory Instrument No.146 of 2010: Control of Excisable Products Regulations 2010. Part 4, Regulation 25 (h). See: <http://www.irishstatutebook.ie/eli/2010/si/146/made/en/pdf>

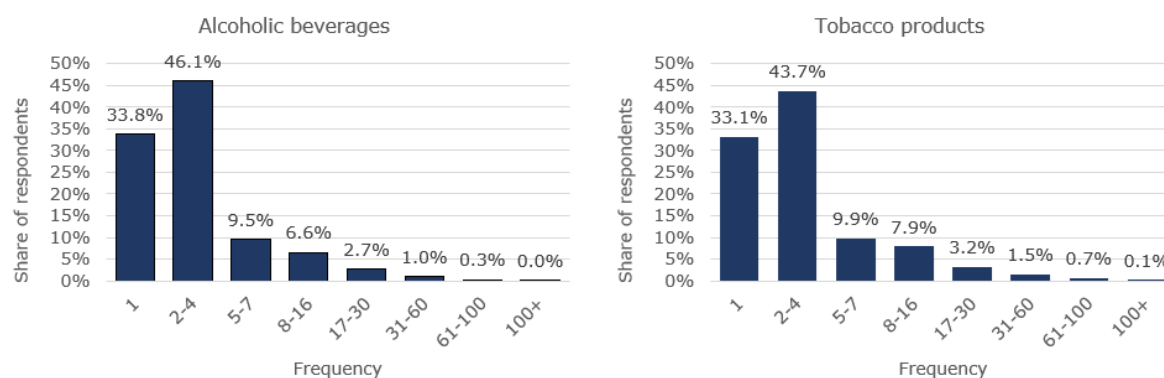
bring back tobacco products or alcoholic beverages, and only allows non-EEA visitors to bring these products in if their stay in Finland is at least 72 hours (Finnish Customs, 2019a; 2019b)<sup>48</sup>.

Under this policy option, Article 32(2) of the Directive would be updated to add the word “frequency” to the list of factors which should be considered. This option should also specify a timeframe which a consumer could make purchases before exceeding the guide levels (e.g. per month or per annum), potentially making the guide levels more impactful.

### Analysis

According to our consumer survey, individuals engaging in cross-border personal acquisition do so to purchase alcohol and tobacco 4.12 and 4.94 times a year on average, respectively. As the figure below demonstrates, for both products more than three-quarters of cross-border shoppers undertake between 1-4 trips per year:

**Figure 33: Annual frequency of cross-border purchases, for those engaging in cross-border personal acquisition of excise products**



**Source:** Consumer Survey

The impact of attaching a frequency to the current guide levels is illustrated in the table below, for three timescales: 6 months, 1 year, and 2 years. The first option, for example, would require an individual to purchase no more than the current guide levels over a given 6-month period, irrespective of whether this is on one trip or a combination of trips. The analysis assumes partial compliance with the cross-border purchase rates implied by each combination of guide level and frequency.

<sup>48</sup> There are a few exceptions to this, for example tobacco that is clearly for personal use, and travellers from the Åland islands.

**Table 20: Estimated impacts of attaching a time period to current guide levels**

Frequency to which guide levels apply		6 months	1 year	2 years
Share of current cross-border purchases below guide levels per trip	Alcohol	87.3%	78.9%	67.1%
	Tobacco	83.6%	75.7%	61.7%
Estimated reduction in volume of cross-border shopping	Alcohol (litres)	11 l m	15 l m	18 l m
	Cigarettes (20 pack)	47 m	54 m	59 m
Estimated reduction in value of cross-border shopping (€m)	Alcohol	396	544	666
	Tobacco	64	72	79
Estimated reduction in volume of cross-border shopping as a share of total consumption	Alcohol	0.23%	0.32%	0.39%
	Tobacco	0.21%	0.24%	0.27%
Reduction in gross revenue loss (€m)	Alcohol	179	246	301
	Tobacco	228	259	284

**Notes:** Private individuals not complying with current guide levels applying cumulatively given the defined frequency will reduce the amount of cross-border shopping exceeding guide levels by 10%.

**Source:** Authors' analysis based on consumer survey, WHO (2018c) and KPMG (2017).

If a six-month frequency were to be introduced, nearly 88% of private individuals acquiring alcohol in another Member State would currently be compliant with current guide levels, and 84% with the guide levels for tobacco. If these cumulative guide levels were restricted to a two-year time horizon instead, only 67% and 61% would be below current guide levels for alcohol and tobacco, respectively.

In absolute terms, a six-month frequency would reduce the volume of alcohol acquired abroad by 11 million pure liters annually (5% of 225 million pure liters in cross-border shopping in 2023/2024), and 47 million fewer packets of cigarettes (7% of 689 million packets in cross-border shopping in 2023/2024). Based on 2018/19 tax-exclusive prices, these volumes translate into values of €397 million for alcohol and €64 million for tobacco, respectively. This illustrates that the frequency would have to be relatively restrictive for the policy option to have a significant impact on cross-border purchases overall.

Monitoring and enforcing the application of such frequencies in practice would be challenging. Since the purchase of excise goods by private individuals is not recorded (as consumers are not required to provide their details when purchasing excise goods), authorities responsible for excise duty will find it difficult in practice to prove that a buyer has purchased alcoholic beverages or tobacco products above the limit

for a set period. In many cases, private individuals, particularly those living near a border, not only buy alcoholic beverages or tobacco products but also other products like food.

### **Overall assessment of option**

The lack of a timeframe in Article 32(3) makes it difficult to know how to interpret the current guide levels, so the de facto interpretation is per trip. This might seem like an important omission, but there are several reasons why a frequency would be difficult to introduce in practice.

The cumulative aspect of any frequency measure (e.g. X litres over Y months or years) would require individuals who purchase excise goods across borders to keep a record of what they purchased and when they purchased it, as without this they would not know whether they were compliant. Alternatively, very short periods of time such as one day or one calendar week could be used to make it simple for consumers and authorities to monitor, as is the case for snus purchased by Finns in Sweden (see discussion above).

For national authorities, monitoring the frequency and volume of purchases for all cross-border shoppers would not be feasible in practice (e.g. for those travelling by road or rail, rather than air). However this option, in combination with reduced minimum guide levels, may allow EU Member States to enhance existing controls and be called upon for investigations of potentially fraudulent individuals.

As well as being difficult to administer, this option may be incoherent with the principles of the internal market. Restricting cross-border purchases and requiring individuals to keep records of cross-border transactions may be viewed as impeding the prohibition of quantitative restrictions and all measures having equivalent effect, as set out in Articles 34 and 35 of the TFEU. It could be argued that this would be a disproportionate response to solving the problem and that other measures, such as a reduction in guide levels, are more proportionate.

Were this option feasible in practice, however, this analysis suggests it would lead to a modest decrease in cross-border purchases and general consumption.

Assessment summary (PA Option 4)			
Proportionality	-	Coherence	0
Economic and social impacts	+	Relevance	++
Administrative burden	-	Effectiveness	+
Practicality of implementation	--	EU added value	+
		Efficiency	-

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---)

This is compared with the other personal acquisition policy options in Chapter 7.

#### **4.11.5. Policy Option 5: Replacing the guide levels with (lower) binding thresholds**

##### ***Outline of policy option***

Under this option the guide levels would be reduced and made into binding thresholds that would determine how a purchase of excise products should be treated. An individual who made a purchase that exceeded the binding thresholds would either be required to surrender the excess amount to customs officers at the border or have the excess amount treated as a commercial B2B transaction. If opting to treat it as a commercial transaction, the individual would be required to pay excise duty in the Member State of consumption, and then be entitled to request a refund of excise duty-paid in the Member State of acquisition. This would reduce the incentives for businesses to locate in areas that would be economically inefficient in the absence of a tax differential, creating a more level playing field between Member States, suppliers and consumers.

The viability of this option relies on whether an individual could then effectively exercise the right to refund in the Member State of acquisition to ensure the proper functioning of the internal market. In the CJEU case *Joustra* (C-5/05, *B.F. Joustra*, 23 November 2006), in the case of double duty, the Advocate General opined that “*reimbursement procedures must be sufficiently certain, swift and ease of access as not to interfere with the right of individuals to transport excisable goods within the Community paying duty in only one Member State*”<sup>49</sup>. If not, such treatment may constitute a measure having equivalent effect to quantitative restrictions.

An arrangement for the reimbursement of excise duty would therefore have to be provided for in Article 32 of the Directive. This is in line with the purpose of the Directive, which allows for the reimbursement of excise duty-paid on excise goods released for consumption in one Member State where consumed in another Member State.

On payment of excise duty in the Member State of consumption, a separate reclaim request would need to be submitted in the Member State of acquisition. This would be submitted according to the procedure laid down by the Member State of acquisition, and it is expected a claim for reimbursement of excise duty would be filed in the local language of that Member State. This would be accompanied by evidence that the excise duty had been paid in the Member State of consumption (i.e. the claim would be filed only after the excise duty has been paid in the Member State of consumption).

There is some precedent with applying binding guide levels in this way in Directive 2008/118/EC. From 2014-2017, the Directive allowed certain Member States to derogate from the guide levels for cigarettes and apply quantitative limits of not less than 300 items, for travellers entering the country from specific Member States<sup>50</sup>. The full list of Member States to which this applied is not available, but this derogation was

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<sup>49</sup> Opinion of the Advocate General in CJEU, C-5/05, *B.F. Joustra*, 23 November 2006 (para 95)

<sup>50</sup> Member States were distinguished by whether or not they levied an excise duty of at least €77 per 1000 cigarettes. Member States that did were allowed to apply these quantitative limits to those that did not. See <https://op.europa.eu/en/publication-detail/-/publication/882f2c25-a95c-4af3-b80e-293def4b43f2/language-en>



implemented by countries including Austria, Denmark, Ireland and Italy, while countries like the United Kingdom chose not to derogate. Austria, for example, applied the commercial treatment only to the amounts in excess of the thresholds (allowing individuals to bring in the amounts up to the thresholds for personal use), requiring them to pay Austrian duties on any excess amounts or surrender them to the authorities (Austrian Finance Ministry, 2019).

For this option to have any notable impact beyond the very few people who make purchases in excess of the current guide levels, the levels would need to be reduced alongside making them binding.

### **Analysis**

Individuals who make purchases that exceed the binding levels and opt to apply for a reimbursement in the Member State of purchase are expected to face significant costs in order to do so. To put this into context, SMEs currently spend an average of 1.91 hours when buying excise goods and 2.46 hours when selling excise goods (from/to a business based in another Member State) to complete all duty-paid administrative procedures for a consignment<sup>51</sup>. An average individual is unlikely to be as familiar with these procedures as an average SME, however, and can therefore be expected to spend significantly more time than this.

Very high compliance costs are therefore expected to almost fully eliminate legal cross-border shopping above the thresholds in this option, and to increase involuntary non-compliance for those individuals unaware of the requirement to declare and pay excise in the Member State of consumption (given most cross-border travellers do not cross a controlled border where they might be expected to be made aware of these rules if they were not already).

The table below reflects these points in an estimate of the compliance costs for individuals and national authorities. Using estimates from the business survey, individuals are assumed to take between 4-8 hours to comply (bearing in mind they will liaise separately with the Member State of consumption and the Member State of purchase), and national authorities are estimated to take 1.1 hours in total to process both sides of the transaction. We assume that almost all individuals currently purchasing above the guide levels reduce their purchases to avoid the high compliance costs, opt not to seek a refund of duty-paid at the point of purchase, or do not comply altogether.

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<sup>51</sup> According to respondents in the business survey.

**Table 21: Estimated compliance costs of binding guide levels**

Time taken to comply/assess	Cost per refund	EU Total (m)
Low estimate for consumers (4 hours)	€109.60	€39
High estimate for consumers (8 hours)	€219.20	€74
Time taken for national authorities to process both sides of the transaction (1.1 hours)	€30.14	€10

**Notes:** Based on the assumptions outlined in the preceding paragraph, and that 3% of individuals purchasing above the guide levels apply for a refund.

**Sources:** Authors' estimates based on consumer survey, business survey, Eurostat

The estimated impacts of this on cross-border purchases are reflected in the table below.

**Table 22: Estimated impacts of replacing the guide levels with lower, binding, thresholds**

Proportionate reduction in the levels		0%	10%	25%	50%	75%
Reduction in volume of cross-border shopping	Alcohol (litres)	27 l m	32 l m	41 l m	64 l m	102 l m
	Cigarettes (20 pack)	340 m	352 m	370 m	407 m	483 m
Reduction in value of cross-border shopping (€m)	Alcohol	995	1170	1487	2305	3675
	Tobacco	459	475	500	550	652
Reduction in volume of cross-border shopping as share of total consumption.	Alcohol	0.58%	0.68%	0.87%	1.34%	2.14%
	Tobacco	1.54%	1.60%	1.68%	1.85%	2.19%
Reduction in gross revenue loss (€m)	Alcohol	450	530	673	1043	1663
	Tobacco	1645	1703	1790	1971	2338

**Sources:** Authors' analysis based on consumer survey, business survey, WHO (2018) and KPMG (2017).

This policy option has the potential to reduce the volume of cross-border shopping by 102 million litres of pure alcohol and 483 million standard packages of cigarettes on an annual basis, if the thresholds were set at 25% of the current guide levels. Given enforcement challenges, however, with a reduction of this size a significant share of the reduction in legal cross-border shopping is expected to move to the illicit market.

### **Overall assessment of option**

This option presents both relatively high benefits and relatively high costs. This is the only option coherent with the principle of destination-based taxation, as individuals

would ultimately end up paying tax in the country their excess purchases are consumed. It is also coherent with the objective of reducing fiscal and economic distortions and protecting public health, as the incentive for very high volume, tax-driven, purchases would be removed. The impact would depend very heavily on the level at which the thresholds were set, as demonstrated in the analysis above.

This would be an effective solution, but would require strong EU-level coordination to ensure individuals maintain their right to purchase excise goods anywhere in the internal market without ultimately paying excise in two Member States. To be effective this would need to be well communicated, user-friendly and relatively easy to comply with, which would come at a significant cost. The process of paying excise in the Member State of consumption and then submitting a refund claim with the Member State of purchase would put an administrative burden on individuals, and processing the claims would put an administrative burden on national authorities. Unlike businesses who make regular cross-border transactions, individuals may only occasionally make purchases above the guide levels and therefore be unfamiliar with the process and how to comply.

This option could also be considered in conjunction with others. Combined with an amended definition of "own use", this could provide a useful avenue for individuals to continue to make large cross-border purchases in-person for the consumption of others (i.e. intentionally not buying for their own consumption but having a structured mechanism for subsequently paying duty in the Member State of consumption). Binding guide levels would not be compatible with the option to reverse the burden of proof, however, as purchases over the guide levels would be automatically be treated as a commercial transaction. Given the administrative considerations it would also be difficult to apply alongside an overly restrictive frequency measure.

Assessment summary (PA Option 5)			
Proportionality	0	Coherence	+
Economic and social impacts	++	Relevance	++
Administrative burden	---	Effectiveness	+++
Practicality of implementation	--	EU added value	++
		Efficiency	-

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---)

This is compared with the other personal acquisition policy options in Chapter 7.

#### **4.11.6. Policy Option 6: Allowing Member States to derogate from current guide levels and making them binding**

##### **Outline of policy option**

A derogation would allow individual Member States to apply elements of Article 32 differently, considering special circumstances. The option to derogate would require a Member State to make a written request to the European Commission, stating the

reasons why derogation is justified and providing appropriate supporting documents. Consistent with the procedure laid out in Article 27(5) of Directive 92/83/EEC on the harmonization of the structures of excise duties on alcohol and alcoholic beverages, the Commission would then transmit this information to the other Member States within one month of receipt and a final decision on any derogation would be made with the assistance of the Committee on Excise Duties (composed of the representatives of Member States and chaired by a representative of the Commission). Any derogation would be granted for a fixed period.

While a derogation could theoretically involve other elements of Article 32, the analysis in this chapter has highlighted that the guide levels are the aspect of most concern for Member States. As noted in Policy Option 5, from 2014-2017 Directive 2008/118/EC allowed Member States with a minimum level of excise duty on cigarettes to apply lower, binding, thresholds to cigarettes brought in by travelers coming in from Member States that had not yet met this minimum level. For these reasons, the analysis here focuses on allowing Member States the possibility to replace the guide levels with binding thresholds that may be lower than the guide levels applied by other Member States.

This option should be weighed against the principle of free movement of goods. Among other things, this entails the abolition of quantitative restrictions on trade and equivalent measures, as set out in the TFEU. This means a key consideration is whether this option to derogate would go too far in impeding the prohibition of quantitative restrictions and all measures having equivalent effect, as set out in Articles 34 and 35 of the TFEU.

For the purpose of the analysis it is important to understand the scope of that prohibition. A brief review of the CJEU interpretation of the concept is helpful in this regard:

- In its 'Dassonville' judgement (C-8/74, 11 July 1974), the Court decided that all trading rules enacted by Member States which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trade, are considered as measures having an equivalent effect to quantitative restrictions.
- The Court subsequently recognised, in the case 'Cassis de Dijon' (C-120/78, 20 February 1979), that Member States may make exceptions to the prohibition of measures having an equivalent effect on the basis of legitimate goals (relating, among other things, to the effectiveness of fiscal supervision, the protection of public health, the fairness of commercial transactions and the defense of the consumer).
- The Court then subsequently limited its previous case law in the joint cases of Keck and Mithouard (C-267/91 and C-268/91, 24 November 1993), where it stated that certain selling arrangements fall outside the scope of Article 34 TFEU, provided that they are non-discriminatory (i.e. they apply to all relevant traders operating within the national territory, and affect in the same manner, in law and in fact, the marketing of domestic products and products from other Member States).

It is clear from the case law of the CJEU that the possibility to derogate from Article 32 would qualify as a measure having an equivalent effect to a quantitative restriction in that it would impede access of private individual to the market of the Member States where they are not resident. The question is, therefore, whether this derogation would serve a legitimate goal.

#### *Legitimate goal*

As described above, measures departing from the provisions of Article 32 may have equivalent effect to a quantitative restriction on imports and thus, in principle, not be authorised. The CJEU has ruled that such a principle can be derogated on one of the public interest grounds set out in Article 36 TFEU or in order to meet overriding requirements of public interest, subject to the principle of proportionality. Derogating from Article 32 would therefore be possible, provided that the derogation is appropriate for securing legitimate objectives and does not go beyond what is necessary in order to attain these objectives.

Preventing tax evasion and tax avoidance is a key EU policy, and Member States may wish to depart from the provisions of Article 32 for the purposes of preventing fraud and protecting Member States' financial interests. The achievement of a health objective is also one of the public interest grounds set out in Article 36 TFEU. The analysis in this chapter indicates it is feasible that Member States may wish to seek a derogation in order to protect public health, by restricting the availability of lower priced alcohol and tobacco products to its residents. This is particularly relevant for manufactured tobacco, given the EU is part of the WHO Framework Convention on Tobacco Control.

Introducing the possibility to derogate could therefore quite feasibly serve legitimate goals. However, any derogation would also need to be proportionate.

#### *The proportionate nature of the derogation*

Assessing the proportionality of a derogation first requires an assessment of its appropriateness. In the previous paragraph, we have noted two examples that indicate a derogation could be appropriate on various grounds.

Second, proportionality of the derogation requires an assessment of whether it would go beyond what is necessary in order to effectively achieve its objectives. This analysis should be undertaken with reference to the objective of the free movement of goods. In that respect, the derogation may be considered to go beyond what is necessary if the objectives can be met equally effectively by measures that are less restrictive for trade within the European Union (see the judgment in *Rosengren and Others*, C-170/04, EU:C:2007:313, paragraph 43, and the case-law cited).

The analysis in this chapter suggests that some Member States' fiscal and public health objectives are not being met by the measures currently available to them. Relatively high guide levels and the inability to enforce them as thresholds may be playing a role in preventing these authorities from effectively collecting revenue and protecting public health, particularly for consumers with ready access to the domestic markets of cheaper Member States. While the weight of evidence would, of course,

need to be considered for any individual request, this suggests that a case might be made that a derogation to the minimum guide levels in Article 32 constitutes a proportionate response to this issue.

### Analysis

A number of Member States have expressed their concern at the current guide levels, and it is therefore reasonable to expect that these specific Member States, and likely others, would reduce their guide levels if a derogation were provided. For the purpose of this assessment, it is assumed that only countries with significant cross-border flows reduce their guide levels.

For consistency and ease of comparison this analysis is based on the same assumptions as Option 5 (binding guide levels) - a uniform reduction in guide levels across all products, all individuals currently complying continue to comply with the lower levels and that individuals not currently complying reduce their consumption to be just compliant - for the Member States who seek a derogation. The table below indicates that even for these Member States, however, the reduction in guide levels would need to be large in order to have any significant impact.

**Table 23: Impact of reduction in applicable minimum guide levels only for Member States with significant outbound cross-border personal acquisition**

Reduction in minimum guide levels in Article 32(3)		0%	10%	25%	50%	75%
Share of current cross-border purchases below guide levels per trip	Alcohol	91.4%	90.2%	87.9%	80.3%	67.2%
	Tobacco	90.8%	89.4%	86.9%	79.3%	67.7%
Reduction in volume of cross-border shopping	Pure Alcohol (litres)	13 l m	16 l m	20 l m	31 l m	49 l m
	Cigarettes (20 pack)	254 m	262 m	274 m	298 m	343 m
Reduction in value of cross-border shopping (€m)	Alcohol	513	605	758	1171	1879
	Tobacco	355	367	384	418	480
Reduction in volume of cross-border shopping as share of total consumption in these MS	Alcohol	0.73%	0.86%	1.08%	1.66%	2.67%
	Tobacco	3.08%	3.18%	3.34%	3.63%	4.17%
Reduction in gross revenue loss (€m)	Alcohol	220	259	325	502	805
	Tobacco	1227	1267	1328	1443	1658

**Notes:** For illustrative purposes Member States whose residents make a high volume of cross-border purchases and hence are assumed to derogate are Belgium, Denmark, Finland, Germany, Sweden and United Kingdom for alcohol and Belgium, Denmark, France, Germany and United Kingdom for tobacco. Caution is advised as no assertion can be made regarding specific Member States

**Sources:** Authors' estimates based on consumer survey, WHO (2018c), KPMG (2017)

Around 68% of all cross-border purchases would still be below guide levels in Member States with significant cross-border flows even if they were to reduce them by 75%. Translated into the share of total consumption, this corresponds to approximately 2.7% and 4.2% for alcohol and tobacco, respectively.

Another important aspect to address when measuring the impact of reducing guide levels and making them binding under a derogation is the change in the overall consumption in those Member States to which one applies. The reduction in cross-border personal acquisition estimated above is expected to lead to a shift in purchases towards domestic markets at higher prices, ultimately resulting in consumers buying less alcohol and tobacco.

The specific degree of substitution is subject to uncertainty<sup>52</sup>. Specifically, there is a limited population for whom the price motive is fundamental and who therefore display a high price responsiveness for these products. A very conservative (low) estimate is found using the price responsiveness of the general population to increases in prices of alcohol and tobacco.<sup>53</sup> The consumer survey suggests a much higher price responsiveness for cross-border shopping than for price generally. E.g. for 42% percent of cross-border shoppers of beer/cider, the price is the only (reported) factor for cross-border shopping, and for cigarettes 38% report that price is the only factor. To the extent that the reduction in cross-border purchases is concentrated around those who consume large amounts<sup>54</sup> or who otherwise may not have access to these goods<sup>55</sup>, the impact may be larger. Moreover, for consumers with very high levels of consumption the alternative might also be illegal imports to sustain a high level of consumption.

To account for these uncertainties, we have provided a range of estimates (low, mid and high estimates).<sup>56</sup> However, the potential impact on overall consumption appears to be moderate, reflecting that residents undertaking large volumes of cross-border shopping will purchase many of the same or similar products at home. Specifically, a 10% reduction in guide levels is estimated to cause the consumption of tobacco products in that Member State to fall by 0.36%-0.79% on average. If these levels are reduced by 75%, the estimated reduction on average is 0.50%-1.37% and 0.55%-1.22% for alcohol and tobacco, respectively.

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<sup>52</sup> Please see annex for a detailed overview of the methodology.

<sup>53</sup> The most common price elasticity estimates used are -0.50 and -0.40 for alcohol and tobacco, respectively. See annex for detailed references to studies.

<sup>54</sup> Some studies find higher price responsiveness among heavy users of alcohol, e.g. Purshouse et al. (2010) and Byrnes et al. (2016). However, the evidence is generally mixed, as lower price responsiveness is found in, for example, Pryce et al. (2019), Aepli (2014) and Wagenaar et al. (2009). However, all studies focus on general price elasticities not sensitivity to cross-border shopping, which is quite different.

<sup>55</sup> Young people are consistently found to be more price responsive than the general population, see, for example, Euromonitor International (2014) and WHO (2012).

<sup>56</sup> The high estimate reflects price responsiveness of residents living close to the border found in the recent study, Friberg et al. (2019) Hump-shaped cross-price effects and the extensive margin in cross-border shopping, specifically assuming a price elasticity of -1.1.

**Table 24: Estimated impact on total consumption in Member States with a derogation**

Reduction in current minimum guide levels outlined in Article 32	Change in overall consumption (%)					
	Low estimate		Mid estimate		High estimate	
	Alcohol	Tobacco	Alcohol	Tobacco	Alcohol	Tobacco
0%	0.14%	0.34%	0.27%	0.54%	0.37%	0.74%
10%	0.16%	0.36%	0.32%	0.58%	0.44%	0.79%
25%	0.20%	0.39%	0.40%	0.63%	0.55%	0.86%
50%	0.31%	0.45%	0.62%	0.73%	0.85%	1.00%
75%	0.50%	0.55%	1.00%	0.88%	1.37%	1.22%

**Key assumptions:** Products are either purchased cross-border or domestically, i.e. home production, illicit trade etc. are disregarded. Low price elasticity estimates are -0.50 and -0.40 for alcohol and tobacco, respectively. Mid-estimates are based on a price elasticity of -0.8 for both alcohol and tobacco and the high estimates is based on a price elasticity of -1.1 for both alcohol and tobacco. The assumptions from the analysis in the previous table also apply here.

**Sources:** Authors' estimates based on consumer survey, WHO (2018c), KPMG (2017).

Because the relatively small change in consumption can be partially attributed to the substitution of purchases to a consumer's domestic market, the effect of a derogation in reducing fiscal and economic distortions would be higher. High excise rate policies in Member States with a derogation would be more effective at curbing excessive consumption, and there would be a more level playing field for businesses in border regions with significant excise differentials.

This policy option could also help curb fraud in Member States with high excise rate, as large cross-border purchases illegally imported to be resold at a profit, is expected to overrepresented in the share of purchases affected by this policy option.

### **Overall assessment of option**

This must be compared directly with the option to replace the guide levels with lower, binding thresholds (Option 5), as both options tackle the issues with personal acquisition in a similar way. The key difference is that the derogation is more targeted than a general binding reduction, maintaining the current levels as guides for those Member States who cannot - or do not feel the need to - make a case for a derogation. In this sense the derogation option is a more proportionate approach to tackling these issues, acknowledging the issues are isolated to areas of the EU.

The cost of this is that Member States would be required to prepare evidence to support an application to derogate, and the Commission will have to undertake an approvals process. This would need to be revisited every few years, depending on the length of time the derogation was granted for.



The key benefits of this option are that it would address the most relevant issues for stakeholders, including the fiscal and economic distortions driven by cross-border personal acquisition and the public health impacts associated with excess consumption. As with the EU-wide introduction of lower, binding thresholds, the impact is highly dependent on the degree to which the thresholds are reduced below the current guide levels.

Although the analysis here does not consider the possible combination of a reduction in the general guide levels (either binding or unbinding) and the possibility for Member States to derogate even lower from these levels, this is also a possibility. If a reduction in the general guide levels were significant enough and/or combined with a move to binding thresholds, it may simply be the case that fewer Member States opt to apply for a derogation.

Assessment summary (PA Option 6)			
Proportionality	++	Coherence	++
Economic and social impacts	++	Relevance	++
Administrative burden	---	Effectiveness	+++
Practicality of implementation	--	EU added value	++
		Efficiency	-

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---)

This is compared with the other personal acquisition policy options in Chapter 7.

#### 4.11.7. Policy Option 7: Reversing the burden of proof

##### **Outline of policy option**

Article 32 of the Directive and CJEU case law currently places responsibility on the relevant authorities to demonstrate that goods are acquired for commercial purposes. This places a heavier burden of proof on the authorities to produce more or better evidence to assert goods are acquired by an individual for commercial purposes. This can increase the risk of disputes at the border and the time taken to investigate such cases in the absence of the private individual being required to hold evidence to support the nature of the personal acquisition.

This policy option would place the responsibility on the consumer to demonstrate that the goods are for their own use, where these goods exceed the guide levels in Article 32(3). This would place a formal requirement on the holder of the goods to provide an explanation – moving away from the current role of the customs officer to prove goods were acquired for commercial purposes. This could be mandatory or optional for Member States to implement.

The private individual would be required to hold documentary evidence when crossing the border to demonstrate, if requested by the relevant revenue authorities performing controls, the acquisition was for personal consumption.

The evidence required would reflect the general nature of Article 32(2) of the Directive which requires the decision-maker to consider the five listed criteria *inter alia* without being prescriptive on the evidence required. In this regard, whilst it would not be possible to provide an exhaustive list of evidence required (as this could be used as a means to circumvent the rules), Member States could implement the reverse burden of proof where the guide levels are exceeded.

There is EU precedent for requiring individuals to demonstrate personal acquisition is for their own use. Finnish law currently requires individuals to “reasonably prove” that alcohol purchases are for their own use, and Finnish customs instructions allow officials to require an “explanation” or “account” from an individual. Documentation may be considered but is not required unless specifically asked for (Finnish Customs, 2019a). Germany’s regulations require individuals with goods in excess of the thresholds to show that they are for their own use, if they wish to bring them in without paying German duty, without specifying the nature of the proof required (German Customs, 2019).

The United Kingdom’s Excise Duties (Personal Reliefs) Order SI 1992/3155 initially put the burden of proof squarely on the traveller to demonstrate that any purchases in excess of the guide levels were for their own use. In 2002, however, the UK’s High Court found that this order contravened EU law (specifically Directive 92/12/EEC) in creating a presumption that goods in excess of these levels were held for commercial purposes. Later that year the government announced it was repealing the order, replacing it with new rules shifting the onus back onto customs officers to be satisfied that goods were for a commercial purpose (UK House of Commons Library, 2013).

For excise more generally, reversal of the burden of proof is commonly seen in the imposition of penalties, where the taxpayer is required to demonstrate their behaviour should result in either a nil or lower penalty being applied for an infringement.

The reverse burden of proof would have to be compatible with the European Convention on Human Rights and Fundamental Freedoms. This could, however, be justified as proportionate and reasonable on the basis that the rules would only apply to an individual bringing goods that exceed the guide levels.

### **Analysis**

The estimated impact of this option depends on a number of important factors, for example the nature and quantity of information consumers are required to carry and whether this information is readily available or new documents have to be created. For the purposes of this analysis we assume that consumers are required to hold one document approved by the relevant authorities (e.g. stamped), prior to engaging in cross-border purchases above current guide levels.

The figure below presents estimates of the per trip and total costs, based on average wage data, the consumer survey, and the assumption that 10% of individuals currently making purchases above the guide levels will supply evidence for future purchases (with the rest either lowering their purchases to just under the guide levels or not complying).

**Table 25: Estimated compliance costs of reverse burden of proof**

Time taken to identify and certify necessary evidence	Cost to consumer per trip	EU Total (m)
Low estimate (2 hours)	€54.80	€61
High estimate (3 hours)	€82.20	€92

**Notes:** Based on the assumptions outlined in the preceding paragraph

**Sources:** Authors' estimates based on consumer survey, Eurostat

This policy option is expected to put a significant burden on consumers, who would have to obtain or create the appropriate documents and then ensure these were suitably authorised (possibly including travel or postage to a government agency).

This policy option is therefore expected to have a large impact on legal cross-border shopping above the guide levels, and to increase involuntary non-compliance from private individuals who are not aware of the requirements.

Given these difficulties, it is likely that many consumers would refrain from making cross-border purchases in excess of current guide levels. Assuming 75% of individuals currently doing so would refrain from purchasing above the guide levels, this option is estimated to reduce the volume of cross-border shopping by 20 million litres of pure alcohol and 255 million standard packages of cigarettes each year.

**Table 26: Estimated impacts of reversing the burden of proof**

Reduction in volume of cross-border shopping		Reduction in value of cross-border shopping (€m)		Reduction in volume of cross-border shopping as a share of total consumption		Reduction in gross revenue loss (€m)	
Alcohol	Tobacco	Alcohol	Tobacco	Alcohol	Tobacco	Alcohol	Tobacco
20 l m	255 m	746	344	0.43%	1.16%	338	1,234

**Sources:** Authors' analysis based on Consumer Survey, WHO (2018) and KPMG (2017)

**Notes:** Volume of alcohol is measured in litres of pure alcohol and tobacco figures are reported in terms of standard packages of 20 cigarettes.

In some cases this policy would reduce resources that custom authorities must spend in enforcing the current rules, while not necessarily being mirrored in an equivalent increase in compliance costs for consumers. For example, documenting that a party is organised on a specific date would potentially only result in manageable compliance costs for consumers, while authorities would have to spend significant resources in proving the same event is scheduled to take place. Putting the onus on consumers would also be a deterrent for criminals exploiting the current arrangements.

## Overall assessment of option

This option would not impact the majority of individuals purchasing excise goods in another Member State, given purchases are for amounts below the current guide levels. For those who make purchases above the guide levels for their own use, the impact would be limited to having to bring evidence with them when making those purchases. The biggest impact would be on those who currently purchase large amounts for other reasons, including fraud, or who cannot evidence that it is for their own use.

The key drawback of this option is the impracticality for individuals of having to determine what evidence to obtain and bring with them. While it may be easier for an individual getting married to present evidence of a future wedding, for example, those who genuinely consume large quantities themselves, or who consume average quantities but desire to stock up on one trip, may not be able to evidence this adequately.

In addition, individuals may not know how much they will purchase sufficiently in advance of travelling to bring the necessary evidence with them. For example, a French resident may travel to Luxembourg with the intention to buy one 600g bucket of fine cut tobacco and find on arrival that prices cheaper than expected and want to buy two buckets instead. Because this would exceed the one-kilogram guide level, in this scenario the individual would not be able to make the purchase unless they had the foresight to bring suitable evidence with them just in case.

Overall, the benefits of this option appear to be relatively small in comparison to the burden and uncertainty it would place on consumers.

Assessment summary (PA Option 7)			
Proportionality	0	Coherence	+
Economic and social impacts	+	Relevance	+
Administrative burden	-	Effectiveness	+
Practicality of implementation	0	EU added value	0
		Efficiency	-

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---)

This is compared with the other personal acquisition policy options in Chapter 7.

### 4.11.8. Policy Option 8: A combination of these policy options

#### Outline of policy option

In recognition of the interplay between many of the options and the impact of one on the effectiveness of another, this option would combine a number of the policy options presented above. There are numerous ways in which these options could feasibly be combined, but for the purposes of this analysis we present and assess the following

combination designed to demonstrate how these changes can be combined to meet the policy objectives of a change to Article 32:

- Option 2:** Reducing the minimum guide levels,
- + **Option 3:** Amending the definition of "own use"
- + **Option 4:** Adding a frequency to the guide levels
- + **Option 7:** Reversing the burden of proof

This would involve a reduction in the guide levels and a tightening of the description of how they should be understood: both in terms of the definition of "own use" and the time period over which they apply. Any cross-border purchases in excess of these levels would need to be accompanied by supporting evidence that the purchases were for the individual's own consumption. For example, an individual who currently purchases 110 litres of beer each month from a neighbouring Member State for large parties may find themselves only able to purchase 100 litres of beer annually for their own consumption, and having to supply evidence that the purchase is for their own consumption if they exceed this guide level.

The interaction between the guide levels and the frequency of purchase would need to be carefully considered under this option, as halving the guide levels or doubling the time period would be equivalent (e.g. setting a level of 100 litres of beer per year would be equivalent to a level of 50 litres of beer per six months).

### ***Analysis***

This option would make the guide levels significantly more restrictive, as the combination of a reduction in guide levels and the addition of a frequency both serve to reduce the amounts that could be purchased before exceeding the guide levels.

The table below presents estimates of the impact of these combined changes. This analysis is based on a one year frequency, 25% of purchases above the guide levels initially being used for gifts or large events, and a range of uniform reductions in the guide levels. In practice any of these policy settings may differ.

**Table 27: Estimated impacts on Member States of combining policy options 2, 3, 4 and 7**

Proportional reduction in guide levels		0%	10%	25%	50%	75%
Share of current cross-border purchases below guide levels	Alcohol	78.9%	77.8%	76.8%	74.4%	70.2%
	Tobacco	75.7%	69.7%	68.6%	61.7%	45.2%
Reduction in volume of cross-border shopping	Pure Alcohol (litres)	37 l m	107 l m	113 l m	126 l m	143 l m
	Cigarettes (20 pack)	134 m	409 m	420 m	441 m	471 m
Reduction in value of cross-border shopping (€m)	Alcohol	1,332	3,867	4,083	4,562	5,172
	Tobacco	181	552	567	595	636
Reduction in volume of cross-border shopping as share of total cons.	Alcohol	0.78%	2.25%	2.38%	2.66%	3.01%
	Tobacco	0.61%	1.86%	1.91%	2.00%	2.14%
Reduction in gross revenue loss (€m)	Alcohol	603	1,750	1,848	2,065	2,341
	Tobacco	648	1,978	2,032	2,134	2,278

**Notes:** A full explanation of the approach and assumptions is included in the Annex.

**Sources:** Authors' estimates based on consumer survey, WHO (2018c), KPMG (2017)

These estimates highlight the important interaction effects between the changes. With no reduction in the guide levels the combinations of amending the wording, adding a frequency and introducing reverse burden of proof would decrease cross-border shopping by approximately €1.3 billion and €181 million for alcohol and tobacco, respectively. This is equivalent to 0.8% and 0.6% of overall consumption of alcohol and tobacco, respectively.

Once a reduction in the guide levels of just 25% is introduced, cross-border purchases fall by approximately €4.1 billion and €567 million for alcohol and tobacco, respectively. This is equivalent to 2.4% and 1.9% of overall consumption of alcohol and tobacco<sup>57</sup> - a difference of €2.8 billion (1.6%) and €386 million (1.3%), respectively. This is a much more significant change than introducing a 25% reduction in the guide levels in isolation (policy option 2), which was estimated to reduce cross-border purchases by just €482 million (0.28% of consumption) for alcohol and €84 million (0.28% of consumption) for tobacco.

This combination option would also create compliance costs for individuals, who would have to monitor the volume of their purchases so as not to exceed the levels over the

<sup>57</sup> Note that the share of total consumption is for all EU Member States and consequently that Member States with larger shares of cross-border shopping are affected to a greater extent as a share of total consumption.

given time period, and ensure they brought appropriate evidence with them for purchases that would cumulatively exceed these levels.

Amending “own use” to “own consumption” while at the same time reversing the burden of proof (for purchases that exceed the guide levels) would reduce the compliance costs for those making large purchases for gifts or weddings, as they will no longer be able to do this without paying excise in the Member State of consumption. For those who continue to make purchases for allowable purposes over the guide levels, we expect the estimate of the per capita compliance costs relating to the reverse burden of proof element (presented in Section 4.11.7) to be broadly similar. Of course, the lower the guide levels become, the higher the number of individuals who would be required to obtain and carry this evidence. In practice individuals would likely only be asked to provide this evidence when a single purchase exceeded the guide levels, as for any individuals not under investigation authorities would not be aware of their cumulative purchase levels.

Overall, these estimates suggest that combining policy option 2, 3, 4 and 7 would have a more significant impact on cross-border shopping and compliance than these separate options in isolation.

### **Overall assessment of option**

Much of the analysis of this option is contained in the analysis of the separate options it comprises, so this section focuses on the interaction between the different components. As this analysis indicates, the combination of options is expected to have a much greater impact than the separate components on their own, because the components interact in complementary ways.

That being said, these would need to be carefully calibrated so as to produce a coherent outcome. There are two obvious points in this regard: first, the interaction between the reduction in guide levels and the choice of specific frequency to which they pertain; and second, the interaction between reversing the burden of proof and amending the definition of “own use” (which may render certain evidence invalid).

This option would more tightly restrict the cross-border purchases made by individuals without making the levels binding, and would align to the objectives of reducing tax-driven fiscal and economic distortions and protecting public health. It would do so for all Member States, however, not just those where the problems are concentrated.

The option presented here is illustrative of the possible impacts of the interaction between the different policies presented in this chapter, but other combinations may also be feasible.

Assessment summary (PA Option 8)			
Proportionality	-	Coherence	+
Economic and social impacts	++	Relevance	++
Administrative burden	-	Effectiveness	++
Practicality of implementation	0	EU added value	++
		Efficiency	+

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---)

This is compared with the other personal acquisition policy options in Chapter 7.



## 5. Distance selling

This chapter covers the distance selling of excise products by businesses to consumers in another Member State. It should be noted that although Article 36 of the Directive 2008/118/EC provides “general” rules covering the treatment of all excise goods traded within an ecommerce/distance selling environment, in practice distance selling may not be equally relevant for all excise duty goods for the following reasons:

- Tobacco: 17 Member States (PwC Network Survey, National Authority Questionnaire and UK Government, 2019b), currently ban local and/or cross-border distance sales of tobacco products, while a further 7 Member State authorities impose registration requirements; and
- Energy products: Considering the practicality and cost associated with transporting energy products direct to consumers, cross-border distance selling is not common within the European Union.

In this context, the chapter starts by presenting the current legal framework in place across the EU. It then examines the identified problems that have arisen as a result of the application of Directive 2008/118/EC before finally presenting a set of evaluated potential policy responses that could be used to tackle the identified issues.

### 5.1. The EU legal framework for distance selling

The core legal framework for distance selling is captured by a number of principles and these are set out below:

- Restricted list of possible purchasers of excise goods under distance selling;
- Application of the destination principle;
- Reimbursement of the duty-paid in the country of dispatch;
- Limited list of persons liable to pay the excises under distance selling scheme;
- Procedural requirements applicable to the vendor or its tax representative;
- Special national distribution arrangements; and
- No thresholds for distance selling of excise products.

It is also important to note that the definition of “distance selling” (particularly in relation to excise goods) was not yet matured, and ecommerce was in its relative infancy when Directive 2008/118/EC was drafted.

#### 5.1.1. Article 36 of Directive 2008/118/EC

Article 36 of Directive 2008/118/EC describes the treatment of cross-border movements of excise goods already released for consumption in one Member State and sold via distance selling in the EU. The Member State of destination determines the conditions of chargeability, the rate applicable, the procedures for the declaration and payment of the duty in that Member State (European Commission, 2015a).

In the context of the EU legal framework, “distance selling” takes place when a trader in one EU Member State supplies goods that have already been released for consumption (“duty-paid”) in the Member State of dispatch to a private individual in

another Member State and the vendor is responsible, directly or indirectly, for delivery of the goods (e.g. mail order, internet sales etc). In this situation, the vendor is liable to pay the excise duty and VAT of the Member State of destination at the time of delivery; the excise duty must be guaranteed to the satisfaction of the fiscal authority of destination before the goods are dispatched.

### ***Destination principle***

The destination principle, captured in Article 36, paragraphs 1 and 2 of the Directive, is at the heart of the EU framework for distance selling of excise goods. The Directive states that goods that are already released for consumption in one Member State, which are sold to a person who does not carry out any economic activities in another Member State, are subject to excise duty in the Member State of destination if the goods are transported to another Member State directly or indirectly by the vendor. This way, consumption taxes can be retained by the Member State of destination.

The destination principle applicable for the distance selling of excise goods is similar to the principle used for VAT.

### ***Reimbursement of excise duty levied in the first Member State***

Article 36, paragraph 5, of the Directive 2008/118/EC states that, under the destination scheme, the excise duty levied in the Member State of release for consumption shall be reimbursed or remitted, at the vendor's request, where the vendor or his tax representative has followed the required procedures as set out in Article 36, paragraph 4, of the Directive 2008/118/EC.

However, despite this clear requirement for reimbursement of excise duty-paid in the Member State of dispatch, reimbursement procedures have not been harmonised, causing legal uncertainty for businesses operating in distance sales of excise goods.

### ***Person liable to pay the excise duty***

Article 36, paragraph 3 of Directive 2008/118/EC identifies and outlines the person liable for the payment of the excise duty in the Member State of destination of the excise goods.

Initially, the vendor of the goods is liable to pay the excise duty in the Member State of destination, but the Member State of destination has the discretion to subsequently allow a tax representative to be appointed to pay the relevant excise duty. Ultimately, and to protect the rights of the Member State of destination, the consignee (i.e. the person who will purchase the excise goods) may be held liable for the payment of the excise duty if neither the vendor nor the tax representative registers their identity and guarantee the payment of the excise duty before dispatching the excise goods.

The discretion of the Directive to determine the person required to account for the excise at destination has the potential to create a complex and sometimes challenging environment for economic operators and national authorities.

### ***Procedural requirements of the vendor or its tax representative***

Article 36, paragraph 4, of Directive 2008/118/EC states that the vendor or their tax representative should comply with the following requirements in the Member State of destination:

Before the dispatch of the goods:

- Register the vendor/tax representative; and
- Guarantee the payment of the excise duty with the competent office.

Member States may, under conditions determined by them, simplify these requirements based on bilateral agreements.

After the arrival of the goods:

- Pay the excise duty after delivery of the excise goods; and
- Keep accounts of the delivery of the relevant goods.

The purpose of these requirements is to identify and keep track of the excise goods under a distance selling scheme, as well as to collect the correct amount of excise duty within the Member State of destination.

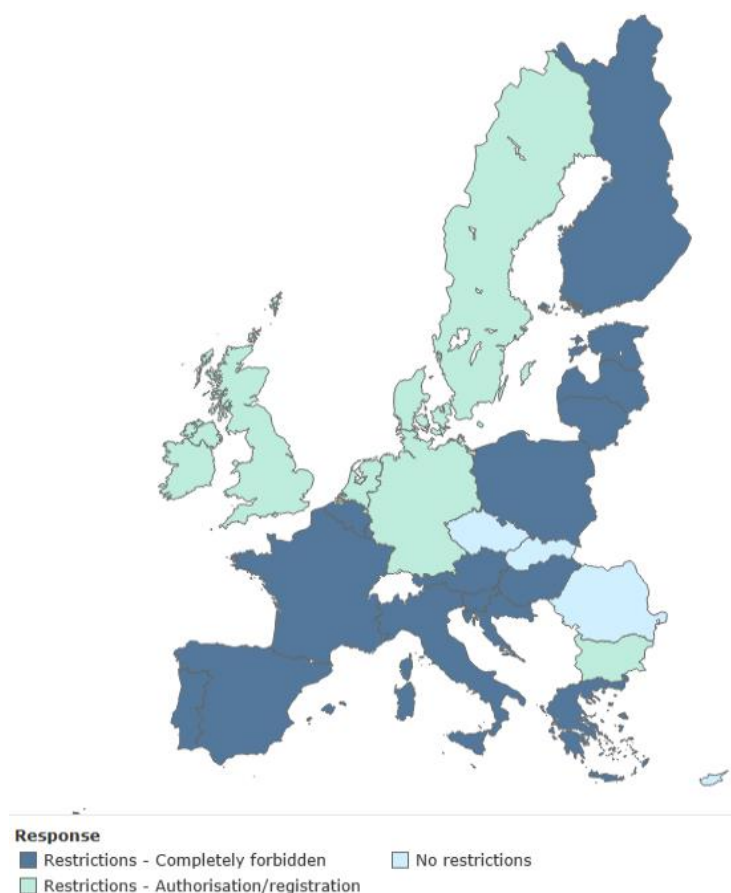
### ***Special national distribution arrangements***

Article 36, paragraph 6, of Directive 2008/118/EC states that Member States may lay down specific rules for applying paragraphs 1 to 5 to excise goods that are covered by special national distribution arrangements.

### ***Distance sales of tobacco***

While Article 36 of the Directive allows for distance sales of tobacco products, numerous Member States have decided to make use of either paragraph 6 of Article 36 or provisions in the Tobacco Products Directive (Directive 2014/40/EU) to restrict/ban this possibility. This has been visualised in the following figure:

**Figure 34: Distance selling of tobacco across the EU**



**Source:** PwC Network Survey and National Authority Questionnaire

### 5.1.2. Key rulings of the Court of Justice of the European Union

The concept of an excise “distance sale” was introduced in Article 36 of the 2008 Directive. Prior to the introduction of this Directive the law merely considered whether excise goods were transported by a private individual for their own use. If not, then the excise had to be paid in the country of consumption, irrespective of whether the excise had been paid in the country of origin.

Judgement of 2 April 1998, *The Man in Black Limited and John Cunningham*, C-296/95, EU:C:1998:152, in dispute with the Commissioners of the UK Customs and Excise, was the first case to deal with organised cross-border shopping. The case was linked heavily with the private individual allowances section of the 1992 Directive, Article 32(3), as that was the only law in place at the time. It was the forerunner, though, of what is today known as “distance selling”.

The case involved a trader in Luxembourg offering for sale cigarettes which were transported from Luxembourg to private individuals in the UK with excise accounted for in Luxembourg but not in the UK. The transport was arranged by the vendor and a restriction was placed on orders to not exceed the 800-cigarette guide level on private use.

The case studied the legal construction of the relevant Articles within Directive 92/12, which at the time did not mention “distance selling” as such and were considered therefore on the framework of private individual use. It was decided in that case that the excise must be accounted for and paid in the country of destination, and this was used as the basis for the introduction of Article 36 when the 2008 Directive was introduced.

Similarly, the judgement of 23 November 2006, B.F. Joustra, C-5/05, EU:C:2006:733 involved an individual who purchased wine on behalf of a group of consumers and arranged for a third party transport company to collect the goods from premises in France and deliver the wine to an address in the Netherlands where the wine was dispatched to the relevant individuals. Again, this case was heard prior to the 2008 Directive being in force and although the main considerations were the Articles on private individual eligibility for an excise waiver in the country of destination, it can reasonably be assumed that these sales would be known as “distance sales”.

In contrast to Personal Acquisition, the body of CJEU case law on Article 36 of the Directive is more limited. One of the key cases relates to how Article 36 allows Member States themselves to determine the conditions for the reimbursement of excise duty. In this regard Member States have developed legislation that is not uniform throughout the European Union. As a result, vendors of excise goods that want to sell their products in another Member State need to comply with the regulations of the Member State concerned. As discussed previously, this adds complexity for businesses engaging in distance selling of excise goods across the EU.

The complexity described above was tested as part of the Judgment of 12 November 2015, *Valev Visnapuu v kihlakunnansyyttäjä Suomen valtio - Tullihallitus*, C-198/14, EU:C:2015:751. In this case, an Estonian company (EIG), controlled by a natural person, sold alcoholic beverages to Finnish residents via the company’s website. EIG did not declare the importation of the beverages, nor did it designate a tax representative for the fulfilment of these duties. As a consequence, excise duty was not paid in Finland.

This case had important implications for the Finnish law on Alcohol (No 1143/1994) as two of the requirements regarding the distance selling of alcohol had not been met. The requirement that a licence is required to import alcoholic beverages for commercial or other business purposes (a licence is not required upon importation for private purposes). A state-owned enterprise (Alko) holds the monopoly for the sale of alcoholic beverages, bar two major exceptions: firstly, beverages containing no more than 4.7% ABV (later increased to 5.5%) may be sold at retail, by any person who has obtained a retail sales licence from the authorities; secondly, fermented alcoholic beverages containing no more than 13% ABV may be sold at retail, not only by Alko, but also by any person to whom the competent authority has granted permission to produce the product in question.

The Court found that the requirement to hold a retail sales licence in order to import alcoholic beverages does prevent traders established in other Member States from freely importing alcoholic beverages into Finland. This effectively means a retail sales licence is the equivalent of having a quantitative restriction on imports within the meaning of Article 34 of the TFEU. However, the Court also declared that this measure

is justified on the basis of Article 36 of the TFEU which allows an obstacle to the free movement of goods to be justified on one of the public interest grounds set out in this article - measures must be appropriate for the attainment of the objective pursued, and must not go beyond what is necessary in order to attain it. Therefore, in relation to public health, Member States are allowed a certain degree of discretion when deciding on the proportionality of a measure.

Consequently, the Court decided that Finnish national law agrees with EU law (namely Article 34 and 36 TFEU), and that Member States can indeed restrict the distance selling of excise goods by way of a retail sales licence.

This case highlights the complexity of the multiple compliance procedures made possible by Article 36 of the Directive. Member States can choose (albeit with respect for EU law) to impose conditions to, in this case, protect public health, which makes it difficult for economic operators to act according to national legal provisions in all relevant Member States. This can lead to increased compliance and administrative costs for businesses that are willing to comply with the requirements. There is also a risk of an increase in illicit and/or fraudulent activity, as businesses fail to comply with the different requirements in each Member State, either due to their difficulty, lack of knowledge or choice.

All three of the above cases involved traders who arranged the sale and transport of excise goods from one Member State to another on behalf of a consumer in the destination Member State. Case C-198/14 provides a clear analysis of the complexities of complying with the relevant rules and regulations in order to account for and pay the relevant excise duty in the country of destination, and the complexities surrounding the practical application of the law.

## **5.2. Overview of the current situation**

For economic operators engaged in distance selling of excise goods, the ability to undertake transactions with consumers quickly and efficiently is critical to their business model. In the digital economy, markets are driven by convenience, speed of shipment and efficiency. To be competitive in these conditions, particularly in terms of retaining and increasing the consumer base, businesses engaged in distance selling must be able to deliver goods to consumers rapidly, with minimal administrative or compliance costs. In this context, traders are consistently reporting that they face high regulatory burdens and barriers to trade, which goes against some of the founding principles of the internal market.

### **5.2.1. Changes to the distance selling market**

The “distance selling” clauses within Directive 2008/118/EC, which are detailed in the previous section, date from a time when distance selling, and ecommerce in general, were in their relative infancy. Since then, online shopping has grown to such an extent that companies can now offer a superior range of products to that of a retail supermarket on their platform, and usually at a lower cost.

Despite the overall increase in ecommerce and trade, the magnitude and level of distance sales of excise products remains difficult to measure. The European

Commission (2015a) evaluation highlighted the limited availability of quantitative data on distance selling across the EU, particularly at a Member State level. One exception was a limited survey of economic operators, which highlighted that the majority of distance sales were for wine (95% of operators performing distance sales engaged in the distance selling of wine products), with spirits being the next most popular (13%). The survey also suggested that approximately 70% of economic operators performing distance sales engaged in only 1-2 distance sales on a monthly basis.

Since the 2015 evaluation, there have not been any significant further studies carried out into distance selling in the EU, and secondary sources of data, like business and national authority metrics, remain limited. In Section 5.3, this study presents estimates of the size and scale of the current distance selling market, including projections at a Member State level where possible. It also provides qualitative and quantitative analysis of the four key problems identified in the distance selling sector, using primary data from the business and consumer survey and intelligence provided by national authorities.

### **Technological Development**

Since 2008, national authorities have increasingly automated tax compliance procedures and implemented supporting IT systems across a range of direct and indirect taxes, with further plans for the OSS for VAT due to come into force in 2021.

However, the lack of harmonisation arising from the ability for Member States to set requirements for distance selling has been exacerbated by differences in the level of automation and the type of IT systems across Member States. As highlighted in the case law in Section 5.1.2, distance sellers must comply with requirements in both the Member State of destination and origin. Differences between Member States in what is automated and what is paper-based can create complexities for distance sellers in complying with different systems.

Member State authorities are aware of the issue and provide documentation and guidance online. However, this still gives rise to practical issues around language and accessibility, as it is not feasible for all authorities to translate their guidance and accompanying webpages into all 24 official languages of the European Union.

#### **5.2.2. Compliance requirements for distance selling**

A key finding of the previous evaluation was that the lack of harmonisation between Member States has led to a variety of complex compliance requirements being adopted across the European Union. This study sought to better understand the differences in compliance procedures through the national authority questionnaire, PwC Network Survey, and further secondary sources. Four key areas which could restrict distance selling between Member States were investigated:

- Consumer age verification;
- Fiscal marks;
- Health warnings; and
- Bans on distance sales of tobacco products.

The results are presented in detail later as part of the assessment of Problem 4 in Section 5.3.4. Beyond these areas there are other related issues due to the lack of harmonisation across compliance procedures.

### **Double Taxation**

Excise duty should, ultimately, only be paid once. Double taxation has the potential to occur when excise duty is levied both in the Member State of dispatch and the Member State of destination without a refund being paid by the former. There is a risk of double taxation under Article 36 of Directive 2008/118/EC, which permits the levy of excise duty in both the Member States of dispatch and destination.

Given the various procedures that are imposed by Member State authorities in order to obtain a reimbursement, the repayment of excise duty may take several months and create a considerable administrative and cash flow issue for the vendor. Such burdens can often be disproportionately higher for SMEs. In some Member States, particularly where excise duty rates are high, there is evidence of widespread drawback or reimbursement fraud, which is explored in detail in the following section.

The Directive 2008/118/EC recognises the risk of double taxation and the necessity to take it into consideration, especially in the case of excise goods already released for consumption in one Member State that move within the EU. The Commission also explicitly stated that there is a need for a Union-wide framework for the movement of goods between businesses under the duty-paid procedure to avoid double taxation (European Commission, 2017e).

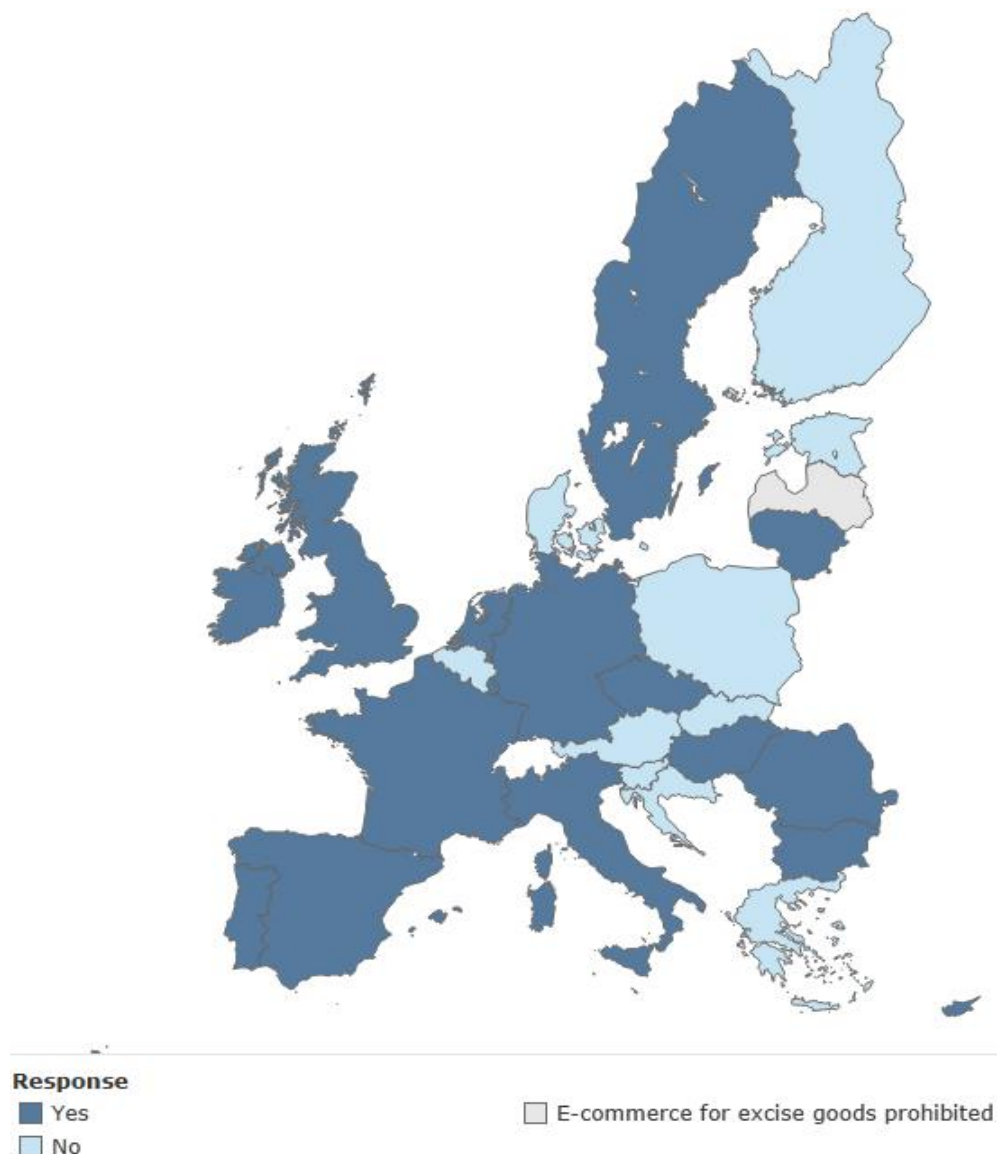
### **Liability for the payment of excise and tax representatives**

Not all Member States require the mandatory use of a tax representative for the purpose of collecting excise duty under the destination scheme. As an option, in the case neither the vendor nor the tax representative fulfilled their obligations, the Directive offers the possibility for Member States to make the consignee (which in the case of a B2C sale is usually the private individual) liable for the payment of the excise duty. This can cause problems as it is often difficult to identify and enforce payment unless the consignment is tracked and/or stopped by relevant authorities.

The excise duty liability in the Member State of destination lies primarily with the vendor. However, where the vendor is not established in the Member State of destination, the liability falls either on a tax representative appointed by the vendor, or, as discussed above, in extreme cases, on the consignee.



**Figure 35: Mandatory use of a tax representative for the purpose of performing distance selling activities in Member States**



**Source:** PwC Network Survey and National Authority Questionnaire

The figure above shows that 16 Member States currently either require the use of a tax representative under the distance selling scheme, or they consider that the consignee private individual can be held responsible for the payment of the excise duty. The removal of the requirement to appoint a tax representative from 2022 should address this matter, although this is likely to have little effect on the otherwise cumbersome arrangements for making distance sales.

### 5.2.3. Fraud and illicit trade

As highlighted by the European Parliament (2018b), the current arrangements for trading excise goods between Member States can lead to incidences of tax evasion and fraud. Excise duty rates within the EU are harmonised only to the extent of minimum rates, leading to a wide range of duty rates on similar products, even

between neighbouring countries. This partly motivates attempts at evasion, which is facilitated by a lack of harmonisation in the administration of excise duty at Member State level, as well as inadequate coordination and exchange of information between authorities.

The absence of harmonised rates, and Member State authority procedures to control the movement of excise goods entering a country through distance selling, lead to difficulties tracking excise products. This can result in a failure to adequately monitor taxpayer compliance. This was corroborated in the responses to the National Authority Questionnaire, where many authorities were not able to provide data on movements in or out of the Member State or any associated revenue collection figures or projections.

The absence of exchange of information is a major underlying problem which enables fraud and evasion to flourish. The Member State of destination is unlikely to inform the Member State of dispatch that the vendor or the tax representative has registered their identity and guaranteed payment of the excise duty, and its subsequent compliance with the payment and record keeping obligations. The Member State of dispatch likewise does not inform the Member State of destination whether the distance seller has been compliant and/or has requested reimbursement of the excise duty-paid in the Member State of origin. Although Mutual Assistance is envisaged and provided for in EU legislation, the practical application of this legislation is time consuming and complicated.

There are also legal obstacles. Distance sellers are obliged to inform either the Member State of dispatch or destination prior to, or after, the dispatch of any shipment or of the use of a tax representative. Despite these obligations, it is still difficult for Member States to accurately monitor the movement of goods between countries and the levels of compliance by the vendors in the respective areas. The physical movement of the sales of excise goods under the distance selling model is often carried out by couriers whose vehicles may contain other, non-excisable, goods.

It also makes relevant enforcement actions time consuming and difficult to pursue. It is therefore important that Member States rely on Regulation 389/2012<sup>58</sup> for administrative cooperation in the field of excise duty, since it allows them to work together in order to assess if goods have indeed crossed the border. However, such an exchange of information is not automatic. To the contrary, it requires manual input from both the Member State requesting the information, and the corresponding Member State providing the data.

There are two scenarios which are particularly susceptible to fraud:

- The refund of excise duty in the Member State of dispatch: The application of the destination principle for excise duty necessitates the reimbursement of the excise duty-paid, if any, in the Member State of dispatch; and

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<sup>58</sup> Council Regulation (EC) No 389/2012 of 2<sup>nd</sup> May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:121:0001:0015:en:PDF>

- The payment of excise duty in the Member State of arrival: Further to the application of the destination principle for excise duty, there are also potential issues related to the payment of duties in the Member State of consumption.

### ***Fraud through excise reimbursements***

Generally, in order to claim back the excise duty in the country of dispatch, evidence of three factors needs to be provided:

1. Proof that the excise duty was paid in the country of dispatch;
2. Proof that the goods have been received in the country of destination; and
3. Proof that the excise duty has been paid in the country of destination.

Directive 2008/118/EC, as it currently stands, does not expressly provide for any rules or safeguards regarding fraud and illicit trade of excise goods in relation to distance sales. No formal movement document (for example, the Simplified Administrative Accompanying Document (SAAD) used for duty-paid commercial movements) is required by Article 36 to accompany distance sales movements. However, some Member States, e.g. Luxembourg, do require a SAAD to accompany each distance sale movement. Generally, an invoice containing details of the recipient, address of delivery, quantity, type of alcohol and alcohol strength of the goods, together with the electronic signature on the proof of delivery (after receipt) is enough to satisfy the above three factors.

Alongside these requirements, the procedures to request a reimbursement from another Member State is primarily paper based, which opens further possibilities for fraud by economic operators in two ways. The first is when papers are forged to falsely claim that the excise goods have been delivered in the Member State of destination, when they have never left the Member State where they were released for consumption. The second is when the papers giving right to the reimbursement are copied/adapted, so that they can be used multiple times when asking for a reimbursement in the Member State of despatch.

Compared to VAT, there is no EU-wide mechanism in place for the refund of excise duty between Member States. Such a system would likely significantly reduce possibilities for fraud by economic operators, tax representatives and private individuals.

### ***Fraud through non-compliance with national requirements***

Divergent rules between Member States increase the complexities, and uncertainty in administrative compliance drives up costs for economic operators. These increased costs can create an additional incentive for businesses to engage in fraudulent activity to avoid the expense and time taken to comply with requirements correctly. This is highlighted in Section 5.1.2 which outlined CJEU case C-198/14, where an Estonian business was exporting alcoholic beverages to Finnish residents, without complying with Finnish national legislation regarding distance sales of alcohol.

### ***The impact of new technological developments***

Some areas of legislation have failed to keep track with developments in technology and some businesses have taken advantage of the situation by implementing illicit schemes, (one has been highlighted in the case law: C-198/14, reviewed in Section 5.1.2). Several factors explain the rise and increase of such schemes:

- Online sales of illicit goods provide for a vast increase in consumer base;
- Online distribution incurs minimal running costs in comparison to traditional physical retail; and
- The internet offers anonymity in comparison to physical retail.

Consequently, the use of postal and courier services to deliver illicit products has increased. Member States' customs authorities usually perform specific checks on a certain percentage of packages that cross their borders, due to lacking the resources necessary and the proper equipment required to efficiently screen and check every item. For receipts from other Member States, this is a manual process which results in low levels of enforcement as authorities take a risk-based approach relative to the potential duty lost. Several national authority questionnaires did highlight that the potential revenue lost is not equitable to the enforcement time/expense required.

Vendors of illicit excise products are aware of these procedures and are prepared to incur the minimum loss caused by the occasional interception of packages. This behaviour may also trigger a chain reaction. A trader who is entirely compliant with the relevant processes may be confronted with the non-compliance of a competitor and in turn may be pressured to take the commercial decision to either (a) comply with the many logistical issues needed to trade legally but be less competitive; or (b) not comply and be commercially more competitive.

In addition, some vendors have implemented, in their general terms and conditions, a provision enabling them to transfer the liability to pay excise duty towards a private individual. In general, the private individual is not aware of this obligation and excise duty in the country of destination is therefore not paid.

The consequences of fraud are twofold, as Member States are not only losing tax revenue through reduced excise duty, but also through reduced VAT receipts. Estimates for the level of fraud and the subsequent duty lost are presented later in Section 5.3.2.

#### **5.2.4. The import of excise goods from outside the European Union**

Excise goods imported into a Member State from outside the European Union (i.e. from a third country) are subject to extra layers of control and checks than goods just moving between Member States. All goods received from a third country, irrespective of whether they are excise applicable, may also be liable to customs duty and are subject to further customs formalities.

Given the need to submit an import declaration when bringing third country goods into the EU, the customs declaration system is considerably more advanced than any such process for excise declarations (the latter relies on the vendor, the former on a third

party freight agent). On this basis, it should be more likely goods from a third country will be correctly identified and reported through a freight agent than excise products which rely on the vendor to understand and follow the different reporting requirements in all the Member States.

The provisions of Directive 2008/118 only apply for movements between Member States. Receipts from a third country, even when they have been purchased from a website or ecommerce platform, are not distance sales from an excise perspective. They must therefore be treated in the same manner as any goods being imported from a third country with customs duty (where applicable) and excise being accounted for at the time the goods are cleared from a customs duty perspective.

In relation to postal packages, this might be at the place of import or at the post office clearance office. If the vendor has failed to appoint a tax representative to deal with the excise accounting and payment process, then ultimately the goods will be held at the clearing office and a notice sent to the purchaser stating that delivery will be forthcoming on payment of all relevant customs and excise duty.

As discussed in the previous section, there is a lack of resources to effectively monitor intra-EU logistical flows, but with EU movements, there is no formal customs clearance required and therefore, if the goods manage to enter the relevant Member State, there is a much smaller chance of the goods being subject to a revenue authority check.

Where vendors have not complied with the relevant requirement of appointing a tax representative, or where customers decide against collecting the goods due to the extra costs incurred, unlike the consistent estimates of the volume of imports of excise goods from outside the EU, data is generally either unavailable or incomplete. Inevitably, this makes estimating the level of fraud difficult in this context. However, while no previous studies have produced estimates of the magnitude of the problem at an EU level, evidence gathered during this study indicates that it is prevalent, and our estimates are presented in Section 5.3.3.

The main issues in relation to tracking the movements of excise goods that are received in Member States from both distance selling and postal imports from third countries is the level of packages which get through the control net. If the vendor does not declare the goods as required, and does not appoint a tax representative, then it is likely that the goods will be delivered to the intended recipient without any relevant excise being paid in the country of destination. However, the limited levels of mutual information shared between Member State authorities, and the lack of available physical resources on the borders, make the quantification of excise (and customs) duty lost on these movements very difficult.

### **5.3. How significant are the problems with distance selling?**

The previous section introduced the four main problems related to the current arrangements for the distance selling of excise goods in another EU Member State. The following sections present the available evidence and analysis of the magnitude of these problems across the EU, using previous estimates (where available), new

analysis conducted specifically for this study and practical knowledge and experience gained from advising businesses in this area.

Before looking at each of these problems in turn, it is important to understand the overall size and magnitude of the current distance selling market. As set out in the previous section, this is a challenging exercise. The significance of online marketing and sales is relatively recent, and therefore the evidence and data available in this area is generally patchy and difficult to source, particularly in relation to excise goods. Indeed, the European Commission (2015a) study found that data on the volume, value and tax revenue of distance sales was extremely scarce as Member States did not consistently collect it.

### ***The size of the current distance selling market***

This study uses several different approaches to analyse the distance selling market for alcohol across the EU. Independent research and analysis are combined with the primary data and intelligence gathered during this project to produce new insights and projections of current activity. The specific approaches are described in more detail in the relevant parts of the following section, and further details can be found in the annexes to this report.

The first part of this section estimates the current size, in value terms, of the distance selling market across the EU-28. As noted in previous studies, robustly measuring the number of cross-border sales of different alcohol products is challenging, due primarily to the limited availability of micro-data. In producing the estimates set out in the tables below, we have combined various industry produced statistics with our own modelling assumptions.

#### Intra EU cross-border

The latest eCommerce Europe (2019) data estimates that the total value of retail ecommerce in the EU-16 in 2018 was over €500bn, with cross-border ecommerce (excluding travel) estimated to be around one fifth of this. Using this as a starting point, we use macroeconomic data to adjust this value to approximate the EU-28, before applying a small uplift to take account of the fact that a proportion of distance sales take place over telephone or by mail order and will therefore not be captured in the ecommerce statistics.

This methodology estimates the overall value of the EU distance selling market, excluding travel, to be approximately €119bn in 2018. The 2016 VAT e-commerce study (European Commission, 2016) estimated the same market to be approximately €72bn in 2015. If we consider changes in inflation, industry growth and technological advancement, this would equate to a value between €100bn - €105bn in 2018. The analysis in this study therefore estimates the market value to be slightly higher than the 2016 report, although the estimates are within a reasonable bound.

eCommerce Europe data estimates that alcoholic products make up approximately 1.6% of overall European ecommerce, and we use this proportion to approximate the share that alcohol represents in the equivalent EU distance selling market. Finally, we

use sensitivity analysis to estimate how this overall market value is split between intra-EU and import transactions, and these results are presented in the table below:

**Table 28: Estimates for the overall size of the intra-EU distance selling market**

Low	Medium	High
Millions (€, excluding taxes)		
1,760	1,800	1,840

**Sources:** Authors' estimates for 2018/2019 based on data from the consumer survey, Eurostat, IWSR.

The central estimate, where intra-EU alcohol distance sales equate to €1.8bn in 2018/19, would mean that market represents around 1.5% of total EU distance sales, excluding travel. Further information on this methodological approach is included in the annex.

In terms of the tax revenue collected on distance sales, the table below sets out these amounts at an EU level, for intra-EU transactions, broken down by VAT and Excise duties:

**Table 29: Estimates of the tax collected from intra-EU distance selling**

Estimated tax collected on intra-EU distance sales in the past 12 months		
Excise Duties	VAT	Total
€m	€m	€m
490	391	881

**Sources:** Authors' estimates for 2018/2019 based on data from the consumer survey, Eurostat, EC and national administrations.

The above figures represent estimates of the levels of taxation collected by national authorities under our central estimate, and include an estimated reduction for forecasted undeclared transactions. At an EU level, the combination of VAT and Excise duties represent, on average, approximately 50% of the pre-tax value of transactions. The analysis of fraud and illicit trade in distance selling fraud is discussed in more detail later in this section.

Looking more closely at the sector, our business and consumer surveys suggest that there are approximately 6,300 businesses selling alcohol products to consumers across national borders in the European Union. If we consider that there are around 27 million private enterprises operating in the EU (Eurostat, 2018b), this suggests that roughly 0.02% of EU businesses engage in alcohol distance selling to some degree. The 2016 VAT e-commerce report (European Commission, 2016) estimated that the total number of EU enterprises involved in general cross-border distance sales was about 558,000 in 2013. This would imply that, using our analysis, around 1.1% of businesses who undertake distance sales do so in the alcohol sector.

The business survey also provides insight into the different alcohol products that are sold in the sector, as shown in more detail in the table below:

**Table 30: Proportion of EU distance sellers by product type (proportion of respondent to business survey)**

EU distance sellers of alcohol products	Business type	Proportion who sell each product to consumers in another Member State					
		Beer	Cider	Still wine	Spark. Wine	Inter. products	Spirits
#		%					
6,300	All distance sellers	36%	18%	23%	23%	11%	15%
	Total SME	31%	16%	25%	22%	11%	15%

**Sources:** Authors' estimates for 2018/2019 based on data from the business survey.

The analysis indicates that more organisations are involved in the distance selling of beer than any other alcohol product, as defined by the six categories set out above. While there are some minor variances in the product focus for small and medium sized businesses, there is not a significant difference in types of products sold based on business size or turnover.

By looking more closely at the average number of consignments dispatched per distance seller, we find evidence that the EU distance selling market for alcohol appears to be dominated by a relatively small number of businesses selling a large volume of products:

**Table 31: Average annual number of alcohol distance sales per EU distance seller**

Average annual number of distance sales per EU distance seller, for alcohol products only	
Mean	Median
#	
3639	53

**Sources:** Authors' estimates for 2018/2019 based on data from the business survey.

The analysis indicates that approximately 10% of distance sellers are making more than the mean amount of sales each year, with 90% making less than this amount. This assessment is in line with information we received during the stakeholder consultation phase of this project, and is discussed further during the assessment of the problems below.

In total, we estimate that there were approximately 23 million separate intra-EU alcohol distance selling transactions over the last 12 months. Our analysis also shows that, on average, 2.3% of EU citizens over the age of 18 engaged in distance selling, as can be seen in more detail in the following table:



**Table 32: Total number of annual intra-EU distance sales transactions of alcohol products**

Member State	Total number of annual intra-EU distance sales of alcohol products	
	#	% of EU citizens (18+) that engaged in at least one distance sale in the last 12 months
<b>EU Total</b>	<b>23,000,000</b>	<b>2.3%</b>
	Per capita	
Denmark	0.17	2.9%
Finland	0.16	2.7%
Ireland	0.12	1.9%
France	0.08	1.4%
Poland	0.07	3.3%
Austria	0.06	3.0%
Germany	0.06	3.0%
Sweden	0.06	2.9%
Italy	0.06	2.9%
<b>EU Average</b>	<b>0.06</b>	<b>2.3%</b>
Spain	0.04	2.2%
United Kingdom	0.04	2.2%
Belgium	0.04	2.0%
Netherlands	0.04	1.8%
Czechia	0.03	1.6%
Portugal	0.03	1.6%
Greece	0.03	1.6%
Romania	0.03	1.6%
Slovakia	0.03	1.3%
Slovenia	0.02	1.0%
Hungary	0.02	0.9%
Bulgaria	0.02	0.9%
Estonia	0.01	0.7%
Lithuania	0.01	0.6%
Latvia	0.01	0.5%
Croatia	0.01	0.5%

**Notes:** EU estimates exclude Cyprus, Luxembourg and Malta

**Sources:** Authors' estimates for 2018/2019 based on data from the consumer survey.

Similarly to the analysis of businesses above, it appears that a relatively small number of consumers are responsible for the majority of B2C distance selling transactions of alcohol products across the EU.

The estimates of the annual volume of distance sales of alcohol products are considerably higher than those set out in the European Commission (2015a) evaluation report, where the number of annual distance sales of alcohol are estimated to be less than 10,000. Although the general ecommerce sector has grown

considerably over the last 4 years, the magnitude of the difference between these estimates is still high.

The forecasts in the current study are based on a larger sample of businesses, and from a higher number of Member States. This study also combines the data and information received through the 6,254 consumer survey responses to help enrich the analysis of the distance selling sector. We therefore believe that the numbers set out above are robust, and, therefore, that the numbers in the 2015 underestimate the scale of activity in the current market.

### Imports

While the above analysis focuses on estimates of the size of intra-EU distance selling transactions, it is also important to understand the levels of cross-border alcohol purchases that come from outside of the European Union. The table below sets out our estimates for the level of activity in this area:

**Table 33: Total number and value of annual import distance sales of alcohol products**

Member State	Total number of annual import-EU distance sales of alcohol products	
	#	% of EU citizens (18+) that engaged in at least one import distance sale in the last 12 months
EU Total	510,000	0.03%

Low	Medium	High
Millions (€, excluding taxes)		
19	56	93

**Notes:** EU estimates exclude Cyprus, Luxembourg and Malta

**Sources:** Authors' estimates for 2018/2019 based on data from the consumer survey, Eurostat, IWSR.

The analysis indicates that EU consumers made approximately 500,000 distance sales where the alcohol moved into the EU from a third country over the last 12 months, and the value of these sales was around €56m. This analysis suggests that approximately 0.03% of EU Citizens over the age 18 made a distance purchase in this way.

In terms of the tax revenue collected on distance sales, the table below sets out these amounts at an EU level, for extra-EU transactions, broken down by VAT and Excise duties:

**Table 34: Estimates of the tax collected from import distance sales**

Estimated tax collected on import distance sales in the past 12 months		
Excise Duties	VAT	Total
€m	€m	€m
17.2	12.6	29.8

**Notes:** EU estimates exclude Cyprus, Luxembourg and Malta

**Sources:** Authors' estimates for 2018/2019 based on data from the consumer survey.

As with intra-EU sales, the above figures represent the levels of taxation that we estimate are collected by national authorities under our central estimate and includes a reduction for forecasted undeclared transactions.

In the following sections, we use the above metrics and further analysis to estimate the size of the specific problems that have been identified in the EU distance selling sector.

### 5.3.1. Problem 1: The magnitude of regulatory burdens

As set out above, Article 36 of Directive 2008/118/EC ensures that excise duty is paid in the country of consumption. Although the specific procedures set down in Article 36 are clear, they leave significant discretion to each Member State in terms of enforcement. This has led to a variety of complex compliance requirements being adopted across the European Union.

This section of the study combines the analysis from previous reports with the results of the new data gathering and analysis commissioned for this project to provide further insights into the current regulatory and compliance burdens that are placed on economic operators and national authorities.

#### ***The costs associated with the use of Tax Representative for intra-EU distance sales***

One of the current requirements for any business wishing to sell excise products to a consumer in another Member State is to appoint a tax representative for the purpose of collecting/accounting for the relevant excise duty due. Although this requirement will be removed by 2023, 16 Member States currently require the use of such a representative. The fees charged can vary considerably and depend on factors such as the country of origin and destination, the type of product being sold and the size of the consignment. In addition, tax representatives sometimes charge based on set filing periods, rather than on individual transactions.

It can therefore be challenging to estimate the typical charge "per distance sale" on a country by country basis, but the table below sets out the situation at an overall EU level, based on the data and analysis gathered for this project:

**Table 35: Fees charged by tax representatives for the distance sale of alcohol**

	Average value of a distance sale	Average fee of a tax representative per distance sale	Average fee as a proportion of the average value
	€	€	%
All distance sellers			
Low		20	26%
Medium	78.11	30	38%
High		40	51%
Total SME			
Low		30	55%
Medium	54.80	40	73%
High		50	91%

**Notes:** EU estimates using consumer survey exclude Cyprus, Luxembourg and Malta

**Sources:** Authors' estimates for 2018/2019 based on data from the consumer and business surveys, European Commission (2015a) Eurostat, IWSR and business interviews.

As a result of the perceived risk of a revenue authority penalty or excise assessment due to non-compliance, and the reliance on data received from the vendor to justify the monthly (or weekly) declarations, the fees charged by tax representatives can be considerable, particularly when compared to the average value of an alcohol distance sale. The central estimate is that the fee is equivalent to nearly 40% of the pre-tax value of a cross-border sale, with this rising to nearly 75% when considering smaller businesses.

Although this analysis is based on average calculations and will therefore vary depending on the size and scale of a business's operations, this level of regulatory cost is likely to have a considerable impact on the number of economic operators who are willing and/or able to operate in this sector. This point is analysed in more detail later in this section.

In addition to having to pay fees to a tax representative in order to undertake a distance sale, there are also administrative and compliance costs for economic operators as they need to find, agree and appoint a representative in each Member State in which they wish to undertake transactions.

Tax representatives can be transporters, warehousekeepers, or more commonly accountancy or tax consultancy entities. It is unusual, however, for such firms to be established in all Member States, or they may be established but the level of expertise or the risk associated with high rates of excise is too great to offer the service. This means that there may be a company who will perform the tax representative duties in, for example, Portugal and Spain, but not in the UK or Ireland. This leads to multiple engagements being required depending on the relevant destination countries, leading to increased prices and compliance complexities.

The table below sets out an estimate of the scale of these costs at an average EU Level:

**Table 36: Costs of identifying and appointing a representative across the EU**

Time taken to identify and appoint tax representative	Cost of identifying and appointing a tax representative	
	Average labour cost per hour	Cost of time taken
Hours	€	€
8	Low 5.4	43.20
	Medium 17.2	137.60
	High 43.5	348.00

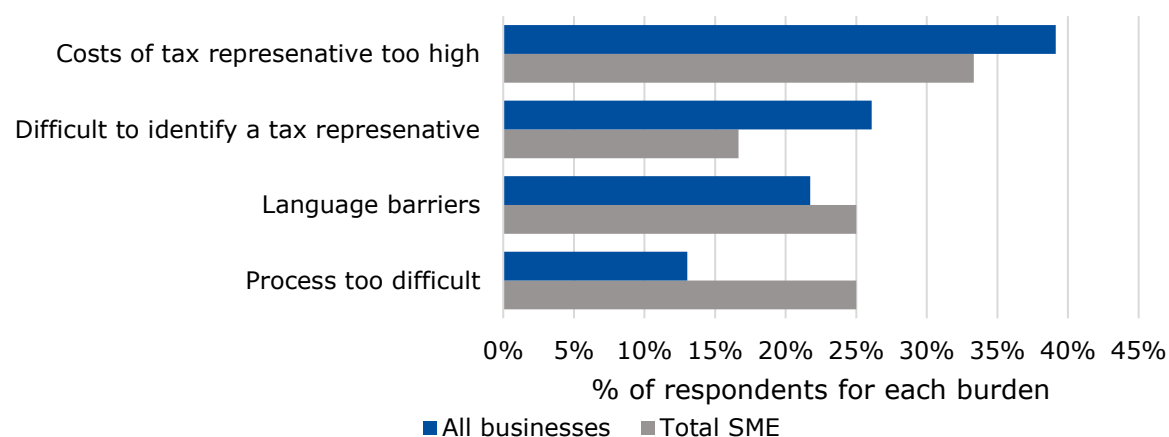
**Notes:** The low average hourly wage cost uses the lowest in the dataset, Bulgaria and the high value uses highest, Denmark. The medium hourly wage cost takes a median of the 28 Member States.

**Sources:** Authors' estimates for 2018/2019 based on data from the business survey and Eurostat (2018c)

The costs of sourcing a tax representative can therefore be significant, both in terms of one-off costs and monthly fees for submitting the relevant declaration. In most countries, a tax representative must be appointed for each vendor, so therefore an approval will be needed from the revenue authority. The approval can take up to three months to be processed, causing additional administrative issues.

The combination of the transaction fee and the difficulties of finding an appropriate tax representative are the two most significant reasons, according to businesses in our survey, that stop them undertaking further distance selling activity:

**Figure 36: The main burdens currently facing distance sellers**



**Source:** Authors' estimates for 2018/2019 based on data from the business survey

86% of the businesses who answered this question in the survey cited the general process of using a tax representative as the most significant burden to them when undertaking distance sales. This drops to 83% if we consider only smaller businesses, but the combination is still significantly the highest overall burden.

### **Wider compliance costs**

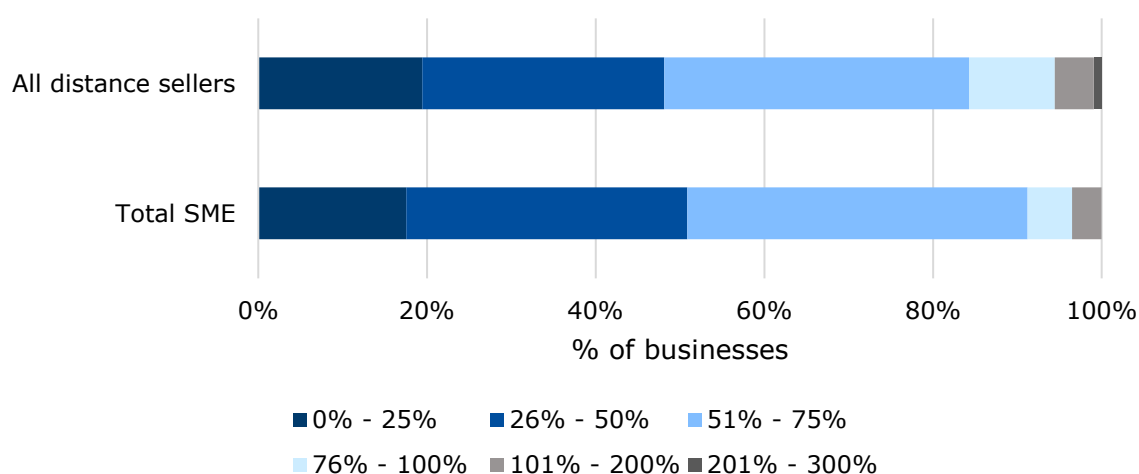
Economic operators must also face other compliance and administrative costs in order to undertake distance sales transactions. New internal control procedures may have to

be set up to comply with requirements such as identifying tax obligations or any additional requirements specific to a market, such as attaching a fiscal mark or age verification.

The average time for vendors to comply with these wider compliance issues is estimated to be approximately 120 minutes per transaction across the EU, which equates to approximately 60% of the average value of an alcohol distance sale, when taking average industry salaries into account. These could also be considered as a low-end estimate, as according to the business surveys, over 20% of businesses were not even aware of the cross-border distance selling regulations in place with regards to declaring excise duty in the Member State in which they operate.

As concluded in previous studies, it is very difficult to accurately estimate the overall impact that the current levels of regulatory and administrative burdens are having on the distance selling sector across the European Union. In Figure 37 below, information from the business survey is used to project a high-level forecast from the supply-side impacts of regulatory costs in the distance selling sector:

**Figure 37: Percentage increase of distance sales of alcohol in the absence of the regulatory burden**



**Notes:** EU estimates using consumer survey exclude Cyprus, Luxembourg and Malta

**Sources:** Authors' estimates for 2018/2019 based on data from the consumer and business surveys, Eurostat and IWSR.

Although this analysis is only indicative, as it is difficult for businesses to accurately know how their activity will change, the information outlined in the above table suggests that, on average, distance sellers expect their activity would increase by approximately 60% in the absence of the regulatory burden. This would equate to an increase of roughly €1 billion of alcohol distance sales in the EU under our central estimate. While it is perhaps unrealistic to imagine a scenario with no levels of regulatory compliance or action, the above analysis shows that significant efficiencies could be achieved with even relatively small improvements or refinements to the current directive.

## Costs placed on Member State Authorities

The current arrangements also result in costs being placed on national authorities and enforcement agencies, as they are required to process relevant documents, returns and applications. Each Member State has different processes and internal procedures, and therefore the administrative costs placed on each authority varies across the EU.

To provide an estimate of the current costs, the following table presents the average impacts at a Union level. The costs are based on an estimate of time required for tax authority officials to process a return. Many Member State authorities require monthly returns on excise distance sales, and that is the assumption we have made in relation to the costs shown in the table below:

**Table 37: Average cost per return for the Member States authorities**

Cost per transaction		
	Time taken per return (minutes)	Cost of time (€)
<b>Member State of destination</b>		
Estimate based on mean	47.1	21.12
Estimate based on median	25.0	6.73
<b>Member State of dispatch</b>		
Estimate based on mean	26.5	13.41
Estimate based on median	15.0	4.53

**Notes:** The time taken to per transaction for the Member State of destination is determined using ten Member State responses. The time taken per transaction for the Member State of dispatch is determined using nine Member State responses. The difference in the cost of time per minute is due to differences in real wages across the EU.

**Sources:** Authors' estimates for 2018/2019 based on data from the tax authority questionnaire and Eurostat.

The above projections are based on limited data, as several Tax Authorities across the EU were unable or unwilling to provide this information, and/or have general declarations which are not focused on distance selling, and therefore found it difficult to provide estimates of the time it takes them to process distance sales returns.

In addition, not all transactions will generate a refund request, for example a business established in a MS of dispatch where wine duty rate is 0%, or close to zero, will be unlikely to request any refund. Despite this, the above analysis does provide further evidence to suggest that the current administrative and wider costs associated with the distance selling of alcohol are significant on a per return and per transaction basis.

### 5.3.2. Problem 2: The magnitude of fraud on intra-EU transactions

Measuring the size and impact of fraud is, by definition, very challenging. Several previous studies have attempted to analyse illicit excise activity and have found it difficult to produce robust estimates of the magnitude of the various issues at an EU level (European Commission, 2015a).

In the following section, this study uses a combination of previous assessments, new data gathering and further analysis to attempt to estimate the magnitude and scale of fraud and illicit activity currently taking place in the intra-EU distance selling market.

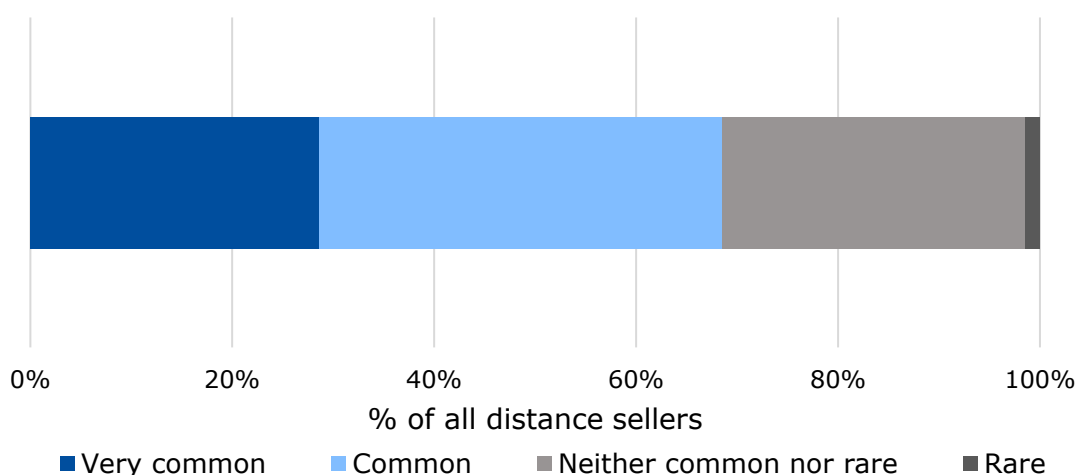
### **Perceptions of intra-EU fraud: Economic Operators**

Ecommerce has provided economic operators across the EU with the opportunity to access new markets and to conduct business in new and innovative ways. While this has led to increased economic growth for many sectors, distance sellers of alcohol products have not been able to take advantage of the opportunity to the same degree (European Commission, 2015a).

One of the most likely reasons for this is the significant regulatory burden and high compliance costs associated with legitimate distance selling for economic operators (as discussed in the previous section). High regulatory, compliance and administrative costs can provide incentives for businesses to engage in fraudulent activity, whether intended or otherwise, as the pay-offs from avoiding certain regulations are high.

Through the business survey and stakeholder consultation, economic operators active in the distance selling sector were asked to provide data and intelligence on their perceptions and experiences with fraud. The following figure provides further detail on their responses:

**Figure 38: How common it is for businesses to make cross-border distance sales without declaring them?**



**Source:** Authors' estimates for 2018/2019 based on data from the business survey

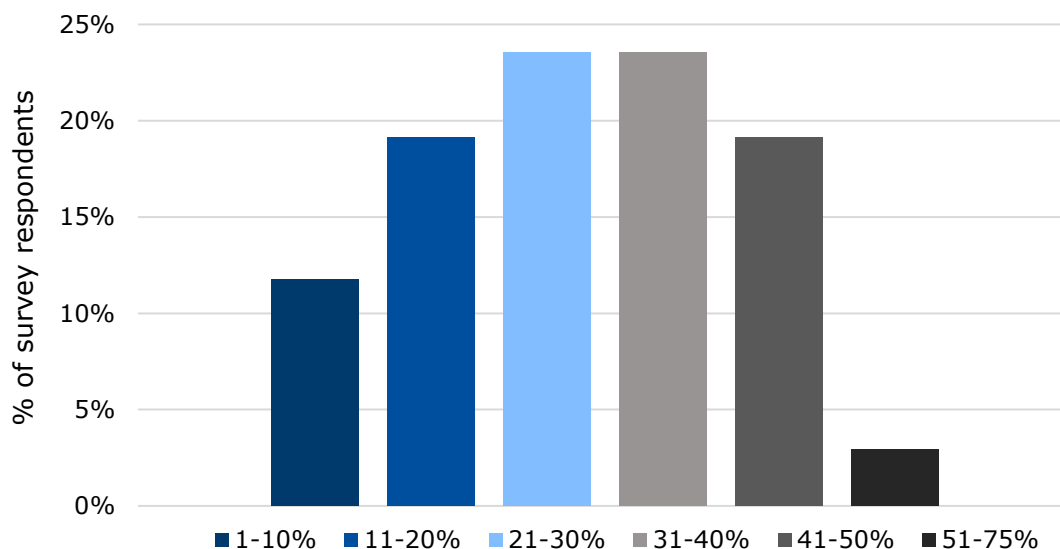
Nearly 70% of businesses who responded said that they believe the non-declaration of excise products sold via distance selling was at least common practice, with only 1% of respondents suggesting fraud to be rare or non-existent. In terms of how the issues have changed over time, 48% of operators believe that the prevalence of undeclared transactions has broadly stayed the same over the past five years, while 43% think it has become more common. While this is only perceptions data, and therefore needs to



be carefully interpreted, it is still helpful in building a understanding of activity taking place across the sector.

In terms of the number of transactions that may be under or undeclared, approximately half of businesses who responded believe that 20% to 40% are compliant with the rules set out in Article 36. Figure 42 provides further insights:

**Figure 39: Perceived proportion of distance sales that are not declared by businesses**



**Notes:** This uses answers from the 68 distance sellers who responded to this question.

**Source:** Authors' estimates for 2018/2019 based on data from the business survey

These insights can be combined with earlier analysis of the overall distance selling market to provide broad projections for the overall size and value of undeclared distance sales. The projections in the table below are insightful and interesting to consider, but they are based on evidence and data from a limited number of industry representatives, particularly when concerning the prevalence of illicit activity.

**Table 38: Estimates of the pre-tax value and volume of intra-EU fraud**

Level of Fraud	Value of Intra-EU distance sales, excluding taxes (€ Bn)			Volume
	1.76	1.80	1.84	# (000s)
Low (19.2%)	0.34	0.35	0.35	442
Medium (29.2%)	0.51	0.53	0.54	672
High (39.2%)	0.69	0.71	0.72	902

**Notes:** EU estimates using consumer survey exclude Cyprus, Luxembourg and Malta.

**Sources:** Authors' estimates for 2018/2019 based on data from the consumer survey, Eurostat and IWSR.

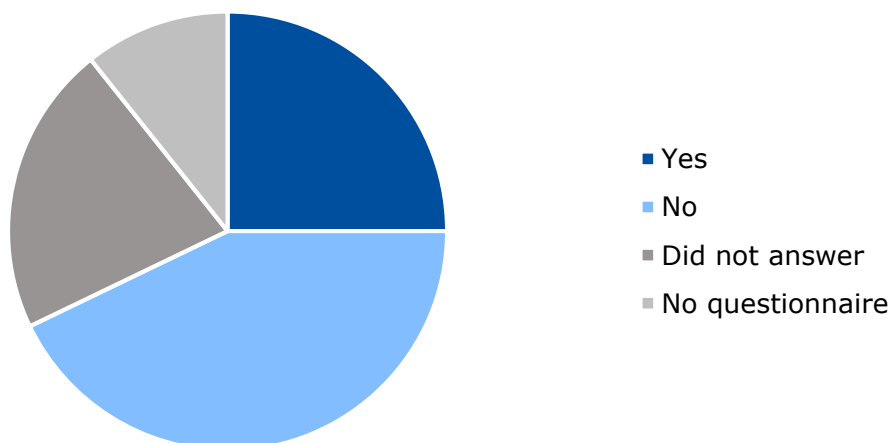
The central estimate, that 29.2% of distance selling activity is undeclared, suggests that fraudulent activity could have a value of between €0.35 billion and €0.71 billion in 2018/19, with up to 900,000 movements potentially considered illicit activity.

The incentive to undertake fraudulent activity is negatively correlated to the levels of enforcement businesses perceive to be active in the area, and the severity of punishments if they are found to be non-compliant (European Commission, 2015a). Of the economic operators in our survey, 61% stated that they were only occasionally checked and enforced when undertaking distance sales, while 13% stated that they have never experienced enforcement at all. These results, while qualitative, further support the earlier analysis and suggest that non-insignificant levels of fraudulent activity may be taking place in the sector.

### **Perceptions of intra-EU fraud: Member States**

In addition to gathering data and insights from businesses, detailed consultation was also undertaken with Tax and Health Authorities across the EU. Of the 19 Tax Authorities who answered this question in our survey, 25% of them believe that there is fraudulent activity taking place in the distance selling sector within their Member State:

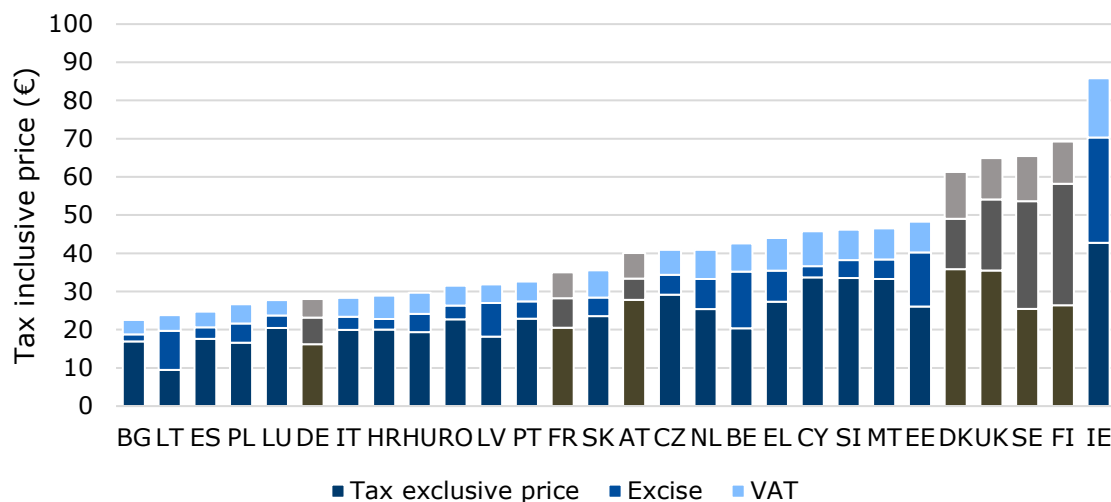
**Figure 40: EU Tax Authority responses to the question “Are you aware of fraudulent or illegal activity on distance sales of excise goods taking place within your Member State?”**



**Source:** Authors' estimates for 2018/2019 based on data from the tax authority questionnaire

The Member States who answered yes all highlighted that, in their view, the primary driver of fraudulent activity in their country is the real price differences that are, at least partially, driven by excise duty differentials. If this holds, it might be expected that these countries have relatively high duty rates and, as is shown in the figure below (with these countries in grey), there is some degree of correlation:

**Figure 41: Breakdown of tax inclusive prices for a standardised consumer unit of alcohol products**



**Notes:** The units used are the standardised consumer units for: beer (330ml can/bottle), cider (330ml can/bottle), still wine (750ml bottle), sparkling wine (750ml bottle), fortified wine (750ml bottle) and spirits (700ml bottle). The countries highlighted above in grey are those which answered "yes" in the previous figure.

**Source:** Authors' estimates for 2018/2019 based on data from the Taxes in Europe Database; IWSR Global Price database and OECD Consumption Tax Trends 2018.

The fact that four of the top five Member States with the highest domestic prices are those who believe that fraud is more prevalent seems logical, as the pay-offs from successfully undertaking fraudulent activity will likely be higher in these countries. The seven countries in question also experience some of the highest levels of recorded distance sales, both in total and per capita terms.

As with alcohol, these seven Member States also have relatively high tax inclusive prices for tobacco, with the UK, Sweden, France, Finland and Denmark all ranked in the top 25% within the EU. These countries also believe that fraudulent activity is taking place in the distance selling of cigarettes, despite imposing bans or a significant level of restriction on trade. For example, in Austria, one of the most common illegal purchases is of tobacco products or snus from online shops, despite this activity being forbidden (Austrian tax authority questionnaire).

Given the limited data and information available, it is only possible to provide indications and high-level projections of the levels of fraudulent or illicit transactions that are occurring in the Intra-EU excise distance selling sector. Given the lack of reliable evidence or previous studies, triangulation or comparisons to previous work is challenging. However, the evidence collected for this study, and the subsequent analysis that has been undertaken, does suggest there are currently significant levels of fraudulent activity taking place, particularly in certain areas of the EU.

### 5.3.3. Problem 3: The magnitude of fraud on imports to the EU

This section builds on the information and explanations provided in Section 5.2.3. Unlike distance selling between Member States, imports from third countries via an

ecommerce platform are subject to customs formalities and potentially an extra cost of customs duties. All imports from third countries, however small the consignment, must be formally entered into free circulation by following relevant customs formalities at the place of import, or if entering through courier or post, the postal clearance centre, creating an additional layer of compliance and control. Despite these checks, the incentives to attempt fraudulent activity still exist, relying, at least in part, on the lack of resources dedicated to postal checks imposed by Member State authorities.

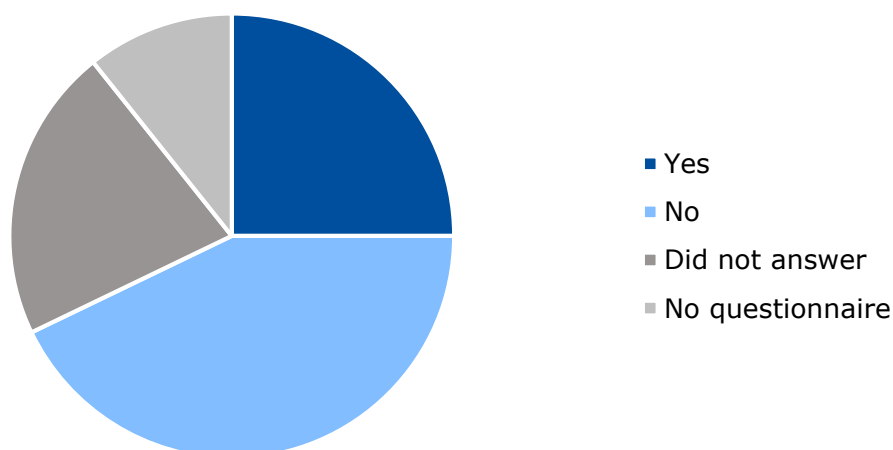
The same difficulties with estimating intra-EU fraud also apply to third country imports. Data, particularly from national authorities, is limited. Despite these challenges this section draws on a range of primary and secondary sources in order to provide insights into the magnitude of the current problems.

### **Perceptions of extra-EU fraud: Member States**

Unlike with the previous section where a business survey of EU economic operators was used to provide insight and data, a survey of vendors and businesses based outside the EU is not feasible from a sampling perspective. Therefore, national authority questionnaires and previous studies have primarily been used to assess the prevalence and scale of issues.

The same proportion of Member States believe that fraudulent activity is taking place with regards to third country ecommerce imports as for intra-EU transactions, although the make-up of these countries is different. The seven Member States which are aware of fraudulent activity are Austria, Denmark, France, Poland, Sweden, Latvia and Lithuania.

**Figure 42: Responses to the question “are you aware of fraudulent or illegal activity on distance sales by businesses located in non-EU countries sending excise goods to your Member State, or by businesses in the EU shipping or importing from a non-EU country?”**

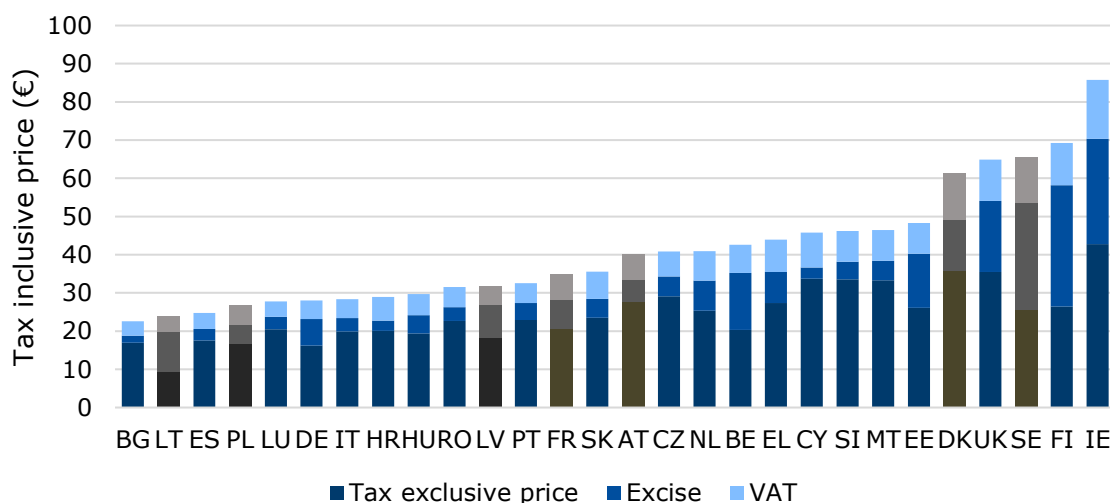


**Source:** Tax Authority Questionnaire<sup>59</sup>

<sup>59</sup> Notes: Seven Member States (AT, DK, FR, PL, SE, LV and LT) answered yes; 12 Member States (CY, CZ, DE, EL, FI, HR, HU, LU, MT, NL, SI, UK) answered no; six Member States which returned the questionnaire,

For comparison with Figure 42, which explores the relationship between intra-EU fraud and tax inclusive prices for alcohol, Figure 43 below shows the equivalent relationship for imports:

**Figure 43: Further breakdown of tax inclusive prices for a standardised consumer unit of alcohol products**



**Notes:** The countries highlighted above in grey are those which answered "yes" in the previous figure.  
**Source:** Authors' estimates for 2018/2019 based on data from the Taxes in Europe Database; IWSR Global Price database and OECD Consumption Tax Trends 2018.<sup>60</sup>

As the above figure depicts, there is no obvious correlation between estimated import fraud and the tax inclusive prices of standardised consumer units of alcohol products.

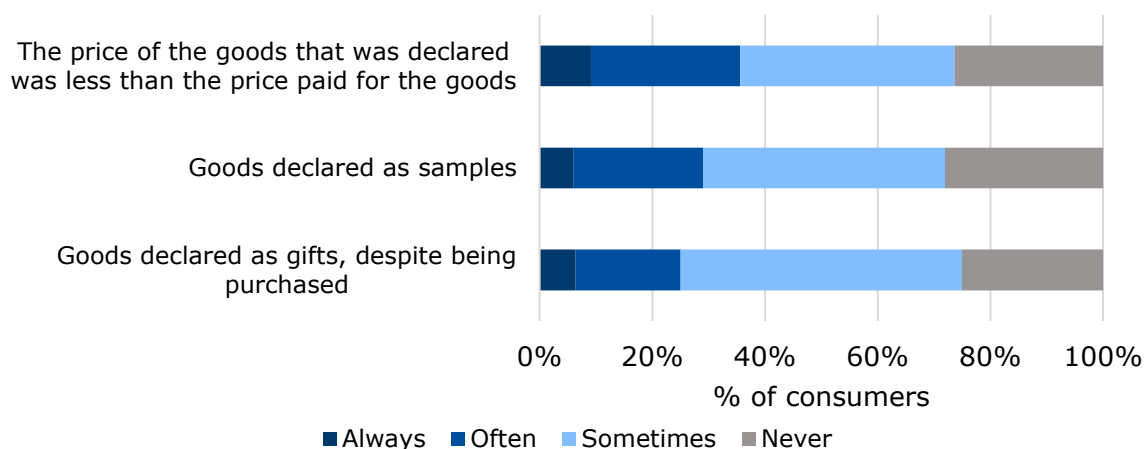
**Perceptions of extra-EU fraud: Consumers**

Given that the data and evidence in the area of import distance selling fraud is difficult to obtain, we have used the consumer survey to attempt to provide some level of triangulation to the data received from Member States. By asking respondents whether they had witnessed examples of non-compliance with import procedures, an estimate of the prevalence of fraud on imports was able to be estimated. This is set out in the figure below:

did not answer this question (BE, EE, IT, PT, RO, SK) and three Member States did not return the questionnaire (BG, IE, ES).

<sup>60</sup>Notes: The units used are the standardised consumer units for: beer (330ml can/bottle), cider (330ml can/bottle), still wine (750ml bottle), sparkling wine (750ml bottle), fortified wine (750ml bottle) and spirits (700ml bottle).

**Figure 44: How frequently consumers notice the following occurrences on goods purchased from outside the EU**



**Notes:** EU estimates using consumer survey exclude Cyprus, Luxembourg and Malta.

**Sources:** Authors' estimates for 2018/2019 based on data from the consumer survey.

Consumers in Denmark, Germany, Sweden, Slovenia and the UK record the highest prevalence of fraudulent declarations. Over 20% of consumers in Sweden and Hungary always have the price of their goods declared at a lower price than the amount they paid, which will have a real impact when goods are liable for an ad valorem method of excise, while over 40% of consumers in both Germany and the Netherlands have this happen regularly.

In the UK and Sweden, consumers report that their excise goods are regularly incorrectly declared as samples, and these two countries also have the highest proportions of consumers having their goods frequently mis-declared as gifts, with 48% and 45% of consumers reporting this respectively.

For the above-mentioned reasons, it is very difficult to apply monetary values to the current size of fraudulent activity in the import distance sales sector. However, the evidence set out above suggests that, particularly in some specific countries, excise fraud is taking place at significant levels.

#### **5.3.4. Problem 4: National measures that hamper or prevent distance sales**

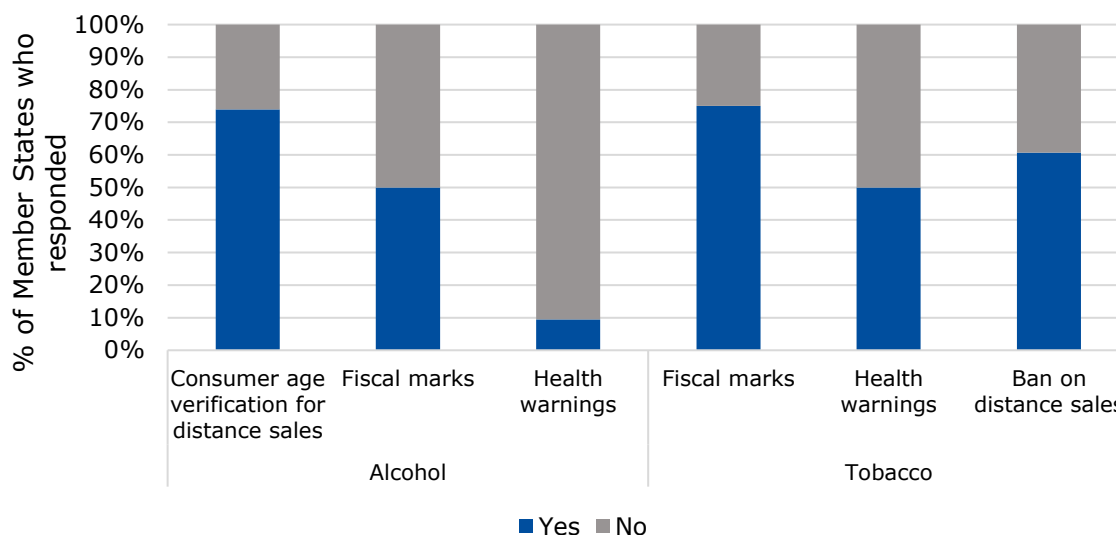
The scale and impact of compliance requirements was explored in detail as part of Section 5.2.2. This review highlighted a range of potential issues that can arise as a result of Member States setting their own domestic compliance measures. The next section of this study analyses the impacts that can result from three particular national policies; age verification, fiscal marks and health warnings.

#### **National Measures of Member States**

The discretionary powers conferred to individual Member State authorities within the Directive has led to Member States imposing non-harmonised conditions to cross-border distance selling of excise goods, as can be seen in

Figure 45 below:

**Figure 45: Proportion of Member States with national measures in place that could hamper or prevent distance sales**



**Notes:** Number of Member State respondents for each national measure: Alcohol - consumer age verification (24 Member States); tax stamps (21 Member States); health warnings (24 Member States). Tobacco - tax stamps (21 Member States); health warnings (23 Member States); Ban or restriction on distance sales (28 Member States).

**Source:** Authors' estimates for 2018/2019 based on data from the Tax Authority Questionnaire and wider research

The majority of Member States have consumer age verification measures in place for the distance selling of alcohol, while approximately half of all EU countries require the use of fiscal marks on targeted goods (mostly cigarettes and spirituous beverages). Most countries reported that the impacts of alcohol distance selling were not significant nor a high priority issue for their country. Five authorities: Cyprus, Greece, Finland, Luxembourg and Slovakia disagreed, and provided evidence to suggest that the negative externalities associated with this activity were considerable within their Member State.

For tobacco products, 60% of the Member States who provided data in this area have a complete ban on their distance selling, while seven more have some level of domestic restrictions in place that restrict activity. There are only four Member States which have no restrictions: Cyprus, Czechia, Romania and Slovakia. This general level of restriction on the cross-border activity of manufactured tobacco products has a significant impact on the general distance selling market for both intra-EU and import distance sales transactions.

**Do these measures impact distance selling?**

Measuring the monetised impact of these national measures on distance selling is challenging, especially given the array of other parameters and factors which may influence distance sales (as set out previously in this section). Table 39 below shows

the relationship between Member State distance sales of alcohol per capita, and the different national measures that are in place:



**Table 39: Member States with national measures in place that could hamper or prevent distance sales of alcohol products, sorted by the number of intra-EU distance sales per capita**

Member State	Estimated number of intra-EU distance sales in the past 12 months	Consumer age verification for distance sales <sup>61</sup>	Tax stamps	Health warnings <sup>62</sup>
	Per capita	Yes, there is a national measure in place		
Denmark	0.17			
Finland	0.16			
Ireland	0.12	Y		
France	0.08	Y		Y
Poland	0.07	Y	Y	
Austria	0.06			
Germany	0.06	Y		
Sweden	0.06	Y		
Italy	0.06			
Spain	0.04	Y	Y	
United Kingdom	0.04	Y	Y	
Belgium	0.04	Y		
Netherlands	0.04	Y		
Czechia	0.03	Y	Y	
Portugal	0.03		Y	
Greece	0.03			
Romania	0.03			
Slovakia	0.03			
Slovenia	0.02		Y	
Hungary	0.02	Y	Y	
Bulgaria	0.02			
Estonia	0.01	Y		
Lithuania	0.01	Y		Y
Latvia	0.01	Y	Y	Y
Croatia	0.01	Y	Y	

**Notes:** EU estimates using consumer survey exclude Cyprus, Luxembourg and Malta.

**Sources:** Authors' estimates for 2018/2019 based on data from the Tax Authority Questionnaire and Consumer survey.

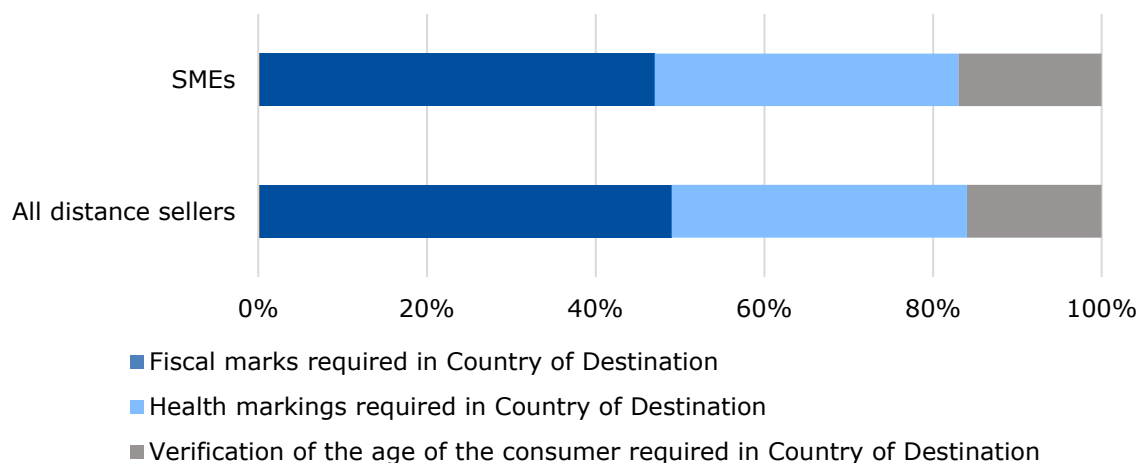
There is not an obvious correlation between the number of national measures and the number of distance sales per capita entering a Member State, although the top two Member States for distance sales do not have any of the above measures in place. In addition, Poland is the only Member State in the top nine which uses fiscal marks. As set out in the following figure, this particular type of measure is considered by the

<sup>61</sup> For example, certain Member States require the use of digital certificates for online ID (e.g Spain). These tend to be vendor specific measures where they couriers ask for ID at point of delivery of goods.

<sup>62</sup> For example in the UK, alcohol products contain information on the unit content and the recommended weekly unit consumption.

sample of businesses to be the strongest deterrent of alcohol distance sales, with approximately half of them finding them highly preventative:

**Figure 46: Proportion of businesses who find each measure to be obstructive to distance sales of alcohol**



**Source:** Authors' estimates for 2018/2019 based on data from the business survey

Age verification is the least burdensome requirement for businesses when it comes to undertaking cross-border distance selling. The information in our survey suggests that there are two reasons for this. First, that most Member States have age verification as a requirement, and it is therefore easier for a business to familiarise themselves with the necessary procedures. Second, due to the nature of the measure, there is likely to be more homogeneity in terms of what is required, compared to other measures like health warnings which may vary across the EU.

### 5.3.5. Summary of magnitude estimates for distance selling

In this small section, we bring together some of the key estimates that have been discussed above. The table below presents these, split by intra-EU and extra-EU transactions:

**Table 40: Summary of key estimates for distance selling**

	Intra-EU	Extra-EU
Value of Distance Selling Market (excl. Tax)	€ 1,800,000,000	€ 56,000,000
Volume of Distance Selling (transactions)	23,000,000	510,000
Proportion of EU citizens over 18 engaging in distance selling	2.3%	0.03%
<i>Excise collected</i>	<i>€ 490,000,000</i>	<i>€ 17,200,000</i>
<i>VAT collected</i>	<i>€ 391,000,000</i>	<i>€ 12,600,000</i>
Total Tax Collected	€ 881,000,000	€ 29,800,000
Number of Economic Operators	6,300	Not estimated
Value of Fraud (goods value excl. tax)	€ 530,000,000	Not estimated

The next section of the report focusses on the assessment of the current situation, based on several key EU intervention principles.

#### **5.4. Assessment of the current situation against the principles of coherence, relevance, effectiveness, EU added value, and efficiency**

This section draws together all the information and analysis from the preceding parts of this chapter in order to address the key criteria of coherence, relevance, effectiveness, EU added value, and efficiency.

##### **5.4.1. Coherence**

**Core research question:** *Are the rules regarding distance selling to individuals coherent with other EU and international policies?*

As set out in the previous chapter, Directive 2008/118/EC is an indirect tax directive adopted in accordance with Article 113 of the TFEU. This means that measures can be adopted if they are necessary to ensure the proper functioning of the internal market, equal opportunity to trade in goods and to avoid distortion of competition. Given the propensity of certain Member States to potentially inhibit the cross-border flow of excise goods in the absence of the Directive, the current rules continue to be coherent with other internal market related legislation.

Broadly, the majority of EU rules on distance selling face a trade-off between retaining coherence with Member State autonomy over fiscal and health policy, and coherence with the principles of the internal market and international tax principles.

The underlying principle of Article 36 is destination-based taxation. This is coherent with international best practice, is consistent with how the EU treats VAT and also upholds the principle of Member States maintaining full competency over taxation and

fiscal issues. The destination-based tax principle, in theory, also means that Member State competency on excise duty rates cannot be effectively undermined by consumers ordering excise goods from lower duty countries and thus undermining the Member State tax base.

Article 36 is also consistent with the financial interests of Member States, since it prevents a potential 'race to the bottom' in terms of duty rates which could arise in the case of origin-based duty application. Higher duty countries particularly benefit from this protection. The current legislation, if fully enforced, also provides protection to the individual public health objectives of Member States, since individual countries can set excise duty at levels, they believe necessary for domestic public health policies.

However, there are some factors where Article 36 is less coherent. Although public health objectives are in some ways protected, they can be undermined through variations in the legal age of alcohol purchase across the EU as consumers who cannot legally purchase alcohol in one Member State may be able to acquire the product from another country with a lower age for alcohol.

There are other areas where limited harmonisation between Member States can lead to distance selling rules contradicting other policies, particularly the completeness of the internal market. For example, 17 Member States (as noted in Table 39), currently ban local and/or cross-border distance sales of tobacco products, as well as impose local product regulations such as requirements for health warnings.

Differences in tax administration (arising from tax remaining a core Member State competence) can also cause inconsistencies with the internal market. For example, many Member States currently require distance sellers to have a tax representative in the country of destination, which similarly hinders the comprehensiveness of the internal market (although this requirement will be removed in 2022). Unlike with VAT, reimbursement procedures have not been harmonised, causing legal uncertainty for businesses operating in distance sales of excise goods, delays in reimbursement and enhancing potential for fraud.

#### **5.4.2. Relevance**

**Core research questions:** *Do the current rules regarding distance selling to individuals still correspond to the objectives of the Directive? Do they still correspond to the needs of the national tax administrations, ministries of health, and subsequently other stakeholders?*

The rules relating to distance selling still provide a mechanism for B2C transactions within the internal market whilst preserving Member State autonomy over excise duty rate and health policy. Despite this mechanism, and contrary to the objectives of the Directive, the provisions of Article 36 do not fully facilitate the free circulation of goods within the European Union.

The rules support the needs of member state tax administrations by applying the destination tax principle. Tax administrations are also able to set their own rules in

terms of the administration of reimbursements. Such autonomy can lead to inconsistencies which are contrary to the needs of vendors, particularly SMEs.

Through the application of the destination principle, the rules allow Member States to protect their public health policies by preventing a race to the bottom in terms of excise duty rates (as seen with personal acquisition).

However, the rules do not require automatic exchange of information between Member States, which would help reduce tax evasion and fraud. As highlighted by the European Parliament (2018b), the current arrangements for trading excise goods between Member States can lead to incidences of tax evasion and fraud when goods have been claimed to have left one Member State when in fact they haven't left all. A lack of harmonisation in duty rates partly motivates attempts at evasion, which is facilitated by a lack of harmonisation in the administration of excise duty at a Member State level, as well as inadequate coordination and exchange of information.

As identified above, in 2008, both distance selling and ecommerce were in their infancy, and thus the Directive has not wholly considered technological developments. Some businesses have taken advantage of the situation by implementing illicit schemes, (one highlighted in the case law: C-198/14, reviewed previously). A number of factors explain the rise and increase of such schemes:

- Online sales of illicit goods provide for a vast increase in the consumer base;
- Online distribution incurs minimal running costs in comparison to traditional physical retail; and
- The internet offers higher levels of anonymity in comparison to physical retail.

Consequently, the use of postal and courier services to deliver illicit products has increased, and the risk-based approach followed by Member States' customs authorities, and the potential duty lost, does not always justify the steps required to enforce the law. Such issues with enforcement naturally lead to lower compliance amongst traders. Additionally, some vendors have implemented, in their general terms and conditions, a provision enabling them to transfer the liability to pay excise duty towards a private individual. In general, the private individual is not aware of this obligation and excise duty in the country of destination therefore are not paid. Member States suffer reduced excise duty and VAT receipts through this behaviour, which means the rules are currently failing to meet either theirs or vendor's needs.

### 5.4.3. Effectiveness

**Core research questions:** *To what extent have the current rules regarding distance selling to individuals helped and supported in:*

- a.) *Reducing the regulatory costs;*
- b.) *Ensuring the proper functioning of the internal market;*
- c.) *Providing a high level of health protection; and,*
- d.) *Fighting against tax fraud, tax evasion and illegal cross-border shopping.*

The current rules regarding distance selling to individuals are not specifically designed to reduce the regulatory costs of undertaking this type of transaction. They are designed to protect the ability of Member States to both set and collect the right amount of excise taxation, as decided by their national governments. In order to provide this protection, a certain level of regulatory and administrative costs is inevitable. However, there is a broad evidence base, as set out throughout this study, that suggests that these costs could be considerably reduced, without having a significant impact on the levels of protection provided.

Article 36 of the Directive provides a mechanism for business vendors and individual consumers from different EU member states to trade across-borders without undermining internal tax and health systems. However, the slower growth of distance selling of excise goods compared to general ecommerce, implies that the rules are having a significant impact on trade within this sector, and therefore negatively affecting the functioning of the Internal Market.

In order to protect Member State tax and health systems, there are a variety of compliance requirements originating from the need for vendors to seek reimbursements, in addition to outright restrictions on the distance selling of tobacco. The lack of harmonisation in terms of reimbursement and other tax compliance measures, including the requirement for a tax representative in 16 Member States, provides further complexity. The combination of these obstacles has a particular impact on SMEs, who suffer undue administrative burdens compared to selling domestically within their member state. Smaller economic operators are also less able to internalise these types of costs compared with larger companies.

The current rules have not been entirely effective against tax fraud, evasion and illegal cross-border shopping. The rules have not kept pace with changes in technology, which have partly facilitated an increase in these activities, although the lack of harmonisation in tax administration is a key factor behind this.

### 5.4.4. EU added value

**Research question:** *What is the additional value of the current EU rules regarding the distance selling to individuals, compared to what could have been expected from Member States acting on a national level?*

One of the core objectives of the Internal Market is to ensure that consumers and vendors can buy and sell goods freely across the EU. In addition to this objective, the

fiscal and health policy autonomy of Member States must also be protected. In the absence of EU level action, it is unlikely that the coordination necessary to mitigate the identified problem within the distance selling sector will be achievable. The divergence in incentives that exists between individual Member States means that multilateral action is required.

Having a Directive does therefore provide added value compared to a situation where national legislations simply coexist. However, our analysis suggests that Directive 2008/118/EC may not sufficiently provide an adequate tax environment where operators are encouraged to develop their cross-border activities to the optimal degree.

The destination principle ensures that vendors in lower duty countries cannot undermine the fiscal/public health decisions of high duty countries. The principle of Article 36 ensures that domestic sellers are in theory not disadvantaged relative to cheaper rated external competitors. This creates fairer market opportunities and a greater range of choice for consumers.

However, in practice, there are many delays resulting from limited harmonisation between Member States in the rules for reimbursement. Current rules place considerable regulatory and administrative burdens on businesses and Member State authorities. These costs are discouraging EU-based companies from engaging in the distance selling market and may also be leading to higher than expected incidences of illicit and fraudulent activity. Further EU-level action is therefore likely to add considerable further benefits.

#### **5.4.5. Efficiency**

**Core research question:** *To what extent are the current rules regarding distance selling cost effective in achieving the desired results? Would it be possible to achieve the same results (benefits) at a lower cost?*

The important question to consider here is whether Article 36 can be revised, particularly to reduce the associated economic and regulatory costs, while also maintaining the fundamental principles of protecting the autonomy of individual Member States, particularly from a fiscal and health perspective.

Directive 2008/118/EC aims to achieve the free movement of goods between Member States. However, in the current situation, the rules create many barriers through compliance costs and administrative burden which hinder the free movement of goods between Member States in a cost-effective manner. As set out earlier in this study, if an alcohol producer would like to sell their products across the European Union, they would need to appoint a tax representative in at least 16 Member States. Although this stipulation will likely be abolished from 2022, until then the appointment costs represent on average between 26% and 51% of the cost of a distance sale, while for SMEs this rises to between 55% and 90%.

The difference across the EU in terms of the requirement to appointment a tax representative is a further example of the current lack of harmonisation of compliance procedures. This discourages economic operators, especially SMEs, from selling excise

goods in Member States where they are not established, since they must understand the compliance procedures for each Member State in which they wish to sell their goods. A further complication arises from the discrepancy between the paper-based compliance approaches followed by some Member States and the IT approaches followed by others. However, this is also likely to be solved from 2021 once duty-paid procedures are automated.

Given these inefficiencies, it is likely that the regulatory costs associated with the distance selling of excise products could be significantly reduced, while keeping the same (or similar) levels of protection for Member State fiscal and health autonomy. The Directive 2008/118/EC does not appear to be acting as efficiently as it could be, as it does not ensure the free and effective movement of goods between Member States. However, future changes to legislation will mean the current issues will be mitigated to a certain degree, although the different procedures required by each Member State will remain.

## **5.5. Are further EU-level interventions justified?**

As set out in Chapter 4, Article 113 of the Treaty on the Functioning of the European Union permits the EU to set and administer harmonised rules for excise duty, in order to ensure the proper functioning of the internal market. Although this article provides the legislative authority required for change, all EU actions are governed by the overarching principles of subsidiarity and proportionality.

In the following section, we assess whether, when compared against these overarching principles, further EU-level intervention is justified to help mitigate problems relating to the distance selling of excise products across EU borders. As in Chapter 4, we will again rely on the best practice approach as set out in the EU Better Regulation Toolbox (European Commission, 2017d).

### **5.5.1. Subsidiarity**

The principle of subsidiarity ensures that policy measures not falling under the exclusive competence of the Union are decided at an individual citizen level whenever possible, and at an EU-level only when necessary. To support this assessment, the following questions are assessed.

#### ***Does the European Union have exclusive competences?***

Exclusive competence applies in the areas defined in Article 3 of the TFEU. The legal basis for general arrangements for excise duties does not fall within the exclusive competence areas as set in this article, so cannot be used as sole justification for EU-level intervention.

#### ***Can the objectives of the proposed actions be achieved sufficiently by Member States acting alone?***

The problems that have been identified earlier in this chapter impact all Member States and are not isolated to certain countries or regions. Although domestic policies that impact the viability of distance selling can vary significantly between some



countries, the identified inefficiencies and negative externalities are still felt across the EU-28, and therefore domestic responses may not be sufficient vehicles for effective change in this area.

The underlying causes of the highlighted issues, specifically the high levels of administrative burden and confusing, prescriptive and unclear national interpretations of EU legislation, are consistent across Member States. The negative externalities of the problems are also often felt outside of the country where the issues originate, and this presents difficulties when trying to align the incentives of different countries to act in unison.

Overall, this suggests that, in order to reduce the issues and inefficiencies identified earlier in this chapter, and to maximise overall social benefits at an EU-level, there appears to be a strong justification for a coordinated, unilateral response.

***Can the objectives of the proposed action be better achieved at Union-level by reason of the scale or effects of that action?***

Member States have, in general, implemented different obligations and have their own interpretation of the Directive, leading to administrative and compliance costs for businesses as well as for Member State authorities and consumers. In order to ensure effective and coordinated changes are made to the regulatory environment, an EU-wide response is therefore necessary.

A coordinated, unilateral policy response is also likely to lead to greater efficiencies and economies of scale, compared to Member States acting alone. Economic operators currently experience significant issues concerning the varied and complex administrative procedures that they are required to undertake in order to sell excise goods in other countries. Only a unilateral response, including an assessment of the impacts across all Member States, will be able to maximise the overall social benefits across the Union.

Overall, this provides further evidence that EU-level action is likely required in order to maximise the benefits of public intervention.

### **5.5.2. Proportionality**

Proposed action at an EU-level should not go beyond what is considered to be reasonable and necessary in order to tackle the problems associated with distance selling that have been identified and evidenced in earlier sections of this chapter.

Article 36 of Directive 2008/118/EC seeks to align the consumption of excise products with the ultimate place of taxation, and therefore ensure the tax base of individual Member States is protected. In addition, it seeks to prevent unhealthy distortions to competition due to the difference in excise rates across the EU-28.

While the current arrangements appear generally effective in facilitating this core ambition, the evidence set out earlier in this chapter suggests that the Directive is resulting in considerable regulatory and administrative burdens being placed on businesses and Member State authorities. These costs are discouraging EU-based

companies from engaging in the distance selling market, and may also be leading to higher than expected incidences of illicit and fraudulent activity. The costs disproportionately impact SMEs as they usually reflect a higher percentage of the value of a distance sale. It is therefore important that the arrangements surrounding the distance selling of excise goods be assessed and further reviewed.

The policy options set out in the next sections of the report have been designed to specifically tackle the current complicated legislative environment, to reduce the levels of administrative burden associated with distance selling, and to combat fraudulent and illicit activity.

## **5.6. Objective of any change**

The suite of potential policy changes that are set out in the next section of this study have been developed with the following core objectives in mind:

1. To ensure the proper functioning of the internal market by reducing obstacles to intra-EU cross-border trade. This includes reducing tax obstacles by minimising administrative costs for businesses and national administrations, simplifying current procedures by creating clear and consistent frameworks for the free movement of goods, and reducing confusion and complexity.
2. To safeguard the financial interests of the Member States by ensuring and that excise duties are properly collected to feed national budgets. This includes ensuring the proper and proportionate monitoring of the movement of excise goods and the reduction of fraudulent and illicit transactions.

The policy options have been designed to combat the key problems identified and assessed earlier in Chapter 5. In pursuing these objectives, the analysis and assessment of the policy options will balance the need to facilitate the protection of the tax base of Member States, and the need to efficiently collect tax revenues, with the need to encourage efficient trade and business activity.

## **5.7. Policy options**

Five policy options have been developed to address the high entry costs, administratively burdensome practices and lack of harmonisation in the administrative procedures across Member States which have been identified in relation to the operation of Article 36 of Directive 2008/118/EC.

There is a need to create options which reduce the administrative burden for economic operators who are making intra-EU distance sales of excise products to private individuals, whilst balancing the need to reduce the risk of fraud for national authorities. As a result, the options that have been developed are all based on a One Stop Shop for excise duty, but with differing requirements within each.

**Table 41: Distance selling policy options**

Policy Option	Details
Option 1: No change (dynamic baseline)	No policy change to the situation as it is currently.
Option 2: Basic One Stop Shop (OSS)	A central Excise OSS portal used to report, account for and pay excise duty across all Member States.
Option 3: OSS with VAT and excise integration for economic operators	A single OSS platform would be used for both VAT and excise duty.
Option 4: Basic OSS and de minimis threshold	A de minimis threshold would apply for the turnover of distance sellers, under which only domestic rules would apply.
Option 5 Basic OSS with an EU excise web portal	Member States would provide rules and guidelines in an accessible format for all businesses throughout the EU which would be linked to the current EU Commission web page.

The possibility to use a split payment mechanism for excise duty was also considered in conjunction with the above policy options. As the introduction of the One Stop Shop is expected to result in excise duty being paid to the excise authorities after release of the goods, a split payment mechanism could be used to supplement OSS. This could act as an alternative excise collection system to combat the risk of fraudulent activity where simplifications are introduced for distance selling.

In this regard, a split payment mechanism has been introduced for VAT purposes in several Member States (i.e. Italy, Poland and Romania) for B2B and/or business-to-government transactions to address non-compliance with the payment of output VAT by suppliers.

In a B2C distance sale however, a single payment would be made by a customer. This may create challenges under the Payment services (PSD2) Directive (EU) 2015/2366 which currently requires the full amount of a payment made by a consumer to be transferred to the recipient by a payment provider. Under existing EU law, it may not be possible to implement a split payment mechanism for B2C sales without making changes to the legislation and this option was not taken forward as part of this section. This policy option has been considered further in Chapter 6 as a possible wholesale to retail option.

### **5.7.1. Policy Option 1: No change (dynamic baseline)**

#### ***The current situation***

The gentle growth in the overall levels of distance selling of excise goods is expected to remain broadly constant under the current arrangements, with the exception of the obligation to use a tax representative which is expected to be removed by 2022 (European Commission, 2018e). The vendor will continue to be liable to pay the excise

duty and VAT of the Member State of destination at the time of delivery and will need to continue to liaise with tax authorities and/or tax representatives on how to do this.

The expected removal of the requirement to appoint a tax representative in the near future should address some of these difficulties for the vendor. In particular, it will reduce the burden in finding a tax representative in the Member State of destination and remove the need and associated costs to appoint tax representatives across the EU. However, this revised arrangement for the distance selling of excise products will continue to present several challenges for businesses in the EU. Companies will still likely need to seek some level of support if they need to enter into an agreement with a representative or navigate the excise rules and requirements in the Member State. This can take time and be costly to set up.

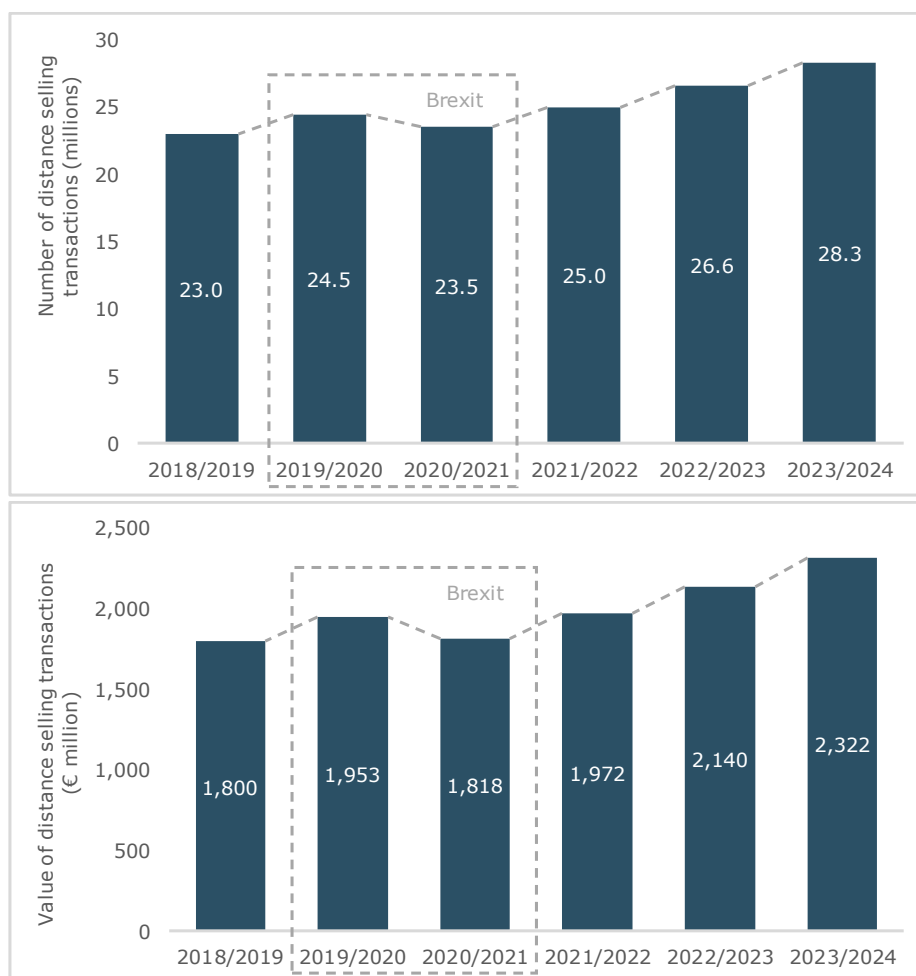
Previous studies into excise goods that are released for consumption suggest that the current baseline is not efficient nor optimal, and that the options developed below should be considered for implementation. In addition to the administrative burden of being liable to pay excise duty and VAT in each Member State a distance sale in, one of the main issues identified in distance selling of excise goods is caused by the legislative structure of Directive 2008/118/EC, which leaves a degree of discretion as to its implementation into national legislation. The flexibility enjoyed by Member States as to how the Directive 2008/118/EC should be implemented within their respective national laws has led to different excise duty treatments within the European Union. The issues caused by this flexibility are not expected to improve over the assessment timeline.

### ***Economic impacts***

The forecast for distance selling over the next five years indicates an overall increase in both intra-EU and import distance sales of alcohol products. This is due to a combination of various factors as set out in the previous sections. The expected removal of the tax representative requirement by 2022 and the automation of duty-paid by 2021 are expected to have a limited effect on these projections due to their implementation date. The primary driver of activity will be the continued growth in overall ecommerce over the period.

Focussing first on the intra-EU distance selling of alcohol products, the current estimates of the volume of sales are shown in the figures below. The assumed growth rate was derived from a combination of primary data calculations (based on various surveys) and further secondary data:

**Figure 47: Forecasts of intra-EU distance selling for alcohol products from 2018/19 to 2023/24**

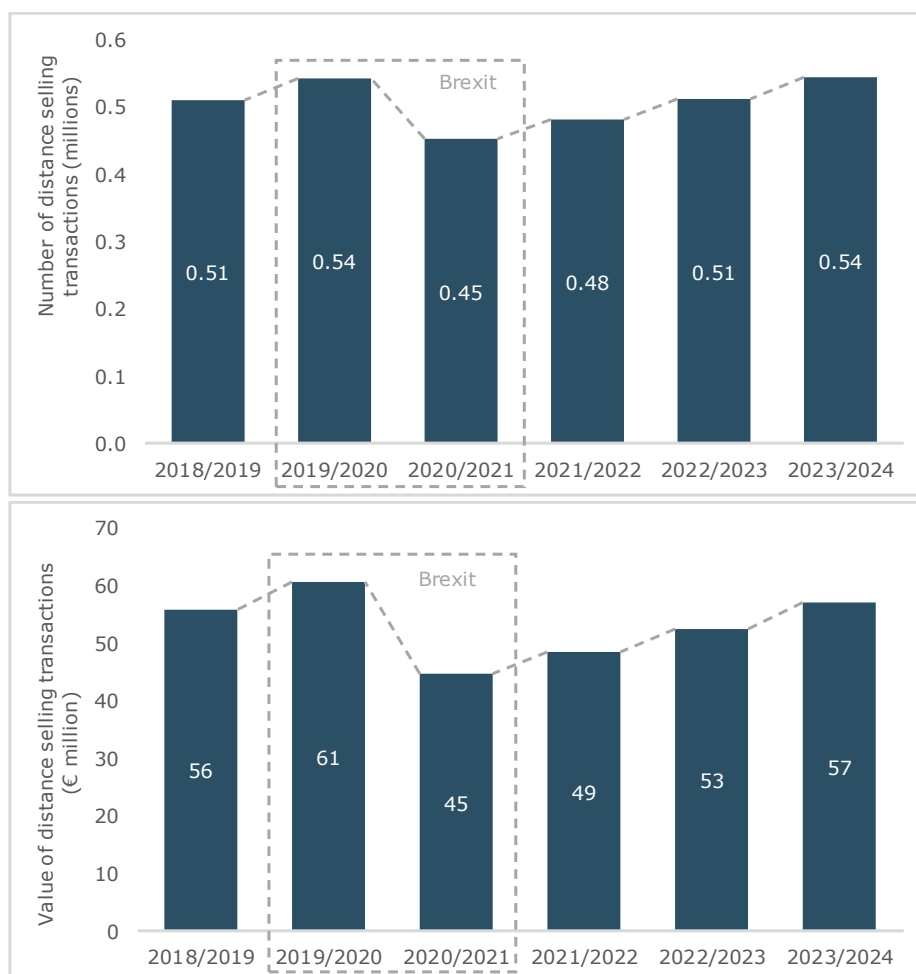


**Source:** Authors' estimates

This assessment uses estimates of the intra-EU market for distance selling of alcohol products presented earlier in Section 5.3. The volume of sales is forecast to increase by 6.5% per year and this represents an increase of approximately 5.3 million transactions, even when taking account of the potential impacts of the UK leaving the European Union. In terms of value, there is an estimated increase of 8.5% which would result in an increase to the size of the market of approximately €0.52 billion.

A similar approach is used for the projections of import distance sales to the EU. The forecasts over the five-year period are shown in the figure below:

**Figure 48: Forecasts of import distance sales to the EU for alcohol products from 2018/19 to 2023/24**



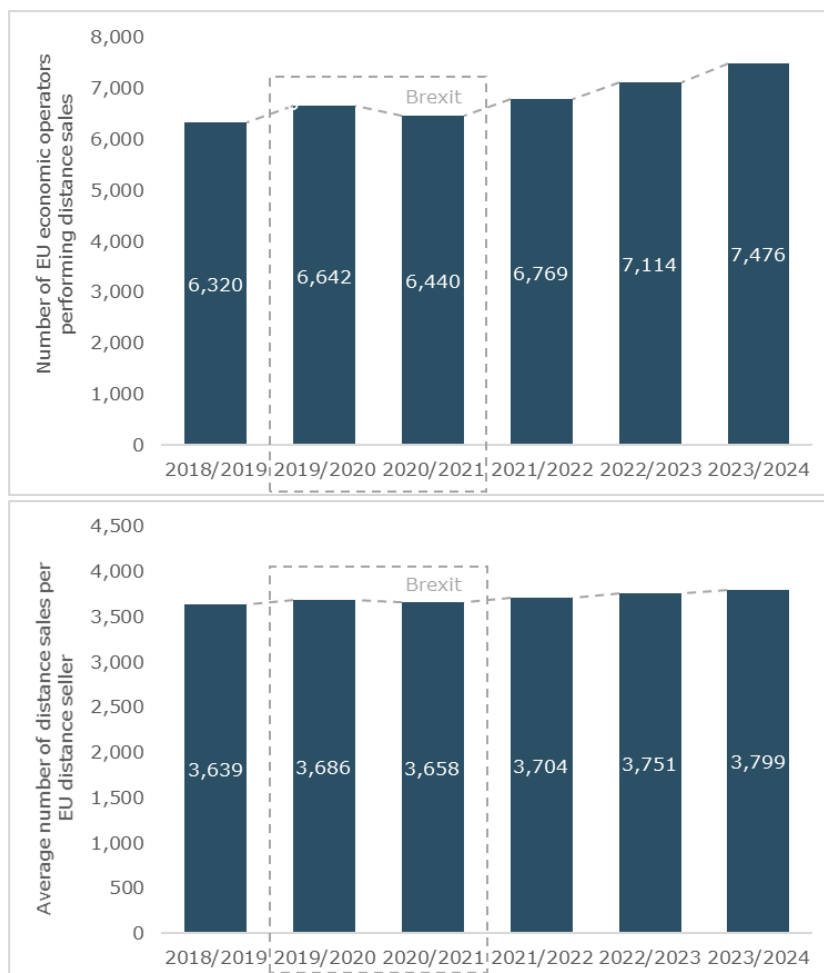
**Source:** Authors' estimates

As above, this analysis uses estimates of the size of the market for import distance sales to the EU in order to estimate the change in activity. Volumes are projected to increase by approximately 30,000 when accounting for Brexit, while values are estimated to grow by approximately €1 million. The compliance and administrative changes described previously will not significantly impact this market and the key driver of this growth will again be the continued upward movements in the ecommerce sector.

The gradual development in intra-EU distance selling for alcohol products from 2018/19 to 2023/24 is broken down into changes in the extensive margins (exports by current non-exporters) and intensive margins (additional export by current distance sellers) as can be seen in Figure 49. Considering the expected impact from the United Kingdom leaving the EU, the number of EU economic operators performing distance sales is projected to increase by around 1100 over the five-year horizon. For current as well as future distance sellers, the average annual number of distance sale consignments per EU distance seller is expected to reach approximately 3,800 by 2023/24. Hence, a combination of movements in the extensive and intensive margins

is expected to drive the overall evolution in the volume of distance sales of alcohol products.

**Figure 49: Forecasts of number of excise distance sellers and mean number of transactions per operator from 2018/19 to 2023/24**

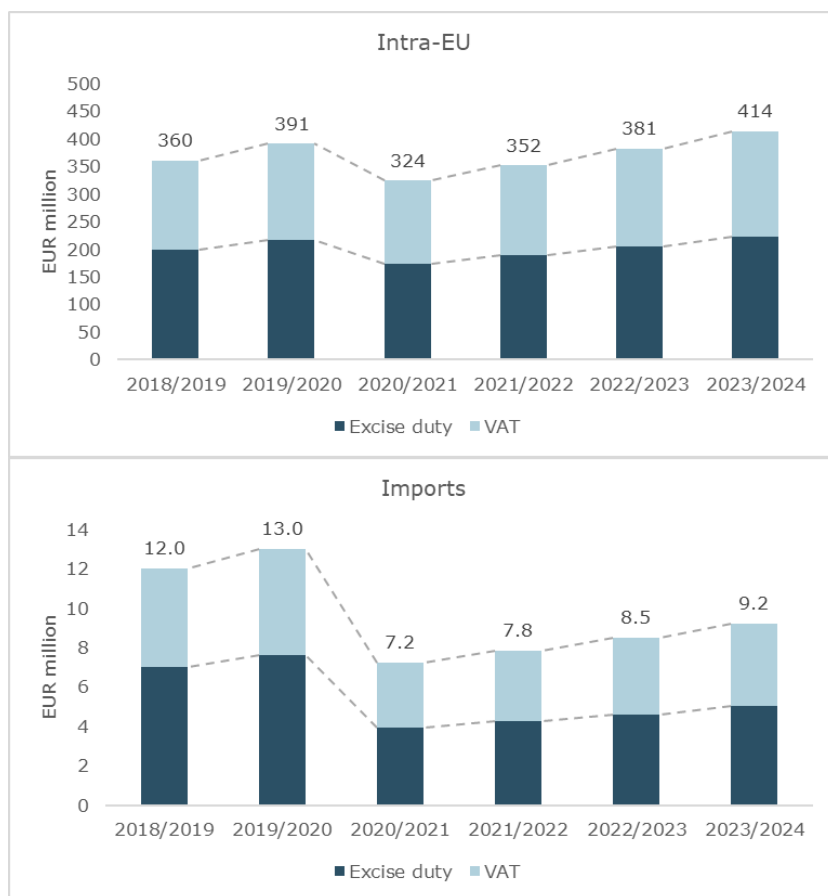


**Source:** Authors' estimates

### **Fraud Impacts**

This is the first study to provide insights into fraud at an EU level for both intra-EU trade and import distance sales into the EU. As mentioned previously, the available data and intelligence is not comprehensive, but by using the estimate of growth in ecommerce presented earlier, while incorporating the expected impact of Brexit, provides a forecast of both the excise duty and VAT lost as a result of fraudulent activity over a five-year period.

**Figure 50: Forecasts of tax lost due to undeclared movements - Intra-EU and import distance sales to the EU from 2018/19 to 2023/24**



**Source:** Authors' estimates

Assessing the impact of fraud on intra-EU distance sales first, the total loss of revenue is estimated to be approximately €360 million in 2018/19. With the forecasted growth in ecommerce and considering the expected impact of Brexit, the lost total tax revenue as a result of fraud is estimated to be approximately €414 million at an EU level by 2023/24.

Considering the levels of fraud on import distance sales to the EU, the current estimate of the lost revenue is estimated to be approximately €12 million. Based on the forecasted growth in imports incorporating Brexit, the level of fraud is projected to cause a total loss of tax revenue of approximately €9 million in 2023/24.

The estimated increase at an EU level for intra-EU fraud is not surprising, given that the changes incorporated into the baseline are not primarily designed to tackle fraud and are geared towards making the existing arrangements less burdensome. Focusing on import distance sales to the EU, there is a decrease in fraud and a tax revenue loss driven by the United Kingdom no longer being part of EU.

As the intra-EU figures at a country level are measured in terms of the Member State of Destination, the total amount of tax revenue lost in EU-27 countries (EU-28 excluding the United Kingdom) due to goods being fraudulently imported from the UK



through distance selling is unknown. Consequently, this amount cannot be subtracted from the intra-EU figure and, at least to some extent depending on the anticipated movement in this trade channel, added on to the imported distance sales figure. The above figures on fraud should thus be interpreted with caution.

### **Health Impacts**

Chapter 4 highlighted how alcohol consumption is forecast to fall slightly over the next five years, which contrasts with the large increases in distance sales of alcohol products. Despite large increases to the distance selling figures, the volumes remain small at an EU level, therefore the risk of alcohol related harm due to additional consumption is small. The following policy options will still be assessed against health criteria to ensure completeness of the analysis.

#### **5.7.2. Policy Option 2: Basic One Stop Shop**

##### **Outline of policy option**

The VAT Mini One Stop Shop (MOSS) currently allows, and the future One Stop Shop (OSS) will allow, economic operators trading in multiple Member States to report on and account for VAT on qualifying sales in a single Member State on a single VAT return. This removes the need for traders to register with the tax authorities in every EU Member State they sell to and instead allows them to register for VAT, file VAT returns and make VAT payments in one place whilst allowing the respective tax authorities in each Member State of consumption to receive the VAT which they are due.

A specific OSS platform could be created for excise goods, which would be distinct from the OSS platform for VAT whilst achieving the same aim. Under this option, there would be no interaction between the two OSS. Economic operators would use the Excise OSS to report, account for and pay excise duties due on distance sales to private individuals in other Member States in a single place. The OSS for excise would not be mandatory and economic operators would have a choice not to use the system.

##### *Registration of the excise distance seller*

Similar to the VAT MOSS, this policy option would allow economic operators the option to register electronically in a single Member State for all their intra-EU distance sales of excise goods to declare and pay excise duties in a single place. Economic operators would submit an application to:

- Register on OSS as an excise distance seller in the Member State of identification, with the authorisation valid for all excise products in the EU; and
- Request a SEED number for each Member State where the excise goods are dispatched from. The actual European Commission common domain central services would be interfaced with OSS, using the processes and tasks already in place for SEED business to business movement.

Each distance seller authorisation number would be connected to all the SEED numbers that the distance seller has obtained in each Member State from where they dispatched excise goods. The SEED number would be noted on the commercial invoice along with the distance seller authorisation number, thereby allowing the enforcement authorities to verify the nature of the movement from an excise point of view by checking that the consignor is an authorised excise distance seller duly registered in SEED at the MS of Dispatch.

Non-EU traders will also have access to the platform. They will be able to:

- Register on the OSS (provided that they already have a VAT registration in the EU, which the economic operator would need to provide during their registration); and
- Ask for a SEED (like for EORI), which would necessitate changes in view of opening the registration to them, since SEED is only for a person established in the EU.

#### *Submission of the excise tax return*

Traders registered for distance selling under OSS would report each individual transaction made on a monthly basis (i.e. not in real time) on a separate excise tax return filled in for each Member State of consumption falling under the scope of distance selling for excise duties (e.g. a separate return would be submitted for distance sales to France and another one for Germany via the same online portal).

An alternative option would consist of requiring excise distance sellers to upload one monthly excise tax return on OSS covering all Member States of consumption (i.e. similar to VAT MOSS all transactions are reported on a single return capturing all EU Member States although this would be reported at transactional level). The Member State of identification would be responsible for allocating the transactions and payment to the correct Member State of consumption.

Excise tax returns would contain per transaction details of the order (the person to whom it is sent to, the type and quantity of the goods and SEED number) to provide the authorities in the Members States of dispatch and consumption with information to audit as they see fit. When using OSS, the Member State of identification would be responsible for:

- Verifying the structure and content of the excise tax return or any corrections made on it afterwards received on OSS;
- Assigning a unique reference number to the excise tax return;
- Computing the excise duties to be paid (including after corrections made by the distance seller);
- Sending via OSS reminders to the distance seller to submit the excise tax return; and
- Notifying via OSS the distance seller of the reason for any rejection of excise tax return and corrections.

The Member State of identification would transfer via OSS the excise tax return to the Members States of establishment (dispatch) and consumption, which would:

- Evaluate the information reported (Member States may have specific requirements with respect to reporting that they would like to verify, such as the counting of fiscal marking, the correct application of the excise duty); and
- Manage any issues resulting from discrepancies or errors made by excise distance sellers.

Excise distance sellers would be able to correct the excise tax return within a period of 3 years.

#### *Payment of excise duty on OSS*

The excise duties payment would be done by the excise distance seller (consignor) through the Member State of identification, which would subsequently transfer the correct amount of excise duties to the Member State of consumption. The Member State of identification would be in charge of:

- Collecting excise payment in relation to the correct excise tax return; and
- Refunding the amount of excise duties paid initially in the Member State of dispatch.

Excise distance sellers would provide a global guarantee to cover each Member State from which they dispatch excise goods. However, guarantee management would not be done through OSS, but each Member State's national system, which would be interfaced with OSS to cross-check the amount of excise tax payment with the seller's guarantee amount.

As for VAT, the reimbursement of excise duty will be done outside of the OSS. For example, where the product is consumed in a different Member State from which the excise duty was originally paid.

The lack of automated administrative cooperation between Member States means that economic operators face difficulties in obtaining reimbursements from the Member State in which the goods have originally been released for consumption. For distance sales, therefore, the universal acceptance of the electronic Proof of Delivery should tighten up these issues and speed up the repayment process. A reconciliation would be available of goods received at the dispatching premises, orders received, orders delivered, and orders received with a single reference number linking all relevant issues (i.e. the order number generated on receipt of the order).

A good balance should be found between allowing economic operators to obtain reimbursement (i.e. provided that they meet the conditions for such a refund) and allowing Member States to impose controls before a claim can be repaid, as these controls must be reasonable to the person submitting the claim and the circumstances of the claim. Although administrative co-operation was introduced into EMCS in 2012, there do not appear to have been any immediate changes as a result of this introduction.

### *Access to information for other Member States*

The excise duty rates on excise goods vary significantly from Member State to Member State. Also, particularly in relation to some alcoholic beverages, in practice Member States may treat similar products differently for excise purposes, particularly in the 'fermented beverages other than wine and beer' category, or where a product is made with a mixture of distilled and fermented alcohol.

Careful consideration is therefore needed and audits must be organised in the same spirit. It is suggested that the Member State of consumption should be leading the audits. In that respect, as the stock verification will have to be made by the authorities in the Member State of dispatch, the results of that stock audit must be shared with the relevant Member States of consumption.

A register at national level would be maintained for any new excise distance seller authorisation and for storing excise tax returns received by economic operators. Member States (of consumption and dispatch) would have automatic access to the information by requesting through the OSS.

### **Analysis**

Overall, the cost-benefit analysis for all the potential policy responses throughout the distance selling chapter will be focussed and structured against the following criteria:

- Initial set-up costs;
- Ongoing costs;
- Cost savings for businesses and authorities;
- The impact on trade, SMEs and consumption; and
- Fraud.

These criteria have been selected as they are all relevant to each option, they are core components of cost-benefit analysis, and they also align well with the more detailed assessment criteria used in Chapter 7. In the section below, the basic One Stop Shop policy option is examined against each of these parameters.

#### *Initial set-up costs – Member States and European Commission*

This policy option would result in Member States and the European Commission facing considerable upfront IT costs in order to set up a basic OSS for excise. Our analysis, which includes the use of the DG TAXUD IT Cost Model, forecasts that the technical set-up costs for Member States will, on average, be €3.7 million per country.

We also estimate that the one-off cost for the European Commission will be approximately €3.3 million, meaning an overall IT transition cost of €103 million. The implicit assumption made here is that all Member States can use existing IT infrastructure when developing the OSS for excise goods, as the OSS for VAT purposes will be in place when this policy option is introduced.

Authorities will also incur costs of registering and authorisation in both SEED and OSS. Based on an earlier assessment by the European Commission (2017b), such costs are

estimated to be approximately €4.8 million EU-wide. In addition, the yearly administrative costs of renewing these registrations would amount to approximately €1 million across the EU.

Member States will also incur further one-off overhead costs, including operational expenses such as training, familiarisation and business process reengineering. However, most Member States employees will already have received training and be familiar with the OSS from the introduction of the VAT equivalent. As a result, we expect that overhead costs will be approximately €0.5 for every €1 spend on IT infrastructure. Using this assessment, the expected overheads for an excise OSS is approximated to be €1.9 million per Member State, while overhead costs for the European Commission are considered to be negligible.

This suggests an overall total transitional cost for an average Member State of approximately €5.7 million, and an estimate of €3.3 million for the European Commission.

#### *Initial set-up costs – Economic Operators*

Businesses could also incur significant IT costs for adapting their current technology systems to be compatible with the new OSS for excise. These costs will vary significantly across businesses, based on their size, activity and levels of automation. Earlier studies for the case of MOSS for VAT indicate that costs can vary between €8,000 and as high as €10,000,000 per business. On the other hand, earlier evaluation studies indicate an EMCS one-off cost for enterprises of between €1,000 and €10,000.

However, considering that the near real-time EMCS is more complex than the monthly file-exchange OSS; that smaller businesses, with less complex IT infrastructure than users of the current MOSS, are the expected users of the excise OSS; and that many business will likely already have invested in adapting their IT infrastructure to use the VAT OSS, it is estimated that set-up costs for business will be between €5,000 and €8,000, on average.

It is also important to highlight that such costs are, to some extent, voluntary (e.g. businesses themselves will decide whether IT investments are worthwhile or whether more manual point-and-click processes are more appropriate). This is especially important for micro businesses.

Economic operators will also incur registration costs of obtaining and renewing authorisations. Specifically, as per European Commission (2017b) study the cost of acquiring authorisation is expected to be approximately €2,300 per business. It is assumed that approximately 20% of this effort will be required for yearly renewal, and therefore this further cost is expected to be approximately €500 annually.

Similarly to national authorities, economic operators will also incur both internal and external costs for training, process re-engineering and general familiarisation, with these burdens approximated to cost between €2,500 to €4,000 on average per distance seller across the EU. For businesses currently not exploiting automated IT

systems, these costs are expected to be significantly lower as they will be able to manually type the information into the basic OSS.

#### *Ongoing costs*

The ongoing maintenance costs that Member States will face in order to keep running an OSS effectively are expected to be very similar to those currently incurred for the One Stop Shop for VAT. Using these assumptions, we estimate that the average total cost for maintaining the OSS will be approximately €260,000 per year, per national authority. This represents approximately 7% of the one-off IT cost per Member State and, as discussed above, is based on evidence and data from the VAT OSS. In total, this results in an EU-wide annual maintenance cost of approximately €7 million.

The ongoing maintenance costs for the European Commission are expected to be approximately €0.7 million per year, i.e. approximately 20% of the IT implementation costs, as discussed above.

For businesses, an earlier study indicates running costs of €2,200 per year (for the VAT OSS). We would expect broadly similar running costs for businesses using the excise OSS but, specifically, we expect slightly lower maintenance costs, in the range of €1,000 to €1,600, i.e. also approximately 20% of the IT implementation costs. It is important to note that ongoing maintenance costs of a basic OSS are expected to be broadly similar to ongoing costs currently faced under the baseline.

#### *Cost savings*

A basic OSS for excise would be a significant simplification compared to the current system, which has complex procedures for both national authorities and economic operators. Generally, simplifications can be disaggregated by:

1. Removing the need for a tax representative in each Member State, as all excise liabilities are settled in the Member State of identification.
2. Removing the need for external advisors in order to comply with the specific excise rules in each Member State, as all interactions with tax authorities will be carried out in the business's own language in the Member State of identification (this will not remove the requirement to comply with certain national measures, such as health legislation and tax stamps).
3. Introducing periodic returns common to all Member States to which businesses undertake distance sales, removing the need for multiple periodic returns each month.
4. The introduction of universal acceptance of the electronic Proof of Delivery should tighten up reimbursement issues and speed up processes.

Although there are several efficiencies and improvements, some of the administrative burden will remain unchanged, for example the need to register in SEED in all Member States of consumption.

Overall the analysis suggests, based on expert assessment in combination with earlier estimates of the cost reductions in the VAT OSS, that there will be considerable cost savings on a transactional basis for businesses. Indeed, somewhere between 50 and

75 percent of the current cost to comply with admin will be saved as a result of introducing the basic OSS. This is outlined in the table below, and further details can be found in the economic part of the Annex:

**Table 42: Average total compliance cost per distance sale of alcohol**

	Baseline	OSS		
	€	€ (Low)	€ (Medium)	€ (High)
Cost to comply with admin	49	12	18	25
Average fee of a tax representative	30	0	0	0
<b>Average total cost</b>	<b>79</b>	<b>12</b>	<b>18</b>	<b>25</b>

**Source:** Business Survey

By combining the €5,000 to €8,000 estimate range for set-up costs, and the minimum €55 saving per a distance sale transaction projection, Table 43 below sets out a range for the distance sales that would be required for economic operators to approximately recover the upfront IT expenditure, over a number of different time periods. These projections will differ significantly between businesses, but the table below provides a high-level overview:

**Table 43: Number of transactions per year required to recover set-up costs based on only saving per transaction**

	Intra-EU Distance sales per year required		
	Low Estimate	Medium Estimate	High Estimate
	#	#	#
1 Year	91	118	145
3 Year	30	39	48
5 Year	18	24	29

**Source:** Business Survey

The basic OSS is also expected to deliver cost savings, on a per return basis, for Member State authorities. We assume that national authorities, on average, produce a monthly response for each economic operator who undertook as distance sale in that Member State within that time period. This is set out in more detail in Table 44 below:

**Table 44: Average cost per return for the Member State authorities**

	Cost per return			
	Dispatch		Destination	
	Baseline	OSS	Baseline	OSS
	€	€	€	€
Low	4.53	2.27	6.73	3.37
Medium	8.97	4.49	13.93	6.97
High	13.41	6.71	21.12	10.56

**Source:** Business Survey

The costs are expected to be higher in the MS of Destination because this is where the payment is actually made by a non-local company. However, while the average cost reductions per transaction under the basic OSS for excise are expected to be substantial for authorities, the number of distance sales that authorities will have to process is forecast to increase considerably (due predominantly to the expected increase in the activity as a result of the more efficient distant selling system).

Specifically, it is estimated that the number of intra-EU distance sales of alcohol products will increase from 28 million in 2023/24, to approximately 53 million under the central estimate, while import distance sales will increase from 0.5 million to approximately 1.0 million. Overall, this implies that, for intra-EU distance sales, the total regulatory cost for authorities (excluding IT costs) decreases from between €319 to €978 million (forecasted in 2023) to approximately €298 to €914 million.

#### *The impact on trade, consumption and SMEs*

The cost reductions for economic operators set out above will likely have three main effects on the distance selling sector:

1. Producers, wholesalers and retailers currently undertaking distance selling will increase their distance selling activities (increase of distance selling on the intensive margin).
2. Non-exporters, notably producers, will enter the market and start distance selling (increase of distance selling on the extensive margin).
3. Wholesalers and producers currently using B2B regimes will start distance selling directly to consumers (substitution from B2B to distance selling).

All three of the above effects will lead to increases in distance selling, however the third effect will also result in some level of equivalent reductions in B2B transactions. The results of our analysis and modelling indicate that distance selling will increase by approximately 78% to 96% over the next five years (please see the economic modelling section of the Annex for a further explanation), if the basic OSS is introduced. The table below provides further details:



**Table 45: Compliance costs and the impact on intra-EU and import distance sales by 2023**

	Baseline	OSS		
	€	€ (Low)	€ (Medium)	€ (High)
Average cost of compliance intra-EU (€)	79	12	18	25
Intra-EU distance selling (€ Million)	2,322	4,542	4,346	4,134
Average cost of compliance imports (€)	79	15	21	27
Import distance sales into the EU (€ Million)	57	110	105	100
<b>Total intra-EU and import distance sales (€ Million)</b>	<b>2,379</b>	<b>4,652</b>	<b>4,451</b>	<b>4,234</b>

**Sources:** Based on Consumer Survey; Statistica Research; Lawless (2008); and Crozet and Koenig (2010)

While the simplifications introduced by the basic One Stop Shop will have significant impacts on the market for distance selling of alcohol products, the overall impact on consumption is expected to be minimal. This is predominantly because:

- The average compliance cost for distance selling is still significantly above that of W2R trade (on a per item basis). Hence, the average price that consumers face is left largely unchanged.
- The simplifications mainly increase the range of alcohol products available to EU consumers (at reasonable costs). However, this is generally not expected to increase consumption.

We therefore do not expect this policy option to generate any significant increase in consumption and consequently the impact on health is expected to be very limited. Furthermore, this policy option does not affect a Member States autonomy in pursuing health policies, as all distance sales are still subject to the excise rate at the destination Member State where the goods are released for consumption.

This policy option is expected to be especially beneficial to non-exporters, notably SMEs, as it allows them to benefit from being able to reach customers in all Member States at much lower costs. This in turn enables them to charge higher margins, as the demand curve is potentially shifted upwards significantly.

#### *Fraud*

This option is expected to improve both voluntary compliance and control efforts to combat fraudulent distance selling on both intra-EU and import distance sales. The basic OSS for excise is envisioned to help economic operators navigate the very complex arrangements for excise across Member States, ensuring a higher level of voluntary compliance. Furthermore, the basic OSS would also facilitate the monitoring of compliance due to increased exchange of information across Member States in combination with closer administrative cooperation.

## Tax revenue

This policy option does shift the tax liabilities of businesses, i.e. relevant excise and VAT rates at destination countries apply under both the status quo and this policy option. However, as introducing the excise OSS is likely to lead to increased compliance, revenues are expected to increase. This should be seen in the context of significant revenue losses from undeclared intra-EU distance sales of approximately €200 million for excise and €160 million for VAT.

Earlier assessments of the VAT OSS find that non-compliance is expected to dramatically decrease with the introduction of the OSS (European Commission, 2016). Specifically, it is found that foregone revenue will decrease by between 71%-83%. Applying the same reduction to undeclared intra-EU distances sales would result in an increase in excise revenue of approximately €140 to €165 million EU-wide. On top of the excise duty, this proportion would be recovered for VAT too, leading to a lower VAT revenue loss across the EU of approximately €110 to €130 million. This would lead to a total (excise and VAT) increase in tax revenue collected from intra-EU distance selling of approximately €280 million.

## Overall assessment of the option

There are a number of positive aspects of implementing a basic OSS for excise. The system is a significant simplification compared to the current process, and would make it easier for national authorities, economic operators and the European Commission to manage the distance selling sector. This improvement is coherent with the principles of the internal market, and will reduce the risk of complex procedures, misinformation and differing national processes impacting free trade and cross-border cooperation.

Ecommerce is still one of the highest growth sectors, and EU intervention is important to ensure that the distance sellers of excise products are able to take advantage of this. An OSS offers significant ongoing administrative and compliance cost reductions, allowing businesses currently undertaking distance selling to expand their production, and reducing barriers to new businesses entering the market. An excise OSS would lead to a considerable growth in distance sellers entering the market, increasing competition and therefore consumer choice across the European Union.

A key potential downside is the high costs associated with its initial set-up. While these appear manageable at a national level, special consideration needs to be given to the impact placed on businesses, who may face upfront costs to adapt their current systems. Although these costs will be broadly proportionate for most economic operators (i.e. higher for larger businesses), they will also in some way be correlated to a business's level of automation and could therefore be unequally prohibitive.

Although this option does not integrate with the VAT OSS, an excise-only OSS would be able to build on the experience and lessons learnt from the VAT system. This would help ensure efficiencies in set-up and ongoing operation.

Assessment summary (DS Option 2)			
Proportionality	+	Coherence	++
Economic and social impacts	++	Relevance	++
Administrative burden	++	Effectiveness	++
Practicality of implementation	--	EU added value	++
		Efficiency	++

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---).

This is compared against the other distance selling policy options later in Chapter 7.

### 5.7.3. Policy Option 3: OSS with VAT and Excise integration for Economic Operators

#### Outline of policy option

The European Commission could propose the addition of excise compliance requirements for distance selling to the existing VAT OSS platform. This option would enable operators to use a single platform where VAT and excise duty filing and payment could be addressed, with consolidated excise data submitted on a periodical basis. This would be expected to reduce administrative and IT costs, for both tax authorities and economic operators, in place of different platforms for VAT and excise duties.

This platform should be designed in such a way as to enable operators to report on a periodic (monthly or quarterly) basis for VAT and excise duties, with a reporting based on an account or computed approach (not transaction per transaction), but in any option not on a real time basis. Where the excise reporting is completed on a consolidated basis only, the excise tax return would be uploaded onto the OSS, where every Member State could track the total amount of excise duty due for any given period. The Member State of consumption may require the distance seller to present a stock record upon request or systematically, but not necessarily via OSS.

Like the basic excise OSS, the payment would be made to the Member State of identification, which would subsequently transfer the correct amount of excise duties and VAT to the tax authorities of the Member State of consumption. As for VAT MOSS, integrated OSS combining VAT and excise will continue not to be mandatory.

#### Registration on OSS

The VAT OSS consists of two schemes (Union and non-Union), with the choice depending on whether the business is established or not within the EU. Traders, whether established or not in the EU, would be able to use the current VAT OSS platform to register as a distance seller for VAT and excise. The system would need to include new tasks, processes and messages on the adapted OSS, which we identify for OSS for excise only. Like a basic excise OSS, distance sellers would also be required to request as many SEED numbers as Member States of dispatch to be authorised to ship

excise goods to Member States of consumption. The SEED number would have to be noted on the commercial document accompanying the shipment.

Non-EU traders will also have the possibility to ask for a SEED (like for EORI), which would necessitate changes in view of opening the registration to them, since SEED is only for agents established in the EU.

#### *Submission of the combined VAT and excise tax return*

This option differs from the Basic OSS option in that the VAT and excise accounting procedures would be within a single forum rather than having a separate login and working in parallel.

The current system would need to be amended to add the tasks which specifically relate to excise tax reporting:

- Distance sellers would submit a tax return (and any corrections to an existing return) combining excise and VAT inputs to the Member State of identification. The current VAT return on OSS would have to be amended to include a minimum of excise-related information (e.g. category of alcoholic beverages, volume of alcohol or degree of alcohol, quantity, fiscal marking, excise rate applicable, etc) that would be computed (i.e. not transaction per transaction). For alcoholic beverages, excise duties are calculated differently among Member States depending on, for example, for beers the number of hectolitre/degrees plato or the number of hectolitre/degrees of actual alcoholic strength by volume;
- Although excise is based on a specific calculation method and the VAT is calculated using the ad valorem method, a single return can be created. The invoice/delivery document requires the type and quantity of alcohol to be listed as well as the price so there is a link to each invoice in the calculation reconciliation;
- The Member State of identification would assign a separate reference number to the combined VAT and excise tax return and compute VAT and excise duties; and
- The Member State of identification would prepare and transfer VAT and excise tax returns to the Member of consumption.

By receiving a combined VAT and excise tax return, current tasks on OSS would have to be amended in the current OSS so that the Member States of establishment (dispatch) and consumption to:

- Assess combined VAT and excise tax returns, which can include specific requirements depending on the countries of consumption (such as the record of fiscal marking); and
- Manage the issues found in the combined VAT and excise tax returns.

The OSS for VAT and excise would also integrate tasks for transmitting the excise related-information contained in the combined tax return to the Member States of dispatch and consumption as well as notifying the distance seller of any rejection, correction or reminders.

### *Payment of VAT and excise duties*

Under this option the distance seller would pay the excise duties along with VAT. Based on the reference number assigned to the combined VAT and excise combined tax return, the Member State of identification would have to identify the amounts accounted for excise and VAT. The current tasks on OSS would have to be amended in the current system to include excise duties:

- For the Member State of identification, to verify the structure and the content of the VAT and excise tax payment submitted by the distance seller, allocate it to the appropriate combined VAT and excise tax return, extract the payment of VAT and excise duties; and
- For the Member State of consumption, to evaluate the VAT and excise duties payment received by the Member State of identification and manage any payment issues found. The Member States of consumption may have to split the payment to differentiate the excise duties from VAT.

A number of existing tasks will also need to be changed as a result of the excise integration into the current VAT system, such as:

- Notifications to the distance seller of the reason for rejection of any tax payment (VAT and/or excise);
- Reminders for non-payment or information to the distance seller for overdue payment;
- Option for adjustments to be made on future returns (excise and/or VAT);
- The recovery of payment (VAT and/or excise); and
- The notifications between Member State of identification, Member State of dispatch and Member State of consumption, for example the transmission of tax returns (as they already exist on the OSS for VAT).

As with an excise-only OSS, distance sellers would provide a global guarantee in each Member State from where they dispatch goods. However, guarantee management would not be done through OSS, but each Member State's national system, which would have to be interfaced with OSS to cross-check the amount of excise tax payment with the level of guarantee amount granted.

In certain situations (e.g. when the distance seller is not established in the EU), the platform holder (i.e. the company who operates the platform or website on which the excise goods are being sold through) could be held jointly liable for the payment of excise duties. A similar system will be implemented for VAT from 2021, whereby platform holders will be held liable for the payment of VAT if VAT has not been remitted by the vendor that uses this platform to sell their goods. A similar system could be established for excise duties, as it would encourage the owners of the distance selling platforms to make sure that excise duties have been paid in the correct Member State.

The registry used at national level for OSS for VAT would be used for the registration of new distance sellers and storing excise tax returns. It is expected that distance sellers would have one single distance seller account covering their VAT and SEED

numbers. In case there is a request for information from a Member State, the distance seller identifier will be used to access both VAT and excise returns and registration details.

## **Analysis**

### *Initial set-up costs – Member States and European Commission*

Member States and the European Commission will be subject to significant IT costs in setting up an integrated OSS covering both VAT and excise duties. Although this is a combination approach, some of the core costs are forecast to be higher than those associated with the basic OSS.

According to our estimates, which again makes use of the DG TAXUD IT Cost Model, this policy option involves the following average IT set-up costs: €4.01 million per Member State, and €3.49 million for the Commission. This equates to an approximate total set-up cost of €108 million. As with the assessment of the basic OSS, the analysis implicitly assumes that all Member States can use existing IT infrastructure when developing the integrated OSS, as the OSS for VAT purposes will already be in place when this policy option is introduced.

As for the basic OSS, authorities will also incur costs of registering and authorisation in both SEED and OSS. These costs are expected to be the same as for the basic OSS, i.e. approximately €4.8 million EU-wide. Furthermore, yearly administrative costs of renewing these registrations would amount to approximately €1 million across the EU.

The same types of transitional costs (training, familiarisation etc) as for the Basic OSS are also approximated. The costs for each Member State for the Integrated OSS are estimated to be approximately €2 million, using the same ratio described for the basic OSS policy option. This translates into an EU-wide transitional cost of approximately €54 million.

### *Initial set-up costs – Economic Operators*

Almost identically to the Policy Option 2, businesses will face IT costs for adapting their current technology systems to be compatible with the new OSS for excise. The same assumptions are used for estimating these costs, with the average IT set-up cost expected to be between €5,000 and €8,000 per business. Further costs associated with training and process re-engineering are also estimated to be similar and are approximated to be between €2,500 to €4,000.

Economic operators will also incur registration costs similar to those set out under Policy Option 2. Specifically, the costs of getting authorisation are expected to be approximately €2,300, with a yearly renewal cost of approximately €500 per year.

### *Ongoing costs*

Again, the ongoing costs, such as maintenance costs, are expected to be almost identical for Member States as for the OSS option above. The costs are forecast to be similar to those currently incurred for the Mini-One-Stop-Shop for VAT (MOSS), which

have been quantified as approximately €260,000 per year, per Member State. This would result in a total annual ongoing cost of approximately €7 million for national authorities. The ongoing maintenance costs for the European Commission are expected to be approximately €0.7 million per year, i.e. approximately 20% of the IT implementation costs.

For businesses, an earlier study (discussed under Option 2) indicates running costs of €2,200 per year for the VAT OSS. We would expect similar running costs for businesses using the integrated OSS although we expect maintenance costs to be slight lower, in the range of €1,000 to €1,600 per economic operator.

#### *Cost savings for businesses and authorities*

An integrated OSS covering both excise duties and VAT is expected to be a significant simplification compared to the current system, for both authorities and businesses. It is also expected to offer some additional savings compared to the Basic OSS option (number 5 in the list below):

1. Removing the need for a tax representative in each Member State;
2. Removing the need for external advisors;
3. Introducing periodic returns common to all Member States in which businesses distance sell alcohol products;
4. The introduction of universal acceptance of the electronic Proof of Delivery should tighten up reimbursement issues and speed up processes; and
5. A single registration mechanism is needed for both excise and VAT.

The estimated change in the average total compliance cost is presented in the following table:

**Table 46: Average total compliance cost per intra-EU distance sale of alcohol**

	Baseline	Integrated OSS		
	€	€ (Low)	€ (Medium)	€ (High)
Cost to comply with admin	49	10	16	22
Average fee of a tax representative	30	0	0	0
<b>Average total cost</b>	<b>79</b>	<b>10</b>	<b>16</b>	<b>22</b>

**Source:** Business Survey

Similarly to Option 2, the integrated OSS is expected to reduce the average costs for authorities. The reduction is estimated to be slightly larger when considering an integrated OSS, as this system is further integrated for more automation of control mechanisms.

**Table 47: Average cost per return for the Member State authorities**

	Cost per return			
	Dispatch		Destination	
	Baseline	Integrated OSS	Baseline	Integrated OSS
	€	€	€	€
Low	4.53	2.04	6.73	3.03
Medium	8.97	4.04	13.93	6.27
High	13.41	6.03	21.12	9.50

**Source:** Business Survey

Like with the basic OSS, the average cost reductions per transaction under the Integrated OSS are expected to be substantial for authorities. However, these costs will be in some way mitigated by new increased activity, as we are forecasting the Integrated OSS to also lead to a considerable increase in the number of distance sales that authorities will have to process.

It is estimated that the number of intra-EU distance sales of alcohol products will increase by similar levels to those estimated in the OSS model. Our central forecast is that the former will increase from 28 million (baseline) to 51-56 million under this policy option, while import distance sales will increase from approximately 0.54 million to between 0.97 to 1.07 million.

*The impact on trade, consumption and SMEs*

The costs savings that are presented above will make it more attractive for businesses and economic operators to engage in distance selling. The overarching benefits are similar to those identified under Policy Option 2, although the specific levels for each vary.

Our modelling forecasts that, if an Integrated OSS was implemented, that intra-EU distance selling will likely increase by approximately 100-120% over the next 5 years. For import distance selling, the increase is forecast to be between 96% and 115% over the same period. This is set out in more detail in the table below:

**Table 48: Compliance costs and the impact on intra-EU and import distance sales**

	Baseline	Integrated OSS		
	€	€ (Low)	€ (Medium)	€ (High)
Average cost per transaction of compliance intra-EU (€)	79	10	16	22
Intra-EU distance selling (€ Million)	2,322	4,623	4,428	4,216
Average cost of compliance imports (€)	79	12	18	25
Import distance sales into the EU (€ Million)	57	112	107	102
<b>Total intra-EU and import distance sales (€ Million)</b>	<b>2,379</b>	<b>4,735</b>	<b>4,535</b>	<b>4,317</b>

**Sources:** based on Consumer Survey; Statistica Research; Lawless (2008); and Crozet and Koenig (2010)



As discussed throughout this section, the impacts that an Integrated OSS will have on the distance selling market are likely to be significant. However, this policy response is unlikely to have a large impact on the overall alcohol demand and consumption levels across the EU. Similarly to the basic OSS, it is estimated that improvements to the system will lead to increases in consumer choice, and the range of reasonably priced products they have access to. It is not forecast to significantly increase the overall levels of alcohol that they purchase, and therefore consume.

This option is therefore not forecast to have measurable impacts on the health levels of EU citizens, or to affect a Member States autonomy in pursuing health policies, as all distance sales are still subject to the excise rate at the destination Member State where the goods are released for consumption.

#### *Fraud*

The impacts on fraud are likely to be similar to those for Policy Option 2, as set out in the previous section.

#### *Tax revenue*

The impacts on revenue are estimated to be similar to those for Policy Option 2, as set out in the previous section.

### **Overall assessment of option**

There are a number of potential benefits of integrating an excise OSS with the VAT system. The change would simplify the current complex compliance procedures, particularly for businesses, and bring together the administration of two major indirect taxes.

The integrated system would represent a coherent, streamlined and simplified approach, making it easier for Member States, the European Commission, and economic operators to manage the distance selling sector. The system would also lead to reduced costs per transaction (from an excise perspective) compared to the basic excise OSS option alone and is consistent with the core goals of the internal market.

Although the ongoing benefits of the integrated system are estimated to be higher, so are the upfront transitional and set-up costs. Integrating and changing current systems is traditionally more expensive than building new ones, and although this option may synergise two key indirect tax management systems, it is the highest cost option that we consider, particularly in the initial stages.

Assessment summary (DS Option 3)			
Proportionality	+	Coherence	++
Economic and social impacts	++	Relevance	++
Administrative burden	+++	Effectiveness	++
Practicality of implementation	--	EU added value	++
		Efficiency	++

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---).

This is compared against the other distance selling policy options later in Chapter 7.

#### 5.7.4. Policy Option 4: Basic OSS and De Minimis Threshold

##### **Outline of policy option**

At present, there is no *de minimis* for excise goods sold via distance sales. Any distance sales, irrespective of the volume of the order or the turnover of the business supplying the goods, require excise and VAT to be paid in the Member State of consumption. This differs from VAT, for non-excise goods.

In order to avoid relatively large administrative costs for the small businesses selling only a negligible amount of excise goods via distance sales, an EU-wide threshold could be a solution to burdensome and costly compliance procedures.

Small businesses who do not exceed the *de minimis* threshold would be exempted from registering for the OSS but would still have to register in SEED for excise purposes. The SEED number would be mentioned on the accompanying commercial document to verify and confirm that the distance seller, liable for the excise duty of the excise goods, complies with the threshold-related requirement. It thus should not increase the risk of fraud as the *de minimis* threshold would only apply to registering for OSS.

This application of the *de minimis* threshold would mean that distance sales of excise goods up to the *de minimis* threshold would be subject to the excise duty in accordance with the rules of the Member State of dispatch, and they would be paid in that Member State. Distance sales of excise goods above the threshold would be subject to the excise duty in accordance with the rules of the Member State of consumption, and they would be paid in that Member State.

Under this option the same *de minimis* limit of €10,000<sup>63</sup> which applies to VAT is proposed, so national tax authorities have a consistent view of VAT and excise. As an example, an operator who would exceed the threshold and register only for excise duty - not for VAT - could easily be identified by the national tax authorities. Where a business is only registered for excise duty and not VAT, the mismatch would be easily spotted, making this an efficient means of control for national tax authorities.

<sup>63</sup> This threshold, like for VAT e-commerce, would (a) be for the annual EU-wide turnover of distance sales in terms of goods value, taxes not included, and (b) be optional and up to each economic operator (non-established taxable person) to use at their discretion.

## **Analysis**

### *Initial set-up costs – Member States and European Commission*

The IT costs and transitional costs for Member States and the European Commission of setting up the OSS are expected to be broadly in line with those set out in Option 2.

However, the European Commission (2016) finds that approximately 77% of businesses are likely to be below the currently proposed threshold. These are predominantly micro businesses that no longer have to register in the OSS. Therefore, we estimate that national authorities will incur smaller costs of registering and authorisation in the OSS with a *de minimis* threshold. These costs (it is assumed that businesses below the *de minimis* still must register in SEED) are expected to be approximately €3.0 million EU-wide. Furthermore, yearly administrative costs of renewing these registrations would amount to approximately €0.6 million EU wide.

### *Initial set-up costs – Economic operators*

Exempt businesses, who sell less than €10,000 via distance selling, no longer have any initial set-up costs. Combining this with the assumptions applied in Option 2, we estimate that there will be a total set-up cost in the range of €7 to €12 million EU-wide, given that all businesses above the *de minimis* threshold choose to implement the OSS. This is a reduction of between €30 and €50 million compared to Option 2.

Similarly, total costs associated with training and process re-engineering are also expected to decrease. We expect that the costs will be reduced from around €15 to €25 million EU-wide under Option 2, to approximately €5 million under Option 4. This is primarily due to there being no costs for businesses below the *de minimis*, and average costs similar to those set out in Option 2 for businesses above the threshold.

### *Ongoing costs*

As set out above, the ongoing costs, such as maintenance costs, are forecast to be broadly similar for Member States as for the Basic OSS option. The ongoing maintenance costs for the European Commission are also expected to be similar to those incurred under Option 2.

As only approximately 23% of relevant businesses are expected to incur maintenance costs (as set out above), it is expected that average maintenance costs (for all businesses) will be in the range €200 to €370 per operator.

### *Cost savings for businesses and authorities*

As with the Basic OSS (without a threshold), our analysis suggests that this version of the system will also have significant average cost savings on a transactional basis for businesses. These costs, which are slightly lower as a result of the *de-minimis* threshold addition, are outlined in further detail in the following table:

**Table 49: Average total compliance cost per intra-EU distance sale of alcohol**

	Baseline	De Minimis + OSS		
	€	€ (Low)	€ (Medium)	€ (High)
Cost to comply with admin	49	8	14	21
Average fee of a tax representative	30	0	0	0
<b>Average total cost</b>	<b>79</b>	<b>8</b>	<b>14</b>	<b>21</b>

**Source:** Business Survey

The decrease in the average compliance cost per intra-EU distance sales reflects that micro businesses below the €10,000 threshold represent approximately 77% of all businesses operating in the cross-border e-commerce market, as outlined above. However, as all businesses, even the ones that fall under the *de minimis* threshold, will still have to register in SEED, the average cost per transaction is only marginally lower compared to Option 2.

Again, the average cost per return for authorities is broadly similar as under Option 2, even with a de minimis threshold. The slightly lower results are set out in the table below:

**Table 50: Average cost per return for the Member State authorities**

	Cost per return			
	Dispatch		Destination	
	Baseline	De Minimis + OSS	Baseline	De Minimis + OSS
	€	€	€	€
Low	4.53	1.92	6.73	2.85
Medium	8.97	3.79	13.93	5.89
High	13.41	5.67	21.12	8.93

**Source:** Business Survey

The increase in the number of distance sales that authorities will have to process is forecast to be slightly higher under Option 4. Specifically, it is estimated that the number of intra-EU distance sales of alcohol products will increase from 28 million to 55 million (central estimate), while extra-EU distance sales into the EU will increase from 0.54 million to 1.0 million. Overall, this implies that, for intra-EU distance sales, the total regulatory cost for authorities (excluding IT costs) decreases from between €319 to €978 million (forecasted in 2023) to approximately €260 to €797 million.

#### *The impact on trade, consumption and SMEs*

The impacts of the significant cost reductions for businesses that are detailed above will have the same three main effects on the distance selling sector as under Option 2 (with some small differences as a result of the de minimis threshold).

Our results indicate that intra-EU distance selling will increase significantly under Policy Option 5, as will import distance sales to the EU:

**Table 51: Compliance costs and the impact on intra-EU and import distance sales**

	Baseline	De Minimis + OSS		
	€	€ (Low)	€ (Medium)	€ (High)
Average cost of compliance per transaction intra-EU (€)	79	8	14	21
Intra-EU distance selling (€ Million)	2,322	4,667	4,470	4,260
Average cost of compliance per transaction imports (€)	79	15	21	27
Import distance sales into the EU (€ Million)	57	110	105	100
<b>Total intra-EU and import distance sales (€ Million)</b>	<b>2,379</b>	<b>4,777</b>	<b>4,575</b>	<b>4,360</b>

**Source:** Consumer Survey; Statista Research; Lawless (2008); and Crozet and Koenig (2010)

The impacts that this option could have on fraudulent activity are difficult to assess in detail. Given that a significant proportion of economic operators would be below the threshold, and therefore not have to register in the OSS, Member State authorities would likely have access to less data and this could impact their ability to perform risk analysis and audits. Economic operators could also use the threshold to potentially game the system, setting up smaller businesses operating below the de minimis to avoid having to pay the correct excise payments. This could lead to an increase in fraudulent activity.

However, a study undertaken by Copenhagen Economics (2017), which references further studies by Deloitte and the European Commission, found that the removal of the VAT de minimis threshold could actually increase the levels of fraud. This is primarily because the motivation for non-EU businesses to undervalue or mislabel their items to reduce their VAT cost increases as the volume of products in scope of VAT increases. Further detailed analysis would need to be undertaken to fully understand the likely impacts a de minimis threshold would have on the fraudulent distance selling of excise products.

While the simplifications introduced by the One Stop Shop, including a threshold, will have significant impact on the overall market for distance selling of alcohol products, this option, like the Basic OSS, is not expected to have significant impacts on health or wider consumer welfare. Although consumers may be able to source cheaper alcohol from small traders in other Member States, these small sellers (under the threshold) represent a very small proportion of the total volume of alcohol distance sales and therefore the health impacts are not expected to be significant.

### **Overall assessment of option**

The previous options suggest there are potentially high set-up costs which could disproportionately impact SMEs. Implementing a de minimis threshold helps to

overcome this challenge for SMEs undertaking a small volume of distance sales, making this option particularly aligned to the objective of promoting the development of small businesses.

However, this option could be considered less coherent with other EU policies. Allowing differential treatment for some firms may cause economic distortions as business decisions are impacted by the threshold. The de minimis would be optional, allowing small businesses to take advantage of lower excise rates in the Member State in which they were based, *vis a vis* businesses over the threshold who would be forced to apply the rate in the Member State of destination. The advantage to small firms is limited, however, as a significant advantage that led to a large increase in sales may also put them over the threshold.

The de minimis is also incoherent with the wider principle of destination-based taxation that applies to excise generally (personal acquisition being the notable exception) and VAT, although this issue already exists for the later. Like personal acquisition, this would direct revenues away from the Member States in which the excise products are consumed.

Assessment summary (DS Option 4)			
Proportionality	++	Coherence	+
Economic and social impacts	++	Relevance	++
Administrative burden	++	Effectiveness	++
Practicality of implementation	--	EU added value	++
		Efficiency	++

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---).

This is compared against the other distance selling policy options later in Chapter 7.

### 5.7.5. Policy Options 5: Basic OSS and EU Excise Web Portal

#### Outline of policy option

While the development of an OSS system could be a priority within the EU, the varying degrees of publicly available information from Member States on the distance selling reporting registration and reporting requirements in the Member State of dispatch and destination should also be addressed. The OSS system could be supplemented both in the short and long term by an EU excise web portal where all rules and guidelines of Member States would be accessible in an intelligible format on the current web page of the EU Commission.

A common challenge for businesses seeking to undertake distance sales of excise products to private individuals in other Member States is understanding the rules, reporting and registration requirements which often require the assistance of a third-party service provider. This key point was raised by the industry representatives. To date, the web page of the Commission only provides links to each website of the national tax authorities. This short-term solution could be implemented within a one year period (i.e. this is a realistic timeframe taking into account the time necessary to

gather all relevant information, translate this into all official languages and set-up the website).

This policy option would require Member States to review and, if applicable, update the information on their websites to make this easily accessible for businesses in other Member States (i.e. in addition to the local language(s) of the relevant Member State it should also be available in English). The relevant web pages from the Member States would then link to the web page of the Commission. The collation of the data would take approximately 6 months and the creation of the website would take a similar amount of time.

To prepare a dedicated EU excise portal, the following actions could be performed:

- As a first step, determine if and how the procedures and rules on cross-border distance selling, excise duties, chargeability etc. are accessible to all economic operators (i.e. through a questionnaire sent to the national authorities);
- As a second step, cross-check this overview with the information that needs to be gathered from excise experts across the EU;
- As a third step, verify the magnitude of the discrepancies by consulting the website of the customs authorities of each Member State; and
- Finally, define a project plan to build and maintain the EU Excise Portal up to date.

In that context, we would recommend that Member States pro-actively provide the EU Commission with any changes or updates in their national framework. However, the EU Commission should not be held liable for incorrect or outdated information and should periodically request that Member States confirm the content of the EU web portal.

### **Overall assessment of option**

Most of the analysis required for this option is set out in Option 2 (the implementation of a basic OSS). The only small addition that needs to be assessed qualitatively for this option is the impact of introducing the additional EU web portal.

The implementation of an EU excise web portal is expected to marginally reduce the compliance costs for businesses and marginally reduce involuntary non-compliance, particularly in the short term before an OSS for excise is active. This would make businesses relatively less dependent on external advisors to comply with the complex arrangements for excise duty across Member States, reducing administrative and potential familiarisation burdens.

The costs of this option are assessed to be insignificant at a Member State level, so are not quantified here. The costs of setting up and maintaining the portal, however, will not be negligible for the European Commission and would need to be robustly assessed depending on the specific type of portal that was implemented.

The assessment summary below is based on a combination of both the Basic OSS and the EU Web Portal.

Assessment summary (DS Option 5)			
Proportionality	+	Coherence	++
Economic and social impacts	++	Relevance	++
Administrative burden	++	Effectiveness	+++
Practicality of implementation	--	EU added value	+++
		Efficiency	++

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---).

This is compared against the other distance selling policy options later in Chapter 7.



## 6. Wholesale to retail

This chapter addresses business to business transactions of excise goods under both duty suspension and duty-paid arrangements between Member States. The electronic monitoring of all duty suspended movements has been mandatory under the Excise Movement and Control System (EMCS) since 2011 and duty-paid arrangements will be automated in the near future (European Commission, 2017e).

The chapter starts by presenting, reviewing and analysing the current legal framework based on Directive 2008/118/EC whilst also capturing the extension of EMCS to the movements of duty-paid excise goods to other Member States. It then identifies and examines the practical issues which have arisen as a result of the application of Directive 2008/118/EC and finally presents and assesses several potential policy responses that could be used to deal with the identified issues in relation to retailers purchasing excise goods who face greater compliance costs for using a wholesaler in another Member State, compared to sourcing goods in the same Member State.

### 6.1. The EU legal framework for wholesale to retail

There is no specific provision in Directive 2008/118/EC covering business to business transactions between wholesalers and retailers where the goods are moving from one Member State to another. There are however different procedures that can be followed for a business to business scenario: transactions of excise goods between wholesalers and retailers can be carried out via duty suspension (as laid down in Chapter IV of Directive 2008/118/EC) or via duty-paid arrangements (as laid down in Chapter V of Directive 2008/118/EC).

#### 6.1.1. Directive 2008/118/EC

Excise goods can be transported under duty suspension by an authorised warehouse keeper or registered consignor to another tax warehouse, a registered consignee, an exempt consignee or a place of exit from the EU (referred to in Article 25) (European Commission, 2019). All relevant movements are made under the following general provisions:

- The consignor is an approved person and the premises are also approved;
- The consignee is approved; and
- The details of the movement are entered and validated in the Excise Movement Control System (EMCS) prior to the goods being dispatched.

When excise goods are transported between Member States, they must be accompanied by:

- A print out of a Electronic Administrative Document (e-AD) for goods which are under duty suspension (or a document that contains the Administrative Reference Code (ARC) which approves the movement in the system; or
- A simplified Administrative Accompanying Document (SAAD) for goods on which duty has been paid in the Member State where they were dispatched.

All movements of excise goods between Member States under an excise duty suspension arrangement must be made using EMCS and the excise liability in the consignment must be covered by the provision of a movement guarantee by the dispatching warehousekeeper, the transporter or carrier, the owner of the excise goods, the consignee, or even jointly by two or more of these persons. EMCS traces the movements, through documenting details such as the nature and quantity of the goods being moved, as well as details of the consignor and consignee. EMCS captures and processes this information online, validates the data entered and allows for real time notification of the dispatch and receipt of duty suspended excise goods. The system validates the data entered by cross-referencing against the System for Exchange of Excise Data (SEED). Once the movement has been validated, the consignor can produce an e-AD for the circulation of the products. EMCS then also provides the eAD to the Member State of destination, which will forward it to the consignee (for notification purposes).

There is currently no electronic system in place, however, for when the excise duty on goods has been paid in the Member State of dispatch, and those goods are intended for a business to business movement (or for commercial purposes as defined in the Directive) to another Member State<sup>64</sup>. Therefore, these shipments need to be accompanied by a paper-based Simplified Administrative Accompanying Document (SAAD). The SAAD contains specific information (provided in Commission Regulation 3649/92) and must be made available to the competent authorities of the Member State of Destination for control purposes. Traders may create their own document as long as it is in three copies and contains the relevant information.

These provisions are consistent with the objective of the Directive which is "to lay down a number of rules on the holding, movement and monitoring of products subject to excise duty, in particular so as to ensure that chargeability of excise duties is identical in all the Member States" (Judgement of 22nd of April 1998, Queen v Commissioners of Customs and Excise, ex parte EMU Tabac and Other, C-296/95).

### **6.1.2. Movements under duty suspension**

The Commission Staff Working Document Impact Assessment found "*this procedure provides relief to economic operators from having to advance excise duties on production, processing, holding or movement of excise goods not covered by a customs suspensive procedure and before dispatch of the goods, thus improving cash flow. It also ensures that excise duty is only paid once (in the Member State where the goods will be released for consumption). Member states impose stringent conditions on the granting of authorisations for duty suspension*" (European Commission, 2018g).

As with all aspects of a functioning excise control system, the fundamental principle of approvals is paramount in the supply chain of excise goods.

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<sup>64</sup> Please note that the goods shipped to private individuals are covered in Chapter 5: Distance Selling

Article 17 of the Directive establishes the location where excise goods can be moved to and from. When moving goods under excise duty suspension, the goods need to be moved either from a tax warehouse to: (i) another tax warehouse, (ii) a registered consignee, (iii) a place where the excise goods leave the territory of the Community, or (iv) a consignee which intends to use the excise goods for specific operations which are exempted from payment of excise duty; or from the place of importation to any of the above destinations, where the goods are dispatched by a registered consignor.

Article 18 of the Directive foresees that a guarantee needs to be provided for the movement of excise goods under duty suspension. The guarantee is provided by the authorised warehousekeeper of dispatch or the registered consignor. As a derogation, the guarantee can be provided by the transporter or carrier, the owner of the excise goods, the consignee, or even jointly by two or more of these persons. The requirement of a guarantee may be waived if the movement takes place entirely on the territory of the Member State of dispatch.

### **Registered Consignee**

Article 4(9) of Directive 2008/118/EC defines a Registered Consignee as an economic operator who is approved by, and registered with, the Member State of destination to receive and account for the duty on duty suspended excise goods from other Member States. Article 19 of the Directive sets out the conditions a registered consignee is required to comply with when receiving excise goods under duty suspension from another Member State.

A registered consignee can receive the goods under duty suspension (i.e. the duty need not be paid in the Member State of dispatch), however he cannot store the goods after receipt under duty suspension. Therefore, the excise duties are due upon receipt of the goods.

Although not specified in Directive 2008/118/EU, it is a mandatory requirement in all Member States that any prospective applicant to become a Registered Consignee is based within (or has a permanent establishment within) the country of application.

Whilst the default position is that excise goods should be consigned to the Registered Consignee's registered address, Article 17.2 of Directive 2008/118/EC does allow for the concept of "direct delivery", when applying for a Registered Consignee authorisation. Subject to meeting the conditions laid down by the Member State of destination and obtaining approval, this allows a Registered Consignee to receive goods at other addresses where the goods can be checked in the receiving Member State.

### **6.1.3. Movements of excise goods after release for consumption**

As mentioned in the Commission Staff Working Document Impact Assessment (2018) once a duty suspension arrangement has ended, excise duties must be paid in the Member State of dispatch and destination, with the duty-paid in the Member State of dispatch to be reimbursed.

Movements cannot be generated under excise duty suspension when: i) originating from or being delivered to a party who is not a tax warehouse, warehousekeeper or a registered consignor in the Member State of dispatch; ii) not a tax warehouse or warehousekeeper or registered consignee in the Member State of destination or iii) the excise duty has already been paid in the Member State of dispatch.

This creates a double excise duty payment when shipping excise duty paid goods between Member States (including the requirement under Article 34 of the Directive to cover the duties that will have to be paid in the Member State of destination). However, Article 11 of the Directive allows for the excise duty in the country of dispatch to be reimbursed, subject to fulfilment of conditions as set out by the Member State of destination (proof of receipt and duty payment in the Member State of destination).

The process of pre-notification, guaranteeing the payment of excise in the country of destination, the administrative processing of the SAAD form by the consignee and the endorsement of that form by the Member State authorities in the country of destination have been identified. Plans to introduce an electronic SAAD process to facilitate the movement of excise goods between Member States where the excise duty has already been paid are discussed below.

#### ***Future developments (automation of duty-paid arrangements)***

In the near future, the current paper-based arrangements (SAAD) for intra-EU movements of duty-paid goods will be automated.

In Commission Document (2018) 346 Final, a Proposal for a Council Directive laying down the general arrangements for excise duty (recast), the Commission set out plans to replace the current Directive 2008/118/EC and amongst other objectives, seek to simplify the current procedures by:

- Determining when the excise duties on the goods are chargeable and who is liable to pay the excise duty;
- Creating two new economic operator roles: the certified consignor and the certified consignee, to allow for the identification in the computerised system of the economic operators using these procedures;
- Aligning the arrangements for guarantees with those under duty suspension;
- Allowing authorised warehousekeepers and registered consignors to act as certified consignors (authorised warehousekeepers and the registered consignees should be able to act as a certified consignee);
- Determining the general rules governing the automated procedure; and
- Replacing the reference to the paper document accompanying the excise goods released for consumption in one Member State and which are moved to another Member State by a reference to the new electronic simplified administrative accompanying document.

Despite these simplifications, each Member State will still have their own specific rules and conditions in relation to the payment of excise duty and the process of claiming back the duty already paid.

## **6.2. Overview of the current situation**

For economic operators engaged in the wholesale of excise goods, cross-border acquisitions of excise goods by retailers can form a vital part of the internal market. Businesses can either make use of a duty suspension or a duty-paid regime.

In practice, there are currently large differences between both regimes. The duty suspension regime is electronically controlled (EMCS), whereas the duty-paid regime is still paper-based. This duality creates problems for traders of excise goods, especially SMEs. They may struggle with the regulatory and financial burden for a duty suspension regime, leaving them no choice but to conduct business under a duty-paid regime. However, this paper-based regime can be time consuming, prone to error and therefore prone to fraud and tax evasion.

### **6.2.1. The evolution of intra-EU business to business transactions since 2008**

The fundamental principle of any excise control system is one built on a network of approved traders who must pass approval criteria set by the relevant Member State authority in the relevant Member State. Prior to the 2008 Directive, although there was a register of relevant approved traders within the System of Electronic Excise Data (SEED), all movements under duty suspension were conducted using a paper-based movement document known as the Accompanying Administrative Document (AAD). As the paper documents had no systems link for registration prior to the movement being conducted, the risk of fraud was high.

In order to combat the risk of fraud, a computerised trader-to-trader link between Member States administrations was recommended to the EU Council of Economic and Finance Ministers (ECOFIN) in May 1998. EMCS was developed to combat fiscal fraud, document the movements of excise goods under duty suspension and simplify procedures for businesses. Directive 2008/118/EC provided the legal framework for EMCS (European Commission, 2010).

EMCS became mandatory with effect from 1 January 2011 and on the granting of the relevant approvals, businesses were added to the database of approved traders within EMCS. The concept is that all the information of any duty suspended movement is submitted on EMCS by the dispatching warehouse and the system performs checks electronically. For example, if the consignment involves spirits, and it is destined for a tax warehouse in another Member State, the system will check that the recipient is approved to receive the relevant excise goods and the movement may only begin once an approval number (the Administrative Reference Code (ARC)) is issued. The details of the transporter and vehicle on which the goods are moved, and details of who provided the movement guarantee are all important data sets required in the submission.

All excise goods moving under duty suspension are required to be monitored and approved (European Commission, 2010). According to the European Commission (2017) since its introduction, over 13.6 million movements under duty suspension have been recorded, with 98.1% completed without incident or requiring manual intervention. In this respect, the replacement of paper movement documents by EMCS proved to be an improvement for many businesses. However, some Member States expressed reservations that the potential for fraud may remain with the flow of

documents under EMCS. In addition, it was reported that some requests for administrative cooperation between Member State authorities were not answered within the one month or three month time limits, if at all. The overall conclusion from the 2013 study was that, although challenges remained, EMCS was working satisfactorily (European Commission, 2013).

The 2015 evaluation (European Commission, 2017) found the compulsory automation of movement control under EMCS to be successful in reducing the annual administrative burden by between €27.5 - €37 million in 2014. However, while 41% of businesses found it had reduced compliance costs, a smaller proportion (30%) remained of the opinion that it had increased costs. Despite this, EMCS was regarded to have reduced the likelihood of certain types of fraud. As with the earlier study, while EMCS was improving the system, there were still possible enhancements to be made, particularly regarding the coordination of excise and customs procedures.

Areas of further exploration include (European Commission, 2017):

- Possible legal and technical improvements to the treatment of irregularities and the handling of claims by Member States;
- Usefulness of a less burdensome regime for the movement of excise goods of low fiscal risk;
- Partial or full automation of the duty-paid business to business arrangements with a view of reducing administrative burden and compliance costs on businesses and Member States.

### **6.2.2. Compliance requirements for business to business transactions**

In general, there is an inverse correlation between the complexity of the tax system and the effectiveness and efficiency of the framework. This suggests that the current system in place for cross-border trade of excise products may in some occasions lead to suboptimal collection of excise duty and the potential for tax fraud. It is therefore essential to limit the administrative burden associated with the system, as well as the related costs for the economic operators in the wholesale to retail industry. This section gives an overview of the administrative procedures and challenges that traders face when making business to business transactions. The extent to which these procedures are burdensome and a deterrent, particularly to SMEs engaging in cross-border trade, is further discussed in Section 6.3.1.

#### *Duty suspended movements*

SMEs purchasing excise goods from a wholesaler in another Member State must perform several administrative tasks, such as registering as an excise trader in its Member State (e.g. as a registered consignee) and lodging reports of receipt when goods have arrived at destination. Not only does this require prior authorisation from the authorities and providing a (often ongoing) guarantee (which can limit the financial position of the company), there is further a requirement to use EMCS.

Based on the experience of traders, the current EMCS system is time consuming, particularly when multiple categories of excise goods are being moved under a single EMCS movement/ARC. Although there are software packages available which can help

with the completion of EMCS forms to a certain extent, certain tasks need to be completed manually. Not only is this both time and resource intensive but it also increases the likelihood of errors in completing the application. Furthermore, there is a considerable financial risk associated with the cross-border movement of excise goods (i.e. providing a high guarantee and the availability of a tax warehouse). Economic operators, particularly SMEs, might not have the necessary expertise or (financial) ability to carry out these administrative tasks. As a result, a duty suspension regime might only be used by large companies (European Commission, 2018a).

#### *Duty paid movements*

Whilst a benefit of using duty suspension is that it removes the need to pay excise duty on the same product in both the Member State of dispatch and receipt (seeking a subsequent reimbursement in the dispatching Member State), SMEs unable or unwilling to become (at least) a registered consignee can also receive excise goods under a duty-paid regime. The challenge with such an approach however is that there are considerable differences in refund processes between EU Member States. On average, it can take economic operators up to half a year to effectively obtain the refund.

Traders wanting to receive duty-paid excise goods in the Member State of dispatch must pre-notify the relevant authority in the Member State of destination. They may also be required to provide a guarantee (or pre-pay) for the excise duty potentially due (subject to whether the consignor or transporter may provide this). Each Member State has different rules in relation to this. The introduction of a computerised approach will provide an opportunity to better streamline this process between Member States and as a result, reduce the level of complexity associated with it. However, it is also worth noting that with the introduction of the new computerised approach (EMCS) for duty-paid shipments, the responsibilities and formalities of the consignee are likely to be similar to that for duty suspended movements. As a result, economic providers may once again find themselves facing similar administrative procedures and challenges.

SMEs can also use third party registered consignees to receive excise products under the duty suspension regime, provided national legislation allows them to do so. For example, whilst this is possible in the UK, an excise duty licensee is required to become an owner of the goods in Greece thereby practically excluding the role of a third party. With regards to this approach, SME retailers find it particularly challenging to find a registered consignee to facilitate the movement of excise goods under duty suspension at a reasonable cost. Many third party registered consignees, such as logistics service providers, are reluctant to use their approvals for other traders unless the consignment of excise goods and company are of a certain size. Since costs are often too high for small consignments, SMEs are pushed down the duty-paid route for smaller consignments. However, as discussed above, with the automation of duty-paid movements, this route will also become less feasible for SMEs as they will once again be required to obtain registration in order to facilitate cross-border movement of products.

Under both duty paid and duty suspended movements, SMEs are faced with greater compliance costs for using a wholesaler in another Member State, compared to



sourcing goods in the same Member State. this can make it less attractive for retailers to engage with overseas wholesalers established in other EU Member States.

### **6.2.3. Proposal for the automation of duty-paid arrangements**

The European Commission is in the process of automating the current paper-based arrangements (SAAD) for intra-EU movements of duty-paid goods (EU Commission, 2018a). The Commission has set out its plans to replace the current Directive 2008/118/EC (EU Commission, 2018b). Amongst other objectives, the revision of the Directive will seek to simplify the current procedures by:

- Setting out when excise duties on the goods are chargeable and who is liable to pay in;
- Creating two new economic operator roles (i.e. the certified consignor and the certified consignee), to allow for the identification in the computerised system of the economic operators using these procedures;
- Aligning arrangements for guarantees with those under duty suspension;
- Allowing authorised warehousekeepers and registered consignors to act as certified consignors;
- Setting out the general rules governing automated procedure; and
- Replacing the reference to the paper document accompanying the excise goods released for consumption in one Member State and which are moved to another Member State by a reference to the new electronic simplified administrative accompanying document.

In order to introduce these changes, Member States will be required to invest in IT systems. Initial investment and yearly expenses at an EU level were assessed to be €7.5 and €1.5 million respectively (European Commission, 2018a). The simplifications are however expected to reduce the administrative burden on both Member States and economic operators. According to the 2018 impact assessment, the EU-wide cost savings for Member State and economic operators is expected to be €5.8 and €12.2 million respectively (European Commission, 2018a). Although it is difficult to quantify, automation of duty-paid processes will also help reduce fraudulent activity by monitoring movement of excise goods more efficiently (European Commission, 2018a).

Based on the outcome of the open public consultation, 87% of economic operators and trade association respondents said that automation of duty-paid arrangements would be useful (European Commission, 2018a). Tax authorities in 12 Member States were asked to provide their views on automation of business to business duty-paid movements in 2015. 8 Member States, namely Austria, Belgium, Germany, France, Hungary, Italy, Latvia and Poland were open to considering automation if it benefited both tax authorities and economic operators and the costs associated with the automation were proportionate to the number of duty-paid movements. On the other hand, Spain was of the opinion that the costs associated with automating duty-paid procedures will be disproportionate to the number of duty-paid movements (European Commission, 2015a). In a more recent consultation with 19 Member States, 18 were of the opinion that automation of duty-paid procedures should be introduced (European Commission, 2018a).



The automation for duty-paid movements of excise goods between Member States by 2021 will help simplify administrative procedures for both tax administrations and business. More importantly, it will help combat fraudulent activity which is at the moment, fairly common under duty-paid arrangements (European Commission, 2018a).

### **6.3. How significant are the problems with business to business transactions?**

The previous sections introduced the core problems with the current arrangements for intra-EU business to business transactions. The sections that follow present the analysis of the magnitude of these problems across the EU, drawing on existing studies and analysis and data collected for this study.

#### **6.3.1. Problem 1: Regulatory burden**

To estimate the size of the regulatory burden, this analysis draws on the business survey, EMCS and SEED data, business interviews and Member State authority questionnaires. This includes an estimate of the time and cost to comply under both duty-paid and duty suspended arrangements, as well as qualitative information on the impact of the regulatory burden by sector and business size.

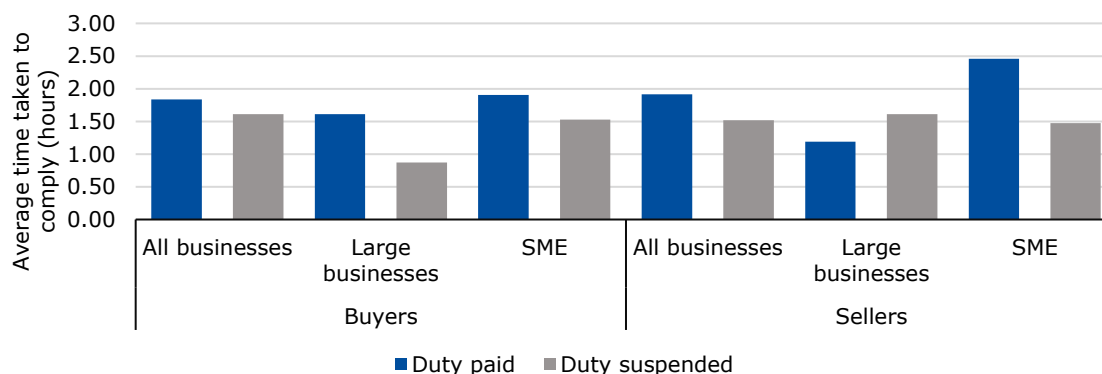
The onus for administrative procedures is different for buyers and sellers, and the extent to which these procedures are burdensome varies with the size of the business. In light of these differences, this section compares the impacts of regulatory burden across different participants of the supply chain and business sizes.

Of the business survey respondents who purchased from or sold to other businesses, 61% bought from a business in another Member State and 60% sold to businesses in another Member State. Businesses purchasing excise goods from other Member States are burdened with administrative procedures such as registering as an excise trader, obtaining guarantee where necessary and lodging receipts upon the arrival of goods. Given these administrative tasks, businesses purchasing excise goods from other Member States take longer to complete administrative procedures in comparison to their counterparts purchasing domestically.

Split by duty-paid and duty suspended, this translates to a regulatory cost of approximately €40 and €35 per transaction, respectively. These figures are based on business estimates of time to comply and Eurostat hourly labour cost in EU-28 Member States.

The average time to comply, split by business size, is shown in the figure below. It is worth noting that this is a comparison of movement of goods under the automated system, EMCS and the current paper-based arrangements (SAAD) for duty paid goods. With the automation of duty paid movement, as discussed in Section 6.2.3, it is likely these differences in time to comply will disappear. The average time to comply for large businesses buying excise goods from businesses in another Member State was 1.6 hours for duty-paid and 0.9 hours for duty suspended.

**Figure 51: Average time taken by businesses to comply with administrative procedures**



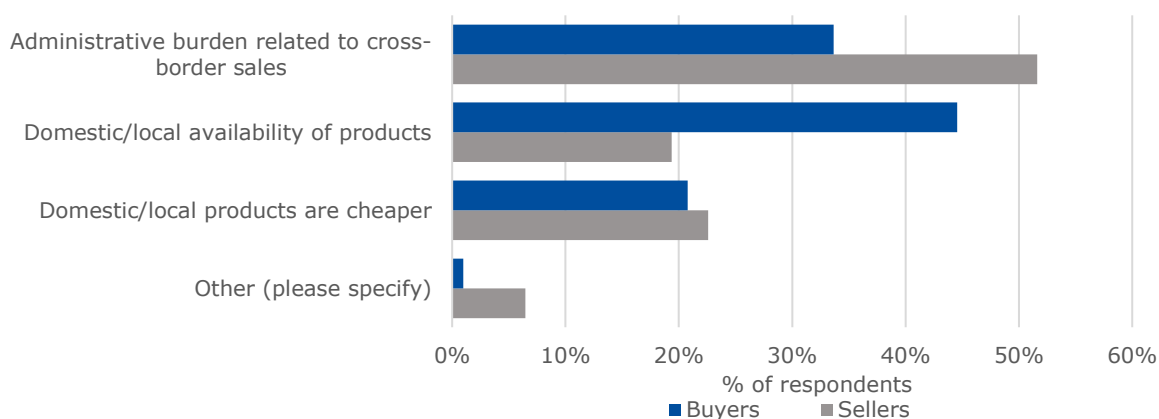
**Source:** Authors' estimates for 2018/2019 based on data from the business survey.

Comparatively, for large businesses selling excise goods the average time to comply was 1.2 hours for duty-paid compared to 1.6 hours for duty suspension. For large businesses, the majority of the business to business transactions are conducted under duty suspension arrangements and although we expect duty suspension to be simpler than duty-paid, this may reflect a prevalence for larger, more complex transactions.

As discussed above, SMEs predominantly operate under duty suspension arrangements. However, for both duty-paid and duty suspension, the average time to comply is longer for SMEs than for large businesses.

The administrative burden was cited as the primary reason for sellers not engaging in cross-border intra-EU sales of alcoholic goods. For buyers this was still an important reason, but the primary reason was the domestic availability of products:

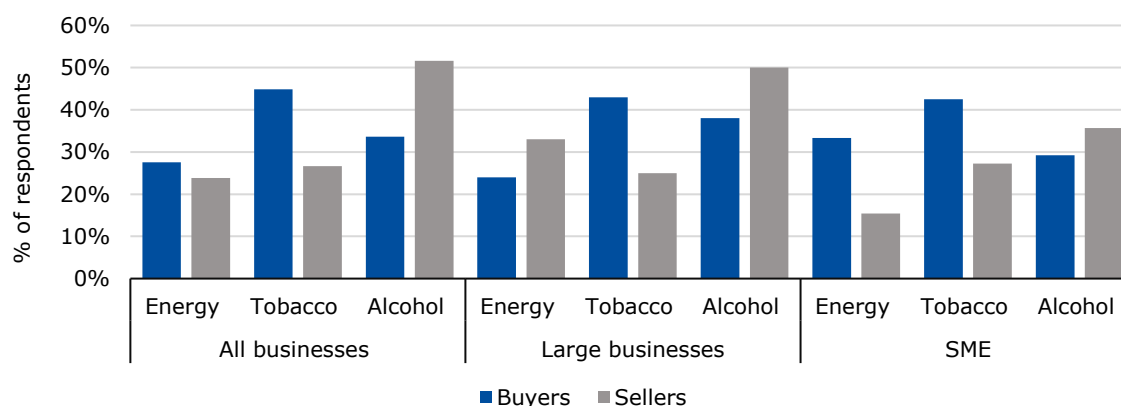
**Figure 52: The primary reasons businesses do not currently buy/sell alcohol from/to businesses in another EU Member State**



**Source:** Authors' estimates for 2018/2019 based on data from the business survey.

Although the regulatory burden impacts business across all sectors and sizes considered, there is variation in the perceived impact of regulatory burden. The figure below compares businesses primarily operating in alcohol, tobacco and energy:

**Figure 53: Proportion of businesses that do not engage in B2B transactions of excise products due to “existence of administrative burden”**



**Source:** Authors' estimates for 2018/2019 based on data from the business survey<sup>65</sup>

In comparison to alcohol and tobacco sector, energy suppliers and purchasers are less likely to not engage in cross-border business to business transactions due to the existence of administrative burden. Only 28% of buyers and 24% of suppliers in the energy sector listed administrative burden as the reason for not buying from or selling to businesses in other EU Member States.

In the tobacco sector, there are considerable differences in the degree to which buyers and sellers are impacted by administrative burden. For example, whilst 45% of buyers in the tobacco sector said that they do not source from overseas businesses due to the existence of administrative burden, only 27% of the sellers listed this to be a challenge when it comes to selling to businesses in other EU Member States.

The cross-border movement of excise goods also imposes administrative burdens on tax authorities. Eight tax authorities (i.e. Austria, Croatia, Czechia, Hungary, Latvia, Luxembourg, Poland and Portugal) provided data on the time it takes them to process cross-border business to business transactions of excise goods. On average, it takes these tax authorities 23 minutes and 5 minutes respectively to process outbound transactions under duty-paid and duty suspension respectively. Inbound transactions under duty-paid and duty suspension take the tax authorities on average 43 minutes and 5 minutes respectively. It is evident from this that automation of duty suspension movements has helped improve processing time for tax authorities and similar reductions in the administrative burden can be expected to arise for duty paid movements following the automation of these in the near future.

### 6.3.2. Problem 2: Fraud on intra-EU transactions

In the absence of consistent monitoring and reporting across the EU-28, estimating the magnitude of fraudulent activity relating to business to business excise goods is particularly challenging. This section aims to understand the nature of fraud on intra-EU business to business transactions by analysing businesses' and tax authorities'

<sup>65</sup> SME includes responses from medium, small and micro businesses. Responses from self-employed individuals was not included in SME and is only reflected under all businesses.

perceptions of fraud. Responses relating to regulatory compliance and prevalence of undeclared excise goods movements from the business survey are from the perception of sellers.

### Existing estimates of fraud

The European Commission (2017b) impact assessment includes an analysis of excise revenue losses as a result intra-EU trade data discrepancies. The k-means clustering methodology, typically applied in financial services fraud detection, was applied to identify anomalies and outliers in reported Eurostat import and export balances between January 2010 and November 2016. The estimated discrepancies were used as the basis for an estimate of excise revenue tax loss.

**Table 52: Previous estimates of excise revenue loss due to trade data asymmetries**

	Energy products and electricity	Alcohol and alcoholic beverages	Manufactured tobacco	Total
	€m	€m	€m	€m
Revenue loss between January 2010 and November 2016, lower bound	326	30	824	1,180
Revenue loss between January 2010 and November 2016, upper bound	1,798	148	2,344	4,290
Yearly revenue loss between January 2010 and November 2016, median	157	13	235	405

**Source:** European Commission (2017b)

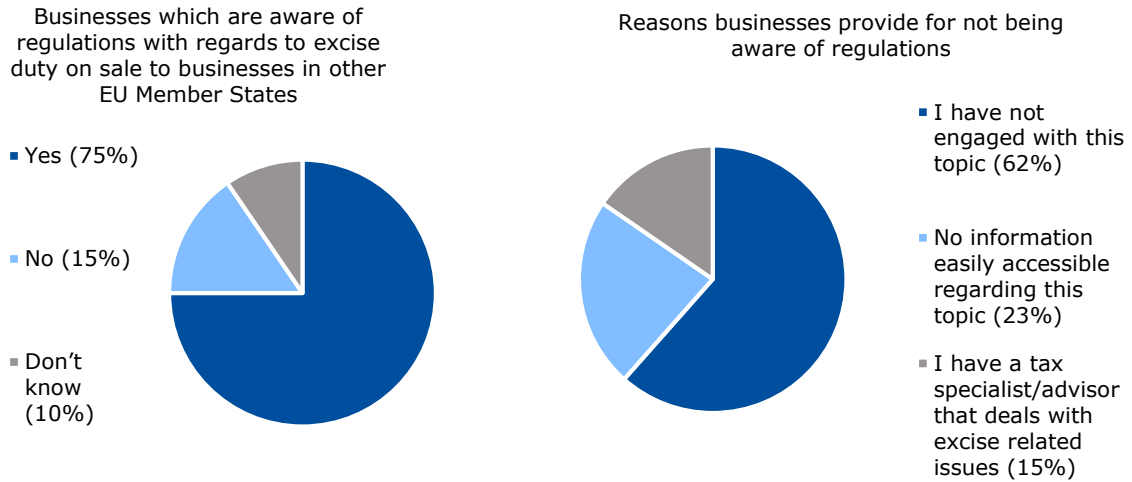
As with the mirror statistics analysis, these estimates only include fraudulent transactions that have some characteristics of compliant trade, i.e. not illicit trade.

At the outset, it was our intention to use a combination of business survey responses and Member State authority questionnaires to estimate fraud, however the data did not allow for a robust estimation so the estimates above were used as the basis of the cost-benefit analysis.

### **Fraudulent activity from the perspective of businesses**

There are inherent difficulties in obtaining information on fraud directly from businesses, given this would require disclosing illegal activity. In light of this, the analysis in this section focuses on businesses' awareness of regulations in place and their perception of the practice of businesses not declaring movement of excise goods.

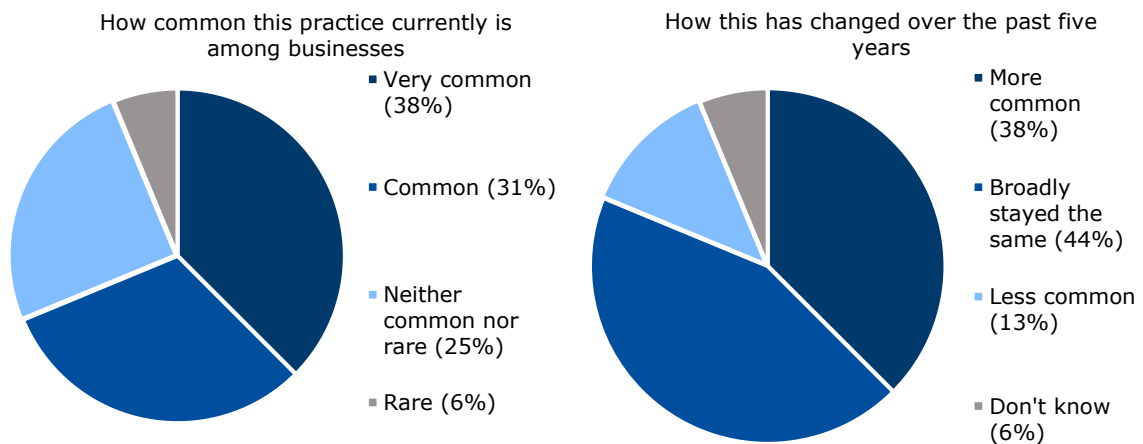
**Figure 54: Business awareness of current regulations in the EU for declaring excise duty on cross-border business to business sales**



**Source:** Authors' estimates for 2018/2019 based on data from the business survey.

The majority of business respondents (75%) said that they are aware of regulations regarding declaring excise duty on sales to businesses located in other EU Member States in place in their Member State, and of those who were not aware, 23% said that information was not easily available.

**Figure 55: Perceived prevalence of businesses not declaring cross-border sales in line with relevant regulations**



**Source:** Authors' estimates for 2018/2019 based on data from the business survey.

While many businesses are aware of the regulations they are required to adhere to, business survey responses suggest that the practice of not declaring cross-border sales is common. Businesses were also asked to estimate the proportion of cross-border business to business transactions that are undeclared. A third of these businesses think that 31-40% of cross-border sales are not declared by businesses, while 22% believe that over 50% are not declared. There is no indication that this is improving over time, as on balance our survey respondents indicated it had become more common over the past five years.

### ***Fraudulent activity from the perspective of tax authorities***

According to our surveys, a large proportion of tax authorities (36%) say they are not aware of fraudulent activity in relation to intra-EU business to business transactions of excise goods. The Member States who acknowledged fraudulent activity highlighted the commercial sale of goods acquired through cross-border personal acquisition, cross-border smuggling, and redirection of products being transported to Member States with zero or low excise rates. Although some tax authorities put this down to administrative burdens, most identified excise rate differentials as the primary cause of fraud.

### ***Analysis of mirror statistics***

This section presents the results of our analysis of statistical irregularities in bilateral trade data. Reported international trade statistics are often internally inconsistent, which creates differences in reported bilateral trade flows. These differences are typically referred to as trade data 'asymmetries' or 'discrepancies'.

For each bilateral flow of goods between two countries, where one country is the exporter of the goods and the other is the importer, there is a 'reporting country' and a 'partner country'. The reporter declares the trade flow and for each bilateral movement, theoretically, there will be a reported export and import. The dual-perspective of bilateral trade data provides a basis to compare the reported value of the same flow in two ways:

- **Trade flow 1:** Comparing the reported imports of country A from country B to the reported exports of country B to country A; and,
- **Trade flow 2:** Comparing the reported exports of country A to country B to the reported imports of country B from country A<sup>66</sup>.

Discrepancies are expected for many reasons. They may be caused by differences in the attribution, recording and reporting of imports and exports, as well as time lags between reporting dates, re-exporting of goods, triangular trade, customs warehousing and different classification systems (Statistical Office of the European Communities, 2000). Consequently, several studies have deemed it necessary to set a threshold-based definition of inaccuracy, for example a discrepancy of 20% was used in Gehlhar (1996) and Javorsek (2016).

We apply a threshold of 5% to net differences and 20% for absolute differences. The application of a threshold is a largely arbitrary exercise and consequently we have adjusted this to the specific purpose of our analysis. As our analysis is focused on intra-EU fraud using Eurostat import and export data, we have assumed that fraudulent transactions share some characteristics with compliant transactions, i.e. that the trade flow has either been reported in at least one Member State or does not reflect the final destination of the product. On the basis of bilateral Member State level data we have estimated trade data asymmetries at the EU level, both in net and absolute terms.

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<sup>66</sup> The terms 'flow 1' and 'flow 2' are used throughout this section to refer to these movements.

For each bilateral pair, e.g. Austria and Belgium, we have calculated the net and absolute differences: the net differences show the offsetting position of positive and negative asymmetries, while the absolute differences provide an indication of the total asymmetry. The EU total is the aggregation of all bilateral net and absolute asymmetries, presented on a product-by-product basis. Although the asymmetry will lie on a spectrum between 'high' and 'low' based on the thresholds, the matrix below indicates the potential implications of our analysis.

**Table 53: Trade data asymmetry matrix**

Implications	Low absolute difference (<20%)	High absolute difference (>20%)
Low net difference (<5%)	Very limited asymmetries and no clear evidence of illicit trade.	Potential evidence of incorrect partner attribution (i.e. goods directed to another Member State).
High net difference (>5%)	Potential evidence of systematic reporting in one direction (i.e. exports consistently exceed imports, or evidence of non-reporting or misclassification).	Potential evidence of significant asymmetries, both partner attribution, non-reporting or misclassification.

These estimates have been produced using a three year average (2016-2018) of reported exports and imports to estimate the bilateral trade data asymmetries between all EU-28 Member States for nine products: Beer, cider, fortified wine, sparkling wine, spirits, still wine, cigarettes, cigars and fine cut tobacco. The three year average helps to mitigate the impact of potential time-lags or tax warehousing.

**Table 54: Total EU net differences in reported imports less reported exports, three year average (2016-2018)**

Product	Total imports (€m)	Net difference (€m)	Net difference (%)
Cider	201	-59	-29.6%
Sparkling Wine	2,396	-263	-11.0%
Cigars	723	-26	-3.5%
Beer	3,681	-110	-3.0%
Spirits	9,343	-114	-1.2%
Fortified Wine	610	-3	-0.4%
Still Wine	7,503	22	0.3%
Fine cut tobacco	1,801	12	0.7%
Cigarettes	7,954	153	1.9%

**Source:** Authors' estimates from Eurostat data (ext\_go\_detail)

**Table 55: Total EU net differences in reported exports less reported imports, three year average (2016-2018)**

Product	Total Exports (€m)	Net difference (€m)	Net difference (%)
Cider	261	59	22.8%
Sparkling Wine	2,659	263	9.9%
Cigars	749	26	3.4%
Beer	3,791	110	2.9%
Spirits	9,457	114	1.2%
Fortified Wine	613	3	0.4%
Still Wine	7,482	-22	-0.3%
Fine cut tobacco	1,789	-12	-0.7%
Cigarettes	7,801	-153	-2.0%

**Source:** Authors' estimates from Eurostat data (*ext\_go\_detail*)

There are two clear outliers: cider and sparkling wine. For both products, reported exports are less than reported imports: Cider has a *trade flow 1* asymmetry of -29.6% and *trade flow 2 asymmetry* of 22.8%, while the equivalent asymmetries are -11.0% and 9.9% for sparkling wine. As the total reported exports exceeds total reported imports for both products, this indicates that goods may be misclassified or not declared.

The Member State with the largest *flow 1* net trade asymmetry for cider is the United Kingdom, while Ireland has the largest difference in percentage terms. Sweden's *flow 2* net trade asymmetry is the largest and, interestingly, for both Ireland and the United Kingdom the single largest bilateral trade asymmetry is with Sweden.

Meanwhile, for sparkling wine the largest *flow 1* net trade asymmetry is also the United Kingdom, largely driven by balances with France and Italy. Bulgaria and Malta have the largest relative differences, driven by trade asymmetries with Spain and France respectively.



**Table 56: Total EU absolute differences in reported imports less reported exports, three year average (2016-2018)**

Product	Total imports (€m)	Absolute difference (€m)	Absolute difference (%)
Cider	201	109	54.2%
Cigars	723	294	40.6%
Fortified Wine	610	193	31.6%
Fine cut tobacco	1,801	515	28.6%
Beer	3,681	874	23.8%
Cigarettes	7,954	1,607	20.2%
Spirits	9,343	1,862	19.9%
Sparkling Wine	2,396	463	19.3%
Still Wine	7,503	941	12.5%

**Source:** Authors' estimates from Eurostat data (ext\_go\_detail)

**Table 57: Total EU absolute differences in reported exports less reported imports, three year average (2016-2018)**

Product	Total Exports (€m)	Absolute difference (€m)	% - Net
Cider	261	109	41.9%
Cigars	749	294	39.3%
Fortified Wine	613	193	31.4%
Fine cut tobacco	1,789	515	28.8%
Beer	3,791	874	23.1%
Cigarettes	7,801	1,607	20.6%
Spirits	9,457	1,862	19.7%
Sparkling Wine	2,659	463	17.4%
Still Wine	7,482	941	12.6%

**Source:** Authors' estimates from Eurostat data (ext\_go\_detail)

The absolute trade data asymmetries exceed the assumed threshold for statistical discrepancies for six products: beer, cider, fortified wine, cigarettes, cigars and fine cut tobacco. Factoring in both net and absolute differences, we present the conclusions of our analysis below.

**Table 58: Implications of mirror statistics analysis**

Product	Net Asymmetry %	Absolute Asymmetry %	Implication
<b>Beer</b>			
Flow 1	-3.0%	<b>23.8%</b>	Potential evidence incorrect partner attribution.
Flow 2	2.9%	<b>23.1%</b>	
<b>Cider</b>			
Flow 1	<b>-29.6%</b>	<b>54.2%</b>	Potential evidence of significant asymmetries, both partner attribution, non-reporting or misclassification.
Flow 2	<b>22.8%</b>	<b>41.9%</b>	
<b>Fortified Wine</b>			
Flow 1	-0.4%	<b>31.6%</b>	Potential evidence of incorrect partner attribution.
Flow 2	0.4%	<b>31.4%</b>	
<b>Sparkling Wine</b>			
Flow 1	<b>-11.0%</b>	19.3%	Potential evidence of non-reporting or misclassification.
Flow 2	9.9%	17.4%	
<b>Spirits</b>			
Flow 1	-1.2%	19.9%	Evidence of limited asymmetries and no clear evidence of illicit trade.
Flow 2	1.2%	19.7%	
<b>Still Wine</b>			
Flow 1	0.3%	12.5%	Evidence of limited asymmetries and no clear evidence of illicit trade.
Flow 2	-0.3%	12.6%	
<b>Cigarettes</b>			
Flow 1	1.9%	<b>20.2%</b>	Potential evidence incorrect partner attribution.
Flow 2	-2.0%	<b>20.6%</b>	
<b>Cigars</b>			
Flow 1	-3.5%	<b>40.6%</b>	Potential evidence incorrect partner attribution.
Flow 2	3.4%	<b>39.3%</b>	
<b>Fine cut tobacco</b>			
Flow 1	0.7%	<b>28.6%</b>	Potential evidence incorrect partner attribution.
Flow 2	-0.7%	<b>28.8%</b>	

**Source:** Authors' estimates from Eurostat data (ext\_go\_detail)

Although not conclusive, this analysis of intra-EU bilateral trade data asymmetries indicates patterns that may reflect incorrect partner attribution, non-reporting or misclassification. A portion of these differences will be driven by other known methodological or statistical factors, but the combination of low net asymmetries and high absolute asymmetries suggests that the correct value of goods is being reported, but is not necessarily being attributed to the correct Member State.

#### **6.4. Assessment of the current situation against the principles of coherence, relevance, effectiveness, EU added value, and efficiency**

This section draws together all the information and analysis from the preceding parts of this chapter in order to address the key criteria of coherence, relevance, effectiveness, EU added value, and efficiency.

##### **6.4.1. Coherence**

**Core research question:** *Are the rules regarding wholesale to retail coherent with other EU policies?*

As with the evaluation of coherence with regards to acquisition by private individuals (Chapter 4) and distance selling (Chapter 5), Member States would likely attempt to inhibit the cross-border movement of goods in the absence of the Directive. In this regard, the Directive remains coherent with other internal market related legislation and help in ensuring the proper functioning of the internal market.

The Directive aims to allow the proper functioning of the internal market while ensuring the collection of excise duty by the Member States. However, although Directive 2008/118/EC defines the concepts and general requirements with regards to general arrangements of excise duty, it leaves a lot of room for Member States to implement in their respective national jurisdictions.

For example, the Directive states that in order to receive and hold excise goods under a duty suspension arrangement, a tax warehouse is needed. However the criteria and requirements for a tax warehouse and its management is deferred to each Member State. Similarly, although excise duties become due when goods leave a duty suspension arrangement, the payment provisions are set by each individual Member State.

Directive 2008/118/EC was conceived to, amongst other objectives, aid SMEs, which have different needs than large multinational businesses. To this extent, the registered consignee scheme was set up, which allows traders, unable to make use of a tax warehouse, to receive excise goods under duty suspension.

The Directive 2008/118/EC is largely coherent with the objectives and priorities set by the EU Commission to support the development of SMEs. Improving the competitiveness of SMEs is one of the 11 thematic objectives for Cohesion Policy in 2014-2020. However, under the current system, SMEs continue to face administrative hurdles that often prevent them from sourcing excise products from other EU Member States and there is little flexibility by Member States to allow wholesalers established in other Member States to alleviate this burden on SMEs in their Member State.

As businesses, regardless of size, should have equal access to the internal market to both sell and purchase goods in a manner which is cost efficient and effective. There is an incongruence between restricted cross-border sales and purchases of excise goods by SMEs due to the administrative burden and the objectives of the internal market as well as specific SME related policies.

#### 6.4.2. Relevance

**Core research questions:** *Do the current rules regarding wholesale to retail still correspond to the objectives of the Directive? Do they still correspond to the needs of the national tax administrations, ministries of health, and subsequently other stakeholders?*

The general objective of Directive 2008/118/EC is to set up rules on holding, movement and monitoring of excise product such that conditions for charging excise duty is harmonised and there is clarity at a Community level on when excise goods are released for consumption and who is liable to pay the duty.

It is worth acknowledging that the Directive has been implemented such that it successfully meets most of its objectives. For example, the introduction of EMCS has helped ensure that all excise goods movements under duty suspension can be monitored real-time by tax authorities in both Member State of Dispatch and Member State of Destination. This will also apply to duty-paid movements in the near future.

However, the Directive 2008/118/EC continues to pose challenges to key participants of the supply chain and tax administrations. As discussed under coherence, businesses particularly SMEs often lack the capacity to conduct cross-country transactions in accordance with the guidelines and obligations set out by Directive 2008/118/EC as they may be too burdensome or expensive. Not only does this also restrict the market buyers sellers have access to, but it also has an affect on a Member States' tax income.

The complexities of the current arrangements may create the incentive and opportunity to move excise goods between Member States in an illegal or fraudulent way. This is once again problematic both for other businesses in the supply chain who unknowingly become accomplice to fraud and tax authorities who lose out key tax revenue through excise duties.

#### 6.4.3. Effectiveness

**Core research questions:** *To what extent have the current rules regarding wholesale to retail helped and supported in:*

- a) Reducing the regulatory costs;*
- b) Ensuring the proper functioning of the internal market;*
- c) Providing a high level of health protection; and,*
- d) Fighting against tax fraud, tax evasion and illegal cross-border shopping.*

The current rules have seen a greater reduction in the regulatory burden associated with duty suspended transactions, compared to duty-paid. The overall average time and cost to comply estimates produced in Section 6.3.1 were higher for duty-paid than

for duty suspended. Considering duty suspended transactions should account for a significant amount of cross-border business to business transactions, this would suggest that overall the Directive has been effective at reducing the regulatory cost.

However, it is important to acknowledge the variations in time to comply by business size. The estimates in Section 6.3.1 found average time to comply to be longer for SMEs than large businesses selling or purchasing under both duty-paid and duty suspended.

Similarly, the net impact of the Directive has been to support the proper functioning of the internal market by facilitating easier business to business cross-border trade in excise products. However, progress has been hindered by the administrative burden, as SMEs identified administrative costs as the primary barrier to selling across borders.

By introducing a computerised system to monitor the movement of excise goods (EMCS) under duty suspension arrangements, Directive 2008/118/EC has significantly contributed towards limiting fraudulent and illegal activity associated with cross-border business to business movement of excise goods. The effectiveness of this should be further enhanced once duty-paid movements are also reported under EMCS.

However, as discussed in Section 6.3.2, fraudulent activity and illicit trade continues to occur. In particular, this takes place through the paper-based duty-paid system where the movements of goods cannot easily be monitored or traced.

#### 6.4.4. EU added value

**Research question:** *What is the additional value of the current rules regarding wholesale to retail, compared to what could have been expected from Member States acting on a national level?*

In the absence of an action at EU level, it is unlikely that the co-ordination necessary to harmonise procedures relating to the collection of excise across Member States. While there remains a degree of variation, this is considerably less than it would have been without EU intervention.

Comparatively (i.e. large businesses compared to SMEs) the current rules on business to business transactions do not provide for a sufficiently efficient and a level playing field for all economic operators, however the Directive has, overall, improved the ability of SMEs to trade cross-border. It is unlikely that the issues faced by small retailers would have been achieved by Member States acting unilaterally.

Furthermore, the introduction of the current duty suspended arrangements has assisted Member State authorities to monitor movements of excise goods. Systems such as EMCS would not have been introduced in the absence of EU intervention and consequently this has added significant value to both businesses and Member State authorities.

#### 6.4.5. Efficiency

**Core research question:** *To what extent are the current rules regarding wholesale to retail cost effective in achieving the desired results? Would it be possible to achieve the same results (benefits) at a lower cost?*

The core efficiency issue is how EU policy can reduce the economic costs associated with cross-border business to business transactions in excise goods through the harmonisation of excise duty collection procedures. It is not clear that the current arrangements achieve these benefits as efficiently as they could. This is partly because there is variation in administrative procedures across the EU, but also because the administrative burdens disproportionately impact SMEs.

In the current situation, the rules create barriers through compliance costs and administrative burdens which hinder the free movement of goods between Member States in a cost effective manner. Under duty-paid, a retailer, willing to acquire excise goods from a retailer from another Member State, is forced to follow a manual, paper-based procedure, which is cost intensive, slow, and prone to fraud.

Meanwhile, a duty suspension procedure must be done using EMCS. Traders need an authorisation to use it, which is a formal application process. On top of that, a guarantee is to be provided upon shipment of the goods to another Member State. Extra administrative details regarding the shipped goods are required, and filings need to be generated and provided to the authorities.

As a consequence, this procedure is time consuming and highly costly for traders, especially when multiple categories of excise goods are being moved in one single EMCS movement. Certain tasks within EMCS need to be completed manually, which is time and resource intensive, but also increases the likelihood of errors in its application.

Furthermore, there is a considerable financial risk associated with the cross-border movement of excise goods. As a result, economic operators, particularly SMEs, might not have the necessary financial requirements or expertise to carry out these administrative tasks and undertake high fiscal risk in order to comply with these procedures. As a result, a duty suspension regime might only be used by larger companies.

It would be possible to address each of these issues, thereby achieving the same (if not greater) benefits at a lower cost, through the implementation of alternative or additional excise arrangements. To this extent, the Directive is not cost effective in achieving the desired results.

#### 6.5. Are further EU-level interventions justified?

In the following section, we assess whether, when compared against the principles of proportionality and subsidiarity, further EU-level intervention is justified to help mitigate problems relating to business to business sales of excise products across EU borders. As in Chapters 4 and 5, we will rely on the best-practice approach as set out in the EU Better Regulation Toolbox (European Commission, 2017d).

### **6.5.1. Subsidiarity**

The principle of subsidiarity ensures that policy measures not falling under the exclusive competence of the Union are decided at an individual citizen level whenever possible, and at an EU-level only when absolutely necessary. To support this assessment, the following questions are assessed.

#### ***Does the European Union have exclusive competences?***

The legal basis for general arrangements for excise duties does not fall within the exclusive competence areas as set in article 3 of the TFEU and cannot be used as sole justification for EU-level intervention.

#### ***Can the objectives of the proposed actions be achieved sufficiently by Member States acting alone?***

The objectives of the proposed actions could not sufficiently be achieved by Member States acting alone. The problems that have been identified earlier in this chapter in respect of the increased compliance costs faced by retailers using a wholesaler of excise goods in another Member State compared to sourcing goods in the same Member State impact all Member States in some way and are not isolated to certain countries or regions.

This creates a need for wider coordination issue both in terms of supporting the functioning of the internal market and harmonising the procedures for the collection of excise duties.

#### ***Can the objectives of the proposed action be better achieved at Union-level by reason of the scale or effects of that action?***

The implementation of different excise collection procedures across the EU creates regulatory costs which undermine the economic efficiency of cross-border business to business transactions.

Attempting to further harmonise the excise collection procedures in all 28 Member States, and all the complexity this would entail, justifies Union-level action.

### **6.5.2. Proportionality**

Proposed action at an EU-level should not go beyond what is considered to be reasonable and necessary in order to tackle the problems that have been identified and evidenced in earlier chapters of this study.

The Directive has created a strong baseline from which further actions can be taken to achieve its stated objectives. To overcome the regulatory burden the actions proposed seek to both reduce and equalise the economist costs of purchasing or selling excise goods across border. These should facilitate compliance and encourage the proper functioning of the internal market.

## **6.6. Objectives of any change**

The suite of potential policy changes set out in the next section of this study have been developed to achieve the following core objectives:

1. To ensure the proper functioning of the internal market by reducing obstacles to intra-EU cross-border trade in comparison to domestic trade by minimising administrative costs and simplifying current procedures to reduce confusion and compliance.
2. To safeguard the financial interests of the Member States by ensuring and that excise duties are properly collected to feed national budgets. This includes ensuring the proper and proportionate monitoring of the movement of excise goods and the reduction of fraudulent and illicit transactions.

In pursuing these objectives, the analysis and assessment of the policy options will balance the need to facilitate the protection of the tax base of Member States, and the need to efficiently collect tax revenues, with the need to encourage efficient trade and business activity.

## **6.7. Policy options**

Several policy options have been developed to address the increased costs for retailers purchasing goods from a wholesaler in another Member State, compared to sourcing goods in the same Member State.

These options have been designed to introduce the ability for the consignor to perform all administrative tasks of moving excise products from one Member State to another Member State where the consignee is happy to leave the reporting and payment of excise duty entirely to the consignor. These should also address the current imbalance which exists compared to distance selling where a private individual sees no difference between purchasing excise goods from a supplier in their own country and buying goods from another Member State.



**Table 59: Wholesale to retail policy options**

Policy Option	Details
Option 1: No change (dynamic baseline)	No policy change to the situation with the exception of including the extension of EMCS to duty-paid movements
Option 2: Virtual consignee structure in the Member State of Destination with use of direct delivery	The wholesaler will also be both the registered consignor and registered consignee for the same intra-EU movement
Option 3: Virtual consignee plus OSS for Excise only (transactional data submitted on a periodical basis)	Simplified treatment for economic operators, with one excise registration, SEED registration and identification number in different Member States, a global guarantee and declaration of excise movements on a monthly/quarterly basis (rather than real-time).
Option 4: Virtual consignee plus OSS with VAT and Excise integration for Economic Operators (consolidated data submitted on a periodical basis)	Integration of Excise OSS in VAT OSS, with single filing monthly/quarterly for the whole EU in Member State of establishment

**6.7.1. Policy Option 1: Baseline (including the move to EMCS for duty-paid movements)**

The key change from an excise perspective over the next five years is the extension of EMCS to cover duty-paid movements in 2021, replacing the current paper-based system and allowing for the automation of duty-paid business to business processes. This should significantly reduce the average processing time for duty paid movements when using EMCS. Under the baseline, EMCS will cover duty-paid movements in addition to the existing duty suspension transactions. Registration of the relevant economic operators (i.e. wholesalers and retailers) which are active in duty-paid movements will be in SEED.

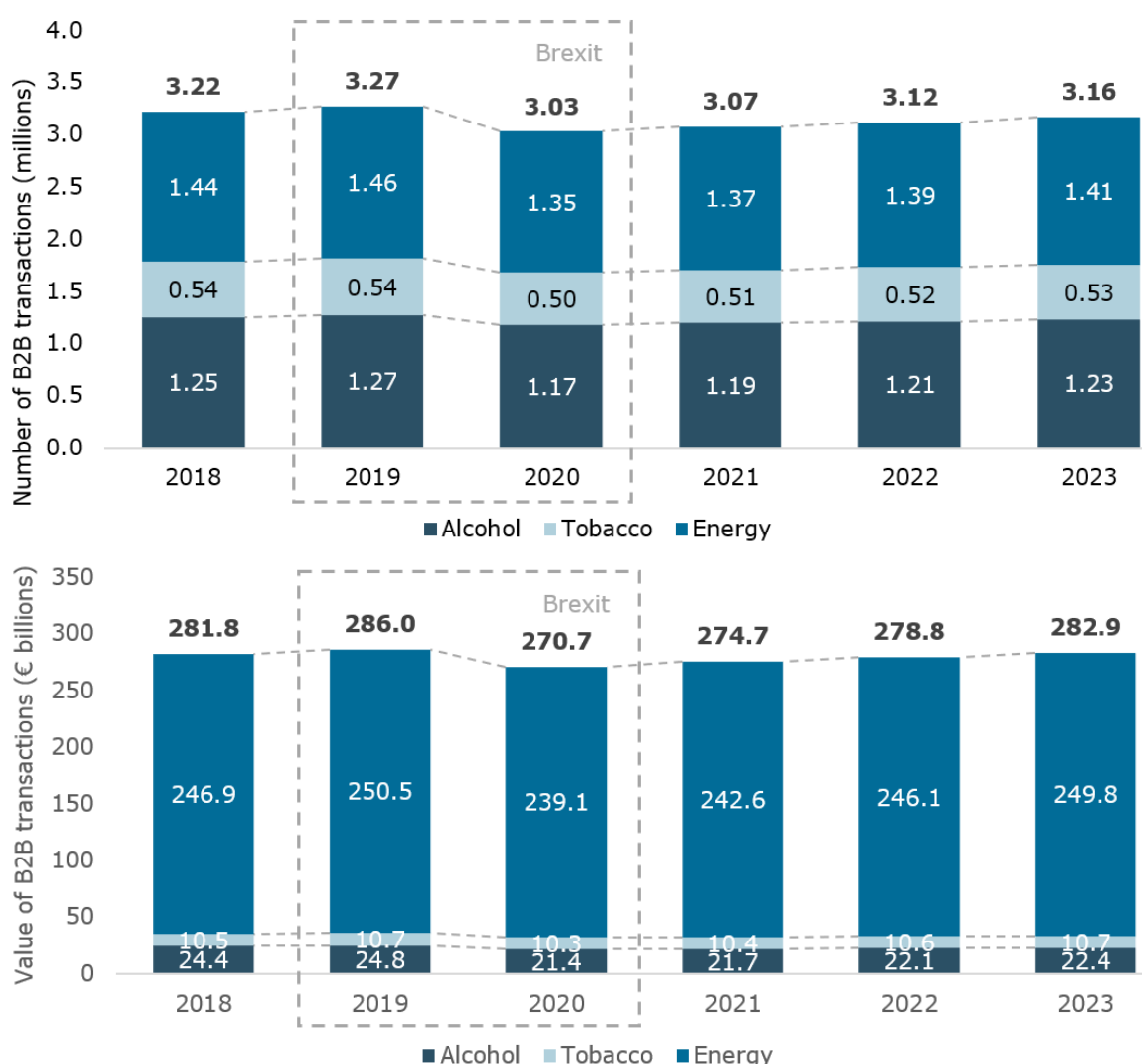
The extension of the EMCS to duty-paid movements is expected to facilitate the excise refund procedure in the country of departure, as it should reduce the level of red tape for operators and could therefore improve compliance. In turn, the facilitation and introduction of this procedure should decrease fraud by the economic operators. The extension of EMCS was proposed under the format of a fully automated business to business duty-paid movements process in the study of the Commission contributing to an impact assessment on Council Directive 2008/118/EC concerning the general arrangements for excise duty.

Whilst the administrative burden associated with obtaining registered consignor/consignee status (such as completing forms they are not familiar with, dealing with incomplete or incorrect information at registration) are expected to remain unchanged for duty suspended movements, a less detailed approval process is expected for retailers receiving duty-paid movements of excise goods in EMCS. As the conditions for receiving goods excise duty-paid are less onerous than receiving

movements under duty suspension, the approval process is expected to be simpler so that the use of EMCS will become (more) attractive to SME retailers.

Excluding the impacts of the UK leaving the EU, the forecast for business to business trade in excise products is expected to grow in the coming years in the absence of any EU intervention. Whilst the introduction of EMCS for duty paid movements is not expected to have a significant impact on the overall trade of excise products, the figures below present the expected volume and value change in transactions from 2018-2023.

**Figure 56: Forecast business to business movements of excise goods (volume, value)**



**Sources:** Authors' estimations based on EMCS data, Eurostat

**Note:** For the purposes of these projections, Brexit is expected to take place at the end of 2019

In the absence of further changes, the problem of fraud on business to business transactions is expected to remain broadly consistent. On one hand, the expected increase in trade will put a small upward pressure on fraud levels. On the other hand, the extension of EMCS to duty-paid movements is expected to reduced the likelihood of certain types of fraud. However, the value of duty suspended transactions

comprises just 1% of total cross-border B2B trade, i.e. 99% of excise goods are moved under the duty suspension regime (European Commission, 2015).

Fraudulent trade in EU manufactured tobacco products within the EU has been declining in recent years<sup>67</sup>. Tobacco products comprise just under 4% of the total value of (inbound) business to business transactions of excise goods, however, while energy products comprise the vast majority (nearly 88%). In sum, the problem of fraud is therefore expected to remain largely unaffected in the absence of any further EU intervention.

### **6.7.2. Policy Option 2: Virtual consignee structure in the Member State of Destination with use of direct delivery**

#### ***Outline of policy option***

In order to further simplify the current excise procedures for SME's (i.e. retailers) in the Member State of destination, Member States could authorise the wholesaler (i.e. located in the Member State of dispatch) to apply and obtain a "virtual consignee" license in the Member State of destination.

The virtual consignee concept does not exist in the current Directive 2008/118. This concept would mean that a wholesaler established in the Member State of dispatch and who is an approved excise warehouse keeper could apply for a "Registered Consignee" license in the Member State of destination, even though the wholesaler is not established in the Member State of destination.

#### *Authorisations in the Member State of destination*

Any wholesalers shipping excise goods to retailers in another EU Member State would obtain a SEED number in the Member State of dispatch. Large wholesalers who operate tax warehouses will already have a SEED registration in the Member State(s) in which they are active. Smaller wholesalers who deal in duty-paid excise goods can benefit from the duty-paid electronic system when it comes into force.

This policy option, that would be directly implemented in the Directive to allow economic operators established in other Member States to be a registered consignee in a Member State where they are not established, extends the possibility for the wholesaler (established in the Member State of dispatch) to act as the virtual consignee in the Member State of destination, while not having permanent establishment there.

In the Member State of destination, the virtual consignee will be required to register in SEED, obtain an authorisation as registered consignee and comply with national potential requirements for registration of consignees. The current European Commission common domain central services would have to be amended to create the new virtual consignee type of registration for SEED, mostly for risk analysis and statistics purposes.

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<sup>67</sup> See section 4.11.1.

### *Monitoring excise goods movement*

EMCS will monitor the movement of excise goods between wholesalers and retailers, whatever the type of arrangements - in suspension of excise duties or duty-paid when EMCS will be extended.

The wholesaler would also request, to both Member State of dispatch and destination, the ability to benefit from the "direct delivery" authorisation (Article 17 Section 2). In this respect, the wholesaler would be in a position to send the excise goods (under duty suspension) directly to the various retailers (located in the Member State of destination). These flows of excise goods would be covered by an e-AD, under the extension of EMCS to cover duty-paid movements, that would mention the "wholesaler as virtual consignee" in the Member State of destination. Upon confirmation of the reception of all goods mentioned on the e-AD, the virtual consignee will clear the e-AD document by sending an electronic report of receipt in the EMCS system, which will also be extended to duty-paid movement arrangements.

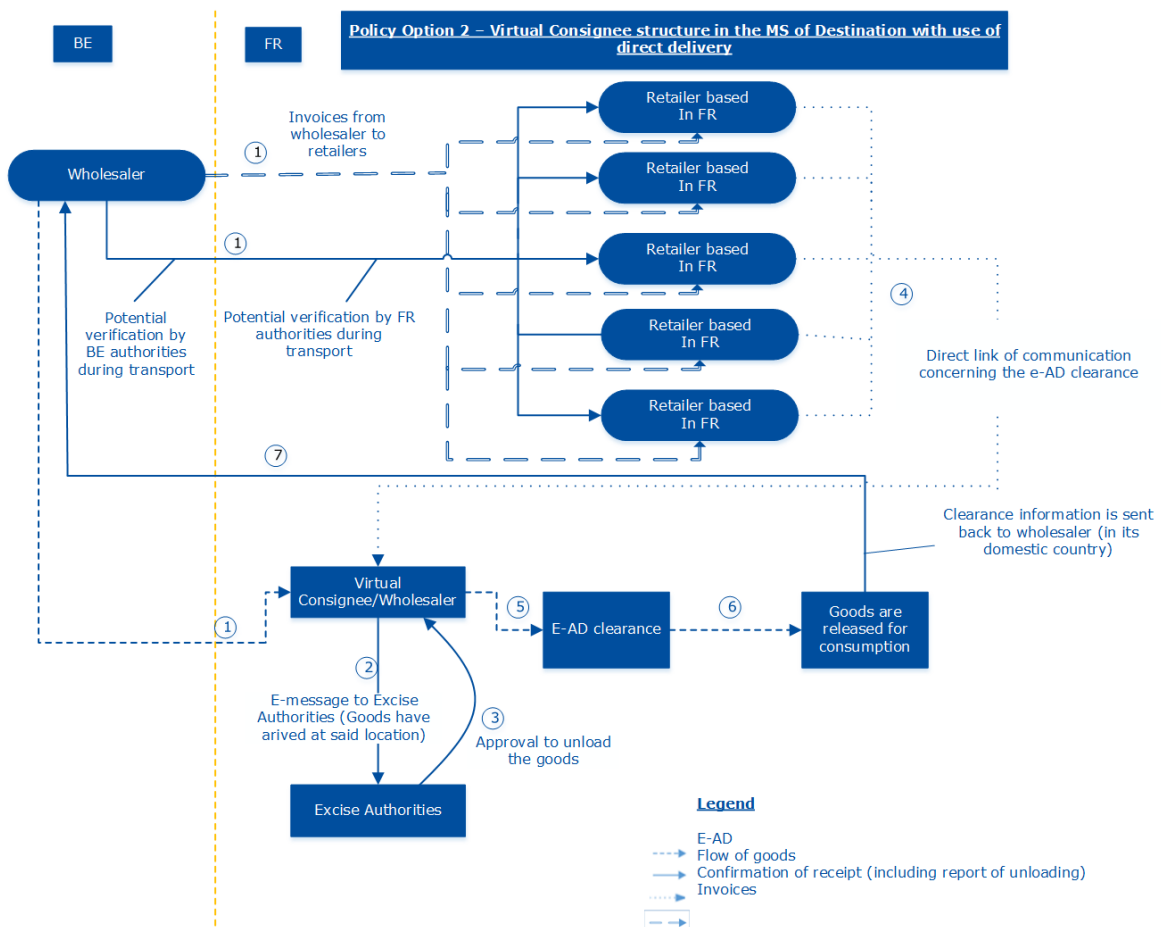
The electronic administration declaration (e-SAAD and e-AD) would be amended to create a new destination type code "Destination - virtual consignee" for risk analysis and statistical purposes.

### *Reporting and payment in the Member State of destination*

The virtual consignee would contractually undertake all the administrative tasks and liabilities towards the authorities of the Member State of destination:

- Set-up the necessary guarantee (Art 18 section 2);
- Clear duty-paid or suspended movement (e-SAAD or e-AD) in the Member State of destination;
- Be liable to pay the excise duty according to article 8 section 1, a (i). Retailers will be jointly liable in case of an irregularity (Article 8 section 2); and
- Provide the necessary reports to the National Excise Authorities in the Member State of destination.

**Figure 57: Policy option 2 flow chart**



Source: PwC Analysis

Under this option, the wholesaler (based in Belgium) would apply for a virtual consignee license in France. Under this French virtual consignee license, the wholesaler would, if required, list all of its clients (i.e. retailers), locations and necessary information to the French excise authorities. The wholesaler would give each of its clients a unique reference number and use it for reporting movements through EMCS and on the corresponding e-ADs.

One SEED identification number should be obtained for each Member State (and per virtual consignee) to which goods will be shipped. In line with the example in the above diagram, goods will be shipped directly from the wholesaler’s excise warehouse located in Belgium to the various retailers’ locations in France. Upon receipt of the goods at the retailers’ premises, the retailer would inform the virtual consignee that the excise products had arrived. A movement document/delivery note should be provided as evidence of receipt.

The virtual consignee will issue an electronic message to the Excise Authorities (through the EMCS network) and will wait for the authorisation to unload the goods. Following receipt of this authorisation, the virtual consignee will inform the retailers that they are entitled to unload the goods (this might, for example, be done via an electronic notification). The retailers will then ensure that all goods are received in full and accept the delivery. The virtual consignee will then clear the e-AD by sending the Report of Receipt to the Excise Authorities. The virtual consignee will then release the

excise products for consumption and will account for the payment of the excise duty due.

This option would shift all the administrative burden and compliance costs away from the SME retailers, while at the same time maintaining sufficient and proper movement control because the French authorities in this situation would be able to investigate the holder of the French license.

### **Analysis**

The cost-benefit analysis for the potential policy responses in this chapter are structured around the following criteria:

- Initial set-up costs
- Ongoing costs
- Cost savings for businesses and authorities
- The impact on trade, SMEs and consumption
- Fraud

These criteria have been considered for each option and the relevant analysis presented in the sections below.

#### *Initial set-up costs*

The introduction of virtual consignees is not expected to lead to any notable IT costs for national authorities or retailers. Wholesalers making use of the virtual consignee option are expected to incur IT costs associated with adjusting their systems to allow for filing in other Member States. It is estimated that these IT costs for business will on average be between €2,500 to €4,000. They are also expected to incur one-off costs for training, process re-engineering etc., of between approximately €1,250 to €2,000 on average<sup>68</sup>.

#### *Ongoing costs and cost savings*

Generally, wholesalers who make use of the virtual consignee option are expected to be more efficient in completing all administrative procedures (e.g. processing and payment of excise) per consignment than their retail counterparts, notably SMEs, due to their scale. However, the simplification is minor. Businesses operating as virtual consignees would have to file excise returns in the Member State of destination, in many cases in languages different from those they generally operate in (a challenge not faced by current consignees). The key change is not that ongoing compliance costs are reduced, but that they are shifted from the retailer to the wholesaler.

Overall our analysis suggests moderate cost savings on a transactional basis for transactions undertaken through a virtual consignee, per the table below:

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<sup>68</sup> These estimates are based on expert assessments.

**Table 60: Average total compliance cost per W2R transaction**

Scenario	Average cost to comply	
	Buyer	Seller
Status quo	€44.2	€41.7
Virtual consignee introduced	€0-5.2	€78.1-83.3

**Note:** A take-up of one third is assumed for the virtual consignee option.

**Sources:** Authors' calculations based on business survey, Eurostat

Specifically, wholesalers exporting to other Member States currently incur an average cost of complying with the administrative burden of €41.7 per transaction. Under this policy option they are expected to see an increase in average costs to €78.1-€83.3 per transaction as they take on the responsibilities of both the consignor and consignee. Retailers importing excise goods currently incur an average cost of complying with the administrative burden of €44.2 per transaction are expected to no longer incur any significant costs. However, given that no significant difference in compliance costs are observed between SMEs and all businesses, the impact on average costs is only marginal. The average cost per transaction for authorities is expected to remain unchanged.

*The impact on trade, SMEs and consumption*

The limited cost reduction combined with the fact that compliance costs makes up a very small share of the value of B2B consignments results in only marginal increases in W2R trade.

**Table 61: Impact on W2R trade (inbound)**

Scenario	Average compliance cost per transaction for businesses	Total number of excise consignments	Total value of inbound excise products
Status quo (2023 forecast)	€85.9	3,161,400	€312.3 bn
Virtual consignee (2023 forecast)	€83.3 - €85.0	3,161,500 - 3,161,600	€312.3 bn - €312.3 bn

**Notes:** The dynamic effects are based on the following estimates of the relevant elasticities: Extensive margin -1.0; intensive margin -0.25.

**Source:** Authors' estimates based on Eurostat, Lawless (2008), Crozet and Koenig (2010)

The impact for SME retailers may be significant. Specifically, allowing for virtual consignees allows small businesses with high compliance costs to better access the internal market. Today, many small retailers rely solely on domestic suppliers of excise goods due to the complexities of complying with the current arrangements for

excise duty. However, as the virtual consignee structure allows a shift of compliance burden to wholesalers in other Member States, it widens the scope of potential suppliers that SME retailers can access.

The simplifications introduced by the virtual consignee are expected to have a positive but negligible impact on consumption, and all transactions remain subject to the excise rate at the destination Member State where the goods are released for consumption. We do not, therefore, expect this policy option to have any notable impacts on public health or the environment.

#### *Fraud*

This option is not expected to have a significant impact on fraud, and it introduces some fiscal risks. For example, fraudsters will have less need to co-ordinate across borders, and audits may be less efficient where wholesalers have no physical presence in the Member State where they are submitting a return. This may be a significant issue particularly in high taxing Member States. On the other hand, this is expected to shift the responsibility for returns towards larger businesses more experienced in complying with the existing arrangements.

#### **Overall assessment of option**

The introduction of a virtual consignee structure in the Member State of destination is a relatively inexpensive option for authorities and businesses to introduce, but with the potential to provide significant but targeted benefits.

While the overall reduction in administrative costs to businesses is small, providing the flexibility for wholesalers to assume the role of consignee and effectively take on the administrative tasks on behalf of retailers will be particularly attractive to small businesses. These businesses may be deterred from purchasing from their most economically advantageous (closest, cheapest, etc.) wholesaler under the current arrangements due to the associated administrative burden on cross-border transactions, which will effectively be removed where the virtual consignee structure is used.

This option is coherent with the objective of promoting a competitive and healthy business environment, reducing administrative burdens and supporting SMEs. It is also coherent with the principles of destination-based taxation. Overall, it is less impactful on administrative burdens and effectiveness than some other options, given the administrative costs are primarily shifted rather than removed, and that not all transactions will make use of this new structure.

The table below presents an assessment of this option against the key assessment criteria used for all policy options.



Assessment summary (W2R Option 2)			
Proportionality	++	Coherence	++
Economic and social impacts	++	Relevance	++
Administrative burden	+	Effectiveness	+
Practicality of implementation	++	EU added value	++
		Efficiency	+++

Notes: Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---).

This is compared against the other wholesale to retail policy options in Chapter 7.

### 6.7.3. Policy Option 3: Virtual consignee plus OSS for Excise only (transactional data submitted on a periodical basis)

#### Outline of policy option

This policy option would supplement the virtual consignee structure, proposed above, by allowing wholesalers to report transactional data on a periodical basis and pay excise duties through the OSS platform.

Extending OSS for excise duties in the context of business to business transaction would not differ from the OSS setup for distance sales, since the features are similar. Like the distance sales, the wholesaler would be responsible for supplying, reporting and accounting for and excise duties payment for the goods dispatched to the Member State of destination. Under this option, there would be no interaction between the two OSSs.

#### Registration of the wholesaler on OSS

OSS is based on the concept developed for distance selling and would allow a wholesaler to register electronically in a single Member State (not necessarily the Member State of dispatch) for all their EU sales of excise goods so as to declare and pay excise duties. Wholesalers would submit an application on OSS to register as a wholesaler virtual consignee in the Member State of identification, which the authorisation would be valid for all excise products in the EU.

Each wholesaler / virtual consignee authorisation would be connected to all the SEED numbers that the wholesaler / virtual consignee has already obtained in each Member State from where excise goods are despatched by them. The actual European Commission common domain central services would be interfaced with OSS, using the processes and tasks already in place for SEED business to business movement.

#### Submission of the excise tax return

Authorised wholesaler / virtual consignee would report each of the transactions made on a monthly basis (i.e. not in real time) in an excise tax return filled in for each Member State of destination.

Excise tax return(s) would be uploaded onto OSS monthly and would also contain per transaction details of the order (the person to whom it is sent to, the type and quantity of the goods, ARC/SARC and SEED number) in order to provide the authorities in the Member States of dispatch and consumption with information to audit as they see fit.

Wholesaler's excise tax return on OSS would include a reference to the excise administrative reference code ARC (duty suspension) and SARC (duty-paid). An interface between EMCS and OSS would be created to make a cross-check possible with the information available on EMCS (e.g. status of report of receipt received). When using OSS, the Member State of identification would be responsible for:

- Verifying the structure and content of the excise tax return or any corrections made on it afterwards received on OSS,
- Assigning a unique reference number to the excise tax return,
- Computing the excise duties to be paid (including after corrections made by the wholesaler virtual consignee),
- Sending via OSS reminders to the wholesaler / virtual consignee to receive the excise tax return, and
- Notifying via OSS the wholesaler / virtual consignee of the reason for any rejection of excise tax return and corrections.

The Member State of identification would transfer via OSS the excise tax return to the Member States of establishment (dispatch) and destination, which would:

- Evaluate the information reported (Member States may have specific requirements with respect to reporting that they would like to verify, such as the counting of fiscal marking, the correct application of the excise levy), and
- Manage any issues resulting from discrepancies or errors made by wholesalers / virtual consignees.

Wholesalers / virtual consignees would be able to correct the excise tax return within a period of 3 years.

#### *Payment of excise duty on OSS*

The excise duty payment would be completed by the wholesaler / virtual consignee through the Member State of identification, which would subsequently transfer the correct amount of excise duties to the Member State of destination. The Member State of identification would be in charge of:

- Collecting excise payment in relation to the correct excise tax return, and
- Reimbursing any overpaid amount of excise duties.

Wholesalers / virtual consignees would constitute a global guarantee in each Member State of destination. However, guarantee management would not be done through OSS, but each Member State's national system, which would be interfaced with OSS to cross-check the amount of excise tax payment with the level of guarantee amount granted.

The Member State of destination would manage the excise payment and reimburse the Member State of identification in case excise duties have been overpaid by wholesalers / virtual consignee.

#### *Access to information for other Member States*

The excise duty rates on excise goods may vary significantly from Member State to Member State. Careful consideration is thus needed and audits must be organised in the same spirit. It is suggested that the Member State of consumption should be leading the audits. In that respect, as the stock verification will have to be made by the authorities in the Member State of dispatch, the results of that stock audit must be shared with the relevant Member States of destination.

A central register would be maintained, either at EU level (central ELO) or through a liaison department that forwards notifications to a national registry, for any new SEED and storing excise tax returns received by economic operators. Member States (of consumption and dispatch) would have an automatic access to information by requesting, through OSS, information to the Member State of identification.

### **Analysis**

#### *Initial set-up costs*

This policy option is estimated to result in initial IT set-up costs of approximately €3.7 million per Member State. This analysis makes use of the DG TAXUD IT Cost Model and implicitly assumes that all Member States can use existing IT infrastructure when developing the OSS for excise goods, given that the OSS for VAT purposes is already in operation.

The analysis also estimates a one-off IT set-up cost of approximately €3 million for the Commission, therefore forecasting that the overall costs of initial IT infrastructure for Member States and the Commission for the implementation of this policy option to be €103 million.

Member States will also incur significant overhead costs capturing operational expenses such as training and business process reengineering. We assess that the overhead costs are approximately €0.5 for every €1 spend on IT infrastructure. Using this assessment, the expected overheads for an Excise OSS is approximated to be between €1.9 million per Member State. Overhead costs for the European Commission are considered negligible.

Like with the potential OSS for distance selling, businesses will also face transitional IT set-up costs as they adapt their current systems to be compatible with the new approach. The analysis, which draws on the experience of the OSS for VAT and costs of the EMCS, assesses that set-up costs for business are on average €5,000 to €8,000.

It is also estimated that economic operators will incur further costs for training, familiarisation and process developments, amounting to approximately €2,500 to €4,000 per business.

### Ongoing Costs

There will also be ongoing costs for Member States, in addition to the transitional impacts set out above. Again drawing on the experience of the OSS for VAT, the costs of maintaining the OSS wholesale to retail portals are estimated to be in the region of €260,000 per year, per Member State. These estimates are similar to the equivalent costs forecast for the distance selling OSS.

The ongoing maintenance costs for the European Commission are expected to be approximately €0.7 million per year, i.e. approximately 20% of the IT implementation costs.

For businesses, an earlier study indicates running costs of €2,200 per year (for the VAT OSS). We would expect similar running costs for businesses using Excise OSS, however, specifically we expect slightly lower maintenance costs in the range of €1,000-€1,600, i.e. also approximately 20% of the IT implementation costs. Note that ongoing maintenance costs of a OSS for excise only are expected to be broadly similar to ongoing costs currently faced under the baseline.

### Cost savings for businesses and authorities

The OSS for excise is a significant simplification for economic operators engaging in W2R trade. The analysis undertaken for this study estimates that, under an OSS, the average compliance costs incurred for each business to business transaction would be reduced from approximately €44.2 for buyers and €41.7 for sellers on average, to between €20.8 and €33.3 per transaction for wholesalers while being unchanged for retailers. That is, the addition of an OSS benefits wholesalers, whereas it has no effect on retailers. This is set out in more detail in the table below:

**Table 62: Average total compliance cost per W2R transaction**

	Baseline	OSS for Excise only		
	€	€ (Low)	€ (Medium)	€ (High)
Average total cost	86	43	56	69

**Sources:** Business Survey, Eurostat

It is also estimated that the OSS for excise would considerably reduce the average cost of processing returns and payments for national authorities, as set out below:

**Table 63: Average cost per return for the Member State authorities**

	Cost per return			
	Dispatch (outbound)		Destination (inbound)	
	Baseline	OSS	Baseline	OSS
	€	€	€	€
Low	2.20	0.88	2.32	0.93
Medium	2.20	1.10	2.32	1.16
High	2.20	1.32	2.32	1.39

**Sources:** Authors' calculations based on tax authority questionnaires and Eurostat

While the processing costs per transaction fall considerably, the overall impact of the costs faced by national authorities depends on the additional number of wholesale to retail transactions that authorities will have to process following the increase in relative trade resulting from the lower per-return cost.

This modelling forecasts a small overall increase in the number of consignments consisting of alcohol, tobacco and energy products from approximately 3,161,400 per year, to 3,163,800 (central estimate, in 2023). Under our central estimate, the overall regulatory cost for authorities (excl. IT costs) is therefore expected to decrease from approximately €14.3 million to €7.6 million by 2023.

#### *The impact on trade, consumption and SMEs*

The expected cost reductions, that are set out above, are forecast to have the following three impacts on the W2R sector:

1. Current wholesalers selling cross-border will increase their cross-border wholesale to retail activities (increase of wholesales on the intensive margin).
2. Wholesalers currently not engaged in cross-border business to business transactions will start using the wholesale to retail channel (increase of wholesales on the extensive margin).
3. Retailers currently only buying domestically will start buying from wholesalers in other Member States.

All three of the above impacts are likely to increase the number of W2R transactions that are taking place across the EU, although only marginally:

**Table 64: Compliance costs and the impact on W2R trade (inbound)**

	Baseline	OSS Excise only		
		€ (Low)	€ (Medium)	€ (High)
Average cost of compliance per transaction (€)	86	43	56	69
Total number of excise consignments	3,161,441	3,162,217	3,162,799	3,163,380
Total value of inbound excise products (€ Billion)	312.30	312.40	312.46	312.51

**Sources:** Authors' calculations based on Eurostat, Lawless (2008) and Crozet and Koenig (2010)

As the above table sets out, the simplifications introduced by the One Stop Shop are forecast to have only a limited impact on the W2R market for excise products as a whole, with changes in consumption expected to be minimal.

At a Member State level, the impacts will be dependent upon individual countries' balance of intra-EU trade in excise products. Specifically, net exporters are expected to increase exports, resulting in a slight increase in domestic prices as supply decreases in domestic markets. The inverse impacts are forecast for net importing Member States, who will see a slight decrease in prices. On balance, this is forecast to leave overall consumption largely unaffected.

As a result of the minimal change in overall consumption, it is not expected that this policy option will generate any significant increase in health, health-related or environmental problems. In addition, this policy option does not impact Member States' autonomy in pursuing domestic health policies.

### **Overall assessment of option**

While the virtual consignee option provides a solution to a movement problem, it creates a new problem related to the payment of excise by wholesalers making use of the virtual consignee structure in the Member State of destination. The analysis above has outlined how, and to what extent, an OSS for excise would help solve this problem.

As set out in the above analysis, there are a number of benefits associated with the potential implementation of an OSS for excise for wholesale to retail transactions. The system represents a significant simplification for economic operators and Member States, reducing the administrative costs of each transaction substantially for both parties. Similarly to the basic OSS for distance sales discussed in Chapter 5, a move to this more streamlined system is coherent with the principles of the internal market, and will minimise inefficiencies and misinformation, while promoting cross-border cooperation and communication.

One of the key downsides, compared to the virtual consignee option, is the high level of upfront investment required in order to set-up this system. These costs fall on both national authorities and businesses and, while the levels of investment seem reasonable at a Member State level, it will be important to ensure that businesses, particularly smaller and/or less automated enterprises, are given special consideration if this option is taken forward to ensure any transitional impacts are not unduly burdensome.

The OSS for excise for B2B wholesale to retail transactions will also be highly coherent with the OSS policy option for distance selling as it will simplify the mechanism by which excise duty is reported and paid by the seller whilst allowing excise duty to be remitted to the relevant Member State of destination in line with Directive 2008/112/EC. The combination of the two options will likely provide additional synergy and further benefits.

Assessment summary (W2R Option 3)			
Proportionality	+	Coherence	++
Economic and social impacts	++	Relevance	+++
Administrative burden	++	Effectiveness	++
Practicality of implementation	-	EU added value	++
		Efficiency	++

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---).

This is compared against the other wholesale to retail policy options in Chapter 7.

#### **6.7.4. Policy Option 4: Virtual consignee plus OSS with VAT and Excise integration for Economic Operators (consolidated data submitted on a periodical basis)**

##### **Outline of policy option**

Instead of creating a new platform OSS for excise only, this policy option would involve implementing an integrated OSS platform, combining VAT and excise duties at the EU level, enabling wholesalers to file and pay VAT and excise duties for certain supplies under a single platform.

##### *Registration on OSS*

Economic operators would be able to use the current VAT OSS platform to register as a wholesaler / registered consignee for VAT and excise. Similar to the basic excise OSS, a wholesaler's OSS authorisation number would also be linked to the SEED number the wholesaler uses to ship excise goods to Member States of destination from the Member of dispatch. The actual European Commission common domain central services would be interfaced with OSS, using the processes and tasks already in place for SEED business to business movement.

##### *Submission of the excise tax return*

OSS with VAT and excise integration should be designed in such a way as to enable wholesalers to submit monthly returns for excise. Similar to VAT, the data should also be reported on a consolidated basis.

The wholesaler's excise tax return on OSS would include a reference to the excise administrative reference code ARC (duty suspension) and SARC (duty-paid). An interface between EMCS and OSS would be created to make a cross-check possible with the information available on EMCS (e.g. status of report of receipt received). The current OSS system would need to be amended to add the tasks which specifically relates to excise tax reporting:

- Wholesalers would submit a separate excise tax return (and any corrections of the excise tax return) to the Member State of identification (in addition to the submission of VAT returns), since the information requested for excise duties is

different than for VAT - for alcoholic beverages, excise duties are calculated differently depending on for example for beers the number of hectolitre/degrees Plato or the number of hectolitre/degrees of actual alcoholic strength by volume;

- The Member State of identification would assign a separate reference number to the excise tax return (different than the one allocated for VAT returns) and compute excise duties; and
- The Member State of identification would prepare and transfer excise tax returns to the Member of destination, separately from VAT returns.

By receiving a separate excise tax return, new tasks would have to be created in the current OSS in order for the Member States of establishment (dispatch) and consumption to:

- Conduct an assessment of excise returns, which can include specific requirements depending on the countries of consumption (such as the record of fiscal marking); and
- Manage the issues found in the excise tax returns.

OSS for VAT and excise would also integrate tasks for transmitting the excise tax return to the Member States of dispatch and consumption as well as notifying the distance seller of any rejection, correction or reminders.

Wholesalers would be able to correct the excise tax return within a period of 3 years.

#### *Payment of excise duties*

On OSS for VAT and excise, the wholesaler / virtual consignee would pay the excise duties separately from VAT. It would avoid creating complexities when dealing with one single payment since, amongst others, VAT collection (which is recoverable) works differently than for excise duties and VAT and excise duties are often managed by two different administrations.

Since excise and VAT tax returns would be submitted separately with two different reference numbers assigned, the Member State of identification will allocate both payments to the right returns. New tasks would have to be created in the current system on top of VAT:

- For the Member State of identification, to verify the structure and the content of the excise tax payment submitted by the wholesaler, allocate it to the appropriate excise tax return and extract the payment of excise duties;
- For the Member State of destination, to evaluate the excise duties payment received by the Member State of identification and manage any payment issues found.

A number of existing tasks would also need to be changed as a result of the excise integration into the current VAT system, such as:

- Notifications to the distance seller of the reason for rejection of any tax payment (VAT and/or excise);



- Reminders for non payment or information to the distance seller for overdue payment;
- The refund of overpaid or unidentified payments (excise and/or VAT);
- The recovery of payment (VAT and/or excise);
- The notifications between Member State of identification, Member State of dispatch and Member State of consumption, for example the transmission of tax returns (as they already exist on OSS for VAT)

The payment of the excise due in the country of destination would need to be made from a bank account in that country (for non-Euro countries) resulting in the supplier needing a local bank account in that country for this to work. Whilst this may formally be on the boundaries of what a Directive may deal with, it could work in practice if Member States agree to it.

Like for basic excise OSS under Policy Option 3, wholesalers / virtual consignee would provide a global guarantee in each Member State of destination. However, guarantee management would not be done through OSS, but each Member State's national system, which would be interfaced with OSS to cross-check the amount of excise tax payment with the level of guarantee amount granted.

#### *Access to information for other Member States*

The central registry used for OSS for VAT will be used for:

- Registration of new distance sellers;
- Storing excise tax returns.

It is expected that wholesalers / virtual consignee would have one OSS account covering their VAT and SEED numbers. In case there is a request for information from a Member State, the distance seller identifier will be used to access both VAT and excise returns and registration details.

### **Analysis**

#### *Initial set-up costs*

The estimated initial IT set-up costs per Member State are estimated to be €4.2m. This analysis again relies on the DG TAXUD IT Cost Model and again implicitly assumes that all Member States can use existing IT infrastructure when developing the OSS for excise goods, given that the OSS for VAT purposes is already in operation.

The IT set-up cost for the Commission is forecast to be approximately €3.6m, bringing the overall costs of initial IT infrastructure for Member States and the Commission for the implementation of this policy option to approximately €118 million.

Like with the OSS for excise only option, Member States will also need to cover additional overhead costs. Using the same analytical assumptions as with Policy Option 3, the expected overall overhead are approximately €0.5 for every €1 spend on IT infrastructure. This suggests that the overall total overhead costs for Member States of implementing this option are approximately €57 million (€2.1 million per

Member State). Overhead costs for the European Commission are considered negligible.

Businesses and economic operators will also face transitional IT set-up costs for adapting their current infrastructure and IT systems. These average costs are similar to those expected for similar adaptations under Policy Option 3, i.e. it is estimated that set-up costs for business will on average be between €5,000 to €8,000. The costs for businesses to provide relevant training, familiarisation and process developments are also similar, estimated to be in the region of €2,500 to €4,000 per business.

#### *Ongoing Costs*

In addition to the transitional impacts, there will also be ongoing costs for Member States under this policy option. Again, drawing on the experience of the MOSS for VAT, the costs of maintaining the OSS wholesale to retail portals are estimated to be in the region of €260,000 per year, per Member State.

Furthermore, the ongoing maintenance costs for the European Commission are expected to be approximately €0.8 million per year, i.e. approximately 20% of the IT implementation costs.

For businesses, we expect maintenance costs in the range of €1,000-€1,600, i.e. also approximately 20% of the IT implementation costs and similar to option 3. Similarly, it should be noted that ongoing maintenance costs of an integrated OSS are expected to be broadly similar to ongoing costs currently faced under the baseline.

#### *Cost Savings for businesses and authorities*

An integrated OSS is expected to offer considerable efficiency savings for economics operators, compared to the current system. Overall the analysis suggests that the average compliance costs incurred for each business to business transaction is lowered from €85.9 to somewhere in the region of €38.6 to €64.4, as a result of implementing the integrated OSS. The table below sets this out in more detail:

**Table 65: Average total compliance cost per W2R transaction**

	Baseline	Integrated OSS		
	€	€ (Low)	€ (Medium)	€ (High)
Average total cost	86	39	52	64

**Sources:** *Business Survey, Eurostat*

The integrated OSS is also forecast to reduce the average cost of dealing with W2R returns for national authorities:

**Table 66: Average cost per return for the Member State authorities**

	Cost per return			
	Dispatch (outbound)		Destination (inbound)	
	Baseline	OSS	Baseline	OSS
	€	€	€	€
Low	2.20	0.77	2.32	0.81
Medium	2.20	0.99	2.32	1.05
High	2.20	1.21	2.32	1.28

**Sources:** Tax authority questionnaires and authors' calculations

As the above table shows, the savings for national authorities are considerable. They are also slightly larger than those forecast under an a basis OSS, as set out in Option 3, mainly due to efficiencies from having to process and assimilate less information.

As with previous options, the real impact of the above marginal efficiencies is dependent on the additional number of transactions that authorities will have to process following the lower per-transaction cost.

The analysis undertaken for this study forecasts a small overall increase in the number of relevant consignments from approximately 3,161,400 per year, to 3,163,600 (central estimate, in 2023). Under our central estimate, the total regulatory cost for authorities (excl. IT costs) is therefore expected to decrease from approximately €14.3 million to €6.45 million by 2023.

*The impact on trade, consumption and SMEs*

Similarly to Option 3, the expected efficiencies that result from moving away from the current counterfactual are forecast to lead to a number of key changes:

1. Wholesalers currently selling cross-border will increase their cross-border wholesale to retail activities (increase of wholesales on the intensive margin).
2. Wholesalers currently not engaged in cross-border business to business transactions will start using the wholesale to retail channel (increase of wholesales on the extensive margin).
3. Retailers currently only buying domestically will start buying from wholesalers in other Member States.

These overarching changes are likely to lead to an increase in the number of B2B transactions that are undertaken across Member States:

**Table 67: Compliance costs and the impact on W2R trade (inbound)**

	Baseline	OSS Excise only		
		€ (Low)	€ (Medium)	€ (High)
Average cost of compliance per transaction (€)	86	39	52	64
Total number of excise consignments	3,161,441	3,162,410	3,163,992	3,165,573
Total value of inbound excise products (€ Billion)	312.30	312.46	312.52	312.57

**Sources:** Authors' calculations based on Eurostat; Lawless (2008); and Crozet and Koenig (2010)

The number of wholesale transactions are forecast to increase by between 0.003% and 0.007% by 2023. This small increase is marginally higher than the forecast increase in business forecast under Policy Option 3, although neither are significant.

The main reason for such a small increase in the numbers of sales, despite a significant drop in the average compliance cost, is the same under both options and centres around balance of trade impacts (see Section 6.7.3).

Given that this change is not expected to generate any significant increase in real consumption of alcohol or tobacco products, the health and environmental impacts are expected to be limited.

### **Overall assessment of option**

As in the case of distance selling, the benefits of integrating an excise OSS with the VAT system are to simplify the current complex compliance procedures and bring together the excise administration of two major indirect taxes in one place for businesses.

The integrated system would represent a coherent, streamlined and simplified approach, making it easier for Member States, the European Commission, and economic operators to monitor and manage B2B transactions of excise goods. The reduction in overall compliance costs compared to the basic excise OSS option alone is consistent with the core goals of the internal market.

These additional benefits relative to the excise-only OSS will primarily accrue to businesses, whereas the additional costs of integrating excise into the existing VAT OSS will primarily be borne by national administrations. Depending on the importance attributed to this trade-off and the associated risks of a more complex change, on balance the integrated option may be preferable.

The table below presents our qualitative assessment of this option against the key assessment criteria.

Assessment summary (W2R Option 4)			
Proportionality	+	Coherence	++
Economic and social impacts	++	Relevance	+++
Administrative burden	+++	Effectiveness	++
Practicality of implementation	--	EU added value	++
		Efficiency	+

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---).

This is compared against the other wholesale to retail policy options in Chapter 7.

#### **6.7.5. Further Policy Option Considered: Virtual consignee plus excise-only OSS plus split payment mechanism**

A further policy option involving the use of the split payment mechanism in combination with the virtual consignee plus excise only OSS was considered as part of the analysis undertaken. However, due to the current complexities in implementing a split payment mechanism across all Member States, the set-up and ongoing costs involved in operating this mechanism and risks of administering such a solution for excise duty without the technological advances required to address the unique challenges the calculation, collection and payment of excise duty present across the EU, this was not included in the final list of policy options.

It is recognised that for any split payment model to work it needs to be both simple for businesses to develop the technology and to comply with it in terms of applying its rules to every transaction in scope.

The current costs of implementing such an option for excise duty may however be prohibitive. There are also separate legal, technical and practical aspects which would need to be carefully considered before a split payment mechanism could be introduced. Whilst there does not appear to be any clear benefits to implement such a solution at present, as technology continues to advance, the potential benefits may begin to outweigh the costs involved over time.

## **7. Conclusions and recommendations**

### **7.1. General conclusions on the nature of the problems**

This study has highlighted a number of problems with the general arrangements for excise duty in the EU, as set out in Articles 32 to 36 of Council Directive 2008/118/EC.

Due to the nature of some of these problems, the depth of the evidence estimating the size and nature of some of these problems is mixed. It is clear, however, that for all three transaction types considered in this study (personal acquisition, distance selling and wholesale to retail) some problems are sufficiently significant to warrant further consideration at an EU level. Fundamentally, these problems are primarily driven by excise rate differentials and administrative burdens.

#### **7.1.1. Problems with personal acquisition**

Economic and fiscal distortions caused by cross-border shopping were found to be significant. In areas with high cross-border traffic for excise products, retailers appear to be more densely concentrated on the low-excise side of the border and less densely concentrated on the high-excise side (as a proportion of population and compared with an internal town in the same Member State). With €8.4 billion in cross-border purchases of alcohol and tobacco estimated each year, the gross tax revenue foregone by Member States of consumption (shifted to Member States of purchase) amounts to around €4.0 billion in excise duties and €2.8 billion in VAT.

It is much more difficult to accurately estimate the level of fraud related to personal acquisition. The available evidence suggests the problem is particularly prevalent in certain areas, most notably the Nordic states. One quarter of our consumer survey respondents said they were aware of retailers selling excise goods that had been purchased cross-border by individuals, and two-thirds said they considered it common for individuals to purchase excise goods in another Member State on behalf of others.

The impacts on public health also appear to be acute in Member States with high excise rates and less so in others, although the impact on certain segments of the population (e.g. those who live near the border or who are particularly sensitive to price) is expected to be higher. For many EU residents, the availability of cheaper, better quality or more accessible excise goods leads to an increase in consumption. In aggregate, the availability of products across borders is estimated to have increased consumption by 0.15 litres of pure alcohol equivalent (1.5% of consumption), 1/2 of a packet of cigarettes (0.8% of consumption), 3g of fine cut tobacco and 1/10 of a cigar per capita, but with significant variation between Member States and demographic groups. The clear evidence linking tobacco consumption and excessive alcohol consumption to negative health outcomes demonstrates the impact of this overall increase in EU consumption on public health.

Cross-border purchases of alcoholic beverages are expected to increase over the next five years and purchases of tobacco products are expected to decrease slightly, as is general consumption. With no policy (or other) changes forecast that would

significantly affect this, we expect the problems with personal acquisition to continue to be significant.

### **7.1.2. Problems with distance selling**

The current requirement to appoint a tax representative for distance sales creates a significant regulatory burden on businesses selling excise products direct to consumers in another Member State. Although fees vary considerably, the cost to SMEs making distance sales (estimated at between 55-91% of the average value of a distance sale) is higher than for all distance sellers (26-51%). The removal of this requirement in 2022 will ease this burden, but won't go so far as to introduce an alternative mechanism for ensuring the correct duties are paid.

It is difficult to estimate the value of fraudulent distance sales, but the available evidence indicates that a large proportion are not being declared correctly. Two thirds of respondents to the business survey said it was either common or very common for businesses to make cross-border distance sales without declaring them, with nearly half of respondents believing between 20% and 40% of all distance sales are not ever declared. Fraud on import distance sales from non-EU countries is of a different nature, given the need for deliveries from outside the customs union to pass border checks. Consumers did, however, indicate that it was common to receive goods with customs declarations that incorrectly priced or categorised the goods.

Member States may impose national measures designed to achieve fiscal or health objectives but that inadvertently hamper or prevent distance sales. These are commonplace, particularly for tobacco products. The most common measures include requirements to verify the age of the recipient of the shipment and to attach fiscal marks. 17 Member States ban distance sales of tobacco altogether. Fiscal marks were found to be the most obstructive measure for distance sales of alcohol, although it is difficult to measure the extent to which they hamper distance sales or prevent businesses from making them altogether.

Overall, high administrative burdens and measures in place at a national level significantly hamper distance sales of excise products across the EU, and incentivise non-compliance with the requirement to declare excise in the Member State of consumption.

### **7.1.3. Problems with wholesale to retail**

According to our survey, over 30% of businesses buying goods from other businesses did not make purchases from wholesalers in another Member State due to the administrative burden. We estimate that it costs businesses around €35 to €40 to comply with administrative procedures when making a purchase and around €33 to €41 when making a sale, with the costs higher for SMEs compared to large businesses. Although these costs are unlikely to have key impacts on the behaviour of larger operators, they can be significant for smaller businesses.

As with the other transaction types, fraud on cross-border wholesale to retail transactions is difficult to measure. 38% of businesses responding to our survey stated that they were aware of businesses making cross-border B2B sales without

declaring them in line with current regulations. Excise revenue lost on registered but fraudulent B2B transactions is estimated to be around €405 million in lost excise revenue across the EU per annum, just 0.1% of the €360 billion in excise revenue collected on alcohol, tobacco and energy products in 2018<sup>69</sup>.

Analysis of irregularities in bilateral trade data found evidence of systematic reporting of exports without corresponding imports reported anywhere in the EU for still wine and cider, and evidence of inconsistent reporting of dispatch and destination Member States for beer, cider, fortified wine, cigarettes, cigars and fine cut tobacco. This degree to which this can be attributed to non-fraud reasons is uncertain.

B2B movements are the most regulated of the three movement types and evidence suggests that the biggest problem is the administrative burden for retailers. While the planned automation of duty-paid movements will alleviate some of this burden, retailers will still have to register for excise purposes to receive shipments.

## **7.2. Recommendations**

The policy options presented in the chapters above were assessed against nine distinct criteria, based on the analysis presented in this report. Because the optimal option for each problem depends on the relative importance assigned to each of these assessment criteria, this section does not recommend one option over another, instead focussing on the relative merits of each.

### **7.2.1. Personal acquisition policy options**

The figure below presents our assessment of each of the seven distinct policy options for personal acquisition. The first part of the figure displays the assessment of the four options that have been considered both as standalone options and in combination. The second part displays the assessment of the two options that have only been assessed as standalone options for the purposes of this analysis<sup>70</sup>.

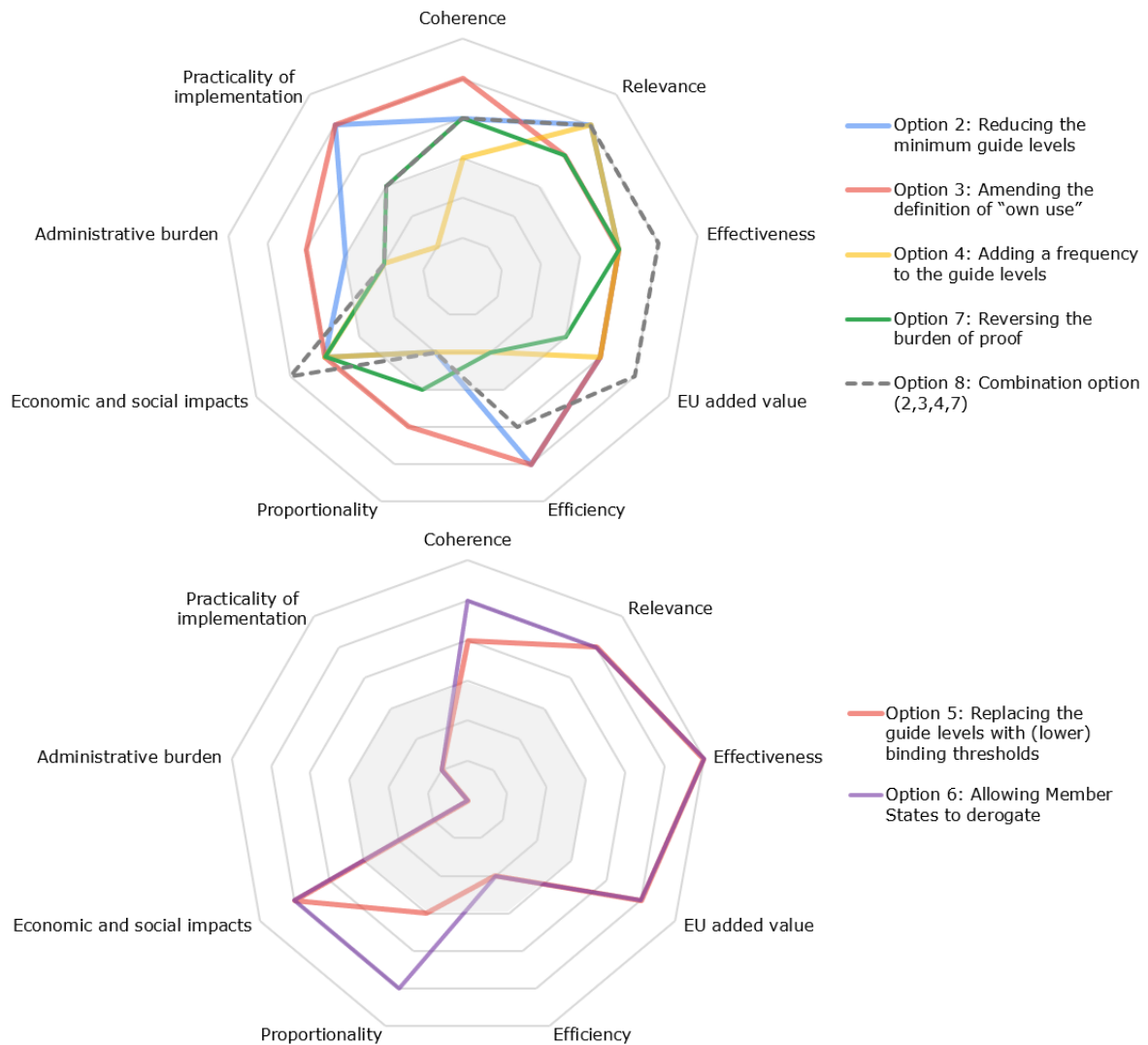
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<sup>69</sup> Excise duty tables for each of these products can be found here:  
[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/resources/documents/taxation/excise\\_duties/alcoholic\\_beverages/rates/excise\\_duties\\_alcohol\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/excise_duties/alcoholic_beverages/rates/excise_duties_alcohol_en.pdf);  
[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/resources/documents/taxation/excise\\_duties/tobacco\\_products/rates/excise\\_duties\\_tobacco\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/excise_duties/tobacco_products/rates/excise_duties_tobacco_en.pdf);  
[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/resources/documents/taxation/excise\\_duties/energy\\_products/rates/excise\\_duties\\_energy\\_products\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/excise_duties/energy_products/rates/excise_duties_energy_products_en.pdf)

<sup>70</sup> In each section "Option 1" is the baseline (do nothing) scenario which these options are assessed against. For this reason it does not appear as a separate option but is instead represented by the grey shaded area on the diagram.



**Figure 58: Comparison of personal acquisition policy options**



		Option 2: Reducing the minimum guide levels	Option 3: Amending the definition of "own use"	Option 4: Adding a frequency to the guide levels	Option 5: Replacing the guide levels with (lower) binding thresholds	Option 6: Allowing Member States to derogate	Option 7: Reversing the burden of proof	Option 8: Combination option (2,3,4,7)
<b>Key criteria</b>								
1	Coherence	+	++	0	+	++	+	+
2	Relevance	++	+	++	++	++	+	++
3	Effectiveness	+	+	+	+++	+++	+	++
4	EU added value	+	+	+	++	++	0	++
5	Efficiency	++	++	-	-	-	-	+
6	Proportionality	-	+	-	0	++	0	-
7	Economic and social impacts	+	+	+	++	++	+	++
8	Administrative burden	0	+	-	---	---	-	-
9	Practicality of implementation	++	++	--	--	--	0	0

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---). Grey shading in the radar diagram indicates status quo (a score of 0). To allow for ease of comparison, the options involved in the combination are presented in the first diagram and the remaining two options in the second. The criteria are the same.

The two options with binding guide levels are expected to be more effective, as they would turn guide levels used "solely as a form of evidence" into bright-line thresholds,

removing ambiguity for consumers and aiding enforcement. There is a cost to this, however. To ensure consumers are able to avoid double taxation and can readily seek a refund in the Member State of purchase, all Member States would need to establish a process for allowing non-residents to request a refund. Because this requirement pertains to the Member State of purchase (irrespective of whether that Member State has a derogation in place), this is the same for both the derogation and general binding guide levels options.

Many of the options appear to be less effective on their own. Amending the definition of "own use", for example, has few downsides but is also expected to be relatively ineffective if enacted in isolation. Many of the benefits of such options complement, or even strengthen, the benefits of other options, however. For example, the combination of reducing the guide levels and adding a frequency could significantly reduce the volume of goods able to be moved across border over any given time period. The combination option presented here demonstrates that making a number of these smaller changes together may be an effective and viable option.

It would be feasible to combine these options in other ways than the combination presented here. One such plausible option would be to combine a small reduction in the guide levels for all Member States with an option for Member States to seek a derogation for a further binding reduction, and amending the definition of "own use". The reduction in guide levels could be focussed on those products whose specific guide levels are particularly out of sync with rates of consumption, rather than a uniform reduction across all products. The challenge with this combination would be that all Member States would still need to establish a refund process to accommodate travellers from Member States with a binding derogation who might seek a refund, but this would allow for a better targeted and more proportional set of restrictions across the EU and help to mitigate a number of the problems described here.

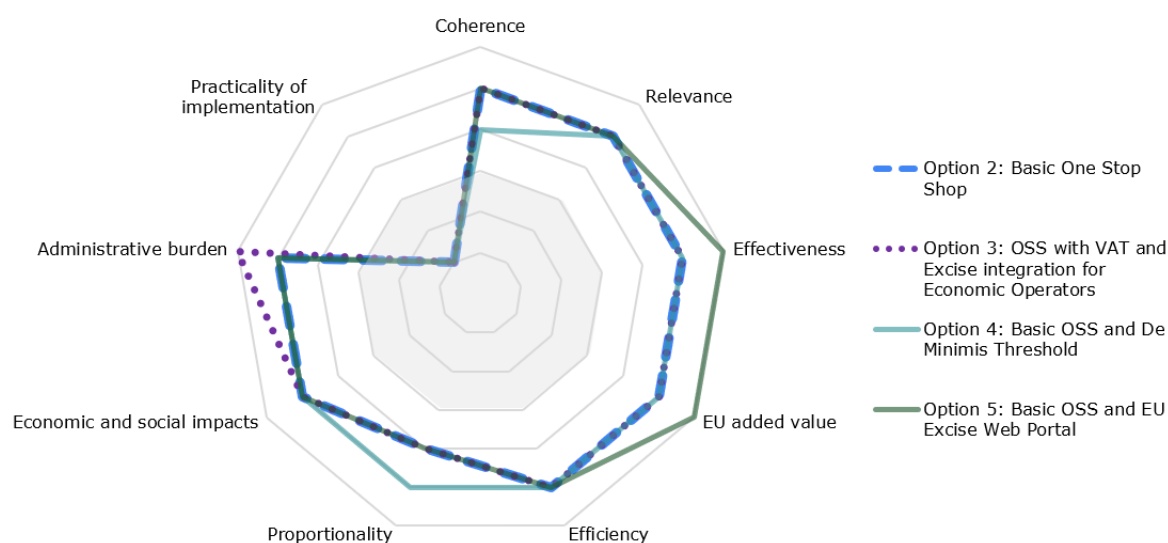
### **7.2.2. Distance selling policy options**

The following figure presents a comparison of the four non-baseline policy options, with the two core OSS options represented by dashed and dotted lines<sup>71</sup>.

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<sup>71</sup> Because options 2 and 3 are very similar it is difficult to see the small difference on the radar diagram. This is more obvious in the table below the diagram.

**Figure 59: Comparison of distance selling policy options**



	Option 2: Basic One Stop Shop	Option 3: OSS with VAT and Excise integration for Economic Operators	Option 4: Basic OSS and De Minimis Threshold	Option 5: Basic OSS and EU Excise Web Portal
<b>Key criteria</b>				
1 Coherence	++	++	+	++
2 Relevance	++	++	++	++
3 Effectiveness	++	++	++	+++
4 EU added value	++	++	++	+++
5 Efficiency	++	++	++	++
6 Proportionality	+	+	++	+
7 Economic and social impacts	++	++	++	++
8 Administrative burden	++	+++	++	++
9 Practicality of implementation	--	--	--	--

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---). Grey shading in the radar diagram indicates status quo (a score of 0).

These four options are relatively similar, and all based around the establishment of an OSS. The benefits of an OSS in any one of these forms are clear: the business sector is supported through reduced administrative burdens, and Member States through strengthened revenue collection and reduced fraud. The question, then, is which form of OSS delivers these benefits in the most effective and efficient manner?

All four options involve high setup costs, both for Member State authorities to develop the systems, and for businesses to be able to integrate their own systems with the OSS. The most expensive option is the integrated excise and VAT OSS, as it involves the redevelopment of an existing system, rather than the creation of a new one. The cheapest option is the basic Excise OSS, which becomes marginally more costly with the addition of an excise web portal (Option 5) and marginally cheaper when combined with a de minimis (Option 4), as businesses below the threshold will not be required to integrate with the system. This comes with implementation challenges, and not all Member States will find it equally simple or difficult to build the necessary national systems.

All options generate ongoing savings for businesses. In Option 4, businesses below the de minimis threshold are expected make significant savings by no longer having to pay excise in the Member State of consumption. For most businesses, however, the integrated OSS generates the most ongoing savings, allowing them to file excise and VAT returns in one place. Option 4 also leads to the greatest overall increase in distance sales over the next 5 years.

These options could also be combined in different ways. Both the de minimis and the web portal would be just as compatible with the integrated OSS as they would be with the basic excise-only OSS.

### 7.2.3. Wholesale to retail policy options

The figure below presents a comparison of the four non-baseline policy options, with the two core OSS options represented by dashed and dotted lines.

**Figure 60: Comparison of wholesale to retail policy options**



	Option 2: Virtual consignee (VC) structure in the Member State of Destination	Option 3: VC + OSS for excise only (transactional data submitted on a periodical basis)	Option 4: VC + OSS with VAT and excise integration
<b>Key criteria</b>			
1 Coherence	++	++	++
2 Relevance	++	+++	+++
3 Effectiveness	+	++	++
4 EU added value	++	++	++
5 Efficiency	+++	++	+
6 Proportionality	++	+	+
7 Economic and social impacts	++	++	++
8 Administrative burden	+	++	+++
9 Practicality of implementation	++	-	--

**Notes:** Assessment against baseline, using qualitative scores ranging from very positive (+++) to very negative (---). Grey shading in the radar diagram indicates status quo (a score of 0).

The collective focus of these policy options is on reducing administrative burdens for businesses and limiting the scope for fraud. The three options all focus on reducing the

administrative burden, in slightly different ways. As the administrative burden is relatively low compared with the average size of a B2B consignment of excise goods, none of these options is expected to lead to a major change in underlying economic activity. This differs from the OSS options for distance selling, where evidence suggests the administrative burden is significantly hampering the ability of SME retailers to make sales direct to consumers in another Member State.

The only change that can be considered in isolation is the virtual consignee, as this can be implemented with or without an OSS mechanism. Without the virtual consignee structure in place, however, neither of the OSS options are feasible, as purchasers would still be required to register as consignees and pay the excise due in the Member State of destination. The addition of the OSS (either excise only, or excise and VAT) to the virtual consignee mechanism increases the cost and complexity of implementing the change significantly, but also significantly reduces the ongoing administrative burden for businesses.

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## Problem trees

Figure 61: Personal acquisition problem tree

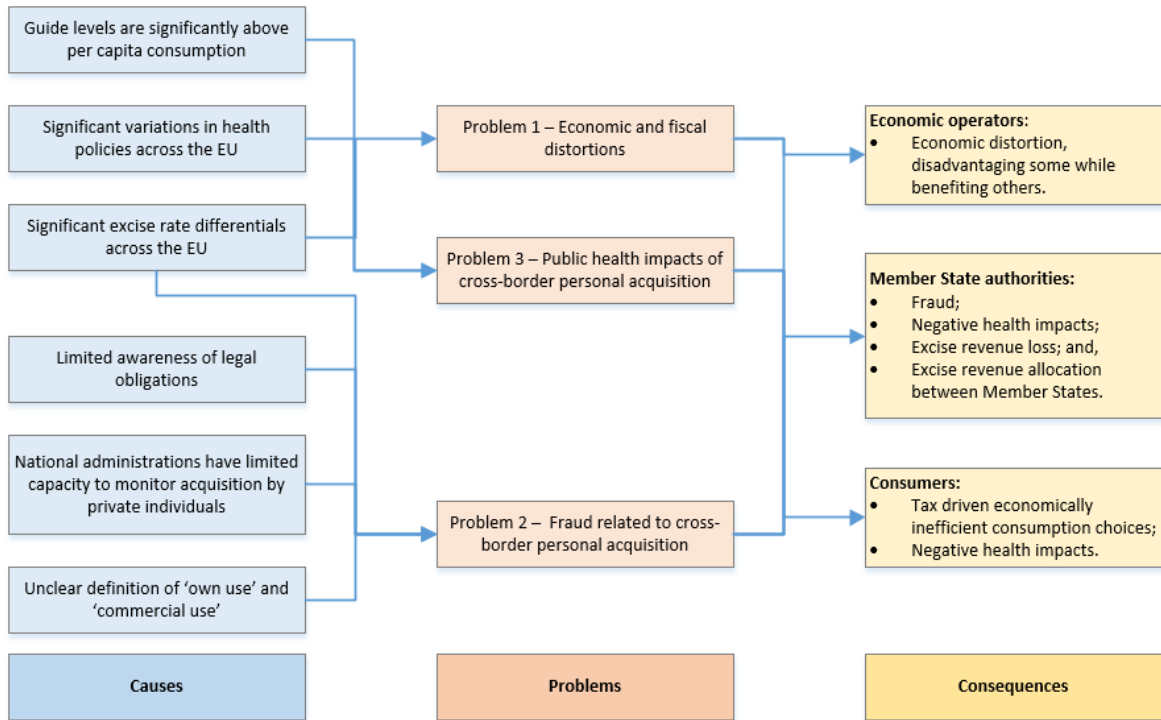
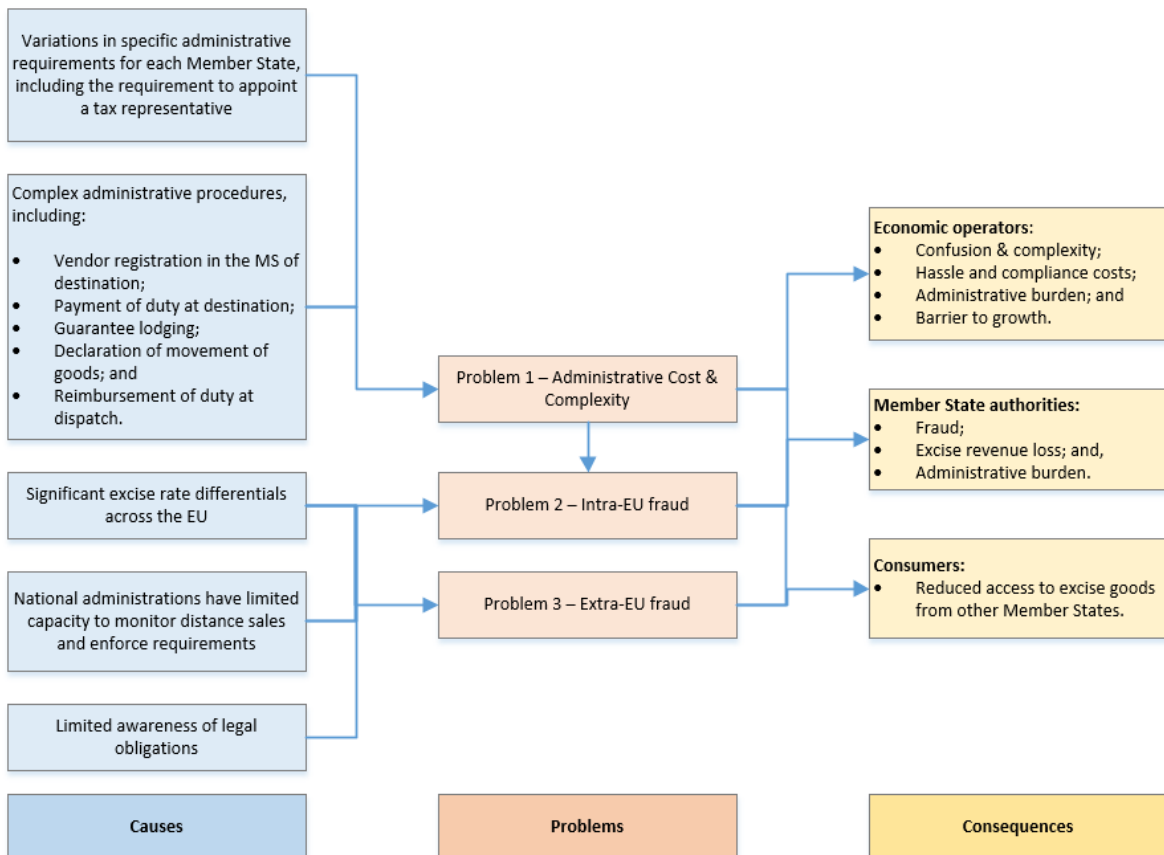
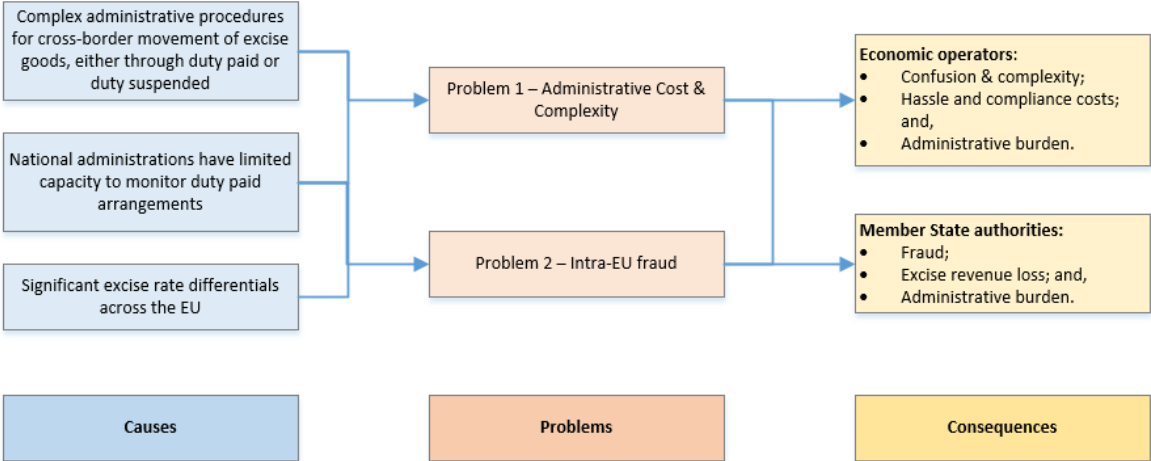


Figure 62: Distance selling problem tree



**Figure 63: Wholesale to retail**





## Stakeholder consultation

Over the course of the project a number of representatives from Member States, the Commission, NGO's and relevant industries were consulted. This was to ensure additional insight, information, data and evidence was gathered to support the analysis.

This annex provides more detail covering the different steps and activities that have been undertaken as part of the stakeholder consultation process. Detailed information covering our sample-based surveys of businesses and consumers, and the questionnaires sent to tax and health authorities, can be found in the following section.

### Member State consultation

As part of the study assessing Articles 32 and 36 of the Directive, the project team met with tax and health representatives, as well as relevant industry specialists of Member States, to discuss and analyse the current legislative situation and to present some initial policy options. The insights obtained from these workshops were incorporated into the analysis of the current issues and were used to further develop and refine the potential policy responses.

Both events were arranged by the Commission, and a summary of each workshop is provided below.

#### Workshop on acquisition by private individuals

The first workshop took place on 30 January 2019 and focussed on Article 32 of the Directive. Attendees provided valuable insights into the nature of the issues related to acquisition by private individuals. According to several Member States, the Directive in its current form seems to be working well, and any large-scale changes would be unnecessary. Moreover, these countries emphasised that any large-scale changes may be difficult to achieve given the requirement to obtain unanimous approval.

However, select Member States did raise concerns that their own national policies, designed to support domestic public health objectives, were not working sufficiently well in practice due to differences in excise policies with their neighbouring Member States

#### Workshop on distance selling and wholesale to retail

This workshop took place on 31 January 2019 and focused on Article 36 of the Directive and provisions for wholesale to retail (business-to-business) transactions of excise products. Similarly to the above workshop, it was clear throughout that there were a range of different opinions across countries, with problems affecting Member States in different ways.

With regards to distance selling, Member States made it clear that, since different rules may apply across different EU countries, small producers and SMEs across the EU likely experience difficulties in selling their excise products in other Member States.

They also highlighted that fraud may be an issue in this area, as it is difficult to ensure compliance and adequate enforcement.

With regards to wholesale to retail, the two main areas of focus were movement control and reporting of tax liabilities. The European Commission outlined their view that the main problem occurs when large multinational wholesalers wish to deliver excise goods to businesses in another Member State, as it is currently more burdensome than the same process when undertaken domestically. Arrangements for both duty suspension and duty-paid movements of excise goods were also discussed.

## **Wider stakeholder consultation**

Further to the EC organised workshops, a number of further direct consultations were held with relevant stakeholders. Conversations were had with a wide variety of organisations, including several different NGOs, institutions and industry representatives.

### **Non-governmental organisations (NGOs)**

PwC and its partners met with a total of nine alcohol NGOs and a further two tobacco NGOs for this study. A short summary of the discussions is provided below:

#### Summary of meeting with NGOs - Alcohol

When discussing the magnitude of the current problem, the NGOs agreed that lower prices in neighbouring Member States incentivise private individuals to engage in cross-border shopping, and offered their experience dealing with this practice. Not only did they highlight that there is a health impact, they also provided evidence that the economic impact of organised criminal activities needed to be considered.

On the policy options, the NGOs were in favour of having the current guide levels lowered to more 'normal' consumption levels, as a first step. Second, since guide levels are, by definition, hard to enforce, binding guide levels should be adopted. Next to that, credible and quantitative enforcement is needed, so that private individuals feel obliged to conform to the rules.

As for distance selling, the NGOs noted that in Finland it is not allowed for alcoholic beverages (because of national legislation), thus stating there is no problem in this respect. In general, NGOs are more concerned with cross-border shopping by private individuals than by distance selling of alcoholic beverages.

#### Summary of meeting with NGOs - Tobacco

As is the case for alcoholic beverages, the NGOs agreed that the main driver for cross-border shopping is the price differentials that exist between neighbouring Member States. They highlighted the EU tracking and tracing tool for tobacco products, which should start to deliver results by the end of 2019. This tool will give a clear insight into the flow of tobacco products and can help Member States and the EU Commission into mapping areas in which cross-border shopping is a problem.

One NGO considers that a distinction between individual and cohort behaviour should be made. The public health impact of cross-border shopping will go beyond the individual level when an individual starts to resell tobacco products that they bought cross-border.

With regards to the policy options, one NGO recommended first to reduce guide levels as much as possible, potentially down to zero, even though a complete prohibition would never be attainable. Second, implementing a frequency limit would be highly difficult to monitor. Third, they recommended that tax policies should also support health initiatives. Reference was made to Article 24 of the TPD, which allows Member States to adopt measures to promote public health. In conjunction with this measure, revising the wording of Article 32 of the Directive could be beneficial, and allow Member States to go beyond the provisions of the current Directive.

On distance selling, one NGO was not in favour of allowing it as, in their view, the only reason would be to avoid paying excise duty in the Member State. According to the European Network for Smoking and Tobacco Prevention, the problem is not substantial, particularly as almost all Member States ban the sale of cigarettes to persons younger than 18. Lastly, the participants also agreed that the absence of reference to alternative/newer forms of smoking in the current Directive, could create problems, which should be addressed immediately.

## Industry representatives

Meetings were also arranged with relevant industry stakeholders to ensure a proper understanding of the nature of issues faced by a range of businesses. The matrix below sets out the stakeholders that were met, in order to gather input covering each excise transaction type and product group.

**Table 68: Selected Industry Stakeholders**

	Acquisition by private individuals	Distance selling	Wholesale to retail
General knowledge	ETRC	Grocialist	Eurocommerce
Alcoholic beverages	Covered by the consumer survey, Member State excise and health authority questionnaires, and follow up interviews	Vinum et spiritus CEVI CEEV	Brewers of Europe Spirits Europe
Tobacco products		Not a focus of this study	Not considered
Energy products	Not a focus of this study	Not considered	BRAFCO Fuels Europe

The selection process of stakeholders was based on the following criteria: size of their network, the Member State in which they are based, and their expertise with excise products. The consultations were arranged by excise product group and transaction type, to ensure comprehensive coverage.

### Summary of the meeting with representatives of the alcoholic beverages sector

In early March 2019, a wide-ranging meeting was held with a number of industry representatives from the alcoholic beverages sector. An overview of the consultation is included below:

#### *Acquisition by private individuals*

The industry group did not consider the indicative levels as laid down under Article 32 of the Directive to be too high as they believe that many consumers want to store alcoholic purchases for a number of years (e.g. for ageing/bonification of wine).

Regarding the guide levels, the group were not in favour of removing the minimum boundaries as it would directly impact the consumer and make it more difficult for private individuals to be aware of, and comply with, the applicable rules in all Member States. In their opinion, moving to binding guide levels would limit the liberty of private individuals and the free movement of goods guaranteed by the single market. Conversely, the representatives suggested that the implementation of maximum indicative guide levels in addition to the current de minimis guide levels should be explored.

The industry fully supports all initiatives that would make people more aware of the risks (both in terms of health and financial impact). However, they pointed out that informing private individuals of the legal possibilities might tempt them to buy larger volumes (up to the limit) than they would have bought previously.

#### *Distance selling*

The representatives believed implementing guide levels would probably be a solution for small producers. However, depending on the criteria chosen for the guide levels, such a solution could disrupt the market and lead to discrimination amongst a range of different sized producers. Regarding other policy options, representatives referred to the arguments raised in relation to acquisition by private individuals.

#### *Wholesale to retail*

Industry representatives raised the point that setting up an excise One-Stop Shop should, in their view, be a decision made by national authorities. It may be a solution for tax collection, but it is unlikely to be effective for movement controls. They also emphasised that implementing such an OSS would take a number of years. Therefore, the industry asked for an interim solution that would be easier to implement (e.g. a single webpage on the Commission's website where all national requirements would be accessible and intelligible).

The industry underlined that implementing national excise guide levels would be difficult as such a measure would need to be accepted by all Member States. Moreover, it would be difficult to quantify the risks related to small producers that remain below the guide levels and to determine objective criteria upon which the guide levels should be based. Regarding the other policy options, representatives referred to the arguments raised in acquisition by private individuals.

## Summary of the meeting with representatives of the energy products sector

### *Acquisition by private individuals*

In early March, a meeting was arranged with representatives from the energy products and electricity sector.

Article 32 of the Directive does not contain guide levels for the cross-border acquisition by private individuals of energy products. Energy products transported in fuel tanks of vehicles and trucks are not subject to excise duty in the Member State of Consumption. They stated that it would be a good idea to quantify the amount of energy products that can be transported in appropriate reserve fuel canisters, and inspiration could be taken from the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), and more specifically section 1.1.3.1.(a). A private individual could take up to 60 litres per receptacle and 240 litres per transport unit, without being subject to excise duty in the Member State of consumption.

Informing private individuals of the risk of cross-border shopping of energy products could be beneficial, however potential drawback would be it could also incentivise private individuals to engage more in cross-border shopping than they have been doing at present. Further evidence supporting this was provided in the form of a news item, which was broadcast in Flanders, Belgium, explaining that red dyed gasoil (for heating purposes) is almost the same as regular diesel. However, the red dyed gasoil is almost €0.5 per litre less expensive than regular diesel and, in the days after the story was broadcast, operators noticed a spike in the purchase of red dyed gasoil by private individuals, using the red dyed gasoil as a substitute for regular diesel.

### *Wholesale to retail*

The main identified issue is the heavy administrative burden for duty paid movements. Consequently, a first policy option would be to use the existing EMCS and extend it to shipments already released for consumption in the Member State of departure. This solution would help tax authorities in tracking whether economic operators acted in good faith. However, the industry does not see added value in such a system, and it proposed to put in place a single national excise registration number per Member State.

The option of a One Stop Shop was also discussed, however the industry representative believed this would be difficult due to the large number of specific exemptions and reduced rates at national levels. As a conclusion, it was found that a single policy option would not be sufficient to address all issues related to B2B movement of energy products.

## Summary of the meeting with representatives for acquisition by private individuals

To cover personal acquisition, a meeting was arranged with an industry association for duty-free and the travel retail industry in Europe.

They pointed out that, in order to reduce thresholds for acquisition by private individuals, a 'normal' level of consumption should be established. However, determining a personal consumption average is challenging, as some consumers engage in cross-border shopping to store wine and spirits (for ageing bonification etc). Moreover, the thresholds are defined on a shipment basis, and not on a periodical basis (e.g. weekly or monthly).

With regards to binding thresholds, they argued that such measures are already possible under current legislation, and that some Member States apply this principle. However, these measures may hinder the liberty of private individuals and the free movement of goods.

In general, they are not in favour of removing the minimum thresholds, as they would increase the administrative burden for private individuals, who would have to comply with different thresholds in all Member States. A policy option implementing parameters to determine the frequency of cross-border shopping by private individuals would be difficult to implement and to enforce. Moreover, it might also limit the free movement of goods.

They did not support changing or redefining the wording or meaning of 'own use', as for them the emphasis should lay on whether a purchase has been done for private or commercial reasons. Any additional policy options, such as informing the public about the dangers and risks involved with cross-border shopping, could incentivise people to engage further in cross-border shopping than they have been doing up until now.

Lastly, enforcing control via tax stamps/RFID tags was also discussed. ETRC saw several points of contention, namely that tax stamps can be used to legitimise contraband products. Moreover, tax stamps are put on products that have a specific destination to be sold at. Problems would occur if these products would be diverted or rerouted to other destinations (e.g. duty-free shops or other Member State of destination requiring labelling in another language).

They concluded that specific policy options, such as implementing a frequency and/or moving towards binding thresholds are more political decisions that Member States will have to take, considering domestic health issues and national legislation.

#### Summary of the meeting with representatives for cross-border distance selling

For the purpose of this meeting, discussions were arranged with representatives from the SME wine-growing sector. One representative underlined the importance of distance selling for small businesses, as it would enable them to sell up to 20% more products compared to a non-distance selling setup. They also noted it is almost impossible to sell to consumers in other Member States as businesses need to register in every Member State in which they sell their products, vastly increasing their compliance costs. This almost immediately outweighs the benefits offered by distance selling.

The biggest problem is the compliance for the logistics companies. They are held responsible for the payment of the excise duties, even though they are unaware

whether the excise duties have already been paid or not. As a result, these companies refrain from these shipments, making it impossible for small producers to sell their products in other Member states.

For businesses that want to start selling their products cross-border, they will face compliance costs prior to selling their products. However, as their business has only just started, they have no way of telling whether they will actually sell the projected number of products in other Member States, but they will have already paid the registration and compliance costs in the respective countries.

The representatives put forward several options, namely:

- A threshold for excise duties, to be implemented as soon as possible;
- A One Stop Shop for excise duties;
- Giving platforms the possibilities to pay taxes and duties for the transactions on their platform, on behalf of sellers, without having to take responsibility for the rest of the seller's business.

With regards to the One Stop Shop policy option, several further possibilities were discussed:

- An OSS for Excise Duty (not in real-time/periodic model/national OSS);
- An OSS integrated into the VAT OSS (one single window access – joint competence); and
- An OSS for Excise Duty (de minimis threshold).

The OSS for Excise Duty was regarded as a good proposal, as it would not be too burdensome (at least the periodic model) for small producers. The OSS integrated into VAT OSS on the other hand would be hard to implement, and difficult to use for smaller operators and businesses. Moreover, the taxable basis for VAT and excise duties are not the same. An OSS for excise duty, based on a de minimis threshold, was regarded as an intermediary solution that could be put in place after the OSS for VAT has become fully operational.

As a short-term solution, both representatives insisted to provide small producers with a solution, such as an EU-wide webpage containing all relevant information for economic operators, such as duty rates, compliance requirements etc.

As an intermediary solution, both representatives suggested to implement a threshold until the full implementation of VAT OSS. They suggested a threshold of at least 50,000 sales, with a value of €500,000. Below the threshold, businesses could apply the rules of the Member State of departure. This would drastically help small producers in getting their products with clients in other Member States, without increasing compliance costs.

The representatives believe that the problem of minors acquiring excise products online is quite limited, given that these sorts of transactions mainly take place for more expensive and higher quality products, which is not what younger citizens focus on.

Summary of the meeting with representatives for wholesale to retail (business-to-business)

For wholesale to retail, a meeting was arranged with a trade association, who represent retail, wholesale and other trading companies in Europe.

The following potential policy options were discussed as part of the meeting:

- Register consignors in the Member State of consumption (EMCS extension);
- A One Stop Shop;
- National thresholds;
- A combination of domestic rules with OSS; and
- The enforcement of control via tax stamps/RFID tags.

They found that expanding EMCS to register consignors at the Member State of destination was a viable option, however it could pose problems for small operators, who were not used to working with EMCS. Such a system would in principle allow for the removal of physical checks of goods, however this is reliant on wholesalers acting in good faith. Additionally, if the e-AD had been deregistered, to conform to the rules, the consignor would get an automated message confirming this. The consignor could subsequently use this document to reclaim the paid excise duty, relieving them from daily or weekly declarations.

The implementation of OSS could either be only for excise, or a combined OSS (OSS+ or integrated OSS) for VAT and excise. In their opinion, a separate OSS is more beneficial for businesses, since VAT and excise are often not handled within the same internal departments. National thresholds, under which the OSS should not be applied, could also be implemented (de minimis). However, they believe this would be difficult to monitor in practice. An added difficulty is the discrepancy between VAT and excise, since they are not aligned with each other.

Controls via tax stamps/RFID tags can be implemented, however these options are vulnerable, and can aggravate the problem of illegitimate trade. RFID tags can be added to the current legal requirements but cannot replace the current legal obligations.

In conclusion, an OSS for excise goods seems a viable option, however the implementation could take several years, so a short-term solution (for example an extension of EMCS) should also be considered.



## Tax and health authority questionnaires

### Overview

The surveys below were sent, in spreadsheet format, to the authority responsible for the collection of excise duty (the tax authority or corresponding agency) and the national health authority in all 28 Member States. All respondents were invited to discuss the contents in a telephone-based interview. The responses are summarised in the table below.

**Table 69: Tax and health authority questionnaire responses**

Member State	Tax authority questionnaire received	Health authority questionnaire received	Tax authority interview	Health authority interview
Austria	Y	Y		
Belgium	Y	Y		Y
Bulgaria	N	N		
Croatia	Y	Y		
Cyprus	Y	Y		
Czech Republic	Y	Y	Y	
Denmark	Y	Y		Y
Estonia	Y	Y		Y
Finland	Y	Y	Y	Y
France	Y	Y		
Germany	Y	Y		
Greece	Y	Y		
Hungary	Y	N		
Ireland	N	Y		
Italy	Y	N		
Latvia	Y	Y		
Lithuania	Y	Y	Y	
Luxembourg	Y	Y		
Malta	Y	N		
Netherlands	Y	Y		
Poland	Y	Y		
Portugal	Y	Y		
Romania	Y	Y		
Slovakia	Y	Y		
Slovenia	Y	N		
Spain	N	Y		
Sweden	Y	Y	Y	
United Kingdom	Y	N		
<b>Total</b>	<b>25</b>	<b>22</b>	<b>4</b>	<b>4</b>

### Tax authority questionnaire

#### Guidance & Definitions

Thank you for taking the time to complete this questionnaire focusing on cross-border shopping activity in the European Union.

PwC has been tasked to conduct research with national authorities who administer, monitor and advise national governments on the excise goods covered in EU Directive

2008/118/EC concerning the general arrangements for excise duty including their impact on public health and social policies. The sale of EU harmonised excise goods, specifically:

- Duty paid business-to-consumer distance selling (Article 36 of Directive 2008/118/EC), both import and intra-EU cross-border;
- Duty suspended and duty paid business-to-business wholesale to retail (no reference in current Directive 2008/118/EC), intra-EU cross-border only; and
- Acquisition by private individuals (Article 32 of Directive 2008/118/EC).

### **Link to EU Directive**

This questionnaire contains questions regarding certain excise goods:

1. **Alcoholic beverages**, including beer, cider, wine, and spirits;
2. **Tobacco products** including cigarettes, fine-cut tobacco for hand-rolled cigarettes and pipes, cigars, cigarillos, heated tobacco products, e-cigarettes and water pipe tobacco; and
3. **Energy products** including petrol and diesel for vehicles, and heating oil.

The questionnaire contains 56 questions in total and can take up to a few hours to complete. Please provide answers wherever possible, but where an answer is not possible please feel free to either indicate this or leave the response blank. Any additional information is welcome, and if it cannot be included in the form please send it alongside your response.

We value your written responses, but we will also provide the opportunity to discuss them via a telephone call. We will be in contact with you separately to arrange a suitable time for this.

### **Who should complete this questionnaire?**

The primary respondent should be an official from the authority responsible for operating the excise regime for these products (e.g. the tax authority or the customs authority). A separate but related questionnaire has been sent to health authorities.

### **Definitions for the purpose of this survey:**

- **Cross-border distance selling:** Purchases of excise goods by consumers in your Member State from businesses located in a different Member State, or by consumers from another Member State from businesses located in your Member State. In this instance, "consumers" refers to private individuals.
- **Cross-border wholesale to retail:** Businesses (e.g. wholesalers or producers) in your Member State selling to businesses (e.g. retailers or hospitality businesses) located in another EU Member State or where businesses (e.g. producers, retailers and hospitality businesses) in your Member State purchase from businesses (e.g. wholesalers or producers) located in another EU Member State.
- **Cross-border acquisition by private individuals:** Purchases of excise goods made by private individuals in person in another Member State and brought across the border to their Member State of Residence for their own use.

- **One Stop Shop (OSS):** Allows businesses to register electronically in a single Member State for all sales of excise goods. In case of cross-border distance selling, businesses would declare and pay excise duty in one EU Member State. The tax authorities in the Member State, where the economic operator is established, would then transfer the excise duties due in the Member State of destination directly to the tax authorities of that Member State.
- **Guide Level Thresholds:** Article 32 of Directive 2008/118/EC allows Member States to set guide levels to help determine if excise goods purchased in another Member State are for a private individual's own use. Currently, these guide levels must be no lower than 110 litres of beer, 90 litres of wine, 10 litres of spirits, 800 cigarettes, 400 cigarillos, 200 cigars and 1 kilogram of smoking tobacco. Further details are available here: [https://ec.europa.eu/taxation\\_customs/individuals/travelling/within-eu\\_en](https://ec.europa.eu/taxation_customs/individuals/travelling/within-eu_en)
- **Split Payment Mechanism:** A split payment mechanism would change the regular excise duties/VAT collection regime by introducing into payments for taxable supplies a split between the excise duties amount, the VAT amount and the taxable basis (i.e. three separate payments for every taxable transaction). Payments of VAT and excise duties would be sent to a blocked bank account specifically set up for VAT/excise duty purposes, which could only be used for paying VAT/excise duties for either another taxable person's blocked VAT/excise duties bank account or to the tax authority. This could help reduce the opportunity for fraud and tax avoidance.
- **Value of goods sold:** Throughout the questionnaire, we make a number of requests for the value of goods sold. For purposes of our analysis, we require this to be the tax exclusive value.

### **What currency should financial or economic data be provided in?**

A core component of this study is to estimate the magnitude of the issues associated with cross-border distance selling, cross-border wholesale to retail, and cross-border acquisition by private individuals. Where financial information is requested, please could you provide it in your national currency.

### **What time period should data be provided in?**

Please provide all data in calendar years, i.e. 2017 would be 01/01/2017 - 31/12/2017.

### **Why are we asking for historic data in some instances?**

A core component of this study is to estimate the magnitude of the issues associated with cross-border distance selling, cross-border wholesale to retail, and cross-border acquisition by private individuals. Our data requests are to enable us to quantitatively model these problems. We have requested historic data to create a baseline scenario and to enable us to generate forecasts for our cost-benefit modelling exercise.

### **How will your response be used?**

Responses will be used for the purposes of PricewaterhouseCoopers' study of EU Directive 2008/118/EC for the European Commission, and will not be used for any other purpose without prior permission from respondents. If you require any specific responses to remain anonymous, please indicate this in the questionnaire.

## 1. Background questions

1.1. Which Member State are you completing this questionnaire for?

1.2. Please provide the name of the institution, department and role/job title of the key respondents to this questionnaire:

Name	Role/title	Department

1.3. Which department/unit and institution is responsible for administration of the excise duty regime?

## 2. Existing data and studies

*This section of the questionnaire contains 7 questions.*

**Please note:** All financial information should be provided in national currency

2.1. Have you collected data on excise duty revenue received from the sale of excise goods (alcohol and alcoholic beverages, tobacco products, and energy) for the period 2013 to 2017? Which Member State are you completing this questionnaire for?

**If yes:** Please provide a link to this dataset either for the entire period, or periods individually

**Or** value of excise duty revenue received from the sale of excise goods for the period 2013 to 2017 (if possible) in the table:

	2013	2014	2015	2016 priority	2017 priority
Beer					
Fermented beverages, including cider					
Sparkling wine					
Still wine					
Intermediate products					
Spirits					

Tobacco products					
Energy products					

Remarks

2.2. Have you estimated the total (and, where available, product level) excise duty tax gap for the period 2013 to 2017 (or any of these years)?

*Tax gap is defined as the difference between the amount of tax due to the government and the amount actually collected in any given year.*

Yes/no

**If yes:** Please provide a link to this dataset either for the entire period, or periods individually

**Or** value of excise duty tax gap for the period 2013 to 2017 (if possible) in the table:

	2013	2014	2015	2016 priority	2017 priority
Excise duty tax gap					

2.3. Have you estimated the forecast value of excise duty revenue from the sales of any of the following excise products?

Yes/no

**If yes:** Please provide a link to this dataset either for the entire period, or periods individually

**Or** input the values for expected excise duty revenue, either disaggregated by product; and/or total:

	2018	2019	2020	2021	2022
Beer					
Fermented beverages, including cider					
Sparkling wine					
Still wine					
Intermediate products					
Spirits					
Tobacco products					
Energy products					
<b>Total</b>					

2.4. As outlined in the Guidance & Definition section, we are interested in three core types of cross-border excise transaction:

- Cross-border distance sales to private individuals (primarily alcohol, but also tobacco);
- Cross-border wholesale to retail transactions (all products); and
- Cross-border private acquisition (alcohol and tobacco).

The full definitions are provided in the "Guidance & Definitions" tab.

For each transaction type, we have identified a number of problems which fall within the scope of this study. In this question, we would like to understand whether:

- You consider these to be issues in your Member State;
- You consider these to be priorities for your ministry/government;
- There are other problems we have not identified with these transaction types.

### **Cross-border distance sales to private individuals – problems**

#### 2.4.1. Administrative complexity and cost of compliance with legislation

How significant is this issue in your Member State?	<i>Very significant/ significant/ neither significant nor insignificant/ insignificant/ very insignificant/ unsure</i>
Is this a priority for your ministry/government?	<i>Yes/no</i>
Has this issue increased or decreased over the past 5 years?	<i>Significant increase/ increase/ no change/ decrease/ significant decrease</i>

#### 2.4.2. Fraud on intra-EU cross-border distance sales to private individuals

How significant is this issue in your Member State?	<i>Very significant/ significant/ neither significant nor insignificant/ insignificant/ very insignificant/ unsure</i>
Is this a priority for your ministry/government?	<i>Yes/no</i>
Has this issue increased or decreased over the past 5 years?	<i>Significant increase/ increase/ no change/ decrease/ significant decrease</i>

#### 2.4.3. Fraud on imports to the EU

How significant is this issue in your Member State?	<i>Very significant/ significant/ neither significant nor insignificant/ insignificant/ very insignificant/ unsure</i>
Is this a priority for your ministry/government?	<i>Yes/no</i>
Has this issue increased or decreased over the past 5 years?	<i>Significant increase/ increase/ no change/ decrease/ significant decrease</i>

#### 2.4.4. Age verification on distance sales

How significant is this issue in your Member State?	<i>Very significant/ significant/ neither significant nor insignificant/ insignificant/ very insignificant/ unsure</i>
Is this a priority for your ministry/government?	<i>Yes/no</i>
Has this issue increased or decreased over the past 5 years?	<i>Significant increase/ increase/ no change/ decrease/ significant decrease</i>

General questions:

Do you have any planned policy actions to address these issues at the Member State level? Please provide details.

--

Please outline any other issues associated with cross-border distance sales to private individuals not already captured above.

--

### **Intra-EU cross-border wholesale-to-retail transactions – problems**

#### 2.4.5. Administrative complexity and cost of compliance with legislation

How significant is this issue in your Member State?	<i>Very significant/ significant/ neither significant nor insignificant/ insignificant/ very insignificant/ unsure</i>
Is this a priority for your ministry/government?	<i>Yes/no</i>
Has this issue increased or decreased over the past 5 years?	<i>Significant increase/ increase/ no change/ decrease/ significant decrease</i>

#### 2.4.6. Fraud on intra-EU wholesale-to-retail transactions

How significant is this issue in your Member State?	<i>Very significant/ significant/ neither significant nor insignificant/ insignificant/ very insignificant/ unsure</i>
Is this a priority for your ministry/government?	<i>Yes/no</i>
Has this issue increased or decreased over the past 5 years?	<i>Significant increase/ increase/ no change/ decrease/ significant decrease</i>

### **General questions**

Do you have any **planned policy actions** to address these issues at the Member State level? Please provide details.

--

Please outline any other issues associated with intra-EU cross-border wholesale-to-retail transactions not already captured above.

--

### **Intra-EU cross-border private acquisition – problems**

#### 2.4.7. Health policy impacts caused by excise driven cross-border shopping

How significant is this issue in your Member State?	<i>Very significant/ significant/ neither significant nor insignificant/ insignificant/ very insignificant/ unsure</i>
Is this a priority for your ministry/government?	<i>Yes/no</i>
Has this issue increased or decreased over the past 5 years?	<i>Significant increase/ increase/</i>

years?	<i>no change/ decrease/ significant decrease</i>
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#### 2.4.8. Economic distortion caused by excise driven cross-border price differentials

How significant is this issue in your Member State?	<i>Very significant/ significant/ neither significant nor insignificant/ insignificant/ very insignificant/ unsure</i>
Is this a priority for your ministry/government?	<i>Yes/no</i>
Has this issue increased or decreased over the past 5 years?	<i>Significant increase/ increase/ no change/ decrease/ significant decrease</i>

#### General questions:

Do you have any planned policy actions to address these issues at the Member State level? Please provide details.

Please outline any other issues associated with intra-EU cross-border personal acquisitions not already captured above.

#### 2.5. Please provide details of and links to any **relevant studies** you are aware of (including government and non-governmental studies) with regards to transactions of excise goods for the following transaction types.

Please could you provide any product specific studies (alcohol, tobacco, or energy) on these or related topics.

Please attach any private studies you are able to share with us. We will treat any private studies in confidence and will not disclose the results of any studies without prior permission from respondents.

#### Cross-border distance sales to private individuals

Title of study	Year	Link (if published) or reason the study is not published

#### Cross-border wholesale-to-retail transactions

Title of study	Year	Link (if published) or reason the study is not published

#### Cross-border private acquisition

Title of study	Year	Link (if published) or reason the study is not published



2.6. Please provide details of and links to any **relevant datasets** you are aware of (including government and non-governmental studies) with regards to transactions of excise goods for the following transaction types.

Please could you provide any product specific data (alcohol, tobacco, or energy) on these or related topics.

Please attach any private datasets you are able to share with us. We will treat any private datasets in confidence and will not disclose the results of any datasets without prior permission from respondents.

**Cross-border distance sales to private individuals**

Dataset	Year	Link (if published) or reason the study is not published

**Cross-border wholesale-to-retail transactions**

Dataset	Year	Link (if published) or reason the study is not published

**Cross-border private acquisition**

Dataset	Year	Link (if published) or reason the study is not published

2.7. Please provide details of and links to any **significant court cases** in your Member State with regards to transactions of excise goods in-scope.

We understand that there could be a large number of court cases. In which case, please could you provide details only of those that:

- Define the core principles in terms of legal application in the relevant areas below in your Member State; and
- Are from the highest judicial authority.

**Cross-border distance sales to private individuals**

Court case	Year	Link (if published) or reason the study is not published

**Cross-border wholesale-to-retail transactions**

Court case	Year	Link (if published) or reason the study is not published

### Cross-border private acquisition

Court case	Year	Link (if published) or reason the study is not published

**End of Existing Data & Studies section. Please proceed to Distance Selling.**

## 3. Cross-border distance selling to private individuals: assessing the current situation

*This section of the questionnaire contains 17 questions.*

**Please note:** All financial information should be provided in national currency

### General questions

3.1. Please provide an estimate of the number of economic operators performing cross-border distance sales of excise products to private individuals established in your Member State

--

3.2. Please provide an estimate of the volume and value of **distance sales transactions** of excise goods where your Member State was the destination of the product for the period 2013 to 2017 (if possible)?

	2013	2014	2015	2016 <i>priority</i>	2017 <i>priority</i>
Number of transactions					
Value of goods sold (excluding taxes)					
Excise duty revenue collected					

If possible, please provide an estimate of how you expect the number and value of distance selling transactions to private individuals to change over the next five years (annual % change)?

	%
Year-on-year expected change	

Please provide comments as necessary. This could include commentary on trends or commentary on data availability.

--

3.3. Excise duties on distance sales should be collected from businesses, however we understand that if the tax/customs authorities are unable to collect excise from the business, in certain circumstances they may collect it from consumers.

Does this happen in your Member State?

Yes/no

**If yes:** Please could you provide an estimate of the value of distance sales transactions of excise goods collected from consumers in your Member State?

	2013	2014	2015	2016 <i>priority</i>	2017 <i>priority</i>
Value of transactions					

Please provide comments as necessary. This could include commentary on trends or commentary on data availability.

If possible, please provide an estimate of how you expect the number and value of distance selling transactions to private individuals to change over the next five years (annual % change)?

	%
Year-on-year expected change	

3.4. If possible, please provide an estimate of the value of distance sales transactions where your Member State was the destination of the product for 2017 broken down by the following excise goods?

	Beer	Fermented beverages, including cider	Intermediate products	Sparkling wine	Still wine	Spirits
Value of goods sold (excluding taxes)						
Excise duty revenue collected						

Please provide comments as necessary. This could include commentary on trends or commentary on data availability.

3.5. If possible, please provide an estimate of the number and volume of **seizures** of distance sales transactions where your Member State was the destination of the product for the following years?

	2013	2014	2015	2016 <i>priority</i>	2017 <i>priority</i>
Number of seizures					
Volume of seizures (litres)					

Is there a particular type of alcohol that is more likely to be seized? If so, please list it.

Please provide comments as necessary. This could include commentary on trends or commentary on data availability.

---

**Administrative costs and complexities**

3.6. Do you publish guidance in English on the step-by-step process that businesses should follow to ensure compliance with rules on the distance sales of excise products in your Member State?

Yes/no

**If yes:** Please provide a link to the English language website.

**If no:** Please provide any link to the website in any language and complete the table to enable us to get a better understanding of the step-by-step **process businesses must follow** when selling excise goods from another Member State to consumers in your Member State.

Please name any specific documents required.

Step	Requirements	Issues identified?	Suggestions for improvement
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			

3.7. The implementation of EU Directive 2008/118/EC in relation to cross-border distance selling of excise products varies from Member State to Member State. We are interested to know:

Are there any procedures required for cross-border distance selling of excise products to private individuals that are specific to your Member State?

Are there any restrictions in your national legislation on distance sales of tobacco products? If so, are these restrictions limited to cross-border e-commerce?

*Completely forbidden/ cross-border forbidden/ registration required/ no restrictions/ other (please specify)*

*Please provide additional comments here*

Is the use of a tax representative for the purpose of cross-border distance selling of excise goods to private individuals required in your Member State?

*Yes/ no/ other (please specify)*

*Please provide additional comments here*

3.8. Please complete the table to enable us to get a better understanding of the **internal processes your administration has to go through** to collect excise revenue from businesses located in another Member State selling alcohol products to consumers resident in your Member State through distance selling:

Step	Requirements	Minutes to complete	Issues identified?	Suggestions for improvement
1				
2				
3				
4				
5				
6				
7				
8				

**Or:** If you are able to, please can you share any published or unpublished documentation about the step-by-step process and the cost to your administration of administering excise taxation on distance sales.

### Fraud on EU transactions

As part of our study, we are estimating the magnitude of fraudulent activity on distance sales in the EU. Our initial analysis suggests that the core drivers of fraudulent activity are:

- Excise rate differentials;
- Administrative burden and complexity; and
- Lack of information on distance selling rules.

We would like to understand your views on fraud on distance sales. Please could you also share any information available on the scale of the issue.

3.9. Are you aware of fraudulent or illegal activity on distance sales of excise goods taking place within your Member State?

Yes/no

**If yes:** Please provide a description of the nature of fraudulent or illegal activity on distance sales of excise goods taking place within your Member State?

In your opinion, how prevalent is fraud or illegal activity on distance sales of excise goods in your Member State?

*Very prevalent/ prevalent/ neither prevalent nor rare/ rare/ very rare*

*Comments*

In your opinion, what is the main driver of fraud on distance sales of excise goods in your Member State?

*Price differences driven by excise rate differentials/ administrative burden of distance sales/ lack of information or unawareness of rules/ other (please specify)*

*Comments*

In your opinion, when considering distance sales of excise goods from businesses located in your Member State to consumers residing in another Member State, with which Member States would you expect the highest prevalence of fraud/illegal activity? Please select the top three Member States below:

Number 1	Select from 27 Member States	Comments
Number 2	Select from 27 Member States	Comments
Number 3	Select from 27 Member States	Comments

In your opinion, when considering distance sales of excise goods from businesses located in another Member State to consumers residing in your Member State, with which Member States would you expect the highest prevalence of fraud/illegal activity? Please select the top three Member States below:

Number 1	Select from 27 Member States	Comments
Number 2	Select from 27 Member States	Comments
Number 3	Select from 27 Member States	Comments

3.10. Do you have any estimates of fraudulent activity, either in volume or value terms, by businesses on distance sales of excise goods relating to your Member State?

Yes/no

If you do and this is published, please provide a link to the publication:

If you have unpublished estimates that you are able to share with us, please provide the estimates as an attachment to your response email.

3.11. If you have them, please provide an estimate of the following in relation to the **enforcement of rules on distance sales** for the period 2013 to 2017:

Businesses in another Member State distance selling to consumers in your Member State.	2013	2014	2015	2016 priority	2017 priority
Number of fraudulent transactions identified					
Value of fraudulent transactions identified					

#### Fraud on imports to the EU

3.12. Are you aware of fraudulent or illegal activity on **distance sales** by businesses located in non-EU countries sending excise goods to your Member State, or by businesses in the EU shipping or importing from a non-EU country?

Yes/no

**If yes:** What form does this fraudulent or illegal activity take?

In your opinion, how prevalent is fraud or illegal activity on distance sales of excise goods **shipped from non-EU countries and imported into the EU?**

*Very prevalent/ prevalent/ neither prevalent nor rare/ rare/ very rare*

*Comments*

In your opinion, what is the main driver of fraud on distance sales of excise goods in your Member State?

*Price differences driven by excise rate differentials/ administrative burden of distance sales/ lack of information or unawareness of rules/ other (please specify)*

*Comments*

In your opinion, which are the main non-EU countries the goods are shipped from? Please list the top three non-EU countries below:

<i>Number 1</i>		<i>Comments</i>
<i>Number 2</i>		<i>Comments</i>
<i>Number 3</i>		<i>Comments</i>

Do you have any estimates, either in volume or value terms, of fraudulent activity undertaken by businesses on distance sales of excise goods from non-EU countries to consumers in your Member State? If so, please outline these estimates.

Please provide as much detail as possible and we would welcome attachments containing the data, in the easiest form for you to provide.

--

3.13. If you have them, please provide an estimate for the following data points in relation to the enforcement of rules on distance sales of excise goods from shipped from outside the EU to consumers in your Member State:

	2013	2014	2015	2016 <i>Priority</i>	2017 <i>Priority</i>
Number of shipments of excise goods seized					
Total value of shipments of excise goods seized					
Number of excise shipments seized due to:					
Goods being inaccurately declared as free gifts					
Goods being inaccurately declared as samples					
Customs declarations failing to declare all excise goods included in shipment					
Customs					

declarations failing to declare the full value of excise goods included in shipment					
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### Control

3.14. Do you organise **targeted controls** on distance sales of excise goods arriving in your Member State directly to consumers?

Yes/no

**If yes:** Please provide details:

--

If an **infringement is identified**, what actions are taken?

*Criminal tax penalties/ civil tax penalties/ amicable settlement/ Goods are confiscated/ give a warning/ no action taken/ other*

**If other:** Please provide details:

--

3.15. If possible, please provide an **estimate of the number and average value of the following legal proceedings** launched by you with regards to cross-border distance sales of excise goods to private individuals in your Member State:

	2013		2014		2015	
	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings
Criminal tax penalties						
Civil tax penalties						
Goods confiscated						

	2016		2017	
	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings
Criminal tax penalties				
Civil tax penalties				
Goods confiscated				

### Potential EU-level actions to address issues relating to distance selling



3.16. In your opinion, how effective would the following EU-level actions be with regards to distance selling transactions of excise goods to private individuals from businesses located in different Member States?

Please note that some of these actions may be considered in conjunction with others. Please feel free to indicate if you believe certain actions should be considered alongside others.

## Introduction of a One Stop Shop

A One Stop Shop (OSS) allows businesses to register electronically in a single Member State for all sales of excise goods. In case of cross-border distance selling, businesses would declare and pay excise duty in one EU Member State. The tax authorities in the Member State, where the economic operator is established, would then transfer the excise duties due in the Member State of destination directly to the tax authorities of that Member State.

There are a number of variants of this policy option. The OSS may be for excise goods only or combined with the VAT OSS or Import OSS, and there are options around the required frequency of filing (monthly, quarterly, etc.). Where you have a particular view on a specific variant, please explain further below.

Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure

Comments

## EU-wide web portal to clarify distance selling rules

The web page would provide clear details of all rules and guidelines of Member States, allowing businesses selling directly to consumers in a different Member State to more easily comply with the requirements.

Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure

Comments

## Split payment mechanism

A split payment mechanism would change the regular excise duties/VAT collection regime by introducing into payments for taxable supplies a split between the excise duties amount, the VAT amount and the taxable basis (i.e. three separate payments for every taxable transaction). Payments of VAT and excise duties would be sent to a blocked bank account specifically set up for VAT/excise duty purposes, which could only be used for paying VAT/excise duties for either another taxable person's blocked VAT/excise duties bank account or to the tax authority. This could help reduce the opportunity for fraud and tax avoidance.

Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure

Comments

3.17. In your opinion, are there any other policy options that would address the issues arising from distance selling transactions of excise goods to consumers from businesses located in different Member States (e.g. registering excise distance sellers in SEED, include excise distance sellers' registration identifiers in the commercial document that accompany the goods)? If yes, please outline these.

**End of distance selling section. Please proceed to Wholesale to Retail.**

## 4. Cross-border wholesale to retail: assessing the current situation

This section of the questionnaire contains 17 questions.

**Please note:** All financial information should be provided in national currency

### General questions

4.1. Please provide an estimate of the volume and value of wholesale-to-retail excise goods transactions originating from your Member State for the period 2013 to 2017 (if possible)?

		2013	2014	2015	2016	2017
Number of transactions	Duty paid					
	Duty suspended					
	Total					
Value of goods sold (excluding taxes)	Duty paid					
	Duty suspended					
	Total					

Please provide comments as necessary. This could include commentary on trends or commentary on data availability.

--

If possible, please provide an estimate of how you expect the number and value of transactions to change over the next 5 years (annual % change)?

	%
Year-on-year expected change	

4.2. Please provide an estimate of the volume and value of wholesale-to-retail excise goods transactions originating from another Member State for the period 2013 to 2017 (if possible)?

		2013	2014	2015	2016	2017
Number of transactions	Duty paid					
	Duty suspended					
	Total					
Value of goods sold (excluding taxes)	Duty paid					
	Duty suspended					
	Total					
Excise duty revenue collected	Duty paid					
	Duty suspended					
	Total					

Please provide comments as necessary. This could include commentary on trends or commentary on data availability.

--

If possible, please provide an estimate of how you expect the number and value of transactions to change over the next five years (annual % change)?

	%
Year-on-year expected change	

4.3. If possible, please provide an estimate of the value of wholesale-to-retail transactions originating from another Member State and arriving in your Member State for 2017 broken down by the following excise goods?

Alcohol products

	Beer	Fermented beverages, including cider	Intermediate products	Sparkling wine	Still wine	Spirits
Value of goods sold (excluding taxes)						
Excise duty revenue collected						

Tobacco products

	Cigarettes	Cigars & cigarillos	Fine-cut tobacco
Value of goods sold (excluding taxes)			
Excise duty revenue collected			

Energy products

	Unleaded petrol	Gas oil (diesel)	Kerosene	LPG	Natural gas	Coke & coal
Value of goods sold (excluding taxes)						
Excise duty revenue collected						

Please provide comments as necessary. This could include commentary on trends or commentary on data availability.

--

**Administrative costs and complexities**

4.4. Do you publish guidance in English on the step-by-step process that consignors should follow to ensure compliance with rules on wholesale-to-retail sales of excise products in your Member State?

Yes/No
--------

**If yes:** Please provide a link to the English language website:

--

**If no:** Please provide any link to the website in any language and complete the table to enable us to get a better understanding of the step-by-step process business must follow when selling excise goods from another Member State to businesses in your Member State

Please provide any details on documents the consigner is required to producer.

Step	Requirements	Issues identified?	Suggestions for improvement
1			
2			
3			
4			
5			
6			

7			
8			
9			
10			
11			

4.5. Do you publish guidance in English on the step-by-step process that consignees should follow to ensure compliance with rules on wholesale-to-retail sales of excise products in your Member State?

Yes/no

**If yes:** Please provide a link to the English language website

**If no:** Please provide any link to the website in any language and complete the table to enable us to get a better understanding of the step-by-step process business must follow when selling excise goods from another Member State to businesses in your Member State

Please provide any details on documents the consigner is required to producer.

Step	Requirements	Issues identified?	Suggestions for improvement
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			

4.6. The implementation of EU Directive 2008/118/EC in relation to cross-border wholesale-to-retail transactions of excise products varies from Member State to Member State. We are interested to know:

Are there any procedures required for cross-border distance selling of excise products to private individuals that are specific to your Member State?

4.7. Please complete the below table to enable us to get a better understanding of the internal processes your administration is required to go through to collect excise revenue from businesses located in another Member State selling alcohol products to businesses located in your Member State:

Step	Requirements	Minutes to complete	Issues identified?	Suggestions for improvement
1				
2				
3				
4				
5				
6				
7				
8				

**Or:** Please can you share any published or unpublished documentation about the step-by-step process and the cost to your administration of administering excise taxation on cross-border wholesale-to-retail.

### Fraud on intra-EU transactions

As part of our study, we are estimating the magnitude of fraudulent activity on distance sales in the EU. Our initial analysis suggests that the core drivers of fraudulent activity are:

- Excise rate differentials;
- Administrative burden and complexity;
- Lack of information or awareness of the rules; and
- Cash flow implications of duty paid arrangements.

We would like to understand your views on fraud on distance sales. Please could you also share any information available on the scale of the issue.

#### 4.8. Are you aware of fraudulent or illegal activity on wholesale-to-retail cross-border sales of excise goods in your Member State?

Yes/no

**If yes:** What form does this fraudulent or illegal activity typically take?

In your opinion, how prevalent is fraud or illegal activity on wholesale-to-retail cross-border sales of excise goods in your Member State?

Very prevalent/ prevalent/ neither prevalent nor rare/ rare/ very rare

Comments

In your opinion, what is the main driver of fraud on wholesale-to-retail cross-border sales of excise goods in your Member State?

Price differences driven by excise rate differentials/ administrative burden of distance sales/ lack of information or unawareness of rules/ other (please specify)

Comments

In your opinion, when considering wholesale-to-retail cross-border sales of excise goods in your Member State, with which Member States would you expect the highest prevalence of fraud/illegal activity? Please select the top three Member States below:

Number 1	Select from 27 Member States	Comments
Number 2	Select from 27 Member States	Comments
Number 3	Select from 27 Member States	Comments

#### 4.9. Do you have any estimates on fraudulent activity, either in volume or value terms, undertaken by businesses on **wholesale-to-retail transactions** of excise goods shipped to your Member State?

Yes/no

If you do and this is published, please provide a link to the publication:

If you have unpublished estimates that you are able to share with us, please provide the estimates as an attachment to your response email.

4.10. If you have them, please provide an estimate of the following in relation to the number and value of fraudulent transactions on **wholesale-to-retail transactions** of excise goods for the period 2013 to 2017:

	2013	2014	2015	2016	2017
Number of fraudulent transactions					
Value of fraudulent transactions					

If possible, please provide a general estimate of this over the next 5 years in year-on-year per cent increase terms?

	%
Year-on-year expected change	

### Control

4.11. Do you organise targeted controls on wholesale-to-retail sales of excise goods in your Member State?

Yes/No

**If yes:** Please provide details:

If an **infringement is identified**, what actions are taken?

Criminal tax penalties/ civil tax penalties/ amicable settlement/ Goods are confiscated/ give a warning/ no action taken/ other

**If other:** Please provide details:

4.12. If possible, please provide **an estimate of the number and average value of the following legal proceedings** launched by you with regards to cross-border wholesale to retail transaction in your Member State:

	2013		2014		2015	
	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings
Criminal tax penalties						
Civil tax penalties						
Goods confiscated						

	2016		2017	
	Number of legal proceedings	Average value of transactions	Number of legal proceedings	Average value of transactions

	launched	disputed in legal proceedings	launched	disputed in legal proceedings
Criminal tax penalties				
Civil tax penalties				
Goods confiscated				

### Potential EU-level actions to address issues relating to wholesale to retail transactions

4.13. In your opinion, how effective would the following EU-level actions be with regards to wholesale-to-retail transactions of excise goods between businesses located in different Member States?

#### Lighter version of EMCS for Duty Paid movements

*This would involve reducing the administrative burden linked with registration in SEED in order to render the use of EMCS more attractive to smaller retailers.*

*As the costs related to the application of EMCS on Duty Paid processes are not yet determined (as EMCS for Duty Paid arrangements will only be implemented by 2022 at the earliest), different options for registration in SEED (such as VAT registration and EORI registration) could be applied.*

Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure

Comments

#### Virtual Registered Consignee with use of direct delivery

*This would involve shifting the administrative burden (and associated compliance costs) to the wholesaler in a wholesale-to-retail scenario. Wholesale businesses are usually large businesses which make use of the Duty Suspension arrangements and already have a SEED registration in the Member States in which they trade. The wholesaler, when acting as consignor in a wholesale-to-retail scenario, may be designated as a virtual registered consignee in the Member State of destination. The latter should also be able to make use of direct delivery in the Member State of destination where he does not have any permanent establishment.*

Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure

Comments

#### Introduction of a One Stop Shop

*A One Stop Shop (OSS) allows businesses to register electronically in a single Member State for all sales of excise goods. In case of cross-border distance selling, businesses would declare and pay excise duty in one EU Member State. The tax authorities in the Member State, where the economic operator is established, would then transfer the excise duties due in the Member State of destination directly to the tax authorities of that Member State.*

*There are a number of variants of this policy option. The OSS may be for excise goods only or combined with the VAT OSS or Import OSS, and there are options around the required frequency of filing (monthly, quarterly, etc). Where you have a particular view on a specific variant, please explain further below.*



Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure

Comments

### Split payment mechanism

*A split payment mechanism would change the regular excise duties/VAT collection regime by introducing into payments for taxable supplies a split between the excise duties amount, the VAT amount and the taxable basis (i.e. three separate payments for every taxable transaction). Payments of VAT and excise duties would be sent to a blocked bank account specifically set up for VAT/excise duty purposes, which could only be used for paying VAT/excise duties for either another taxable person's blocked VAT/excise duties bank account or to the tax authority. This could help reduce the opportunity for fraud and tax avoidance.*

Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure

Comments

### Blockchain and other new technology solutions

*Investigating the possibility to use blockchain and other new technology solutions for transactions between wholesalers and retailers. EMCS has already been used as a test-case to assess the technical feasibility of using blockchain to monitor the movement of alcohol, tobacco and energy products in real time.*

*Under this option, data sharing would be on a single ledger visible to all involved actors. The transaction flow would be initiated by the consignor who logs into the system to submit the draft eAD to the blockchain network.*

Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure

Comments

4.14. In your opinion, are there any other policy options that would address the issues arising from wholesale-to-retail transactions of excise goods between businesses located in different Member States? If yes, please outline these.

**End of wholesale to retail section. Please proceed to personal acquisition.**

## 5. Cross-border private acquisition: assessing the current situation

*This section of the questionnaire contains 15 questions.*

**Please note:** all financial information should be provided in national currency.

### General questions

5.1. Do you collect any of the following data with regards to private individuals, resident in your Member State, purchasing excise goods in person in

another Member State and bringing them across the border? If yes, please provide this for the period 2013 to 2017 (if possible).

	2013	2014	2015	2016	2017
Number of transactions					
Value of goods sold (excluding taxes)					

Please provide comments as necessary. This could include commentary on trends or commentary on data availability.

--

If possible, please provide a general estimate the change in cross-border shopping by private individuals resident in your Member State over the next 5 years (annual % change)?

	%
Year-on-year expected change	

5.2. If possible, please provide an estimate of the number of transactions and value of excise goods purchased by private individuals in another Member State and brought across the border to your Member State for 2017?

Alcohol products

	Beer	Fermented beverages, including cider	Intermediate products	Sparkling wine	Still wine	Spirits
Value of goods sold (excluding taxes)						

Tobacco products

	Cigarettes	Cigars & cigarillos	Fine-cut tobacco
Value of goods sold (excluding taxes)			

Energy products

	Unleaded petrol	Gas oil (diesel)	Kerosene	LPG	Natural gas	Coke & coal
Value of goods sold (excluding taxes)						

Please provide comments as necessary. This could include commentary on trends or commentary on data availability.

--

5.3. In your opinion, how prevalent is cross-border shopping for excise goods by private individuals resident in your Member State?

<i>Very prevalent/ prevalent/ neither prevalent nor rare/ rare/ very rare</i>
---

Are you aware of any studies on the **scale** or **nature** of this activity? If so, please provide any details you can in the table:

Study/dataset	Date	Overview of key estimates	Link

In your opinion, what is the main driver for this behaviour?

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*Price differences driven by price differentials/ price differences driven by other factors/ better quality of products/ bigger choice/variety of products on offer/ convenience/ other*

*Comments*

In your experience, which are the most common destinations for individuals from your Member State to travel to when purchasing excise goods? Please select the 1-3 most common Member States below:

Most common destination	Select from 27 Member States	Comments
Second most common	Select from 27 Member States	Comments
Third most common	Select from 27 Member States	Comments

5.4. As part of our analysis, we are interested in analysing the potential "hotspots" for cross-border shopping. If known, please could you provide details of **potential "hotspots" for cross-border shopping**:

These could either be in your Member State (where individuals resident in another Member State travel to your Member State) or bordering Member State (where individuals resident in your Member State travel to another Member State).

Please specify both the settlement and Member State:

Settlement	Bordering Member State

5.5. **Article 32 of Directive 118/2008/EC** outlines **guide levels** for cross-border purchases of excise goods in domestic legislation.

Have you implemented guide levels in your domestic legislation?

Yes/no

**If yes:** Please provide a link to the relevant legislation

Please outline the guide levels you have implemented in domestic legislation in the table below.

Alcoholic beverages					Tobacco			
Beer	Sparkling wine	Still wine	Spirits	Intermediate products	Cigarettes	Cigarillos	Cigars	Fine-cut tobacco

5.6. In domestic legislation, have you defined how often private individuals may cross the border to another Member State with the intent to purchase excise goods of the amount outlined by the guide levels in Article 32 of Directive 118/2008/EC?

Yes/no

**If yes:** Please outline the frequency of cross-border trips to another Member State that are deemed to be in line with domestic legislation in your Member State:

Alcohol	Tobacco	Energy

5.7. If applicable, how have you defined the notion of "**own use**" with regards to the purchase of excise goods by private individuals in your local legislation?

5.8. Overall, in your opinion, how **effective are the current rules** put in place by Article 32 of Directive 118/2008/EC for cross-border purchases of excise goods by private individuals?

*Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure*

If you deemed the current rules in place for cross-border purchases of excise goods by private individuals to be **ineffective or very ineffective**, please outline any suggestions for improvement of the current system you may have.

5.9. Do you have any estimates of **fraudulent activity**, either in volume or value terms, undertaken by individuals purchasing excise goods for their "own use"? **This may involve purchases made on behalf of others, for commercial use, or other fraudulent activity.**

*Yes/no*

If you do and this is published, please provide a link to the publication:

If you are aware of fraudulent activity, please describe (in brief) the nature of this fraud:

If you have unpublished estimates that you are able to share with us, please provide the estimates as an attachment to your response email.

5.10. Are you aware of any negative impacts of Directive 2008/118/EC on public health policies and/or social policies related to tobacco or alcohol consumption?

*Yes/no*

**If yes:** Please specify the negative impacts on public health policies and/or social policies:

### **Control**

5.11. Do you organise targeted controls on private individuals bringing excise products in the Member State?

*Yes/no*

**If yes: If an infringement is identified**, what actions are taken?

*Criminal tax penalties/ civil tax penalties/ amicable settlement/ Goods are confiscated/ give a warning/ no action taken/ other*

**If other:** Please provide details:

Have you conducted joint controls/investigations with excise authorities in neighbouring Member States?

Yes/no/other

**If other:** Please provide details:

5.12. If possible, please provide an **estimate of the number and average value of the following legal proceedings** launched by you against private individuals with regards to purchases of excise goods deemed not to be for individual use:

	2013		2014		2015	
	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings
Criminal tax penalties						
Civil tax penalties						
Goods confiscated						

	2016		2017	
	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings	Number of legal proceedings launched	Average value of transactions disputed in legal proceedings
Criminal tax penalties				
Civil tax penalties				
Goods confiscated				

**Potential EU-level actions to address issues relating to acquisition by private individuals**

5.13. In your opinion, how effectively would the following EU-level actions address issues relating to the cross-border acquisition of excise goods by private individuals?

Please note that some of these actions may be considered in conjunction with others. Please feel free to indicate if you believe certain actions should be considered alongside others.

**Reducing or removing the minimum guide levels for personal acquisition**

*Article 32 of Directive 2008/118/EC allows Member States to set guide levels to help determine if excise goods purchased in another Member State are for a private individual's own use. The current guide levels do not reflect the average consumption of private individuals over any reasonable time period.*

*The objective of this option is to limit the guide levels to levels more aligned with a "normal" level of consumption in the respective country. This could be based on average consumption figures from official statistics, the WHO and publicly available and verified studies.*

*Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure*

*Comments*

### **Allowing Member States to derogate from current levels on public health grounds**

*Currently, Member States may not set national guide levels below the levels set out in Article 32. Member States could be allowed to derogate from current guide levels in certain circumstances, and with sufficient evidence, to prevent disproportionate negative public health impacts. For example, Member States may choose to set levels closer to average national consumption (see 2.9.5 below regarding the addition of a frequency).*

*Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure*

*Comments*

### **Indication of binding and not indicative thresholds**

*Article 32 allows Member States to set their own national guide levels for personal acquisition of excise goods, which can be higher than the levels set out in the Directive, but not lower. Setting binding guide levels in the Directive for all Member States would harmonise the guide levels, and this could be at lower levels than are currently allowed.*

*Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure*

*Comments*

### **Amending the definition of "own use"**

*Article 32 refers to purchases made for a private individual's "own use", a term which may be considered to cover a variety of reasons for purchase (including events, gifts, etc.). Amending this definition, for example by using the term "own consumption" instead, may make it easier to determine which transactions are allowable in the context of "personal acquisition".*

*Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure*

*Comments*

### **Adding a frequency to the guide levels**

*The guide levels outlined in Article 32 are not time-bound, allowing consumers to purchase up to guide level quantities as often as they desire. Combining the guide levels with a specified frequency of purchases (e.g. per month or per annum) may make these levels more effective in restricting the quantities purchased across borders.*

*Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure*

*Comments*

#### **5.14. In your opinion:**

Are there any other actions that could be taken at the EU level that would address the issues arising from the acquisition of excise goods by private individuals in another



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Member State? If so, please outline.

Are there any **actions that can be taken at local level** to address the issues arising from the acquisition of excise goods by private individuals in another Member State **rather than the revision of the Article 32 at the EU level**? If so, please outline.

5.15. If Article 32 of Directive 2008/118/EC for cross-border purchases of excise goods by private individuals is **not an issue for your country**, would your country be able **to support the change of Article 32** giving that unanimity is needed for any change of Directive 2008/118/EC?

**If no:** What are the **reasons** for your country to not be able to support the change of Article 32 of Directive 2008/118/EC?

***Thank you for taking the time to complete this questionnaire. If you have any further information that you would like us to consider as part of this study (comments, links, documents or anything else of relevance), please include it in your response email.***

## Health authority questionnaire

### **Guidance and definitions**

Thank you for taking the time to complete this questionnaire focussing on cross-border shopping activity in the European Union. PwC has been tasked to conduct research with national authorities who administer, monitor and advise national governments on the excise goods covered in EU Directive 2008/118/EC concerning the general arrangements for excise duty including their impact on public health and social policies.

### **Link to EU Directive**

This questionnaire contains questions regarding certain excise goods:

1. **Alcoholic beverages**, including beer, cider, wine, and spirits;
2. **Tobacco products** including cigarettes, fine-cut tobacco for hand-rolled cigarettes and pipes, cigars, cigarillos, heated tobacco products, e-cigarettes and water pipe tobacco; and
3. **Energy products** including petrol and diesel for vehicles, and heating oil.

The questionnaire contains 16 questions and may take 30 minutes or more to complete. Please provide answers wherever possible, and where an answer is not possible please indicate this or leave the response blank. Any additional information is welcome, and if it cannot be included in the form please send it alongside your response.

We value your written responses but will also provide the opportunity to discuss them via a telephone call. We will be in contact with you separately to arrange a suitable time for this.

### **Who should complete this questionnaire?**

The respondent should be an official from the unit/department within the national health authority with responsibility for policy relating to the health impacts of excise goods.

### **Definitions for the purpose of this survey:**

- **Cross-border acquisition by private individuals:**  
Purchases of excise goods made by private individuals in person in another Member State and brought across the border to their Member State of Residence for their own use.
- **Guide Level Thresholds:** Article 32 of Directive 2008/118/EC allows Member States to set guide levels to help determine if excise goods purchased in another

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Member State are for a private individual's own use. Currently, these guide levels must be no lower than 110 litres of beer, 90 litres of wine, 10 litres of spirits, 800 cigarettes, 400 cigarillos, 200 cigars and 1 kilogram of smoking tobacco. Further details are available here:

**[https://ec.europa.eu/taxation\\_customs/individuals/travelling/within-eu\\_en](https://ec.europa.eu/taxation_customs/individuals/travelling/within-eu_en)**

**How will your response be used?**

Responses will be used for the purposes of PricewaterhouseCoopers' study of EU Directive 2008/118/EC for the European Commission and will not be used for any other purpose without prior permission from respondents. If you require any specific responses to remain anonymous, please indicate this in the questionnaire.

**1. Background questions**

1.1 Which Member State are you completing this questionnaire for?

1.2 What is the name of your institution and department?

1.3 What is your role/job?

1.4 Which department or unit in your institution is responsible for advising on the health impacts of excise goods?

**2. Questionnaire**

**Acquisition of excise goods by private individuals as covered by Article 32 in Directive 2008/118/EC**

2.1 Individuals from your Member State may purchase excise goods (e.g. alcoholic beverages and tobacco products) in person from another EU Member State, for consumption back home in your Member State. **To what extent does your ministry/government consider this a priority area for public policy?**

*Very high priority/ high priority/ neither high nor low priority/ low priority/ very low priority/ unsure*

*Please use this box to provide any further comments*

2.2 To what extent has this practice become **more or less significant** for your ministry/government over the last five years?

*More significant/ less significant/ no change*

If you consider that this issue has become “more significant” or “less significant”, please explain why.

--

2.3 If this is considered to be an issue for your ministry/government, what are the **main public health and social impacts** of cross-border shopping for excise goods that you are concerned with?

**Social impacts** refers to aspects such as the increased accessibility of alcohol for underage residents in your country, the change of drinking patterns (for example increased drinking at home than in public), the increase of unsocial behaviour and criminality, etc.

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If there are any documents that explain this in more detail, please provide links to any publicly available documents here:

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If there are any documents that explain this in more detail that are not publicly available and/or confidential, please provide them as an attachment to your email response. Responses received will be treated confidential and used for the purposes of PricewaterhouseCoopers' study of EU Directive 2008/118/EC for the European Commission, and not for any other purpose without prior permission from respondents.

2.4 Please outline any **relevant studies** you have commissioned or are otherwise aware of (including government and non-governmental studies) with regards to acquisitions of excise goods by private individuals in person:

Title of study	Year	Link (if published), or reason the study is not published

2.5 Are you aware of the extent to which private individuals in your Member State cross the border to purchase excise goods in **another EU Member State**?

Yes/no
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**If yes:**

2.5.1 In your opinion, how **prevalent** is this activity in your Member State?

<i>Very prevalent/ prevalent/ neither prevalent nor rare/ rare/ very rare</i>
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2.5.2 If you have data on this, please provide an estimate of the **volume and value** of acquisitions made by private individuals in person in another EU Member State with the intent of consuming them in your Member State (for 2017 or the most recently available data).

Alcoholic beverages	All alcoholic beverages	Beer	Cider and other fermented beverages	Still wine	Sparkling wine	Intermediate products	Spirits

Number/volume of transactions							
Total value of transactions							

2.5.3 In your opinion, what is the **main driver** for this behaviour?

*Price differences driven by excise rate differentials/ administrative burden of distance sales/ lack of information or unawareness of rules/ other (please specify)*

If you selected "**other**", please specify:

2.5.4 In your experience, which are the **most common destinations** for individuals from your Member State to travel to when purchasing excise goods within the EU?

Please select the 1-3 most common Member States:

Most common destination	<i>Select from 27 Member States</i>
Second most common	<i>Select from 27 Member States</i>
Third most common	<i>Select from 27 Member States</i>

2.6 Overall, in your opinion, how effective are the current rules put in place by **Article 32 of Directive 2008/118/EC** for cross-border purchases of excise goods by private individuals?

*Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure*

If you deemed the current rules in place for cross-border purchases of excise goods by private individuals to be **ineffective or very ineffective**, please outline any suggestions for improvement of the current system you may have.

2.7 In your opinion, do the current rules put in place by Article 32 of Directive 2008/118/EC for cross-border purchases of excise goods by private individuals have a **negative impact on public health policies and/or social policies**?

*Yes/no*

**If yes:**

2.7.1 Please specify any particular public health and social policies that are affected (including links to publicly available documents, if relevant):

2.7.2 In your opinion, what are the **main aspects of Article 32** of Directive 2008/118/EC for cross-border purchases of excise goods by private individuals that have a **negative impact on public health policies and/or social policies**?

2.7.3 In your opinion, what are the **main issues that Article 32** of Directive 2008/118/EC **creates** for the **public health and/or social policies** in your Member State?

2.8 With regard to cross border shopping and/or distance selling (for example, purchases made on the internet from another Member State), do you consider differences in age restrictions between EU Member States to be a problem?

Yes/no

If **"yes"**, please explain the problem:

2.9 In your opinion, how effectively would the following EU-level actions address issues relating to the cross-border acquisition of excise goods by private individuals?

Please note that some of these actions may be considered in conjunction with others. Please feel free to indicate if you believe certain actions should be considered alongside others.

**2.9.1 Reducing or removing the minimum guide levels for personal acquisition**

*Article 32 of Directive 2008/118/EC allows Member States to set guide levels to help determine if excise goods purchased in another Member State are for a private individual's own use. Currently, these guide levels must be no lower than 110 litres of beer, 90 litres of wine, 10 litres of spirits, 800 cigarettes, 400 cigarillos, 200 cigars and 1 kilogram of smoking tobacco. Reducing or removing these guide levels would allow Member States to set lower levels in their national legislation.*

*Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure*

Comments

**2.9.2 Allowing Member States to derogate from current levels on public health grounds**

*Currently, Member States may not set national guide levels below the levels set out in Article 32. Member States could be allowed to derogate from current guide levels in certain circumstances, and with sufficient evidence, to prevent disproportionate negative public health impacts. For example, Member States may choose to set levels closer to average national consumption (see 2.9.5 below regarding the addition of a frequency).*

*Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure*

Comments

**2.9.3 Introducing binding guide levels**

Article 32 allows Member States to set their own national guide levels for personal acquisition of excise goods, which can be higher than the levels set out in the Directive, but not lower. Setting binding guide levels in the Directive for all Member States would harmonise the guide levels, and this could be at lower levels than are currently allowed.

Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure

Comments

#### 2.9.4 Amending the definition of "own use"

Article 32 refers to purchases made for a private individual's "own use", a term which may be considered to cover a variety of reasons for purchase (including events, gifts, etc). Amending this definition, for example by using the term "personal consumption" instead, may make it easier to determine which transactions are allowable in the context of "personal acquisition".

Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure

Comments

#### 2.9.5 Adding a frequency to the guide levels

The guide levels outlined in Article 32 are not time-bound, allowing consumers to purchase quantities of excise goods in line with guide levels as often as they desire. Combining the guide levels with a specified frequency of purchases (e.g. per month) may make these levels more effective in restricting the quantities purchased across borders.

Very effective/ effective/ neither effective nor ineffective/ ineffective/ very ineffective/ unsure

Comments

2.10 In your opinion, are there any **other actions that could be taken at the EU level** that would address the issues arising from the acquisition of excise goods by private individuals in another Member State? If so, please outline.

2.10.1 In your opinion, are there any **actions that can be taken at local level** to address the issues arising from the acquisition of excise goods by private individuals in another Member State **rather than the revision of the Article 32 at the EU level**? If so, please outline.

2.11 If Article 32 of Directive 2008/118/EC for cross-border purchases of excise goods by private individuals is **not an issue for your country**, would your country be able to **support the change of Article 32** giving that unanimity is needed for any change of Directive 2008/118/EC?

---

Yes/no

2.11.1 If no, what are the **reasons** for your country to not be able to support the change of Article 32 of Directive 2008/118/EC?

2.11.2 Please provide **any further comments** that you could like us to consider as part of this study here:

*Thank you for taking the time to complete this questionnaire. If you have any further information that you would like us to consider as part of this study (links, documents or anything else of relevance), please include it in your response email or raise it in our telephone interview.*



## Consumer Survey

The following table sets out the number of consumers that responded to our survey from each Member State. We met our aim to reach approximately 250 consumers in each of the 25 Member States we targeted. Additionally we achieved a further 53 respondents from the remaining three Member States (Luxembourg, Malta and Cyprus) through national consumer trade bodies.

**Table 70: Consumer survey respondents by Member State**

Member State	Consumers
	#
Austria	251
Belgium	248
Bulgaria	245
Croatia	250
Cyprus	6
Czechia	252
Denmark	231
Estonia	245
Finland	246
France	252
Germany	248
Greece	249
Hungary	250
Ireland	249
Italy	249
Latvia	249
Lithuania	251
Luxembourg	24
Malta	23
Netherlands	252
Poland	250
Portugal	253
Romania	250
Slovakia	251
Slovenia	251
Spain	237
Sweden	243
United Kingdom	249
<b>Total</b>	<b>6254</b>

The following pages set out the full consumer survey and include references to the routing. This ensured a respondent was only ever asked relevant questions.

## Introduction

Welcome to our survey on shopping activity in the European Union. PwC has been asked to conduct research to investigate shopping patterns, with a special focus on the purchase of alcoholic drinks and tobacco. The survey should only take between 10-15 minutes to complete. When responding to the survey questions, please answer on behalf of yourself and not your household or members living in your household. Please rest assured that your answers will be held in the strictest confidence. Personal information or other information collected as part of this survey will be held anonymously and securely. No individual will be named in our report.

**Please note: Before we commence the survey, please be aware that your contact information or individual views will not be shared with anyone outside of PwC without your expressed authorization.**

## Completing the survey

The 'Back' and 'Next' buttons at the bottom of each screen allow you to navigate through the survey. Please note that using the web browser's 'back' button will take you out of the survey without saving your answers.

Some screens may require you to use the scroll bar at the right-hand side of the screen in order to move down the page and answer the rest of the question. The navigation buttons will be located at the end of each set of questions.

It is best to complete the survey in one sitting. However, if you need to save your questionnaire and return to it later, please do so by simply closing your browser window, this will save all responses previously submitted. To restart the survey please click on the link included in your email message. The survey will open at the last question submitted.

As a security feature the survey will 'time-out' if any page is left inactive for more than 20 minutes. To access the survey again, please click on the link sent to you via email. Note: Definitions can be accessed by clicking on the underlined terms and will disappear when clicked on for a second time.

## About you

**D1)[Mandatory question] Have you moved home in the last 12 months?**

*Please select ONE only*

Strict quota	
Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

**D1\_A)[Mandatory question] Have you stayed in the same general area (town, city and/or settlement)?**

Please select ONE only

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

**Screen out if not in the same general area.**

**[GENERAL AREA SCREEN OUT MESSAGE]**

Thank you very much for your time so far, but unfortunately on this occasion we are only looking to interview respondents who have lived in the same general area for more than 12 months.

**S4)[Mandatory question] Which of the following EU countries do you live in?**

Please select ONE only

Austria	<input type="checkbox"/>	Ireland	<input type="checkbox"/>	Sweden	<input type="checkbox"/>
Belgium	<input type="checkbox"/>	Italy	<input type="checkbox"/>	United Kingdom	<input type="checkbox"/>
Bulgaria	<input type="checkbox"/>	Latvia	<input type="checkbox"/>	None of the above	<input type="checkbox"/>
Croatia	<input type="checkbox"/>	Lithuania	<input type="checkbox"/>		
Cyprus	<input type="checkbox"/>	Luxembourg	<input type="checkbox"/>		
Czech Republic	<input type="checkbox"/>	Malta	<input type="checkbox"/>		
Denmark	<input type="checkbox"/>	Netherlands	<input type="checkbox"/>		
Estonia	<input type="checkbox"/>	Poland	<input type="checkbox"/>		
Finland	<input type="checkbox"/>	Portugal	<input type="checkbox"/>		
France	<input type="checkbox"/>	Romania	<input type="checkbox"/>		
Germany	<input type="checkbox"/>	Slovakia	<input type="checkbox"/>		
Greece	<input type="checkbox"/>	Slovenia	<input type="checkbox"/>		
Hungary	<input type="checkbox"/>	Spain	<input type="checkbox"/>		

**Screen out none of the above.**

**[NONE OF THE ABOVE SCREEN OUT MESSAGE]**

Thank you very much for your time so far, but unfortunately on this occasion we are only looking to interview respondents who currently reside in the EU.

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**S5) Which of the following regions of Austria do you live in?**

*Please select ONE only*

Burgenland	<input type="checkbox"/>
Lower Austria	<input type="checkbox"/>
Vienna	<input type="checkbox"/>
Carinthia	<input type="checkbox"/>
Styria	<input type="checkbox"/>
Upper Austria	<input type="checkbox"/>
Salzburg	<input type="checkbox"/>
Tyrol	<input type="checkbox"/>
Vorarlberg	<input type="checkbox"/>

**S5) Which of the following regions of Belgium do you live in?**

*Please select ONE only*

Brussels	<input type="checkbox"/>
Antwerp	<input type="checkbox"/>
Limburg	<input type="checkbox"/>
East Flanders	<input type="checkbox"/>
Flemish Brabant	<input type="checkbox"/>
West Flanders	<input type="checkbox"/>
Walloon Brabant	<input type="checkbox"/>
Hainaut	<input type="checkbox"/>
Liege	<input type="checkbox"/>
Luxembourg	<input type="checkbox"/>
Namur	<input type="checkbox"/>

**S5) Which of the following regions of Bulgaria do you live in?**

*Please select ONE only*

Severozapaden	<input type="checkbox"/>
Severen Tsentralen	<input type="checkbox"/>
Severoiztochen	<input type="checkbox"/>
Yugoiztochen	<input type="checkbox"/>
Yugozapaden	<input type="checkbox"/>
Yuzhen tsentralen	<input type="checkbox"/>

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**S5) Which of the following regions of Croatia do you live in?**

*Please select ONE only*

Jadranska Hrvatska	<input type="checkbox"/>
Kontinentalna Hrvatska	<input type="checkbox"/>

**S5) Which of the following regions of Czech Republic do you live in?**

*Please select ONE only*

Prague	<input type="checkbox"/>
Střední ČechyS	<input type="checkbox"/>
Jihozápad	<input type="checkbox"/>
Severozápad	<input type="checkbox"/>
Jihovýchod	<input type="checkbox"/>
Střední Morava	<input type="checkbox"/>
Moravskoslezsko	<input type="checkbox"/>

**S5) Which of the following regions of Denmark do you live in?**

*Please select ONE only*

Hovedstaden	<input type="checkbox"/>
Sjælland	<input type="checkbox"/>
Southern Denmark	<input type="checkbox"/>
Midtjylland	<input type="checkbox"/>
Nordjylland	<input type="checkbox"/>

**S5) Which of the following regions of Finland do you live in?**

*Please select ONE only*

West Finland	<input type="checkbox"/>
Helsinki-Uusimaa	<input type="checkbox"/>
South Finland	<input type="checkbox"/>
North & East Finland	<input type="checkbox"/>
Åland	<input type="checkbox"/>

**S5) Which of the following regions of France do you live in?**

*Please select ONE only*

Île de France	<input type="checkbox"/>
Centre-Val de Loire	<input type="checkbox"/>
Bourgogne-Franche-Comté	<input type="checkbox"/>
Normandy	<input type="checkbox"/>
Nord-Pas-de-Calais-Picardie	<input type="checkbox"/>
Alsace-Champagne-Ardenne-Lorraine	<input type="checkbox"/>
Pays de la Loire	<input type="checkbox"/>
Brittany	<input type="checkbox"/>
Aquitaine-Limousin-Poitou-Charentes	<input type="checkbox"/>
Languedoc-Roussillon-Midi-Pyrénées	<input type="checkbox"/>
Auvergne-Rhône-Alpes	<input type="checkbox"/>
Provence-Alpes-Côte d'Azur	<input type="checkbox"/>
Corsica	<input type="checkbox"/>
Départements d'Outre Mer	<input type="checkbox"/>

**S5) Which of the following regions of Germany do you live in?**

*Please select ONE only*

Baden-Württemberg	<input type="checkbox"/>
Bavaria	<input type="checkbox"/>
Berlin	<input type="checkbox"/>
Brandenburg	<input type="checkbox"/>
Bremen	<input type="checkbox"/>
Hamberg	<input type="checkbox"/>
Hesse	<input type="checkbox"/>
Mecklenburg-Vorpommern	<input type="checkbox"/>
Lower Saxony	<input type="checkbox"/>
North Rhine-Westphalia	<input type="checkbox"/>
Rhineland-Palatinate	<input type="checkbox"/>
Saarland	<input type="checkbox"/>
Saxony	<input type="checkbox"/>
Saxony-Anhalt	<input type="checkbox"/>

**S5) Which of the following regions of Greece do you live in?**

*Please select ONE only*

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Attiki	<input type="checkbox"/>
Nisia Aigaiou, Kriti	<input type="checkbox"/>
Voreia Ellada	<input type="checkbox"/>
Kentriki Ellada	<input type="checkbox"/>

**S5) Which of the following regions of Hungary do you live in?**

*Please select ONE only*

Közép-Magyarország	<input type="checkbox"/>
Közép-Dunántúl	<input type="checkbox"/>
Nyugat-Dunántúl	<input type="checkbox"/>
Dél-Dunántúl	<input type="checkbox"/>
Észak-Magyarország	<input type="checkbox"/>
Észak-Alföld	<input type="checkbox"/>
Dél-Alföld	<input type="checkbox"/>

**S5) Which of the following regions of Ireland do you live in?**

*Please select ONE only*

Northern and Western	<input type="checkbox"/>
Southern	<input type="checkbox"/>
Eastern and Midland	<input type="checkbox"/>

**S5) Which of the following regions of Italy do you live in?**

*Please select ONE only*

Northwest Italy	<input type="checkbox"/>
Northeast Italy	<input type="checkbox"/>
Central Italy	<input type="checkbox"/>
South Italy	<input type="checkbox"/>
Insular Italy	<input type="checkbox"/>

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**S5) Which of the following regions of The Netherlands do you live in?**

*Please select ONE only*

Northern Netherlands	<input type="checkbox"/>
Eastern Netherlands	<input type="checkbox"/>
Western Netherlands	<input type="checkbox"/>
Southern Netherlands	<input type="checkbox"/>

**S5) Which of the following regions of Poland do you live in?**

*Please select ONE only*

Region Centralny	<input type="checkbox"/>
Region Południowy	<input type="checkbox"/>
Region Wschodni	<input type="checkbox"/>
Region Północno-Zachodni	<input type="checkbox"/>
Region Południowo-Zachodni	<input type="checkbox"/>
Region Północny	<input type="checkbox"/>

**S5) Which of the following regions of Portugal do you live in?**

*Please select ONE only*

Norte	<input type="checkbox"/>
Algarve	<input type="checkbox"/>
Centro	<input type="checkbox"/>
Área Metropolitana de Lisboa	<input type="checkbox"/>
Alentejo	<input type="checkbox"/>
Região Autónoma dos Açores	<input type="checkbox"/>
Região Autónoma da Madeira	<input type="checkbox"/>

**S5) Which of the following regions of Romania do you live in?**

*Please select ONE only*

Macroregiunea unu	<input type="checkbox"/>
Macroregiunea doi	<input type="checkbox"/>
Macroregiunea trei	<input type="checkbox"/>
Macroregiunea patru	<input type="checkbox"/>

**S5) Which of the following regions of Slovakia do you live in?**

*Please select ONE only*



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Bratislava Region	<input type="checkbox"/>
Západné Slovensko	<input type="checkbox"/>
Stredné Slovensko	<input type="checkbox"/>
Východné Slovensko	<input type="checkbox"/>

**S5) Which of the following regions of Slovenia do you live in?**

*Please select ONE only*

Eastern Slovenia	<input type="checkbox"/>
Western Slovenia	<input type="checkbox"/>

NOTE: only ask those that code 26 at S4

**S5) Which of the following regions of Spain do you live in?**

*Please select ONE only*

Noroeste	<input type="checkbox"/>
Noreste	<input type="checkbox"/>
Com. De Madrid	<input type="checkbox"/>
Centro	<input type="checkbox"/>
Este	<input type="checkbox"/>
Sur	<input type="checkbox"/>
Canarias	<input type="checkbox"/>

**S5) Which of the following regions of Sweden do you live in?**

*Please select ONE only*

Stockholm	<input type="checkbox"/>
Östra Mellansverige	<input type="checkbox"/>
Småland med öarna	<input type="checkbox"/>
Sydsverige	<input type="checkbox"/>
Västsverige	<input type="checkbox"/>
Norra Mellansverige	<input type="checkbox"/>
Mellersta Norrland	<input type="checkbox"/>
Övre Norrland	<input type="checkbox"/>

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**S5) Which of the following regions of United Kingdom do you live in?**

*Please select ONE only*

North East	<input type="checkbox"/>
North West	<input type="checkbox"/>
Yorkshire and the Humber	<input type="checkbox"/>
East Midlands	<input type="checkbox"/>
West Midlands	<input type="checkbox"/>
East of England	<input type="checkbox"/>
London	<input type="checkbox"/>
South East	<input type="checkbox"/>
South West	<input type="checkbox"/>
Wales	<input type="checkbox"/>
Scotland	<input type="checkbox"/>
Northern Ireland	<input type="checkbox"/>

**S1) [Mandatory question] What is your Gender?**

*Please select ONE only*

Male	<input type="checkbox"/>
Female	<input type="checkbox"/>
Prefer not to say	<input type="checkbox"/>

**S2) [Mandatory question] Please select your age range?**

*Please select ONE only*

Under 18	<input type="checkbox"/>
18-24	<input type="checkbox"/>
25-34	<input type="checkbox"/>
35-44	<input type="checkbox"/>
45-54	<input type="checkbox"/>
55-64	<input type="checkbox"/>
65+	<input type="checkbox"/>

**Screen out if under 18 or quota already met**

**[UNDER 18 SCREEN OUT MESSAGE]**

Thank you very much for your time so far, but unfortunately on this occasion we are only looking to interview respondents aged 18 and over.

**[QUOTA MET SCREEN OUT MESSAGE]**

Thank you very much for your time so far, but unfortunately you do not qualify for this survey.

**S3)[Mandatory question] Which of the following best describes your occupation?**

*Please select ONE only*

Managers and professionals, technicians and associate professionals	<input type="checkbox"/>
Clerical and support workers, services and sales workers	<input type="checkbox"/>
Skilled agricultural, forestry and fishery workers; craft and related trade workers	<input type="checkbox"/>
Plant and machine operators, assemblers and labourers	<input type="checkbox"/>
Armed forces occupations	<input type="checkbox"/>
Unemployed	<input type="checkbox"/>
In retirement or early retirement/widow/widower receiving pension after partner died / permanently disabled or chronically ill	<input type="checkbox"/>
Other occupations: Student or further training experience or unpaid work experience/ Fulfilling domestic task/housekeeper or child care/maternity or paternity leave/ In compulsory military or community service/ Other	<input type="checkbox"/>

**S6) [Mandatory question] Approximately how long would it take you to travel abroad to the nearest EU country, other than the one you live in?**

*Please select ONE only*

Less than 30 minutes	<input type="checkbox"/>
30 minutes to 1 hour	<input type="checkbox"/>
1-2 hours	<input type="checkbox"/>
2-3 hours	<input type="checkbox"/>
3-4 hours	<input type="checkbox"/>
4-5 hours	<input type="checkbox"/>
5+ hours	<input type="checkbox"/>
I never travel to another EU country	<input type="checkbox"/>

**S6\_A) [Mandatory question] Which mode(s) of transport do you take?**

*Please select ALL that apply*

By foot	<input type="checkbox"/> 1
Bicycle	<input type="checkbox"/> 2
Motorbike	<input type="checkbox"/> 3
Car	<input type="checkbox"/> 4
Bus	<input type="checkbox"/> 5
Train	<input type="checkbox"/> 6
Boat/Ferry	<input type="checkbox"/> 7
Airplane	<input type="checkbox"/> 8
Other (please specify)	<input type="checkbox"/> 94
Not applicable	<input type="checkbox"/> 97

NOTE: only ask if Coded 3/4 at S6\_A

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**S6\_A1) Have you ever filled your vehicle with fuel in another member state?**

*Please select ONE only*

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

NOTE: only ask if coded 2 at S6\_A1

**S6\_A2) How frequently do you do this?**

*Please select ONE only*

Every time I go	<input type="checkbox"/>
Most times I go	<input type="checkbox"/>
Only when necessary	<input type="checkbox"/>

**S7) [Mandatory question] If you were to drive by car to the nearest EU country approximately how long would it take you to do so?**

*Please select ONE only*

Less than 30 minutes	<input type="checkbox"/>
30 minutes to 1 hour	<input type="checkbox"/>
1-2 hours	<input type="checkbox"/>
2-3 hours	<input type="checkbox"/>
3-4 hours	<input type="checkbox"/>
4-5 hours	<input type="checkbox"/>
5+ hours	<input type="checkbox"/>
Not Applicable	<input type="checkbox"/>

**S8) [Mandatory question] Is your primary work/study location in a different EU country?**

*Please select ONE only*

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

**S9) [Mandatory question] In the last 12 months, have you travelled to another EU country for the purpose of leisure (i.e. on holiday, to visit family or friends etc)?**

*Please select ONE only*

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

**S10) [Mandatory question] In the last 12 months, have you been on a business-related trip to another EU country?**

*Please select ONE only*

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

**S11) [Mandatory question] Which of the following excise goods have you purchased in person in another EU country in the past 12 months?**

*Please select ALL that apply*

Alcohol	<input type="checkbox"/> 1
Tobacco	<input type="checkbox"/> 2
None of the above	<input type="checkbox"/> 97

NOTE: only ask if coded 2/97 at S11

**S11\_A) Why haven't you purchased alcohol in another EU country in the past 12 months?**

*Please select ALL that apply*

I don't usually buy alcohol	<input type="checkbox"/>
Local goods adequate	<input type="checkbox"/>
I'm not comfortable with this type of shopping activity	<input type="checkbox"/>
Too expensive	<input type="checkbox"/>
Never considered it	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>

NOTE: only ask if coded 1/97 at S11

**S11A) Why haven't you purchased tobacco in another EU country in the past 12 months?**

*Please select ALL that apply*

I don't usually buy tobacco	<input type="checkbox"/>
Local goods adequate	<input type="checkbox"/>
I'm not comfortable with this type of shopping activity	<input type="checkbox"/>
Too expensive	<input type="checkbox"/>
Never considered it	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>

**S12) [Mandatory question] Do you consume alcoholic beverages?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2

NOTE: only ask if coded 1 at S12

**S13) How often do you currently consume the following alcoholic beverages?**

Please select ONE only for each category

		Never	Monthly or less	Two to four times a month	Two to three times a week	Four or more times a week	Don't know
1	Beer/cider	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Still wine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Sparkling Wine	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Fortified Wine (e.g. Port, Sherry)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	Spirits (including Liqueurs)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTE: only ask if coded 1 at S12

**S14) How much would you expect your consumption of alcoholic beverages to increase if the price of the product was to decrease by 10%?**

Please select ONE only

Significant change	<input type="checkbox"/>
Slight change	<input type="checkbox"/>
No change	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

**S15) [Mandatory question] Do you consume tobacco products?**

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2

NOTE: only ask if coded 1 at S15

**S16) How often do you currently consume each of the following tobacco products?**

Please select ONE option for each category

		Never	Monthly or less	Two to four times a month	Two to three times a week	Four or more times a week	Don't know
1	Cigarettes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2	Cigars	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Heated tobacco products	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	E-Cigarettes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	Waterpipe tobacco (e.g. Shisha, Hookah)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTE: only ask if coded 1 at S15

**S17) How much would you expect your consumption of tobacco to increase by if the price of the product was to decrease by 10%?**

*Please select ONE only*

Significant change	<input type="checkbox"/>
Slight change	<input type="checkbox"/>
No change	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

Please now think about purchases made by you from businesses located in another EU country either online, by telephone or using mail order (i.e. not purchases you have made in person)

**S18) [Mandatory question] In the past 12 months, have you purchased alcohol from another EU country online, over telephone or by mail order (i.e. not in person)?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at S18

**S18\_A) What are the main reasons for you to not purchase alcohol from another EU country online, over the telephone or by mail order?**

*Please select ALL that apply*

Don't buy these goods	<input type="checkbox"/>
Local goods adequate	<input type="checkbox"/>
I'm not comfortable with this type of shopping activity	<input type="checkbox"/>
Products too expensive	<input type="checkbox"/>
Never considered it	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>

NOTE: only ask those that code 1 at S18

**S18\_B) How many orders of this nature have you made over the past 12 months?**

*Please select ONE only*

One	<input type="checkbox"/>
2-5	<input type="checkbox"/>
6-9	<input type="checkbox"/>
9-12	<input type="checkbox"/>
More than 12	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

NOTE: only ask those that code 1 at S18

**S18\_C) For a typical order, approximately how many bottles of the following would you purchase?**

*Please select ONE option for each category*

		0-5	6-10	11-20	21-30	31-40	41-50	51-60	61-70	71-90	91-110	110+	I do not purchase Beer/Cider in this way
1	Beer/cider (33cl)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		1	2-4	5-7	8-16	17-30	31-42	43-54	55-66	67-78	79-90	90+	I do not purchase Wines in this way
2	Still Wine (75cl)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Sparkling Wine (75cl)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Fortified Wine (e.g. Port, Sherry) (75cl)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		1	2	3	4	5	6	7	8	9	10	10+	I do not purchase Spirits in this way
5	Spirits (including Liqueurs)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTE: only ask those that code 1 at S18

**S18\_D) Why did you purchase these online from another EU country rather than locally?**

*Please select ALL that apply*

Lower price	<input type="checkbox"/>
Better quality	<input type="checkbox"/>
Unique product	<input type="checkbox"/>
Better choice	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>



**S19) [Mandatory question] In the past 12 months, have you purchased alcohol from outside the EU online, over the telephone or by mail order? (i.e. not in person)**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at S19

**S19\_A) How many orders of this nature have you made over the past 12 months?**

*Please select ONE only*

One	<input type="checkbox"/>
2-5	<input type="checkbox"/>
6-9	<input type="checkbox"/>
9-12	<input type="checkbox"/>
More than 12	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

NOTE: only ask those that code 1 at S19

**S19\_B) For a typical order, approximately how many bottles of the following would you purchase?**

*Please select ONE option for each category*

		0-5	6-10	11-20	21-30	31-40	41-50	51-60	61-70	71-90	91-110	110+	I do not purchase Beer/Cider in this way
1	Beer/cider (33cl)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> 8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		1	2-4	5-7	8-16	17-30	31-42	43-54	55-66	67-78	79-90	90+	I do not purchase Wines in this way
2	Still Wine (75cl)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Sparkling Wine (75cl)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Fortified Wine (e.g. Port, Sherry) (75cl)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		1	2	3	4	5	6	7	8	9	10	10+	I do not purchase Spirits in this way

5	Spirits (including Liqueurs)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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NOTE: only ask those that code 1 at S19.

**S19\_C) When buying from outside the EU how often have you noticed any of the following on the customs declaration. A customs declaration is the official document attached to your delivery of products that lists and gives details of the goods ordered. attached to the goods when they are delivered:**

*Please select ONE option for each category*

		Never	Someti mes	Often	Alwa ys
1	Goods declared as gifts, despite being purchased	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
2	Goods declared as samples	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
3	The price of the goods that was declared was less than the price you paid for the goods	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4

NOTE: only ask those that code 2-4 at any statement from S19\_C

**S19\_D How do you think instances of this behaviour have changed in the last 5 years?**

*Please select ONE only*

It has increased	<input type="checkbox"/>
It has decreased	<input type="checkbox"/>
It has stayed the same	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

## Core personal acquisition section

### Q2 & Q3 Alcohol

NOTE: only ask those that code 1 at S11

**Q2/3) Earlier we asked you whether you had bought alcohol/tobacco in person in another EU country. In which EU country other than the one you live in did you make most of your purchases of alcohol?**

*Please select ONE only*

Austria	<input type="checkbox"/>	Ireland	<input type="checkbox"/>	Sweden	<input type="checkbox"/>
Belgium	<input type="checkbox"/>	Italy	<input type="checkbox"/>	United Kingdom	<input type="checkbox"/>
Bulgaria	<input type="checkbox"/>	Latvia	<input type="checkbox"/>		
Croatia	<input type="checkbox"/>	Lithuania	<input type="checkbox"/>		
Cyprus	<input type="checkbox"/>	Luxembourg	<input type="checkbox"/>		
Czech Republic	<input type="checkbox"/>	Malta	<input type="checkbox"/>		
Denmark	<input type="checkbox"/>	Netherlands	<input type="checkbox"/>		

Estonia	<input type="checkbox"/>	Poland	<input type="checkbox"/>		
Finland	<input type="checkbox"/>	Portugal	<input type="checkbox"/>		
France	<input type="checkbox"/>	Romania	<input type="checkbox"/>		
Germany	<input type="checkbox"/>	Slovakia	<input type="checkbox"/>		
Greece	<input type="checkbox"/>	Slovenia	<input type="checkbox"/>		
Hungary	<input type="checkbox"/>	Spain	<input type="checkbox"/>		

**Approximately how long does it take you to travel from home to the country you listed above?**

*Please select ONE only*

Less than 30 minutes	<input type="checkbox"/>
30 minutes to 1 hour	<input type="checkbox"/>
1-2 hours	<input type="checkbox"/>
2-3 hours	<input type="checkbox"/>
3-4 hours	<input type="checkbox"/>
4-5 hours	<input type="checkbox"/>
5+ hours	<input type="checkbox"/>

**Q2 & Q3 Tobacco**

NOTE: only ask those that code 2 at S11.

**Q2/3) Earlier we asked you whether you had bought alcohol or tobacco in person in another EU country. In which EU country other than the one you live in did you make most of your purchases of tobacco?**

*Please select ONE only*

Austria	<input type="checkbox"/>	Ireland	<input type="checkbox"/>	Sweden	<input type="checkbox"/>
Belgium	<input type="checkbox"/>	Italy	<input type="checkbox"/>	United Kingdom	<input type="checkbox"/>
Bulgaria	<input type="checkbox"/>	Latvia	<input type="checkbox"/>		
Croatia	<input type="checkbox"/>	Lithuania	<input type="checkbox"/>		
Cyprus	<input type="checkbox"/>	Luxembourg	<input type="checkbox"/>		
Czech Republic	<input type="checkbox"/>	Malta	<input type="checkbox"/>		
Denmark	<input type="checkbox"/>	Netherlands	<input type="checkbox"/>		
Estonia	<input type="checkbox"/>	Poland	<input type="checkbox"/>		
Finland	<input type="checkbox"/>	Portugal	<input type="checkbox"/>		
France	<input type="checkbox"/>	Romania	<input type="checkbox"/>		
Germany	<input type="checkbox"/>	Slovakia	<input type="checkbox"/>		
Greece	<input type="checkbox"/>	Slovenia	<input type="checkbox"/>		
Hungary	<input type="checkbox"/>	Spain	<input type="checkbox"/>		

**Approximately how long does it take you to travel from home to the country you listed above?**

*Please select ONE only*

Less than 30 minutes	<input type="checkbox"/>
30 minutes to 1 hour	<input type="checkbox"/>
1-2 hours	<input type="checkbox"/>

2-3 hours	<input type="checkbox"/>
3-4 hours	<input type="checkbox"/>
4-5 hours	<input type="checkbox"/>
5+ hours	<input type="checkbox"/>

**Q4) [Mandatory question]** For which of the following excise goods do you know the national guideline thresholds in place in your Member State of Residence?

*Please select ONE only*

	Yes	No
Alcohol	<input type="checkbox"/> 1	<input type="checkbox"/> 2
Tobacco	<input type="checkbox"/> 3	<input type="checkbox"/> 4

NOTE: only ask those that code 2 at Q4

**Q4\_B) What is the reason for you not being aware of the national guideline thresholds for alcohol?**

*Please select ALL that apply*

No information available	<input type="checkbox"/>
I haven't thought about this as an issue	<input type="checkbox"/>
I do not consume alcohol	<input type="checkbox"/>
I do not purchase alcohol in a different EU country	<input type="checkbox"/>

NOTE: only ask those that code 4 at Q4

**Q4\_B) What is the reason for you not being aware of the national guideline thresholds for tobacco?**

*Please select ALL that apply*

No information available	<input type="checkbox"/>
I haven't thought about this as an issue	<input type="checkbox"/>
I do not consume tobacco	<input type="checkbox"/>
I do not purchase tobacco in a different EU country	<input type="checkbox"/>

**Q5) [Mandatory question]** Have you ever been stopped by customs or tax authority officials during a cross-border shopping trip (within the EU only)?

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2

NOTE: only ask those that coded 1 at Q5

**Q5\_A) Was an infringement identified?**

*Please select ONE only*

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Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2

NOTE: only ask those that code 1 for Q5\_A

**Q5\_B) Did you receive a penalty?**

*Please select ALL that apply*

Criminal tax penalties	<input type="checkbox"/>
Civil tax penalties	<input type="checkbox"/>
Amicable settlement	<input type="checkbox"/>
Goods were confiscated	<input type="checkbox"/>
Warning / nothing	<input type="checkbox"/>
Excise duty payable	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>

NOTE: only ask those that coded 1 in S11

**Q6) In the past 12 months, approximately how many trips did you make to another EU country in which you purchased alcohol products in person to bring home?**

*Please a numerical answer in the space provided*

**Q6) If you couldn't shop in another EU Member State, how much of this would you have bought anyway in your home country?**

*Please select ONE only*

All (approximately 100%)	<input type="checkbox"/>
Most (approximately 75%)	<input type="checkbox"/>
Half (approximately 50%)	<input type="checkbox"/>
Some (25%)	<input type="checkbox"/>
None (approximately 0%)	<input type="checkbox"/>

**Q7) [Mandatory question] On an average trip, approximately how many bottles of each product do you buy?**

*Please select ONE option for each category*

		0-5	6-10	11-20	21-30	31-40	41-50	51-60	61-70	71-90	91-110	110+	I do not purchase Beer/Cider in this way
1	Beer/cider (33cl)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

		1	2-4	5-7	8-16	17-30	31-42	43-54	55-66	67-78	79-90	90+	I do not purchase Wines in this way
2	Still Wine (75cl)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Sparkling Wine (75cl)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Fortified Wine (e.g. Port, Sherry) (75cl)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

		1	2	3	4	5	6	7	8	9	10	10+	I do not purchase Spirits in this way
5	Spirits (including Liqueurs)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Q8) [Mandatory question] What are the reasons for you to purchase these alcohol products in another EU country?**

*Please select ALL that apply*

Cost savings	<input type="checkbox"/> 1
Convenience	<input type="checkbox"/> 2
Better product quality	<input type="checkbox"/> 3
More products on offer	<input type="checkbox"/> 4
Gifts	<input type="checkbox"/> 5
Other (please specify)	<input type="checkbox"/> 94

NOTE: only ask those that code 1 at Q8

**Q8\_A) You mentioned that cost savings was a reason for you to purchase alcohol products abroad, would you still make those purchases if there was no difference in price?**

*Please select ONE only*

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

**Q9) [Mandatory question] Who consumes the majority of the alcohol products you buy?**

*Please select ONE only*

Myself/My household	<input type="checkbox"/>
Family members other than those in my household	<input type="checkbox"/>
Friends	<input type="checkbox"/>
Clients	<input type="checkbox"/>
Other	<input type="checkbox"/>

NOTE: only ask those that code 1 at S11

**Q10) In the past 12 months, approximately how many trips did you make to another EU country in which you purchased tobacco products in person to bring home?**

*Please a numerical answer in the space provided*

**If you couldn't shop in another EU Member State, how much of this would you have bought anyway in your home country?**

*Please select ONE only*

All (approximately 100%)	<input type="checkbox"/> 1
Most (approximately 75%)	<input type="checkbox"/> 2
Half (approximately 50%)	<input type="checkbox"/> 3
Some (25%)	<input type="checkbox"/> 4
None (approximately 0%)	<input type="checkbox"/> 5

**If you couldn't shop in another EU Member State, how much of this would you have bought anyway in your home country?**

*Please enter a number in the spaces provided If you do not purchase the product please select 'I do not purchase'*

	I do not Purcha se
Cigarettes (standard pack of 20 cigarettes)	<input type="checkbox"/>
Fine cut tobacco (standard pack of 30 grams)	<input type="checkbox"/>
Cigars	<input type="checkbox"/>
Heated tobacco products	<input type="checkbox"/>
E-cigarette products	<input type="checkbox"/>
Packs of waterpipe tobacco products	<input type="checkbox"/>

**Q17) What are the reasons for you to purchase these tobacco products in another EU country?**

*Please select ALL that apply*

Cost savings	<input type="checkbox"/> 1
Convenience	<input type="checkbox"/> 2
Better product quality	<input type="checkbox"/> 3
More products on offer	<input type="checkbox"/> 4
Other (Please specify)	<input type="checkbox"/> 94

NOTE: only ask those that coded 1 at Q17

**Q17\_A) You mentioned that cost savings was a reason for you to purchase tobacco products abroad, would you still make those purchases if there was no difference in price?**

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

**Q18) Who consumes the majority of the Tobacco products you buy?**

Please select ALL that apply

Myself/My household	<input type="checkbox"/>
Family members other than those in my household	<input type="checkbox"/>
Friends	<input type="checkbox"/>
Clients	<input type="checkbox"/>
Other	<input type="checkbox"/>

**Q19) [Mandatory question] Do you think you should be able to buy large quantities of excise goods in one country and then resell them in another EU country?**

Please select ONE only

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

**[Mandatory question] How often do you think this happens?**

Please select ONE only

All the time	<input type="checkbox"/>
Occasionally	<input type="checkbox"/>
Never	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

**[Mandatory question] In your opinion, has this become more common, less common, or broadly stayed the same over the past five years?**

Please select ONE only

More common	<input type="checkbox"/>
Broadly stayed the same	<input type="checkbox"/>
Less common	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

**Q20) [Mandatory question] Do you think you should be able to purchase excise goods on behalf of someone else (for example a friend) in another EU country?**

Please select ONE only

Yes	<input type="checkbox"/>
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No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

**[Mandatory question] Do you think this is common practice?**

*Please select ONE only*

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

**[Mandatory question] In your opinion, has this become more common, less common, or broadly stayed the same over the past five years?**

*Please select ONE only*

More common	<input type="checkbox"/>
Broadly stayed the same	<input type="checkbox"/>
Less common	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

**Q21) [Mandatory question] Are you aware of any shops selling excise goods that were purchased privately in another country?**

*Please select ONE only*

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

**[Mandatory question] In your opinion, has this become more common, less common, or broadly stayed the same over the past five years?**

*Please select ONE only*

More common	<input type="checkbox"/>
Broadly stayed the same	<input type="checkbox"/>
Less common	<input type="checkbox"/>
Don't know	<input type="checkbox"/>

**Final page**

Thank you for completing this survey.

When you are ready, please close your browser window.

## Business survey

The business survey targeted a total of 500 EU based economic operators that were trading in excise goods. This was primarily achieved through a sub-target of 50 in each of the 10 countries where panel research providers were available. In order to increase the coverage we distributed the survey to national and EU pan-national alcohol, tobacco and energy product trade bodies. The following table sets out the number of responses from each Member State:

**Table 71: Business survey respondents by Member State**

Member State	Businesses
	#
Austria	1
Belgium	4
Bulgaria	1
Croatia	0
Cyprus	0
Czechia	0
Denmark	42
Estonia	1
Finland	3
France	52
Germany	64
Greece	1
Hungary	43
Ireland	51
Italy	57
Latvia	0
Lithuania	0
Luxembourg	0
Malta	0
Netherlands	46
Poland	51
Portugal	3
Romania	51
Slovakia	0
Slovenia	0
Spain	50
Sweden	0
United Kingdom	0
<b>Total</b>	<b>521</b>

The following pages set out the full business survey and include references to the routing which was designed throughout. This ensured a business was only ever asked relevant questions.

### Language selects

**[Mandatory Question] Please confirm your language**

*Please select ONE only*

English	<input type="checkbox"/> 1	Latvian	<input type="checkbox"/> 14
Bulgarian	<input type="checkbox"/> 2	Lithuanian	<input type="checkbox"/> 15
Croatian	<input type="checkbox"/> 3	Maltese	<input type="checkbox"/> 16

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Czech	<input type="checkbox"/> 4	Polish	<input type="checkbox"/> 17
Danish	<input type="checkbox"/> 5	Portuguese	<input type="checkbox"/> 18
Dutch	<input type="checkbox"/> 6	Romanian	<input type="checkbox"/> 19
Estonian	<input type="checkbox"/> 7	Slovak	<input type="checkbox"/> 20
Finnish	<input type="checkbox"/> 8	Slovenian	<input type="checkbox"/> 21
French	<input type="checkbox"/> 9	Spanish	<input type="checkbox"/> 22
German	<input type="checkbox"/> 10	Swedish	<input type="checkbox"/> 23
Greek	<input type="checkbox"/> 11		
Hungarian	<input type="checkbox"/> 12		
Italian	<input type="checkbox"/> 13		

## Introduction

Thank you for taking part in our survey on the sale of goods in the European Union. The survey should only take between 10-15 minutes to complete.

For any question asking about monetary value of goods, entry or adviser fees, the value entered should be tax exclusive i.e. not include any excise, VAT or other taxes. Please rest assured that your answers will be treated in the strictest confidence. Personal and business information collected as part of this survey will be held anonymously and securely. No individual or business will be named in our report.

**Please note: Before we commence the survey, please be aware that your contact information or individual views will not be shared with anyone outside of PwC without your expressed authorization.**

## Completing the survey

The 'Back' and 'Next' buttons at the bottom of each screen allow you to navigate through the survey. Please note that using the web browser's 'back' button will take you out of the survey without saving your answers.

Some screens may require you to use the scroll bar at the right-hand side of the screen in order to move down the page and answer the rest of the question. The navigation buttons will be located at the end of each set of questions.

It is best to complete the survey in one sitting. However, if you need to save your questionnaire and return to it later, please do so by simply closing your browser window, this will save all responses previously submitted. To restart the survey please click on the link included in your email message. The survey will open at the last question submitted.

As a security feature the survey will 'time-out' if any page is left inactive for more than 20 minutes. To access the survey again, please click on the link sent to you via email. Note: Definitions can be accessed by clicking on the underlined terms and will disappear when clicked on for a second time.

## About you

**D1) [Mandatory question] Does your business sell any of the following goods to customers?**

Please select ONE only

Strict quota	
Alcohol and alcoholic	<input type="checkbox"/> 1
Tobacco products	<input type="checkbox"/> 2
Energy products	<input type="checkbox"/> 3
Electronics and audio equipment	<input type="checkbox"/> 4
Groceries	<input type="checkbox"/> 5
Clothing	<input type="checkbox"/> 6
Beauty products	<input type="checkbox"/> 7
Toys	<input type="checkbox"/> 8
None of the above	<input type="checkbox"/> 98

**SCREEN OUT THOSE THAT ANSWER NONE OF THE ABOVE AND THOSE THAT DO NOT SELL EXCISE GOODS (CODES 1-3)**

**[DOES NOT SELL EXCISE GOODS SCREEN OUT MESSAGE]**

Thank you very much for your time so far, but unfortunately on this occasion we are not looking to interview businesses that aren't involved in selling excise goods.

**D2) [Mandatory question]**

For the purpose of this survey, we would like to ask you a few questions about excise goods. By this we mean alcoholic beverages such as beer, cider, still wine, sparkling wine, intermediate products (fortified wine such as port and sherry), and spirits (including liqueurs); Tobacco products including cigarettes, fine cut tobacco for hand-rolled cigarettes and pipes, cigars, cigarillos, heated tobacco products, e-cigarettes and waterpipe tobacco; Energy products, including unleaded petrol and diesel used as motor fuels, and energy products used as heating fuels.

By distance selling or distance sales we mean sales made by a **business located in one EU country**, for example Germany, **to a consumer (private individual) located in a different EU country**, for example the Netherlands, either **online, via telephone or by mail order**.

**Have you been a registered business for the last 12 months?**

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2

**Screen out if not registered for 12 months**

**[NOT 12 MONTH SCREEN OUT MESSAGE]**

Thank you very much for your time so far, but unfortunately on this occasion we are not looking to interview businesses that have been registered for less than 12 months.

**S1) [Mandatory question] In which of the following countries are you mostly based for your work?**

Please select ONE only

Austria	<input type="checkbox"/> 1	Ireland	<input type="checkbox"/> 14	Sweden	<input type="checkbox"/> 27
Belgium	<input type="checkbox"/> 2	Italy	<input type="checkbox"/> 15	United Kingdom	<input type="checkbox"/> 28
Bulgaria	<input type="checkbox"/> 3	Latvia	<input type="checkbox"/> 16	None of the above	<input type="checkbox"/> 97
Croatia	<input type="checkbox"/> 4	Lithuania	<input type="checkbox"/> 17		
Cyprus	<input type="checkbox"/> 5	Luxembourg	<input type="checkbox"/> 18		
Czech Republic	<input type="checkbox"/> 6	Malta	<input type="checkbox"/> 19		
Denmark	<input type="checkbox"/> 7	Netherlands	<input type="checkbox"/> 20		
Estonia	<input type="checkbox"/> 8	Poland	<input type="checkbox"/> 21		
Finland	<input type="checkbox"/> 9	Portugal	<input type="checkbox"/> 22		
France	<input type="checkbox"/> 10	Romania	<input type="checkbox"/> 23		
Germany	<input type="checkbox"/> 11	Slovakia	<input type="checkbox"/> 24		
Greece	<input type="checkbox"/> 12	Slovenia	<input type="checkbox"/> 25		
Hungary	<input type="checkbox"/> 13	Spain	<input type="checkbox"/> 26		

**Screen out none of the above.**

**[NONE OF THE ABOVE SCREEN OUT MESSAGE]**

Thank you for your participation in this research. Unfortunately, the remainder of this survey is not relevant to your profile, but we very much appreciate your interest in this study.

**S1\_A)[Mandatory question] In which country is your business headquartered?**

Please select ONE only

Austria	<input type="checkbox"/> 1	Ireland	<input type="checkbox"/> 14	Sweden	<input type="checkbox"/> 27
Belgium	<input type="checkbox"/> 2	Italy	<input type="checkbox"/> 15	United Kingdom	<input type="checkbox"/> 28
Bulgaria	<input type="checkbox"/> 3	Latvia	<input type="checkbox"/> 16	None of the above	<input type="checkbox"/> 97
Croatia	<input type="checkbox"/> 4	Lithuania	<input type="checkbox"/> 17		
Cyprus	<input type="checkbox"/> 5	Luxembourg	<input type="checkbox"/> 18		
Czech Republic	<input type="checkbox"/> 6	Malta	<input type="checkbox"/> 19		
Denmark	<input type="checkbox"/> 7	Netherlands	<input type="checkbox"/> 20		
Estonia	<input type="checkbox"/> 8	Poland	<input type="checkbox"/> 21		
Finland	<input type="checkbox"/> 9	Portugal	<input type="checkbox"/> 22		
France	<input type="checkbox"/> 10	Romania	<input type="checkbox"/> 23		
Germany	<input type="checkbox"/> 11	Slovakia	<input type="checkbox"/> 24		
Greece	<input type="checkbox"/> 12	Slovenia	<input type="checkbox"/> 25		
Hungary	<input type="checkbox"/> 13	Spain	<input type="checkbox"/> 26		

**S2)[Mandatory question] Does your organisation have subsidiaries or branches in other EU countries than your headquarters?**

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

**S2\_A)[Mandatory question] In which country(ies) are your organisations, subsidiaries and branches?**

Please select ALL that apply

Austria	<input type="checkbox"/> 1	Ireland	<input type="checkbox"/> 14	Sweden	<input type="checkbox"/> 27
Belgium	<input type="checkbox"/> 2	Italy	<input type="checkbox"/> 15	United Kingdom	<input type="checkbox"/> 28
Bulgaria	<input type="checkbox"/> 3	Latvia	<input type="checkbox"/> 16	Other country outside of EU	<input type="checkbox"/> 96
Croatia	<input type="checkbox"/> 4	Lithuania	<input type="checkbox"/> 17		
Cyprus	<input type="checkbox"/> 5	Luxembourg	<input type="checkbox"/> 18		
Czech Republic	<input type="checkbox"/> 6	Malta	<input type="checkbox"/> 19		
Denmark	<input type="checkbox"/> 7	Netherlands	<input type="checkbox"/> 20		
Estonia	<input type="checkbox"/> 8	Poland	<input type="checkbox"/> 21		
Finland	<input type="checkbox"/> 9	Portugal	<input type="checkbox"/> 22		
France	<input type="checkbox"/> 10	Romania	<input type="checkbox"/> 23		
Germany	<input type="checkbox"/> 11	Slovakia	<input type="checkbox"/> 24		
Greece	<input type="checkbox"/> 12	Slovenia	<input type="checkbox"/> 25		
Hungary	<input type="checkbox"/> 13	Spain	<input type="checkbox"/> 26		

**If Other Country outside of EU - please specify in the box provided**

**S3) [Mandatory question] Does your organisation carry out business in EU countries other than the countries of your headquarters, subsidiaries or branches?**

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2

**S3\_A) [Mandatory question] Please select these additional countries.**

Please select ALL that apply

Austria	<input type="checkbox"/> 1	Ireland	<input type="checkbox"/> 14	Sweden	<input type="checkbox"/> 27
Belgium	<input type="checkbox"/> 2	Italy	<input type="checkbox"/> 15	United Kingdom	<input type="checkbox"/> 28
Bulgaria	<input type="checkbox"/> 3	Latvia	<input type="checkbox"/> 16	Other country outside of EU	<input type="checkbox"/> 94
Croatia	<input type="checkbox"/> 4	Lithuania	<input type="checkbox"/> 17		
Cyprus	<input type="checkbox"/> 5	Luxembourg	<input type="checkbox"/> 18		
Czech Republic	<input type="checkbox"/> 6	Malta	<input type="checkbox"/> 19		

Denmark	<input type="checkbox"/> 7	Netherlands	<input type="checkbox"/> 20
Estonia	<input type="checkbox"/> 8	Poland	<input type="checkbox"/> 21
Finland	<input type="checkbox"/> 9	Portugal	<input type="checkbox"/> 22
France	<input type="checkbox"/> 10	Romania	<input type="checkbox"/> 23
Germany	<input type="checkbox"/> 11	Slovakia	<input type="checkbox"/> 24
Greece	<input type="checkbox"/> 12	Slovenia	<input type="checkbox"/> 25
Hungary	<input type="checkbox"/> 13	Spain	<input type="checkbox"/> 26

**If Other Country outside of EU - please specify in the box provided**

**S4) [Mandatory question] How many employees does your business have?**

*Please select ONE only*

More than 250 Employees (large enterprise)	<input type="checkbox"/> 1
Between 50 and 250 Employees (medium enterprise)	<input type="checkbox"/> 2
Between 10 and 49 employees (small enterprise)	<input type="checkbox"/> 3
Less than 10 employees (micro enterprise)	<input type="checkbox"/> 4
Self-employed	<input type="checkbox"/> 5

**S5) [Mandatory question] Which of the following best describes the primary function of your business?**

*Please select ONE only*

Producer	<input type="checkbox"/> 1
Wholesaler	<input type="checkbox"/> 2
Specialist store	<input type="checkbox"/> 3
Supermarket	<input type="checkbox"/> 4
off-license shop	<input type="checkbox"/> 5
Hospitality business (e.g. hotel, restaurant)	<input type="checkbox"/> 6
E-Commerce	<input type="checkbox"/> 7
Other - Please specify	<input type="checkbox"/> 94

**If Other function - please specify in the box provided**

**S5\_A) [Mandatory question] In addition to being a \_\_\_\_, does your business also operate as any of the following?**

*Please select ALL that apply*

Producer	<input type="checkbox"/> 1
Wholesaler	<input type="checkbox"/> 2
Specialist store	<input type="checkbox"/> 3
Supermarket	<input type="checkbox"/> 4
off-license shop	<input type="checkbox"/> 5

Hospitality business (e.g. hotel, restaurant)	<input type="checkbox"/> 6
E-Commerce	<input type="checkbox"/> 7
Other - Please specify	<input type="checkbox"/> 94
None of the above	<input type="checkbox"/> 97

**If Other function - please specify in the box provided**

**S6) [Mandatory question] Where does your business obtain its excise goods from?**

*Please select ALL that apply*

Self-produced	<input type="checkbox"/> 1
Purchased from producers	<input type="checkbox"/> 2
Purchased from wholesalers	<input type="checkbox"/> 3
Purchased from retailer	<input type="checkbox"/> 4

**S7) [Mandatory question] Do you purchase excise goods from businesses located in another EU country for the purpose of reselling them?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2

NOTE: only ask those that code 1 at S8

**S7\_A) Which excise duty regime do you predominantly use on your purchases of excise goods from businesses in another EU country?**

*Please select ONE only*

Duty paid	<input type="checkbox"/> 1
Duty suspended	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

**S8) [Mandatory question] Do you sell predominantly to businesses or end consumers?**

**End consumers** - i.e. your customers are generally private consumers/members of the public; **Businesses** - i.e. your customers are generally other businesses.

*Please select ONE only.*

End-consumers	<input type="checkbox"/> 1
Businesses	<input type="checkbox"/> 2

**S9) [Mandatory Question] Which of the following excise products do you sell:**

*Please select ALL that apply*



Beer	<input type="checkbox"/> 1
Cider	<input type="checkbox"/> 2
Still wine	<input type="checkbox"/> 3
Sparkling wine	<input type="checkbox"/> 4
Intermediate products, e.g. fortified wine	<input type="checkbox"/> 5
Spirits (including liqueurs)	<input type="checkbox"/> 6
Cigarettes	<input type="checkbox"/> 7
Other tobacco products	<input type="checkbox"/> 8
Unleaded petrol	<input type="checkbox"/> 9
Other energy products	<input type="checkbox"/> 10

**[GUIDANCE: Please quote all monetary values throughout this survey exclusive of tax, i.e. not include any excise, VAT or other taxes.]**

**S10\_A) [Mandatory Question] Please provide your best estimate of the value in euros of the excise goods you sold in the last 12 months?**

*Please enter a numeric value*

Beer: €	
Cider: €	
Still wine: €	
Sparkling wine: €	
Intermediate products, e.g. fortified wine: €	
Spirits (including Liqueurs): €	
Cigarettes: €	
Other Tobacco products: €	
Unleaded petrol: €	
Other energy products: €	

**S10\_B) [Mandatory Question] Please provide your best estimate of the volume of the excise goods sold in the last 12 months.**

*Please enter a numeric value*

Beer: litres	
Cider: litres	
Still wine: litres	
Sparkling wine: litres	
Intermediate products, e.g. fortified wine: litres	
Spirits (including Liqueurs): litres	
Cigarettes: Standard 200 cigarette cartons, or equivalent	
Other Tobacco products: number of transactions	
Unleaded petrol: litres	
Other energy products: number of transactions	

**S10\_Calculation) [Mandatory Question] Based on your response, you sell a...**

	Yes	No
litre of beer for an average price of ____ euros. Please can you confirm that	<input type="checkbox"/> 1	<input type="checkbox"/> 2

this is correct.		
litre of cider for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of still wine for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of sparkling wine for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of intermediate products, e.g. fortified wine for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of spirits for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2
standard 200 carton, or equivalent of cigarettes for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2
unit of unleaded petrol for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2

Note: Only ask S11 to S13 to those that code 1 at S8)

**S11) [Mandatory question] How do you sell to your domestic customers? (that is, customers from the country that you work in)?**

*Please select ALL that apply*

Shop/store	<input type="checkbox"/> 1
Online	<input type="checkbox"/> 2
Mail-order	<input type="checkbox"/> 3
Telephone	<input type="checkbox"/> 4
Other	<input type="checkbox"/> 94

**S12) [Mandatory question] Do you sell to consumers located in a different EU country via online sales, telephone sales or mail orders?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2

NOTE: only ask those that code 1 at S12

**S12\_A) How do you sell to your consumers located in a different EU country?**

*Please select ALL that apply*

Online	<input type="checkbox"/> 1
Mail-order	<input type="checkbox"/> 2

Telephone	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 94

**If other, please specify in the box provided.**

**S12\_Ax) Which of the following products do you sell to end consumers in another Member State?**

*Please select ALL that apply*

Alcohol products	<input type="checkbox"/> 1
Tobacco products	<input type="checkbox"/> 2
Energy products	<input type="checkbox"/> 3

Note: only ask those that code 2 at S12

**S12\_B) Please outline the main reason why you do not sell to consumers located in a different EU country via online sales, telephone or mail orders?**

*Please select ONE only*

Administrative burden	<input type="checkbox"/> 1
Not profitable	<input type="checkbox"/> 2
Unsure how to do this	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 94

**If other, please specify in the box provided.**

**S13) [Mandatory question] Which excise duty regime do you predominantly use on your sale of excise goods to consumers in another EU country?**

*Please select ONE only.*

Duty paid	<input type="checkbox"/> 1
Duty suspended	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

Note: Only ask S14 to S16 to those that code 1 at S8

**S14) [Mandatory question] Do you sell to businesses located in a different EU country?**

*Please select ONE only.*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2

NOTE: only ask those that code 2 at S14

**S14\_A) [Mandatory question] What is the main reason for you to not sell to businesses located in a different EU country?**

*Please select ONE only*

Administrative burden	<input type="checkbox"/> 1
Not profitable	<input type="checkbox"/> 2
Unsure how to do this	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 94

**If other, please specify in the box provided.**

**S15) [Mandatory question] Which of the following types of businesses do you sell excise goods to?**

*Please select ALL that apply*

Other producers	<input type="checkbox"/> 1
Wholesalers	<input type="checkbox"/> 2
Retailers	<input type="checkbox"/> 3
Hospitality businesses (e.g. hotels and restaurants)	<input type="checkbox"/> 4
Other (please specify)	<input type="checkbox"/> 94

**If other, please specify in the box provided.**

**S16) [Mandatory question] Which excise duty regime do you predominantly use on your sales of excise goods to businesses in another EU country?**

*Please select ONE only*

Duty paid	<input type="checkbox"/> 1
Duty suspended	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

**Core Distance selling 1**

Section to be answered by those that coded 1, 2, 3 at D1 **and** 1 at S8 **and** 1 at S12

**Q1) [Mandatory question] Which of the following excise products do you distance sell to consumers in other Member States:**

(By distance selling or distance sales we mean sales made by a business located in one EU country, for example Germany, to a consumer (private individual) located in a different EU country, for example the Netherlands, either online, via telephone or by mail order)

Please select ALL that apply.

Beer	<input type="checkbox"/> 1
Cider	<input type="checkbox"/> 2
Still wine	<input type="checkbox"/> 3
Sparkling wine	<input type="checkbox"/> 4
Intermediate products, e.g. fortified wine	<input type="checkbox"/> 5
Spirits (including liqueurs)	<input type="checkbox"/> 6

**Q1\_A) [Mandatory question]** Please provide an estimate of the volume of alcohol and alcoholic beverages sold to consumers located in a different EU country in the last 12 months via distance sales.

Please enter a numeric value in the space provided

Please enter a zero if no volume is applicable

	Volume (litres)	Don't know
Beer		<input type="checkbox"/> 98
Cider		<input type="checkbox"/> 98
Still wine		<input type="checkbox"/> 98
Sparkling wine		<input type="checkbox"/> 98
Intermediate products, e.g. fortified wine		<input type="checkbox"/> 98
Spirits (including Liqueurs)		<input type="checkbox"/> 98

**Q1\_B) [Mandatory question]** Please provide an estimate of the value of alcohol and alcoholic beverages sold to consumers located in a different EU country in the last 12 months via distance sales

Please enter a numeric value in the space provided

Please enter a zero if no volume is applicable

	Value (€)	Don't know
Beer		<input type="checkbox"/> 98
Cider		<input type="checkbox"/> 98
Still wine		<input type="checkbox"/> 98
Sparkling wine		<input type="checkbox"/> 98
Intermediate products, e.g. fortified wine		<input type="checkbox"/> 98
Spirits (including Liqueurs)		<input type="checkbox"/> 98

**Q1\_Calculatation) [Mandatory Question]** Based on your response, you sell a...

	Yes	No
litre of beer for an average price of ___ euros. Please can you confirm that this is correct	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of cider for an average price of ___ euros. Please can you confirm that this is correct	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of still wine for an average price of ___ euros. Please can you confirm	<input type="checkbox"/> 1	<input type="checkbox"/> 2

that this is correct		
litre of sparkling wine for an average price of ___ euros. Please can you confirm that this is correct	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of intermediate products, e.g. fortified wine for an average price of ___ euros. Please can you confirm that this is correct	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of spirits for an average price of ___ euros. Please can you confirm that this is correct	<input type="checkbox"/> 1	<input type="checkbox"/> 2

**Q2) [Mandatory question] In the next 12 months, what % change do you expect to see in the volume of excise goods sold to consumers located in a different EU country via distance sales?**

*Please insert a numeric value, using a negative (-) sign if a reduction is expected*

	% Change	Don't know	I don't sell this product
Beer		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Cider		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Still wine		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Sparkling wine		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Intermediate products, e.g. fortified wine		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Spirits (including liqueurs)		<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q3) [Mandatory question] How many cross-border transactions did you make in the past 12 months, to consumers in another Member State, that contained:**

*Please insert a numeric value in the box provided*

	Don't know	I don't sell this product
Number of cross-border transactions that contained beer	<input type="checkbox"/> 98	<input type="checkbox"/> 99
Number of cross-border transactions that contained cider	<input type="checkbox"/> 98	<input type="checkbox"/> 99
Number of cross-border transactions that contained still wine	<input type="checkbox"/> 98	<input type="checkbox"/> 99
Number of cross-border transactions that contained sparkling wine	<input type="checkbox"/> 98	<input type="checkbox"/> 99
Number of cross-border transactions contained intermediate products, e.g. fortified wine	<input type="checkbox"/> 98	<input type="checkbox"/> 99
Number of cross-border transactions that contained spirits (including Liqueurs)	<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q4) [Mandatory question] In approximately how many different EU countries (other than the one in which you are based) do you distance sell alcohol and alcoholic beverages to consumers?**

*Please select a numeric value from the drop-down list*

0	<input type="checkbox"/> 0
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1	<input type="checkbox"/> 1
2	<input type="checkbox"/> 2
3	<input type="checkbox"/> 3
4	<input type="checkbox"/> 4
5	<input type="checkbox"/> 5
6	<input type="checkbox"/> 6
7	<input type="checkbox"/> 7
8	<input type="checkbox"/> 8
9	<input type="checkbox"/> 9
10	<input type="checkbox"/> 10
11	<input type="checkbox"/> 11
12	<input type="checkbox"/> 12
13	<input type="checkbox"/> 13
14	<input type="checkbox"/> 14
15	<input type="checkbox"/> 15
16	<input type="checkbox"/> 16
17	<input type="checkbox"/> 17
18	<input type="checkbox"/> 18
19	<input type="checkbox"/> 19
20	<input type="checkbox"/> 20
21	<input type="checkbox"/> 21
22	<input type="checkbox"/> 22
23	<input type="checkbox"/> 23
24	<input type="checkbox"/> 24
25	<input type="checkbox"/> 25
26	<input type="checkbox"/> 26
27	<input type="checkbox"/> 27

**Q5) [Mandatory question] Which EU countries are your top markets for selling excise goods via distance sales to consumers in another Member State?**

Please select up to 5 countries

If you don't know, please select '**Don't know**' in the 1<sup>st</sup> mention

1st	2nd	3rd	4th	5th
Please select from list	Please select from list	Please select from list	Please select from list	Please select from list

Drop down list

Austria	<input type="checkbox"/> 1	Ireland	<input type="checkbox"/> 14	Sweden	<input type="checkbox"/> 27
Belgium	<input type="checkbox"/> 2	Italy	<input type="checkbox"/> 15	United Kingdom	<input type="checkbox"/> 28
Bulgaria	<input type="checkbox"/> 3	Latvia	<input type="checkbox"/> 16	Don't know	<input type="checkbox"/> 98
Croatia	<input type="checkbox"/> 4	Lithuania	<input type="checkbox"/> 17		
Cyprus	<input type="checkbox"/> 5	Luxembourg	<input type="checkbox"/> 18		
Czech Republic	<input type="checkbox"/> 6	Malta	<input type="checkbox"/> 19		
Denmark	<input type="checkbox"/> 7	Netherlands	<input type="checkbox"/> 20		
Estonia	<input type="checkbox"/> 8	Poland	<input type="checkbox"/> 21		
Finland	<input type="checkbox"/> 9	Portugal	<input type="checkbox"/> 22		
France	<input type="checkbox"/> 10	Romania	<input type="checkbox"/> 23		

Germany	<input type="checkbox"/> 11	Slovakia	<input type="checkbox"/> 24
Greece	<input type="checkbox"/> 12	Slovenia	<input type="checkbox"/> 25
Hungary	<input type="checkbox"/> 13	Spain	<input type="checkbox"/> 26

**Q6) [Mandatory question] What are the top 5 countries from which you receive enquiries from customers about selling excise goods via cross-border distance sales to consumers?**

Please select up to 5 countries

If you don't know, please select '**Don't know**' in the 1<sup>st</sup> mention

**Please do not select more countries than selected in previous question**

1st	2nd	3rd	4th	5th
Please select from list	Please select from list	Please select from list	Please select from list	Please select from list

Drop down list

Austria	<input type="checkbox"/> 1	Ireland	<input type="checkbox"/> 14	Sweden	<input type="checkbox"/> 27
Belgium	<input type="checkbox"/> 2	Italy	<input type="checkbox"/> 15	United Kingdom	<input type="checkbox"/> 28
Bulgaria	<input type="checkbox"/> 3	Latvia	<input type="checkbox"/> 16	Don't know	<input type="checkbox"/> 98
Croatia	<input type="checkbox"/> 4	Lithuania	<input type="checkbox"/> 17		
Cyprus	<input type="checkbox"/> 5	Luxembourg	<input type="checkbox"/> 18		
Czech Republic	<input type="checkbox"/> 6	Malta	<input type="checkbox"/> 19		
Denmark	<input type="checkbox"/> 7	Netherlands	<input type="checkbox"/> 20		
Estonia	<input type="checkbox"/> 8	Poland	<input type="checkbox"/> 21		
Finland	<input type="checkbox"/> 9	Portugal	<input type="checkbox"/> 22		
France	<input type="checkbox"/> 10	Romania	<input type="checkbox"/> 23		
Germany	<input type="checkbox"/> 11	Slovakia	<input type="checkbox"/> 24		
Greece	<input type="checkbox"/> 12	Slovenia	<input type="checkbox"/> 25		
Hungary	<input type="checkbox"/> 13	Spain	<input type="checkbox"/> 26		

**Q7) [Mandatory question] Based on your experience, does the administrative burden imposed by the current legislation discourage you from making cross-border distance sales?**

Please select one answer

Yes to a great extent	<input type="checkbox"/> 1
Yes to some Extent	<input type="checkbox"/> 2
No not at all	<input type="checkbox"/> 3
Don't know	<input type="checkbox"/> 98

NOTE: only as those that code 1-3 in Q7

**Q7\_A) Please elaborate on the main reason why administrative factors limit your ability to make cross-border distance sales.**

Please select one answer

Too expensive	<input type="checkbox"/> 1
Too resource intensive	<input type="checkbox"/> 2
Production volume not big enough	<input type="checkbox"/> 3



Too difficult to identify suitable tax representative	<input type="checkbox"/> 4
Other (please specify)	<input type="checkbox"/> 94

**If other, please specify in the box provided**

**Q7\_B) [Mandatory question] Please provide an estimate of how much higher your cross-border distance sales might have been over the past 12 months in the absence of this administrative burden**

*Please select ONE only.*

0%-25%	<input type="checkbox"/> 1
26%-50%	<input type="checkbox"/> 2
51%-75%	<input type="checkbox"/> 3
76%-100%	<input type="checkbox"/> 4
101%-200%	<input type="checkbox"/> 5
201%-300%	<input type="checkbox"/> 6
Other (please specify)	<input type="checkbox"/> 94
Don't know	<input type="checkbox"/> 97

**If other, please enter a numeric value in the box provided**

**Q7\_C) Typically, how much time do you spend per transaction on administration for cross-border distance sales?**

10 minutes or less	<input type="checkbox"/> 1
11 - 30 minutes	<input type="checkbox"/> 2
31 - 60 minutes	<input type="checkbox"/> 3
1 - 2 hours	<input type="checkbox"/> 4
2 - 3 hours	<input type="checkbox"/> 5
3 - 4 hours	<input type="checkbox"/> 6
4 - 6 hours	<input type="checkbox"/> 7
6 - 8 hours	<input type="checkbox"/> 8
Don't know	<input type="checkbox"/> 98

**Q8) [Mandatory question] Do you engage a tax representative to deal with tax issues arising from cross-border distance sales?**

For the purposes of this survey a tax representative is appointed by the seller in the EU country of destination and is responsible for declaring the movement and paying the necessary excise duties.

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2

Don't know	<input type="checkbox"/> 98
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NOTE: only ask those that code 1 at Q8

**Q8\_A) In how many EU countries do you appoint tax representatives?**

For the purposes of this survey a tax representative is appointed by the seller in the EU country of destination and is responsible for declaring the movement and paying the necessary excise duties.

*Please insert a numeric value in the box provided*

	Don't Know
	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q8

**Q8\_B) Is it challenging to identify a tax representative in the EU countries you sell to?**

For the purposes of this survey a tax representative is appointed by the seller in the EU country of destination and is responsible for declaring the movement and paying the necessary excise duties

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q8

**Q8\_Bx) Were there any entry fees associated with the use of tax representatives?**

*For the purposes of this survey a tax representative is appointed by the seller in the EU country of destination and is responsible for declaring the movement and paying the necessary excise duties.*

*Entry fees are fixed costs that are incurred by a new entrant, regardless of production or sales activities, in order to enter and compete against market incumbents.*

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

**If yes, please enter a numeric value in the box provided.**

--

NOTE: only ask those that code 1 at Q8

**Q8\_By) On average, approximately how long did you or someone in your business spending identifying and appointing a tax representative?**

For the purposes of this survey, a tax representative is appointed by the seller in the EU country of destination and is responsible for declaration the movement and paying the necessary excise duties.

Please insert a numeric value in the box provided

	Don't Know
	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q8

**Q8\_C) What is the average cost in euros per transaction of engaging a tax representative for your cross-border distance sales?**

For the purposes of this survey a tax representative is appointed by the seller in the EU country of destination and is responsible for declaring the movement and paying the necessary excise duties.

Please insert a numeric value in the box provided

	Don't Know
	<input type="checkbox"/> 98

NOTE: only ask those that code 2 at Q8

**Q8\_D) Why do you not engage a tax representative?**

For the purposes of this survey a tax representative is appointed by the seller in the EU country of destination and is responsible for declaring the movement and paying the necessary excise duties.

Please select ALL that apply

Insufficient cross border distance sales	<input type="checkbox"/> 1
Difficulties identifying a tax representative	<input type="checkbox"/> 2
Prefer to manage process in-house	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 94

**If other, please specify in the box provided in the box provided.**

NOTE: only ask those that code 2 at Q8

**Q8\_E) How do you deal with tax issues arising from cross-border distance sales?**

Please select ALL that apply

Internal tax department	<input type="checkbox"/> 1
Trained finance staff	<input type="checkbox"/> 2
Other (please specify)	<input type="checkbox"/> 94

If other, please specify in the box provided in the box provided.

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NOTE: only ask those that code 2 at Q8

**Q8\_F) Typically, how much time do you spend per transaction on administration that would otherwise be covered by a tax representative for cross-border distance sales?**

10 minutes or less	<input type="checkbox"/> 1
11 - 30 minutes	<input type="checkbox"/> 2
31 - 60 minutes	<input type="checkbox"/> 3
1 - 2 hours	<input type="checkbox"/> 4
2 - 3 hours	<input type="checkbox"/> 5
3 - 4 hours	<input type="checkbox"/> 6
4 - 6 hours	<input type="checkbox"/> 7
6 - 8 hours	<input type="checkbox"/> 8
Don't know	<input type="checkbox"/> 98

**Q9) [Mandatory question] Did you face any other entry costs associated with cross-border distance selling?**

Entry cost is a fixed cost that is incurred by a new entrant, regardless of production or sales activities, in order to enter and compete against market incumbents

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q9

**Q9\_A) Please can you outline what these costs were?**

Please record your response below

	<b>Don't know</b>
	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q9

**Q9\_B) Please estimate the entry costs in euros that would be incurred.**

Entry cost is a fixed cost that must be incurred by a new entrant, regardless of production or sales activities, in order to enter and compete against market incumbents.

Please insert a numeric value in the box (€)

	<b>Don't know</b>
	<input type="checkbox"/> 98

**Q10) [Mandatory question] Do you face any other costs associated with cross-border distance sales to consumers?**

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q10

**Q10\_A) Please give an outline what these costs were for.**

Please record your response below

	<b>Don't know</b>
	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q10

**Q10\_B) Please estimate in euros the other costs per transaction.**

Please insert a numeric value in the box (€)

	<b>Don't know</b>
	<input type="checkbox"/> 98

**Q11) [Mandatory question] Are there any other regulatory obstacles that prevent you from undertaking cross-border distance selling of alcohol and alcoholic beverages to consumers located in a different EU country?**

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q11

**Q11\_A) Please select which of the following regulatory obstacles prevent you from making distance sales of alcohol and alcoholic beverages to consumers located in a different EU country.**

Please select ALL that apply

Excise duty stamps required in Country of Destination	<input type="checkbox"/> 1
Health markings required in Country of Destination	<input type="checkbox"/> 2
Verification of the age of the consumer required in Country of Destination	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 98

**If other, please specify in the box provided.**

**Q12)[Mandatory question]** In the country you operate in, are you aware of regulations in place with regards to declaring excise duty on cross-border distance sales to other EU countries?

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 2 at Q12

**Q12\_A)**In the previous question, you stated that you are not aware of regulations in place in the EU country you operate in with regards to declaring excise duty on cross-border distance sales to other EU countries. What makes you say that?

Please select ALL that apply

I have not engaged with this topic	<input type="checkbox"/> 1
No information easily accessible regarding this topic	<input type="checkbox"/> 2
I have a tax specialist/advisor that deals with excise related issues	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 98

**If other, please specify in the box provided.**

**Q13)[Mandatory question]** In the country you work in, are you aware of any businesses making cross-border distance sales transactions without declaring them in line with current regulations?

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask Q13\_A – Q13\_C to those that code 1 at Q13

**Q13\_A)**How common would you say this practice is amongst businesses?

Please select ONE only

Very common	<input type="checkbox"/> 1
Common	<input type="checkbox"/> 2
Neither common nor rare	<input type="checkbox"/> 3
Rare	<input type="checkbox"/> 4
Very rare	<input type="checkbox"/> 5
Don't know	<input type="checkbox"/> 98

**Q13\_B) Can you estimate, on average, what proportion of cross-border distance sales are not declared by businesses?**

*Please select ONE only.*

1-10%	<input type="checkbox"/> 1
11-20%	<input type="checkbox"/> 2
21-30%	<input type="checkbox"/> 3
31-40%	<input type="checkbox"/> 4
41-50%	<input type="checkbox"/> 5
51-75%	<input type="checkbox"/> 6
Over 75%	<input type="checkbox"/> 7
Don't know	<input type="checkbox"/> 98

**Q13\_C) In your opinion, has this practice become more common, less common, or broadly stayed the same over the past five years?**

*Please select ONE only*

More common	<input type="checkbox"/> 1
Broadly stayed the same	<input type="checkbox"/> 2
Less common	<input type="checkbox"/> 3
Don't know	<input type="checkbox"/> 98

**Q14) [Mandatory question] Now thinking about regulations in place regarding cross-border distance sales, how strictly enforced are they in the country you work in?**

*Please select ONE only*

Never enforced	<input type="checkbox"/> 1
Occasionally enforced	<input type="checkbox"/> 2
Always enforced	<input type="checkbox"/> 3
Don't know	<input type="checkbox"/> 98

**Q14\_A) [Mandatory question] Are you aware of penalties and/or fines inflicted on businesses for not complying with the regulations in place with regards to cross-border distance sales?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

**Q15) [Mandatory question] Are your major competitors based in another EU country?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask Q16\_A to those that code 1 at Q15

**Q15\_A)[Mandatory question] What is the main factor that makes you competitive when selling to consumers in other EU countries?**

Please select ONE only

Price of products	<input type="checkbox"/> 1
Quality of products	<input type="checkbox"/> 2
Availability of products	<input type="checkbox"/> 3
Convenience for consumers	<input type="checkbox"/> 4
Other (please specify)	<input type="checkbox"/> 94

**If other, please specify in the box provided.**

--

NOTE: only ask Q15\_Ax to those that code 1 at Q15\_A

**Q15\_Ax) In your opinion, are price differences from higher excise duties in the EU country where you operate making it more difficult to compete with businesses located in other EU countries?**

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

## Core distance selling 2

Section to be asked to those that coded 1 , 2 and 3 at D1 **AND** Code 1 at S8 **AND** Code 2 at S12

**Q16)[Mandatory question] Would you consider selling alcohol and alcoholic beverages to consumers located in another EU country?**

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q16

**Q16\_A) What is the main reason you don't currently sell alcohol and alcoholic beverages to consumers located in another EU country?**

Please select ALL that apply

Unsure how to	<input type="checkbox"/> 1
Language barriers	<input type="checkbox"/> 2



Difficult to identify a tax representative	<input type="checkbox"/> 3
Costs of tax representative too high	<input type="checkbox"/> 4
Other (please specify)	<input type="checkbox"/> 94

**If other, please specify in the box provided.**

NOTE: only ask those that code 2 at Q16

**Q16\_B) Why not?**

*Please select ALL that apply*

Unsure how to	<input type="checkbox"/> 1
Language barriers	<input type="checkbox"/> 2
Difficult to identify a tax representative	<input type="checkbox"/> 3
Costs of tax representative too high	<input type="checkbox"/> 4
Other (please specify)	<input type="checkbox"/> 94

**If other, please specify in the box provided.**

**Core wholesale to retail section 1**

Section to be asked to those that coded Codes 1, 2 or 3 at D1 **AND** Codes 3, 4 or 5 @ S6 and Code 2 @ S7

**Q17) [Mandatory question] Would your business consider purchasing any of these excise goods for your business from businesses located in another EU country?**

*Please select ONE option for each category*

		Yes	No	Don't know
1	Beer	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 98
2	Cider	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 98
3	Still wine	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 98
4	Sparkling wine	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 98
5	Intermediate products, e.g. fortified wine	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 98
6	Spirits (including liqueurs)	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 98
7	Cigarettes	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 98
8	Other tobacco products	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 98
9	Unleaded Petrol	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 98
10	Other energy products	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 98

**Q17\_A) [Mandatory question]** What is the main reason for you to not purchase excise goods for your business from businesses located in another EU country?

**Alcohol and alcoholic beverages**

Please select ALL that apply

Administrative burden related to cross-border sales	<input type="checkbox"/> 1
Domestic/local availability of products	<input type="checkbox"/> 2
Domestic/local products are cheaper	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 98

**If other, please specify in the box provided.**

**Tobacco products**

Please select ALL that apply

Administrative burden related to cross-border sales	<input type="checkbox"/> 1
Domestic/local availability of products	<input type="checkbox"/> 2
Domestic/local products are cheaper	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 98

**If other, please specify in the box provided.**

**Energy products**

Please select ALL that apply

Administrative burden related to cross-border sales	<input type="checkbox"/> 1
Domestic/local availability of products	<input type="checkbox"/> 2
Domestic/local products are cheaper	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 98

**If other, please specify in the box provided.**

**Q17\_Ax) [Mandatory question]** What percentage of your purchases of excise goods would you make from businesses located in another EU country in the absence of such an administrative burden?

Please insert a numeric value in each box (%)

**Alcohol and alcoholic beverages**

**Tobacco products**

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**Energy products**

**Core wholesale to retail section 2**

Section to be asked to those that Codes 1, 2 or 3 at D1 **AND** Codes 3, 4 or 5 @ S6 and Code 1 @ S7

**Alcohol**

**Q18\_A)[Mandatory question]** Please provide an estimate of the volume and value of excise goods bought from businesses located in a different EU country in the last 12 months?

*Please insert a numeric value in each box  
Please enter a zero if no volume is applicable*

	Value bought (€)	Volume bought (l)	Don't know	I don't purchase this product
Beer			<input type="checkbox"/> 98	<input type="checkbox"/> 99
Cider			<input type="checkbox"/> 98	<input type="checkbox"/> 99
Still wine			<input type="checkbox"/> 98	<input type="checkbox"/> 99
Sparkling wine			<input type="checkbox"/> 98	<input type="checkbox"/> 99
Intermediate products, e.g. fortified wine			<input type="checkbox"/> 98	<input type="checkbox"/> 99
Spirits (including Liqueurs)			<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q19\_A)[Mandatory question]** Please provide an estimate of what you believe to be the annual % change in the volume/value of excise goods you expect to purchase from businesses located in a different EU country in the next three years.

*Please insert a numeric value in the box provided  
Enter in negative percentage if you expect it to decrease*

	% Change per annum	Don't know	I don't purchase this product
Beer		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Cider		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Still wine		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Sparkling wine		<input type="checkbox"/> 98	<input type="checkbox"/> 99

Intermediate products, e.g. fortified wine		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Spirits (including Liqueurs)		<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q20\_A) [Mandatory question] What is the average volume of a transaction for alcohol products?**

Please insert a numeric value in the box provided

Please enter a zero if no volume is applicable

	Average volume (l)	Don't know
Beer		<input type="checkbox"/> 98
Cider		<input type="checkbox"/> 98
Still wine		<input type="checkbox"/> 98
Sparkling wine		<input type="checkbox"/> 98
Intermediate products, e.g. fortified wine		<input type="checkbox"/> 98
Spirits (including Liqueurs)		<input type="checkbox"/> 98

**Tobacco**

**Q18\_T)[Mandatory question] Please provide an estimate of the volume/value of excise goods bought from businesses located in a different EU country in the last 12 months?**

Please insert a numeric value in each box

Please enter a zero if no volume is applicable

	Value bought (€)	Standard cigarette equivalent	20 carton/	Don't know	I don't purchase this product
Cigarettes				<input type="checkbox"/> 98	<input type="checkbox"/> 99
	Value bought (€)	Number of transactions	of	Don't know	I don't purchase this product
Other tobacco products				<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q19\_T)[Mandatory question] Please provide an estimate of what you believe to be the annual % change in the volume/value of excise goods you expect to purchase from businesses located in a different EU country in the next three years.**

Please insert a numeric value in the box provided

Enter in negative percentage if you expect it to decrease

	% Change per annum	Don't know	I don't purchase this product
Cigarettes		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Other tobacco products		<input type="checkbox"/> 98	<input type="checkbox"/> 99

## Energy

**Q18\_E)[Mandatory question]** Please provide an estimate of the volume/value of excise goods bought from businesses located in a different EU country in the last 12 months?

Please insert a numeric value in each box

Please enter a zero if no volume is applicable

	Value bought (€)	Volume (l)	Don't know	I don't purchase this product
Unleaded petrol			<input type="checkbox"/> 98	<input type="checkbox"/> 99
Other energy products			<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q19\_E)[Mandatory question]** Please provide an estimate of what you believe to be the annual % change in the volume/value of excise goods you expect to purchase from businesses located in a different EU country in the next three years.

Please insert a numeric value in the box provided

Enter in negative percentage if you expect it to decrease

	% Change per annum	Don't know	I don't purchase this product
Unleaded petrol		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Other energy products		<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q20) [Mandatory question]** Typically how much time do you take to make a report of receipt of excise goods for each consignment received from another EU country?

10 minutes or less	<input type="checkbox"/> 1
11 - 30 minutes	<input type="checkbox"/> 2
31 - 60 minutes	<input type="checkbox"/> 3
1 - 2 hours	<input type="checkbox"/> 4
2 - 3 hours	<input type="checkbox"/> 5
3 - 4 hours	<input type="checkbox"/> 6
4 - 6 hours	<input type="checkbox"/> 7
6 - 8 hours	<input type="checkbox"/> 8
Don't know	<input type="checkbox"/> 98

**Q21) [Mandatory question]** Typically, how much time do you take to complete all other administrative procedures (e.g. processing and payment of excise) for each consignment received from another EU country?

10 minutes or less	<input type="checkbox"/> 1
11 - 30 minutes	<input type="checkbox"/> 2
31 - 60 minutes	<input type="checkbox"/> 3
1 - 2 hours	<input type="checkbox"/> 4
2 - 3 hours	<input type="checkbox"/> 5
3 - 4 hours	<input type="checkbox"/> 6
4 - 6 hours	<input type="checkbox"/> 7
6 - 8 hours	<input type="checkbox"/> 8
Don't know	<input type="checkbox"/> 98

**Q22)[Mandatory question]** On average, does it take you longer to comply with administrative procedures when purchasing from a producer or wholesaler in another EU country than in your own country?

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q22

**Q22\_A)** Typically, how much time do you take to complete all administrative procedures for each consignment received from within your own country?

10 minutes or less	<input type="checkbox"/> 1
11 - 30 minutes	<input type="checkbox"/> 2
31 - 60 minutes	<input type="checkbox"/> 3
1 - 2 hours	<input type="checkbox"/> 4
2 - 3 hours	<input type="checkbox"/> 5
3 - 4 hours	<input type="checkbox"/> 6
4 - 6 hours	<input type="checkbox"/> 7
6 - 8 hours	<input type="checkbox"/> 8
Don't know	<input type="checkbox"/> 98

### Core wholesale to retail section 3

Section to be asked to those that respond Codes 1, 2 or 3 at D1 **AND** Code 2 @ S8 **AND** Code 1 @ S14

**Q23)[Mandatory question]** Which of the following products do you sell to businesses located in a different EU country?

Please select ALL that apply

Beer	<input type="checkbox"/> 1
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Cider	<input type="checkbox"/> 2
Still wine	<input type="checkbox"/> 3
Sparkling wine	<input type="checkbox"/> 4
Intermediate products, e.g. fortified wine	<input type="checkbox"/> 5
Spirits(including liqueurs	<input type="checkbox"/> 6
Cigarettes	<input type="checkbox"/> 7
Other tobacco products	<input type="checkbox"/> 8
Unleaded petrol	<input type="checkbox"/> 9
Other energy Products	<input type="checkbox"/> 10

NOTE: only ask those that code 1-6 at Q23

### Alcohol

#### Q23\_A) Please provide an estimate of the volume and value of excise goods sold to businesses located in a different EU country in the last 12 months:

Please insert a numeric value in each box

Please enter a zero if no volume is applicable

	Value bought (€)	Volume bought (l)	Don't know	I don't purchase this product
Beer			<input type="checkbox"/> 98	<input type="checkbox"/> 99
Cider			<input type="checkbox"/> 98	<input type="checkbox"/> 99
Still wine			<input type="checkbox"/> 98	<input type="checkbox"/> 99
Sparkling wine			<input type="checkbox"/> 98	<input type="checkbox"/> 99
Intermediate products, e.g. fortified wine			<input type="checkbox"/> 98	<input type="checkbox"/> 99
Spirits (including Liqueurs)			<input type="checkbox"/> 98	<input type="checkbox"/> 99

#### Q23\_A calculations) [Mandatory Question] Based on your response, you sell a...

	Yes	No
litre of beer for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of cider for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of still wine for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of sparkling wine for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of intermediate products, e.g. fortified wine for an average price of ___euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2
litre of spirits for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2

NOTE: only ask those that code 7 and 8 at Q23

**Tobacco**

**Q23\_T) Please provide an estimate of the volume/value of excise goods sold to businesses located in a different EU country in the last 12 months?**

Please insert a numeric value in each box  
Please enter a zero if no volume is applicable

	Value bought (€)	Standard 20 cigarette carton/ equivalent	Don't know
Cigarettes			<input type="checkbox"/> 98
	Value bought (€)	Number of transactions	Don't know
Other tobacco products			<input type="checkbox"/> 98

**Q23\_Tcalculations) [Mandatory Question] Based on your response, you sell a...**

	Yes	No
Standard 200 cigarette carton, or equivalent of cigarettes for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2

NOTE: only ask those that code 9 and 10 at Q23

**Energy**

**Q23\_E) Please provide an estimate of the volume/value of excise goods sold to businesses located in a different EU country in the last 12 months?**

Please insert a numeric value in each box. Please enter a zero if no volume is applicable

	Value bought (€)	Volume (l)	Don't know
Unleaded petrol			<input type="checkbox"/> 98
	Value bought (€)	Number of transactions	Don't know
Other energy products			<input type="checkbox"/> 98

**Q23\_Ecalculations) [Mandatory Question] Based on your response, you sell a...**

	Yes	No
unit of unleaded petrol for an average price of ___ euros. Please can you confirm that this is correct.	<input type="checkbox"/> 1	<input type="checkbox"/> 2



**Alcohol**

**Q24\_A)[Mandatory Question]** Please provide an estimate of what you believe will be the annual % year on year change in volume/value of excise goods you expect to sell to businesses located in a different EU country in the next 12 months.

Please insert a numeric value in each box

Enter in negative percentage if you expect it to decrease

	Don't know	I don't sell this product
	<input type="checkbox"/> 97	<input type="checkbox"/> 98

**Q25\_A)[Mandatory Question]** Please provide an estimate of the typical number of orders you receive a month from businesses in another EU country.

Please insert a numeric value in each box

	No. of orders	Don't know	I don't purchase this product
Typical number of orders received containing beer		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Typical number of orders received containing cider		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Typical number of orders received containing still wine		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Typical number of orders received containing sparkling wine		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Typical number of orders received containing intermediate products, e.g. fortified wine		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Typical number of orders received containing spirits (including Liqueurs)		<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q26\_A) [Mandatory Question]** Please provide an estimate of the average size of order you receive for each of the following:

Please insert a numeric value in each box (l)

	Volume (l)	Don't know	I don't purchase this product
Beer		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Cider		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Still wine		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Sparkling wine		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Intermediate products, e.g. fortified wine		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Spirits (including Liqueurs)		<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q27\_A) [Mandatory question] Approximately how many EU countries do you sell alcoholic beverages to other than those you are based in?**

*If you do not sell this product, please select 'I don't sell this product' from the drop-down list*

I don't sell this product	<input type="checkbox"/> 99
1	<input type="checkbox"/> 1
2	<input type="checkbox"/> 2
3	<input type="checkbox"/> 3
4	<input type="checkbox"/> 4
5	<input type="checkbox"/> 5
6	<input type="checkbox"/> 6
7	<input type="checkbox"/> 7
8	<input type="checkbox"/> 8
9	<input type="checkbox"/> 9
10	<input type="checkbox"/> 10
11	<input type="checkbox"/> 11
12	<input type="checkbox"/> 12
13	<input type="checkbox"/> 13
14	<input type="checkbox"/> 14
15	<input type="checkbox"/> 15
16	<input type="checkbox"/> 16
17	<input type="checkbox"/> 17
18	<input type="checkbox"/> 18
19	<input type="checkbox"/> 19
20	<input type="checkbox"/> 20
21	<input type="checkbox"/> 21
22	<input type="checkbox"/> 22
23	<input type="checkbox"/> 23
24	<input type="checkbox"/> 24
25	<input type="checkbox"/> 25
26	<input type="checkbox"/> 26
27	<input type="checkbox"/> 27
Don't know	<input type="checkbox"/> 98

**Tobacco**

**Q24\_T)[Mandatory Question] In the next 12 months, what % change do you expect to see in the volume/value of excise goods sold to customers located in a different EU country?**

*Please insert a numeric value in each box*

*Enter in negative percentage if you expect it to decrease*

	Don't know	I don't sell this product
	<input type="checkbox"/> 97	<input type="checkbox"/> 98

**Q25\_T)[Mandatory Question] Please provide an estimate of the typical number of orders you receive a month:**

Please insert a numeric value in each box

	No. of orders	Don't know	I don't purchase this product
Cigarettes		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Other Tobacco products		<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q26\_T)[Mandatory Question] Please provide an estimate of the average size of order you receive for each of the following:**

Please insert a numeric value in each box (l)

	Standard 200 cigarette cartons or equivalent	Don't know	I don't purchase this product
Cigarettes		<input type="checkbox"/> 98	<input type="checkbox"/> 99
	no. of transactions	Don't know	I don't purchase this product
Other tobacco products		<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q27\_T) [Mandatory question] Approximately how many EU countries do you sell tobacco products to other than those you are based in?**

If you do not sell this product, please select 'I don't sell this product' from the drop-down list

I don't sell this product	<input type="checkbox"/> 99
1	<input type="checkbox"/> 1
2	<input type="checkbox"/> 2
3	<input type="checkbox"/> 3
4	<input type="checkbox"/> 4
5	<input type="checkbox"/> 5
6	<input type="checkbox"/> 6
7	<input type="checkbox"/> 7
8	<input type="checkbox"/> 8
9	<input type="checkbox"/> 9
10	<input type="checkbox"/> 10
11	<input type="checkbox"/> 11
12	<input type="checkbox"/> 12
13	<input type="checkbox"/> 13
14	<input type="checkbox"/> 14
15	<input type="checkbox"/> 15
16	<input type="checkbox"/> 16
17	<input type="checkbox"/> 17

18	<input type="checkbox"/> 18
19	<input type="checkbox"/> 19
20	<input type="checkbox"/> 20
21	<input type="checkbox"/> 21
22	<input type="checkbox"/> 22
23	<input type="checkbox"/> 23
24	<input type="checkbox"/> 24
25	<input type="checkbox"/> 25
26	<input type="checkbox"/> 26
27	<input type="checkbox"/> 27

### Energy Products

**Q24\_E) [Mandatory Question]** Please provide an estimate of the annual % change in the volume/value of excise goods you expect to sell to businesses located in a different EU country over the next 12 months.

Please insert a numeric value in each box

Enter in negative percentage if you expect it to decrease

	Don't know	I don't sell this product
	<input type="checkbox"/> 97	<input type="checkbox"/> 98

**Q25\_E)[Mandatory Question]** Please provide an estimate of the typical number of orders you receive a month:

Please insert a numeric value in each box

	No. of orders	Don't know	I don't purchase this product
Typical number of orders received containing unleaded petrol		<input type="checkbox"/> 98	<input type="checkbox"/> 99
Typical number of orders received containing other energy products		<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q26\_E)[Mandatory Question]** Please provide an estimate of the average size of order you receive for each of the following:

Please insert a numeric value in each box (l)

	Volume (l)	Don't know	I don't purchase this product
Unleaded petrol		<input type="checkbox"/> 98	<input type="checkbox"/> 99
	no. of transactions	Don't know	I don't purchase this product
Other Energy products		<input type="checkbox"/> 98	<input type="checkbox"/> 99

**Q27\_E) [Mandatory question] Approximately how many EU countries do you sell energy products to other than those you are based in?**

*If you do not sell this product, please select 'I don't sell this product' from the drop-down list*

I don't sell this product	<input type="checkbox"/> 99
1	<input type="checkbox"/> 1
2	<input type="checkbox"/> 2
3	<input type="checkbox"/> 3
4	<input type="checkbox"/> 4
5	<input type="checkbox"/> 5
6	<input type="checkbox"/> 6
7	<input type="checkbox"/> 7
8	<input type="checkbox"/> 8
9	<input type="checkbox"/> 9
10	<input type="checkbox"/> 10
11	<input type="checkbox"/> 11
12	<input type="checkbox"/> 12
13	<input type="checkbox"/> 13
14	<input type="checkbox"/> 14
15	<input type="checkbox"/> 15
16	<input type="checkbox"/> 16
17	<input type="checkbox"/> 17
18	<input type="checkbox"/> 18
19	<input type="checkbox"/> 19
20	<input type="checkbox"/> 20
21	<input type="checkbox"/> 21
22	<input type="checkbox"/> 22
23	<input type="checkbox"/> 23
24	<input type="checkbox"/> 24
25	<input type="checkbox"/> 25
26	<input type="checkbox"/> 26
27	<input type="checkbox"/> 27
Don't know	<input type="checkbox"/> 98

**Alcohol**

**Q28\_A)[Mandatory question] Besides the country or countries your business is based in, which are your top EU markets for selling excise goods to businesses?**

*Please select up to 5 countries*

*If you don't know, please select '**Don't know**' in the 1<sup>st</sup> mention*

1st	2nd	3rd	4th	5th
<i>Please select from list</i>	<i>Please select from list</i>	<i>Please select from list</i>	<i>Please select from list</i>	<i>Please select from list</i>

Drop down list

Austria	<input type="checkbox"/> 1	Ireland	<input type="checkbox"/> 14	Sweden	<input type="checkbox"/> 27
Belgium	<input type="checkbox"/> 2	Italy	<input type="checkbox"/> 15	United Kingdom	<input type="checkbox"/> 28
Bulgaria	<input type="checkbox"/> 3	Latvia	<input type="checkbox"/> 16	Don't know	<input type="checkbox"/> 98
Croatia	<input type="checkbox"/> 4	Lithuania	<input type="checkbox"/> 17		
Cyprus	<input type="checkbox"/> 5	Luxembourg	<input type="checkbox"/> 18		
Czech Republic	<input type="checkbox"/> 6	Malta	<input type="checkbox"/> 19		
Denmark	<input type="checkbox"/> 7	Netherlands	<input type="checkbox"/> 20		
Estonia	<input type="checkbox"/> 8	Poland	<input type="checkbox"/> 21		
Finland	<input type="checkbox"/> 9	Portugal	<input type="checkbox"/> 22		
France	<input type="checkbox"/> 10	Romania	<input type="checkbox"/> 23		
Germany	<input type="checkbox"/> 11	Slovakia	<input type="checkbox"/> 24		
Greece	<input type="checkbox"/> 12	Slovenia	<input type="checkbox"/> 25		
Hungary	<input type="checkbox"/> 13	Spain	<input type="checkbox"/> 26		

**Tobacco**

**Q28\_T)[Mandatory question] Besides the country or countries your business is based in, which are your top EU markets for selling excise goods to businesses?**

Please select up to 5 countries

If you don't know, please select '**Don't know**' in the 1<sup>st</sup> mention

1st	2nd	3rd	4th	5th
Please select from list	Please select from list	Please select from list	Please select from list	Please select from list

Drop down list

Austria	<input type="checkbox"/> 1	Ireland	<input type="checkbox"/> 14	Sweden	<input type="checkbox"/> 27
Belgium	<input type="checkbox"/> 2	Italy	<input type="checkbox"/> 15	United Kingdom	<input type="checkbox"/> 28
Bulgaria	<input type="checkbox"/> 3	Latvia	<input type="checkbox"/> 16	Don't know	<input type="checkbox"/> 98
Croatia	<input type="checkbox"/> 4	Lithuania	<input type="checkbox"/> 17		
Cyprus	<input type="checkbox"/> 5	Luxembourg	<input type="checkbox"/> 18		
Czech Republic	<input type="checkbox"/> 6	Malta	<input type="checkbox"/> 19		
Denmark	<input type="checkbox"/> 7	Netherlands	<input type="checkbox"/> 20		
Estonia	<input type="checkbox"/> 8	Poland	<input type="checkbox"/> 21		
Finland	<input type="checkbox"/> 9	Portugal	<input type="checkbox"/> 22		
France	<input type="checkbox"/> 10	Romania	<input type="checkbox"/> 23		
Germany	<input type="checkbox"/> 11	Slovakia	<input type="checkbox"/> 24		
Greece	<input type="checkbox"/> 12	Slovenia	<input type="checkbox"/> 25		
Hungary	<input type="checkbox"/> 13	Spain	<input type="checkbox"/> 26		

**Energy products**

**Q28\_E)[Mandatory question] Besides the country or countries your business is based in, which are your top EU markets for selling excise goods to businesses?**

Please select up to 5 countries

If you don't know, please select '**Don't know**' in the 1<sup>st</sup> mention

1st	2nd	3rd	4th	5th
<i>Please select from list</i>	<i>Please select from list</i>	<i>Please select from list</i>	<i>Please select from list</i>	<i>Please select from list</i>

*Drop down list*

Austria	<input type="checkbox"/> 1	Ireland	<input type="checkbox"/> 14	Sweden	<input type="checkbox"/> 27
Belgium	<input type="checkbox"/> 2	Italy	<input type="checkbox"/> 15	United Kingdom	<input type="checkbox"/> 28
Bulgaria	<input type="checkbox"/> 3	Latvia	<input type="checkbox"/> 16	Don't know	<input type="checkbox"/> 98
Croatia	<input type="checkbox"/> 4	Lithuania	<input type="checkbox"/> 17		
Cyprus	<input type="checkbox"/> 5	Luxembourg	<input type="checkbox"/> 18		
Czech Republic	<input type="checkbox"/> 6	Malta	<input type="checkbox"/> 19		
Denmark	<input type="checkbox"/> 7	Netherlands	<input type="checkbox"/> 20		
Estonia	<input type="checkbox"/> 8	Poland	<input type="checkbox"/> 21		
Finland	<input type="checkbox"/> 9	Portugal	<input type="checkbox"/> 22		
France	<input type="checkbox"/> 10	Romania	<input type="checkbox"/> 23		
Germany	<input type="checkbox"/> 11	Slovakia	<input type="checkbox"/> 24		
Greece	<input type="checkbox"/> 12	Slovenia	<input type="checkbox"/> 25		
Hungary	<input type="checkbox"/> 13	Spain	<input type="checkbox"/> 26		

**Q29)[Mandatory question] Do you send single shipments containing both excise and non-excise goods?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q2

**Q30) Does this result in additional administrative processes?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q30

**Q30\_A) Typically how much time do you or your staff spend on this administration process for each shipment?**

*Please select one answer*

10 minutes or less	<input type="checkbox"/> 1
11 - 30 minutes	<input type="checkbox"/> 2
31 - 60 minutes	<input type="checkbox"/> 3

1 - 2 hours	<input type="checkbox"/> 4
2 - 3 hours	<input type="checkbox"/> 5
3 - 4 hours	<input type="checkbox"/> 6
4 - 6 hours	<input type="checkbox"/> 7
6 - 8 hours	<input type="checkbox"/> 8
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q30

**Q30\_B) How many such shipments do you generally send per month?**

*Please insert a numeric value in the box*

	Don't know
	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q30

**Q30\_C) If this administrative process did not exist, would you send more single shipments to both businesses and consumers?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q30

**Q30\_Cx) Approximately how many more single shipments would you send to both businesses and consumers?**

*Please select ONE only.*



0-10%	<input type="checkbox"/> 1
11%-20%	<input type="checkbox"/> 2
21%-30%	<input type="checkbox"/> 3
31%-40%	<input type="checkbox"/> 4
41%-50%	<input type="checkbox"/> 5
51%-60%	<input type="checkbox"/> 6
61%-70%	<input type="checkbox"/> 7
71%-80%	<input type="checkbox"/> 8
81%-90%	<input type="checkbox"/> 9
91%-100%	<input type="checkbox"/> 10
Other (please specify)	<input type="checkbox"/> 94
Don't know	<input type="checkbox"/> 98

**If other, please specify in the box provided**

**Q31) [Mandatory question] Do you ship single shipments to both businesses and consumers?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q31

**Q32) Does this result in additional administrative processes?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q32

**Q32\_A) Typically, how much time do you spend per transaction on administration for cross-border distance sales?**

*Please select ONE only*

10 minutes or less	<input type="checkbox"/> 1
11 - 30 minutes	<input type="checkbox"/> 2
31 - 60 minutes	<input type="checkbox"/> 3
1 - 2 hours	<input type="checkbox"/> 4
2 - 3 hours	<input type="checkbox"/> 5
3 - 4 hours	<input type="checkbox"/> 6
4 - 6 hours	<input type="checkbox"/> 7
6 - 8 hours	<input type="checkbox"/> 8
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q32

**Q32\_B) How many such shipments do you send per month?**

*Please insert a numeric value in the box*

	Don't know
	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q32

**Q32\_C) If this administrative process did not exist, would you send more single shipments to both businesses and consumers?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q32\_C

**Q32\_Cx) [Mandatory question] Approximately how many more?**

*Please select ONE only.*

0-10%	<input type="checkbox"/> 1
11%-20%	<input type="checkbox"/> 2
21%-30%	<input type="checkbox"/> 3
31%-40%	<input type="checkbox"/> 4
41%-50%	<input type="checkbox"/> 5
51%-60%	<input type="checkbox"/> 6
61%-70%	<input type="checkbox"/> 7
71%-80%	<input type="checkbox"/> 8
81%-90%	<input type="checkbox"/> 9
91%-100%	<input type="checkbox"/> 10
Other (please specify)	<input type="checkbox"/> 94
Don't know	<input type="checkbox"/> 98

**Q33) [Mandatory question]** Typically, how much time do you spend per transaction to complete the administrative procedures associated with selling excise goods to a business located in a different EU country?

Please select ONE only

10 minutes or less	<input type="checkbox"/> 1
11 - 30 minutes	<input type="checkbox"/> 2
31 - 60 minutes	<input type="checkbox"/> 3
1 - 2 hours	<input type="checkbox"/> 4
2 - 3 hours	<input type="checkbox"/> 5
3 - 4 hours	<input type="checkbox"/> 6
4 - 6 hours	<input type="checkbox"/> 7
6 - 8 hours	<input type="checkbox"/> 8
Don't know	<input type="checkbox"/> 98

**Q33) [Mandatory question]** Do you commission a tax specialist or advisor to handle administrative procedures associated with selling excise goods to a retailer located in another EU country?

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q33

**Q33\_A)What is the average cost per transaction associated with commissioning such a tax specialist or advisor?**

Please insert a numeric value in the box

	Don't know
	<input type="checkbox"/> 98

**Q34) [Mandatory question]** Are you aware of regulations in your own country regarding declaring excise duty on sales to businesses located in other EU countries?

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 2 at Q34

**Q34\_A) In the previous question, you stated that you are not aware of regulations in place in the EU country you operate in with regards to declaring excise duty on sales to businesses located in other EU countries. What makes you say that?**

*Please select ONE only*

I have not engaged with this topic	<input type="checkbox"/> 1
No information easily accessible regarding this topic	<input type="checkbox"/> 2
I have a tax specialist/advisor that deals with excise related issues	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 94

**If other, please specify in the box provided**

**Q35) [Mandatory question] Are you aware of any businesses making cross-border sales to other businesses without declaring them in line with current regulations?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q35

**Q35\_A) At the present time how common would you say this practice is amongst businesses?**

*Please select ONE only*

Very common	<input type="checkbox"/> 1
Common	<input type="checkbox"/> 2
Neither common nor rare	<input type="checkbox"/> 3
Rare	<input type="checkbox"/> 4
Very rare	<input type="checkbox"/> 5
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q35

**Q35\_B) Approximately how many more?**

*Please select ONE only.*

0-10%	<input type="checkbox"/> 1
11%-20%	<input type="checkbox"/> 2
21%-30%	<input type="checkbox"/> 3
31%-40%	<input type="checkbox"/> 4
41%-50%	<input type="checkbox"/> 5

51%-60%	<input type="checkbox"/> 6
61%-70%	<input type="checkbox"/> 7
71%-80%	<input type="checkbox"/> 8
81%-90%	<input type="checkbox"/> 9
91%-100%	<input type="checkbox"/> 10
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q35

**Q35\_C) In your opinion, has this practice become more common, less common, or broadly stayed the same over the past five years?**

*Please select ONE only*

More common	<input type="checkbox"/> 1
Broadly stayed the same	<input type="checkbox"/> 2
Less common	<input type="checkbox"/> 3
Don't know	<input type="checkbox"/> 98

**Q36) [Mandatory question] Has the tax or customs administration in your country enquired about businesses in your supply chain, in relation to excise goods?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q36

**Q36\_A) Have these been related to cross-border supply chains?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q36\_A

**Q36\_Ax) How many such inquiries have you received over the past 12 months?**

*Please insert a numeric value in the box*

	Don't know
	<input type="checkbox"/> 98

**Q37) [Mandatory question]** Has the tax or customs administration in another country inquired about businesses you supply in relation to excise goods?

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q37

**Q37\_A) Have these been related to cross-border supply chains?**

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q37\_A

**Q37\_Ax) How many such inquiries have you received over the past 12 months?**

Please insert a numeric value in the box

	Don't know
	<input type="checkbox"/> 98

**Q38)[Mandatory question]** In your opinion, how strictly enforced are regulations in place in your own country with regards to sales to businesses located in other EU countries?

Please select ONE only

Never enforced	<input type="checkbox"/> 1
Occasionally enforced	<input type="checkbox"/> 2
Always enforced	<input type="checkbox"/> 3
Don't know	<input type="checkbox"/> 98

**Q39)[Mandatory question]** Are you aware of the costs associated with non-compliance of the regulations in place with regards to sales to businesses located in other EU countries?

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

**Q40)[Mandatory question]** Based on your own knowledge, please provide the average cost in euros imposed for not complying with regulations in place.

Please insert a numeric value in the box

	Don't know
	<input type="checkbox"/> 98

**Q41)[Mandatory question]** Are your major competitors based in another EU country?

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask Q41\_A to those that code 1 at Q41

**Q41\_A)[Mandatory question]** What is the main factor that makes you competitive when selling to businesses in other EU countries?

Please select ONE only

Price of products	<input type="checkbox"/> 1
Quality of products	<input type="checkbox"/> 2
Availability of products	<input type="checkbox"/> 3
Convenience for consumers	<input type="checkbox"/> 4
Other (please specify)	<input type="checkbox"/> 94

If other, please specify in the box provided.

--

NOTE: only ask Q46\_Ax to those that code 1 at Q46\_A

**Q41\_Ax)**In your opinion, are price differences from higher excise duties in the EU country where you operate making it more difficult to compete with businesses located in other EU countries?

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

#### Core wholesale to retail section 4

Section to be asked to those that respond Codes 1, 2 or 3 at D1 **AND** Code 2 @ S8 **AND** Code 2 @ S14

**Q42)[Mandatory question] If you would consider selling excise goods to businesses located in another EU country, what would be most likely countries you would sell to?**

Please select up to 3 countries

If you don't know, please select '**Don't know**'

If you **would not consider** selling excise goods to another country, please select '**Would not consider selling**'

1st	2nd	3rd	4th	5th
Please select from list	Please select from list	Please select from list	Please select from list	Please select from list

Drop down list

Austria	<input type="checkbox"/> 1	Ireland	<input type="checkbox"/> 14	Sweden	<input type="checkbox"/> 27
Belgium	<input type="checkbox"/> 2	Italy	<input type="checkbox"/> 15	United Kingdom	<input type="checkbox"/> 28
Bulgaria	<input type="checkbox"/> 3	Latvia	<input type="checkbox"/> 16	Don't know	<input type="checkbox"/> 98
Croatia	<input type="checkbox"/> 4	Lithuania	<input type="checkbox"/> 17		
Cyprus	<input type="checkbox"/> 5	Luxembourg	<input type="checkbox"/> 18		
Czech Republic	<input type="checkbox"/> 6	Malta	<input type="checkbox"/> 19		
Denmark	<input type="checkbox"/> 7	Netherlands	<input type="checkbox"/> 20		
Estonia	<input type="checkbox"/> 8	Poland	<input type="checkbox"/> 21		
Finland	<input type="checkbox"/> 9	Portugal	<input type="checkbox"/> 22		
France	<input type="checkbox"/> 10	Romania	<input type="checkbox"/> 23		
Germany	<input type="checkbox"/> 11	Slovakia	<input type="checkbox"/> 24		
Greece	<input type="checkbox"/> 12	Slovenia	<input type="checkbox"/> 25		
Hungary	<input type="checkbox"/> 13	Spain	<input type="checkbox"/> 26		

**Q43)[Mandatory question] Do you consider there to be an additional administrative burden associated with sales to businesses in another EU country?**

Please select ONE only

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2
Don't know	<input type="checkbox"/> 98

NOTE: only ask those that code 1 at Q43

**Q43\_A)To what extent does this influence your decision to sell to businesses in other EU countries?**

Please select ONE only

Yes to a great extent	<input type="checkbox"/> 1
Yes to some extent	<input type="checkbox"/> 2
No not at all	<input type="checkbox"/> 3

**Alcohol**



**Q44\_A) [Mandatory question] Why do you not sell the following excise goods to businesses located in another EU country? Alcohol and alcoholic beverages**

*Please select ONE only*

Administrative burden related to cross-border sales	<input type="checkbox"/> 1
Domestic/local availability of products	<input type="checkbox"/> 2
Domestic/local products are cheaper	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 94
Don't know	<input type="checkbox"/> 98

**If other, please specify in the box provided**

**Q45\_A) [Mandatory question] Please provide an estimate of how much higher your annual sales of alcohol and alcoholic beverages to businesses located in another EU country might have been over the past 12 months in the absence of this administrative burden.**

*Please select ONE only*

0% - 25%	<input type="checkbox"/> 1
26% - 50%	<input type="checkbox"/> 2
51% - 75%	<input type="checkbox"/> 3
76% - 100%	<input type="checkbox"/> 4
101% - 200%	<input type="checkbox"/> 5
201% - 300%	<input type="checkbox"/> 6
Other (please specify)	<input type="checkbox"/> 94
Don't know	<input type="checkbox"/> 98

**If other, please specify in the box provided**

**Tobacco**

**Q44\_T) [Mandatory question] Why do you not sell the following excise goods to businesses located in another EU country?**

*Please select ONE only*

Administrative burden related to cross-border sales	<input type="checkbox"/> 1
Domestic/local availability of products	<input type="checkbox"/> 2
Domestic/local products are cheaper	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 94
Don't know	<input type="checkbox"/> 98

**If other, please specify in the box provided**

**Q45\_T) [Mandatory question]** Please provide an estimate of how much higher your annual sales of tobacco products to businesses located in another EU country might have been over the past 12 months in the absence of this administrative burden

Please select ONE only

0% - 25%	<input type="checkbox"/> 1
26% - 50%	<input type="checkbox"/> 2
51% - 75%	<input type="checkbox"/> 3
76% - 100%	<input type="checkbox"/> 4
101% - 200%	<input type="checkbox"/> 5
201% - 300%	<input type="checkbox"/> 6
Other (please specify)	<input type="checkbox"/> 94
Don't know	<input type="checkbox"/> 98

**If other, please specify in the box provided**

### Energy

**Q44\_E) [Mandatory question]** Why do you not sell the following excise goods to businesses located in another EU country?

Please select ONE only

Administrative burden related to cross-border sales	<input type="checkbox"/> 1
Domestic/local availability of products	<input type="checkbox"/> 2
Domestic/local products are cheaper	<input type="checkbox"/> 3
Other (please specify)	<input type="checkbox"/> 94
Don't know	<input type="checkbox"/> 98

**If other, please specify in the box provided**

**Q45\_E) [Mandatory question]** Please provide an estimate of how much higher your annual sales of energy products to businesses located in another EU country might have been over the past 12 months in the absence of this administrative burden.

Please select ONE only

0% - 25%	<input type="checkbox"/> 1
26% - 50%	<input type="checkbox"/> 2
51% - 75%	<input type="checkbox"/> 3
76% - 100%	<input type="checkbox"/> 4
101% - 200%	<input type="checkbox"/> 5
201% - 300%	<input type="checkbox"/> 6
Other (please specify)	<input type="checkbox"/> 94

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Don't know	<input type="checkbox"/> 98
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**If other, please specify in the box provided**

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**Q46)[Mandatory question] Are you aware of any major competitors based in another EU country?**

*Please select ONE only*

Yes	<input type="checkbox"/> 1
No	<input type="checkbox"/> 2

NOTE: only ask those that code 1 at Q46

**Q46\_A)[Mandatory question] What is the main factor that makes you competitive when selling to consumers in other EU countries?**

*Please select ONE only*

Price of products	<input type="checkbox"/> 1
Quality of products	<input type="checkbox"/> 2
Availability of products	<input type="checkbox"/> 3
Convenience for consumers	<input type="checkbox"/> 4
Other (please specify)	<input type="checkbox"/> 94

**If other, please specify in the box provided**

--

**Final page**

Thank you for taking the time to answer our questions.

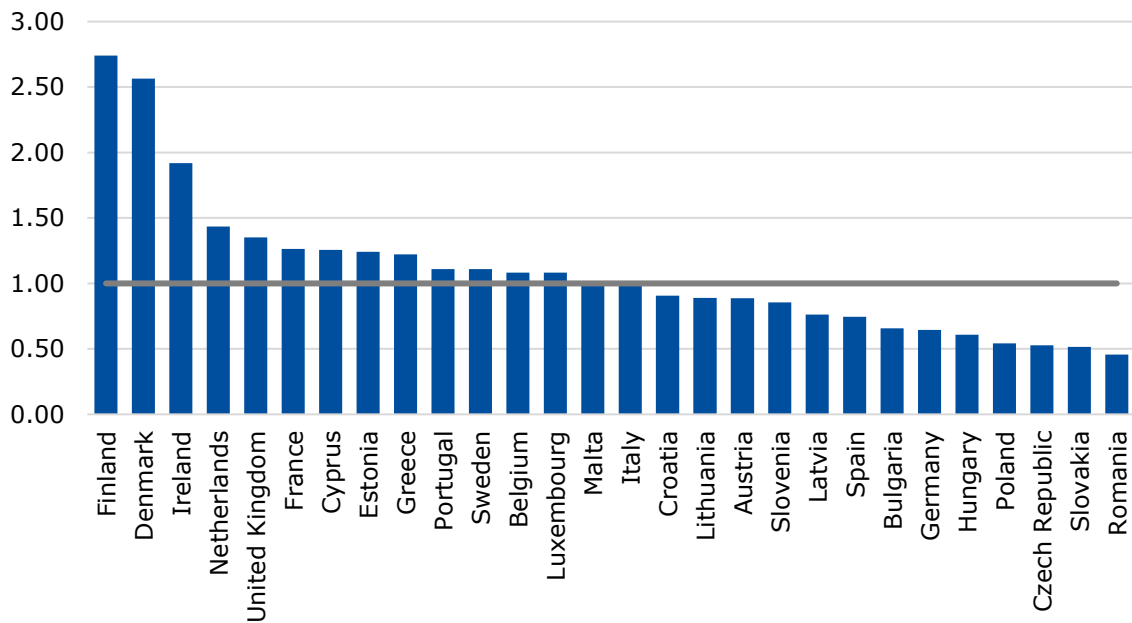
When you are ready, please close your browser window.

## Relative retail prices for key excise products

The figures below show the relative differences between the tax inclusive prices for each Member State and the median tax inclusive price, by product. This supports the analysis throughout the report, but particularly for the data analysis in Chapter 3.

Tax inclusive prices have been calculated using the different components of the retail price for each product: the tax exclusive price, excise, VAT and other indirect taxes (where relevant). A detailed explanation of the sources used in these calculations is provided in Chapter 3.

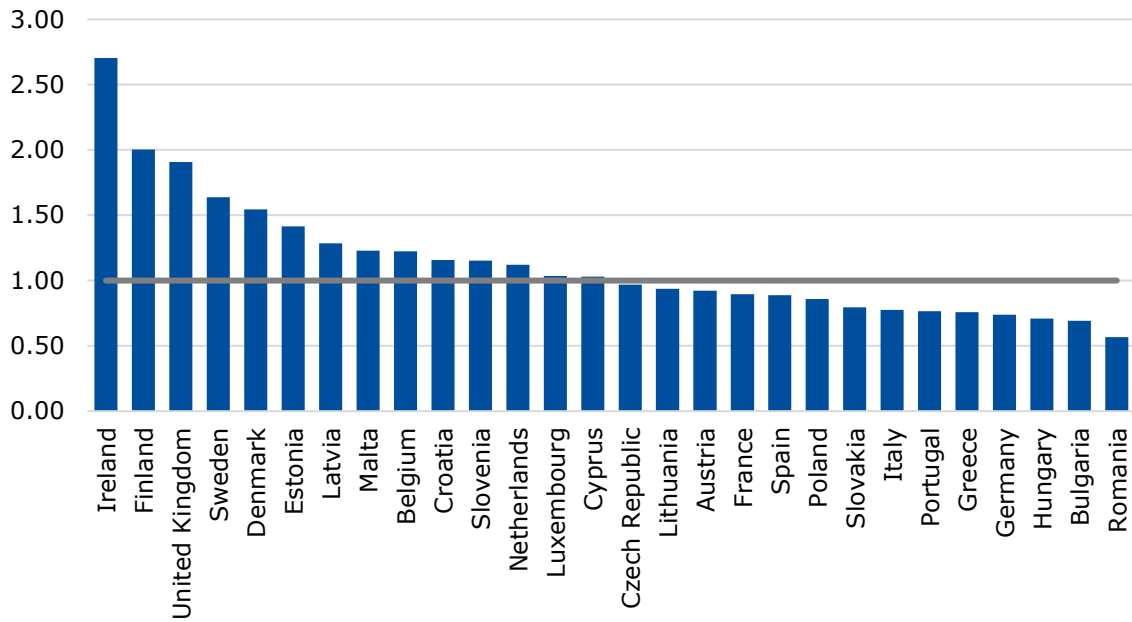
**Figure 64: Retail price of beer by Member State, relative to median (tax inclusive; median normalised at 1)**



**Source:** IWSR Global Database, Taxes in Europe Database, PwC Analysis

**Note:** figures are normalised, e.g. 0.50 is half the median value, and 2.00 is twice the median.

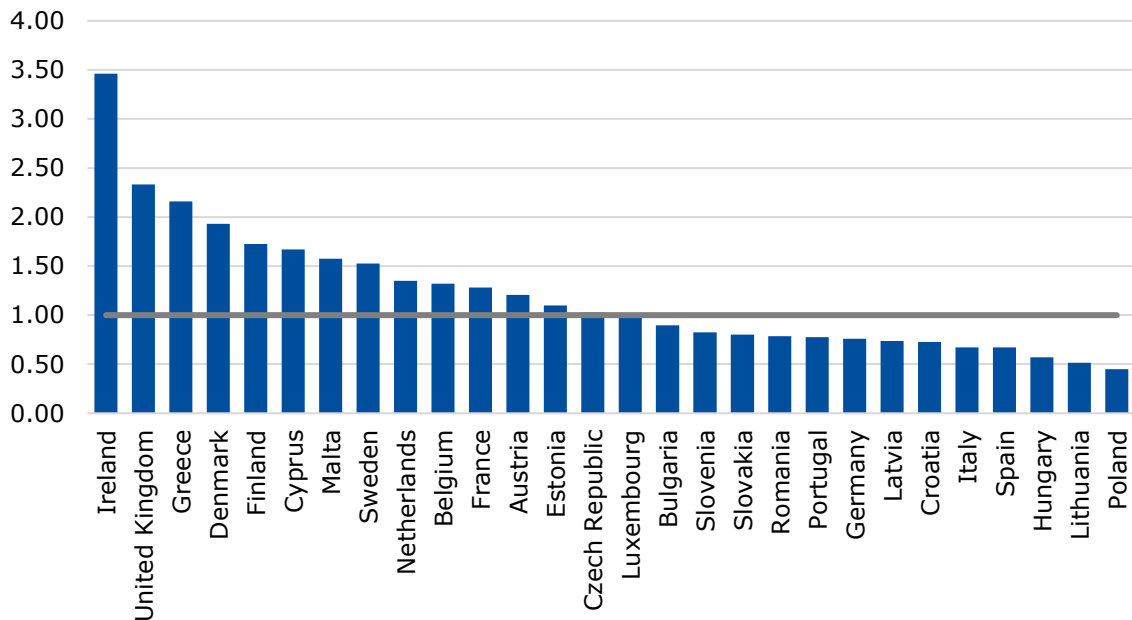
**Figure 65: Retail price of still wine by Member State, relative to median (tax inclusive; median normalised at 1)**



**Source:** IWSR Global Database, Taxes in Europe Database, PwC Analysis

**Note:** figures are normalised, e.g. 0.50 is half the median value, and 2.00 is twice the median.

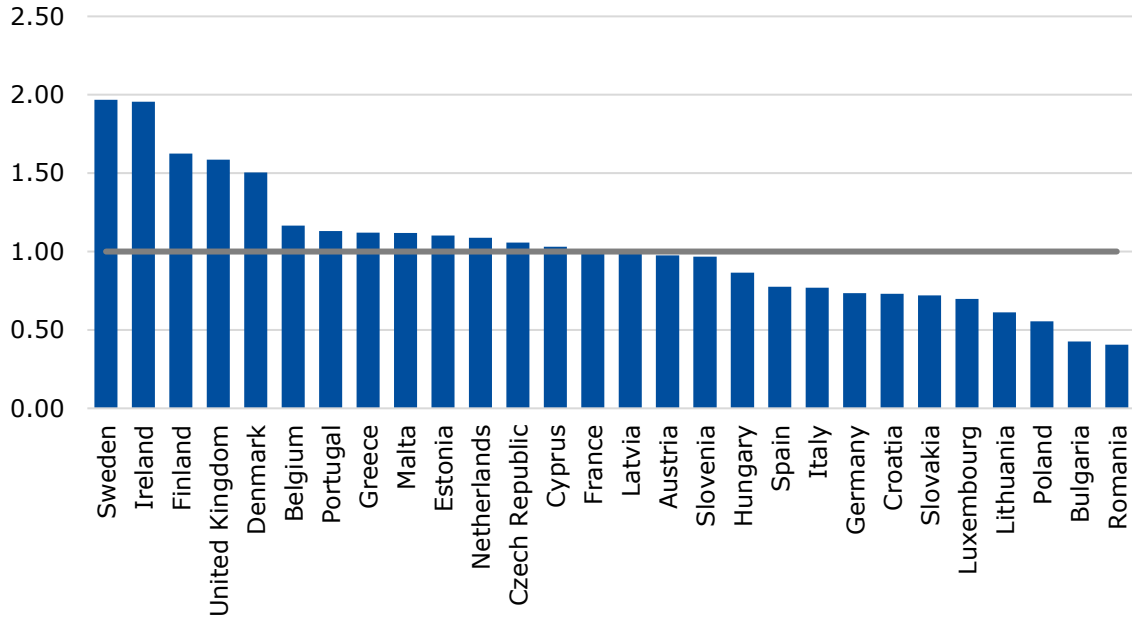
**Figure 66: Retail price of sparkling wine by Member State, relative to median (tax inclusive; median normalised at 1)**



**Source:** IWSR Global Database, Taxes in Europe Database, PwC Analysis

**Note:** figures are normalised, e.g. 0.50 is half the median value, and 2.00 is twice the median.

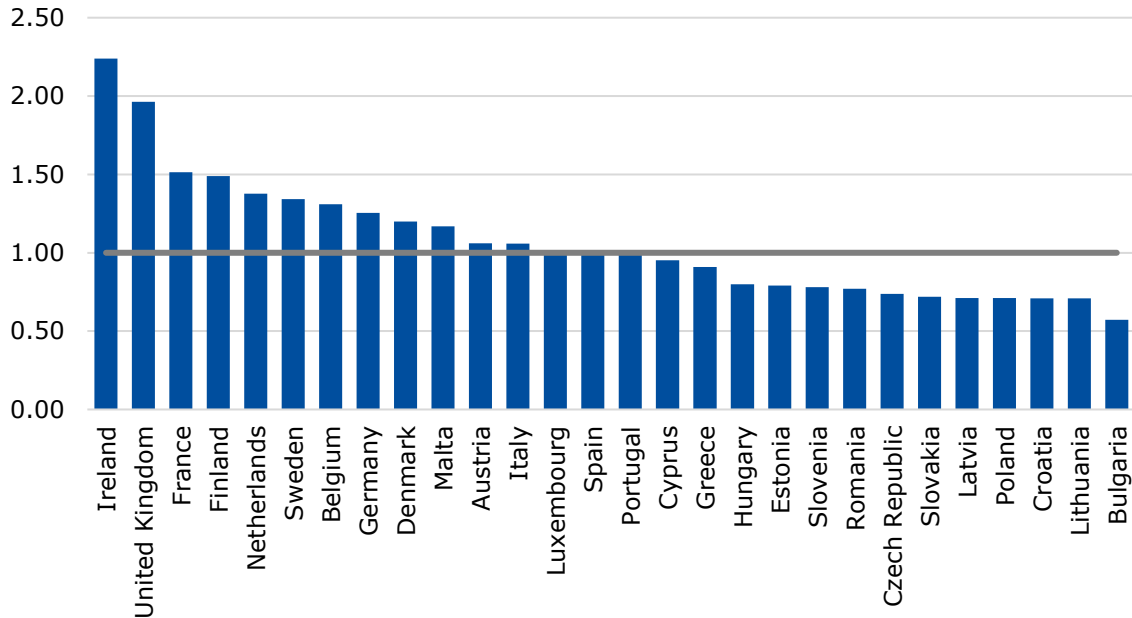
**Figure 67: Retail price of spirits by Member State, relative to median (tax inclusive; median normalised at 1)**



**Source:** IWSR Global Database, Taxes in Europe Database, PwC Analysis

**Note:** figures are normalised, e.g. 0.50 is half the median value, and 2.00 is twice the median.

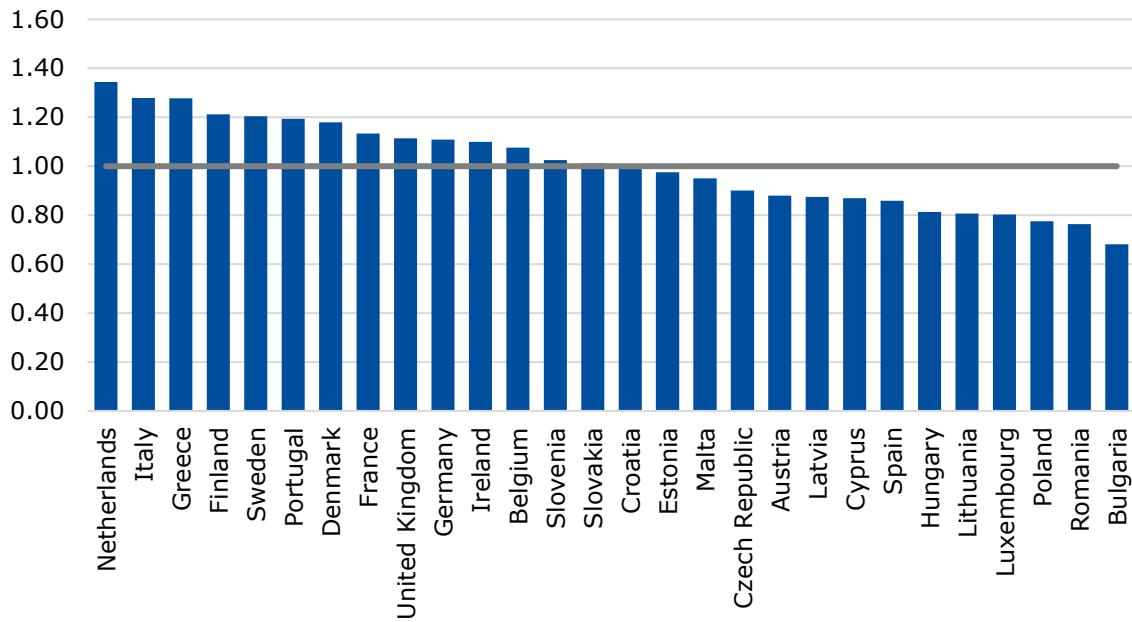
**Figure 68: Retail price of cigarettes by Member State, relative to median (tax inclusive; median normalised at 1)**



**Source:** Taxes in Europe Database, OECD Consumption Tax Trends 2018, PwC Analysis

**Note:** figures are normalised, e.g. 0.50 is half the median value, and 2.00 is twice the median.

**Figure 69: Retail price of unleaded petrol by Member State, relative to median (tax inclusive; median normalised at 1)**



**Source:** Taxes in Europe Database, DG ENER Weekly Oil Bulletin, OECD Consumption Tax Trends 2018, PwC Analysis

**Note:** figures are normalised, e.g. 0.50 is half the median value, and 2.00 is twice the median.

## Definition of Member State borders used in this report

The table below lists the intra-EU land borders, and the intra-EU maritime borders as defined by the United Nations Convention on the Law of the Sea (1994).

However, the maritime borders in the United Nations Convention on the Law of the Sea captures all legal maritime borders, several of which are not relevant for our analysis. For example, there is a maritime border between Denmark and the UK, which is only served by four commercial ferries each week.

For the purposes of this report, the main reason for identifying these borders is to understand locations where another Member State is easily accessible to individuals making purchases of excise goods. Consequently, we have excluded certain maritime borders based on the frequency of ferry crossings, availability of alternative transport methods (e.g. train) and the popularity of route.

For this analysis, a maritime border has been classified as a border if there is an active ferry route in operation that meets our threshold of at least five ferries per day.

**Table 72: List of borders for the purpose of our study**

Member State	Neighbour	Border type	Treatment for the purposes of this report
AT	CZ	Land	Border
AT	DE	Land	Border
AT	HU	Land	Border
AT	IT	Land	Border
AT	SI	Land	Border
AT	SK	Land	Border
BE	DE	Land	Border
BE	FR	Land	Border
BE	LU	Land	Border
BE	NL	Land	Border
BE	UK	Maritime	No border
BG	EL	Land	Border
BG	RO	Land	Border
CY	EL	Maritime	No border
CZ	AT	Land	Border
CZ	DE	Land	Border
CZ	PL	Land	Border
CZ	SK	Land	Border
DE	AT	Land	Border
DE	BE	Land	Border
DE	CZ	Land	Border
DE	DK	Land	Border
DE	FR	Land	Border
DE	LU	Land	Border
DE	NL	Land	Border
DE	PL	Land	Border
DE	SE	Maritime	Border
DE	UK	Maritime	No border
DK	DE	Land	Border
DK	PL	Maritime	No border
DK	SE	Land	Border
DK	UK	Maritime	No border
EE	SE	Maritime	No border
EE	FI	Land	Border
EE	LV	Maritime/Land	Border



*Study assessing articles 32 and 36 of Council Directive 2008/118/EC  
concerning the general arrangements for excise duty*

EE	SE	Maritime	No border
EL	BG	Land	Border
EL	CY	Maritime	No border
EL	IT	Maritime	No border
ES	FR	Land	Border
ES	IT	Land	No border
ES	PT	Land	Border
FI	EE	Land	Border
FI	SE	Maritime/Land	Border
FR	BE	Land	Border
FR	DE	Land	Border
FR	ES	Land	Border
FR	IT	Land	Border
FR	LU	Land	Border
FR	UK	Maritime	Border
HR	HU	Land	Border
HR	IT	Maritime	No border
HR	SI	Maritime	Border
HU	AT	Land	Border
HU	HR	Land	Border
HU	RO	Land	Border
HU	SI	Land	Border
HU	SK	Land	Border
IE	UK	Maritime/Land	Border
IT	AT	Land	Border
IT	EL	Maritime	No border
IT	ES	Maritime	No border
IT	FR	Land	Border
IT	HR	Maritime	No border
IT	MT	Maritime	No border
IT	SI	Maritime	Border
LT	LV	Land	Border
LT	PL	Land	Border
LT	SE	Maritime	No border
LU	BE	Land	Border
LU	DE	Land	Border
LU	FR	Land	Border
LV	EE	Land	Border
LV	LT	Land	Border
LV	SE	Maritime	No border
MT	IT	Maritime	No border
NL	BE	Land	Border
NL	DE	Land	Border
NL	UK	Maritime	No border
PL	CZ	Land	Border
PL	DE	Land	Border
PL	DK	Land	No border
PL	LT	Land	Border
PL	SE	Maritime	Border
PL	SK	Maritime	Border
PT	ES	Land	Border
RO	BG	Land	Border
RO	HU	Land	Border
SE	DE	Maritime	Border
SE	DK	Maritime	Border
SE	EE	Maritime	No border
SE	FI	Maritime	Border
SE	LT	Maritime	No border
SE	LV	Maritime	No border
SE	PL	Maritime	Border
SI	AT	Land	Border
SI	HR	Land	Border
SI	HU	Land	Border
SI	IT	Land	Border
SK	AT	Land	Border
SK	CZ	Land	Border
SK	HU	Land	Border
SK	PL	Land	Border

*Study assessing articles 32 and 36 of Council Directive 2008/118/EC  
concerning the general arrangements for excise duty*

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UK	BE	Maritime	No border
UK	DE	Maritime	No border
UK	DK	Maritime	No border
UK	FR	Maritime	Border
UK	IE	Maritime/Land	Border
UK	NL	Maritime	No border

## **Methodological approach to magnitude estimations**

As the basis of our assessment and an input into the cost-benefit analysis, we produced a series of metrics for each transaction type. These metrics were designed to estimate the volume and value of issues under consideration, as well as other characteristics, such as the proportion of fraudulent transactions or regulatory burden.

The approach to estimating the metrics was iterative and was shaped by the availability (or absence) of suitable data from our surveys and questionnaires and independent data sources. The specific methodology for each metric is described in full below.

We employed three core approaches:

1. Where possible we presented the survey findings or Member State responses as a simple aggregate;
2. Member State level estimates were presented on a per capita basis, reflecting the consumer survey findings combined with other data inputs (e.g. prices or excise duty); and
3. Where an EU-wide estimate was needed, we derived this using a combination of data sources, keeping any necessary assumptions to a minimum.

The key metrics presented in this report are primarily at an EU level, although they have been disaggregated where possible (e.g. by Member State or product type). In some instances the estimates of distance selling and wholesale to retail movements were split by business size to assess the impact on smaller firms. Several of the core metrics for personal acquisition and distance selling were estimated using a combination of responses from the consumer survey, independent estimates, and data on prices, excise and VAT.

The approach was designed to provide new insights into the magnitude of each issue without drawing inferences the data could not support. This is primarily the case in the presentation of figures for each Member State, where the figures are indicators of differences between Member States but should not be interpreted as in-depth estimates for each Member State.

Some aspects of this analysis are inherently more challenging to estimate. This is particularly the case for wholesale to retail transactions and fraudulent activity on all three transaction types. Data on duty suspension movements is collected centrally via EMCS but only accessible at a Member State level, and fraud data is only collected by some authorities and not in a consistent manner.

### **Personal Acquisition**

This section covers the methodology employed to estimate the magnitude of acquisition by private individuals across the EU.

**Table 73: Data sources for personal acquisition metrics**

Data source	Date	Key data points
Consumer survey	2018/2019	Described in detail for specific estimates below.
EuroStat	2018	<ul style="list-style-type: none"> <li>- 18+ population on 1 January 2018.</li> <li>- Proportion of population undertaking trips (of at least one night) outside their Member State of residence.</li> </ul>
European Taxes in Europe Database (TEBD) v3	1 July 2018	<p>We used the following inputs to calculate the excise for a standard unit of each product:</p> <ul style="list-style-type: none"> <li>- Excise duty across the EU for all products.</li> <li>- VAT across the EU for all products (combined with IWSR price data, see above).</li> </ul>
IWSR Global Database, 2019	2018	<p>Price per unit, tax exclusive:</p> <ul style="list-style-type: none"> <li>- Still wine;</li> <li>- Sparkling wine;</li> <li>- Fortified wine; and</li> <li>- Spirits.</li> </ul> <p>Price per unit, tax inclusive:</p> <ul style="list-style-type: none"> <li>- Beer; and,</li> <li>- Cider.</li> </ul> <p>We calculated the pre-tax price of beer and cider using excise and VAT data from the Taxes in Europe Database.</p>
Tax authority questionnaire	2018/2019	<ul style="list-style-type: none"> <li>- Estimates of fraud provided by Member States.</li> </ul>
Special Eurobarometer 385	2012	<ul style="list-style-type: none"> <li>- Proportion of population undertaking cross-border shopping for tobacco</li> </ul>

### Limitations specific to personal acquisition

These estimates provide detailed insights in the scale and characteristics of cross-border shopping in the EU, as well as variations between Member States. However, it is important to be cognisant of the limitations of these metrics to avoid drawing unsupported conclusions.

Many of the personal acquisition estimates draw on the consumer survey of 6,201 responses from 25 Member States. Cyprus, Luxembourg and Malta were excluded from the EU total due to insufficient data. This is sufficiently robust to provide a representative picture of cross-border shopping patterns and average spend amongst the EU population as a whole. On a country by country basis, however, smaller sample sizes mean that the results are *indicative* of actual shopping and spending patterns. For this reason, these estimates have also made use of independent data where possible (details below).

## Metrics estimated for personal acquisition

- Number of individuals who purchased alcohol or tobacco in person from another Member State in the past 12 months, to consume back home;
- Volume of excise goods purchased by individuals across borders;
- Value of excise goods purchased by individuals across border;
- Volume of additional excise goods purchased by individuals due to availability of products cross border;
- Tax revenue lost by a Member State as a result of its residents undertaking cross-border shopping;
- Proportion of consumers who consider it common for individuals to purchase excise goods on behalf of others;
- Proportion of consumers who are aware of retailers selling excise goods that were purchased by individuals; and
- Fraudulent purchases identified by Member State authorities.

## General metrics for personal acquisition

### ***Number of individuals who purchased alcohol or tobacco in person from another Member State in the past 12 months, to consume back home***

This metric is used to gauge the scale of cross-border shopping for excise products in the EU and for assessing variations between Member States. The EU level estimate is presented in terms of number of people and as a proportion of the adult population. At the Member State level this is shown only as a proportion of the adult population. In both cases this is done separately for alcohol and tobacco.

For each Member State, by product type (alcohol/tobacco), the proportion of adults (18+) purchasing each product across border in the past 12 months was estimated by:

$$\frac{\text{\# of respondents who purchased this product cross border in past 12 months}}{\text{Total \# of respondents}}$$

The data for this came initially from our consumer survey (n=6,201; approximately 250 respondents per Member State). Although this data is current it is not representative at a Member State level, so we combined this with data from Special Eurobarometer 385 (n=25,873; approximately 1,000 respondents for each of the 25 Member States covered by the consumer survey). While Special Eurobarometer 385 has the advantage of being representative at the Member State level, the 2012 data it contains is now seven years old. Given these limitations, and on the basis that both surveys contain useful information for the purposes of these estimates, we calibrated the estimates presented here by combining Member State level proportions from both surveys, weighted by sample size. This was done for tobacco (the focus of Eurobarometer 385) and a similar adjustment made for alcohol on the basis that any bias in the consumer survey from a small sample size was likely to be reflected in both product categories.

The estimate for each Member State was then compared with data on the number of trips made by individuals outside their Member State of residence in 2018, using

Eurostat (2018g) data on participation in tourism for personal purposes (tour\_dem\_totot). These estimates are based on trips of at least one night, but are nevertheless a proxy for the level of international travel undertaken by residents of each Member State. In a small number of cases the proportion of cross border shoppers for alcohol or tobacco was higher than the proportion of individuals engaging in international trips. In these cases our estimate was adjusted downwards, but not to the extent of aligning these proportions<sup>72</sup>.

In order to convert the Member State level proportions into an estimate of the number of adults who purchased these goods in another Member State in the past 12 months, we performed the following calculation (separately for alcohol and tobacco):

$$\begin{aligned} & \# \text{ of adults making a cross border purchase in the last 12 months (EU total)} \\ & = \sum (\%MS_i \text{ making cross border purchases} \times \text{adult population of } MS_i) \end{aligned}$$

Finally, this was converted into EU-level proportions for alcohol and tobacco using the simple calculation below:

$$\frac{\# \text{ of adults making a cross border purchase in the last 12 months (EU total)}}{\text{Total EU population (18+)}}$$

Population data for each Member State, and for the EU as a whole, was taken from Eurostat (2018h).

### **Volume of excise goods purchased by individuals across borders**

This estimate is key for understanding the scale of cross-border shopping and analysing the fiscal and health policy implications of cross-border shopping. Volume is estimated in aggregate at the EU level and per capita at the Member State level. We also estimated the volume of alcoholic beverages purchased in pure alcohol terms, for ease of comparison between metrics and with other studies.

The volume of excise goods purchased by individuals across borders was built up from per capita estimates at the Member State level for each product (alcohol/tobacco) using our consumer survey (n=6201; approximately 250 respondents per Member State). Per capita volume purchased for each Member State is a function of the proportion of the consumer survey sample purchasing that product per Member State and the median volume purchased by individuals in that Member State. The following calculation was undertaken separately for each product type (e.g. still wine, cigarettes, etc):

$$\begin{aligned} & \text{Per capita volume purchased} \\ & = \% \text{ of sample purchasing product } MS_i \times \text{Median volume purchased } MS_i \end{aligned}$$

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<sup>72</sup> The number of overnight trips is a useful proxy for the total level of border crossings. However, as it is very common for individuals to make a cross-border personal acquisition of alcohol or tobacco and return home in the same day, this cannot be interpreted as a hard 'cap' on the proportion buying alcohol or tobacco (i.e. an individual may do this but not contribute to the trips data).

For alcohol products, the volume was estimated in litres. For tobacco products, the units were 20 pack of cigarettes, 30g pouch of fine cut tobacco and individual cigars/cigarillos. This is of purchases made in person and brought home for consumption. The proportion of the sample purchasing the product per Member State was adjusted in-line with the previous metric (above).

We also estimated the per capita volume purchased by individuals across borders in litres of pure alcohol equivalent:

$$\begin{aligned} & \text{Volume of pure alcohol equivalent purchased per capita} \\ & = MS_i \text{ volume per capita} \times \text{ABV of standard consumer product} \end{aligned}$$

Standard consumer products were defined as follows:

- Beer (4.5% ABV 330ml can or bottle);
- Still wine (11.5% ABV 750ml bottle);
- Sparkling wine (13% ABV 750ml bottle);
- Fortified wine (18% ABV 750ml bottle); and
- Spirits (37.5% ABV 700ml bottle).

The EU total volume was calculated as a function of the Member State level per capita estimates for each product and the 2018 adult population in each Member State (Eurostat, 2018h):

$$EU \text{ total volume per product} = \sum (MS_i \text{ volume per capita} \times \text{adult population of } MS_i)$$

The EU average per capita of each product was calculated as a simple function of the EU total volume per product and the EU adult population:

$$EU \text{ average per capita} = \frac{EU \text{ total volume per product}}{EU \text{ adult population}}$$

### **Value of excise goods purchased by individuals across border**

The pre-tax value of excise goods purchased across borders by individuals shows the estimated market size and facilitates comparison between alcohol and tobacco products in a way that volume measures do not.

The pre-tax value was estimated in total value at the EU level, and value of goods bought per capita at the Member State level. This is the value of purchases made in person and brought home for consumption. It includes beer, still wine, sparkling wine, fortified wine, spirits, cigarettes, fine cut tobacco and cigars. The total EU estimate is extrapolated using the volume metric as well as IWSR alcohol price data and Taxes in Europe Database weighted average prices for tobacco.

To calculate the value of goods purchased by consumers from one Member State it is necessary to identify where they purchased those goods, because prices vary across Member States. Consumer survey respondents were asked the primary Member State from which they purchase their alcohol and tobacco products, respectively, and as a simplifying assumption (to avoid asking consumers for a very complex disaggregation

of their purchases) all purchases for this individual were attributed to this Member State. We estimated the proportion of the per capita volume purchased by consumers from one Member State,  $MS_i$ , in each other Member State,  $MS_j$ , using responses to these questions and the volume purchased per respondent:

$$\begin{aligned} & \% \text{ of total volume purchased by respondents from } MS_i \text{ in } MS_j \\ &= \frac{\text{Volume of product}_k \text{ purchased by respondents from } MS_i \text{ in } MS_j}{\text{Total volume of product}_k \text{ purchased by respondents from } MS_i} \end{aligned}$$

For example, 34.93% of still wine (product<sub>k</sub>) bought by Austrians ( $MS_i$ ) cross-border was purchased in France ( $MS_j$ ). This was repeated for all products and all bilateral Member State pairs.

We then turned this proportion into a volume using the following formula:

$$\begin{aligned} & \text{Volume purchased by consumers from } MS_i \text{ in } MS_j, \text{ per capita} \\ &= MS_i \text{ per capita volume of product}_k \text{ purchased across border} \\ & \times \% \text{ of total volume purchased by consumers from } MS_i \text{ in } MS_j \end{aligned}$$

For example, of the 1.47 litres of still wine bought cross-border by the average Austrian, 0.51 litres was purchased in France.

Combining this allocation of the volume purchased by consumers from one Member State,  $MS_i$ , in each other Member State,  $MS_j$ , we estimated the per capita tax exclusive value of excise goods purchased across border using the following formula:

$$\begin{aligned} & \text{Value of excise goods purchased across border by consumers in } MS_i, \text{ per capita} \\ &= \sum (\text{Volume purchased by consumers from } MS_i \text{ in } MS_j, \text{ per capita} \\ & \times \text{price per } MS_j) \end{aligned}$$

As with other estimates, this was scaled-up to the EU level using the per capita value for each Member State and the adult population of that Member State:

$$\text{EU total tax exclusive value per product} = \sum (\text{per capita value } MS_i \times \text{adult population of } MS_i)$$

Finally, our estimate of the EU average tax exclusive value per capita of each product was calculated as a function of the EU total tax exclusive value per product and the EU adult population:

$$\begin{aligned} & \text{EU average tax exclusive value per capita} \\ &= \text{EU total tax exclusive value per product} / \text{EU adult population} \end{aligned}$$

### **Additional consumption of excise goods**

#### **Volume of additional excise goods purchased by individuals due to availability of products cross border**



Although challenging to estimate, this metric is important for understanding how cross-border shopping for excise products impacts the consumption of excise products in the EU. It is also used in estimating the magnitude of public health impacts of cross-border personal acquisition.

The EU level estimate is presented in terms of both total additional volume and volume per capita, while the Member State level estimates are only in additional volume per capita. This is the volume of excise goods purchased across border that is additional to the amount that would have been purchased domestically. It includes pure alcohol equivalent, beer, still wine, sparkling wine, fortified wine, spirits, cigarettes, fine cut tobacco and cigars.

This estimate is based on data from the consumer survey, calibrated to other data on volume and value as described above for the previous metrics.

Respondents were first asked how much of each alcohol and tobacco product they purchased on a standard cross-border shopping trip. They were subsequently asked how much of this would have been purchased in their home country, in percentage terms, had they not been able to shop cross-border (*"If you couldn't shop in another EU Member State, how much of this would you have bought anyway in your home country?"*, with possible answers: *"All (approximately 100%)"*, *"Most (approximately 75%)"*, *"Half (approximately 50%)"*, *"Some (approximately 25%)"* and *"None (approximately 0%)"*).

These two questions were used to estimate the 'additional' purchases per respondent due to cross-border shopping (i.e. that would not have been purchased domestically in the absence of internal market access):

$$\begin{aligned} & \text{Volume of additional purchases by individual}_n \\ &= (1 - \% \text{ that would have been purchased domestically by individual}_n) \\ & \times \text{volume of purchases by individual}_n \end{aligned}$$

At a Member State level, these amounts were summed and then compared to the total number of respondents for that Member State to derive a per capita estimate:

$$MS_i \text{ additional purchases per capita} = \frac{\sum \text{additional purchases by all individuals from } MS_i}{\text{Total respondents from } MS_i}$$

For the EU level totals, per capita estimates for each Member State were again multiplied by the population of that Member State and then summed:

$$\begin{aligned} & \text{EU total additional purchases} \\ &= \sum (MS_i \text{ additional purchases per capita} \times \text{adult population of } MS_i) \end{aligned}$$

And the EU average per capita for each product was calculated as a simple function of the EU adult population:

$$\begin{aligned} & \text{EU average per capita additional purchases} \\ &= \text{EU total additional purchases} / \text{EU adult population} \end{aligned}$$

This was repeated for all product types.

### **Economic distortion caused by excise driven cross-border price differentials**

#### ***Tax revenue lost by a Member State as a result of its residents undertaking cross-border shopping***

The estimate of excise revenue lost is important for understanding the implications of cross-border shopping for Member States and as an input into the cost-benefit analysis. It is presented in terms of value of excise and VAT revenue lost per capita. Unlike the preceding two metrics, which are based on the additional volume purchased, the estimate of excise revenue loss is based on the volume that would have been purchased domestically in the absence of cross-border shopping.

Based on respondents' answers in the consumer survey (the same responses discussed in *volume of additional excise goods purchased*), we estimated the volume of excise goods that would have been purchased domestically by consumers of each Member State in the absence of cross-border shopping opportunities. This was estimated using the following formula:

$$\begin{aligned} & \text{Volume of purchases lost by } MS_i, \text{ per capita} \\ &= MS_i \text{ per capita volume of product}_k \text{ purchased across border} \\ & \times \% \text{ of volume that would have been purchased domestically} \end{aligned}$$

It is important to note that this only relates to the amount that respondents said they would have purchased domestically if they had not been able to shop in another Member State. It does not relate to the total amount they purchased cross border, as this would overstate the revenue loss to their home Member State.

By applying excise duty and VAT rates to the estimate of volume that would have been purchased domestically, in the absence of cross-border shopping, we estimated forgone tax revenues. For excise, this was estimated as:

$$\begin{aligned} & \text{Excise revenue lost, product}_k \text{ per capita} \\ &= \text{Volume of purchases lost by } MS_i, \text{ per capita} \times \text{Product}_k \text{ excise } MS_i \end{aligned}$$

For VAT, it was also necessary to consider tax exclusive value:

$$\begin{aligned} & \text{VAT revenue lost, product}_k \text{ per capita} \\ &= \text{Volume of purchases lost by } MS_i, \text{ per capita} \\ & \times (\text{Product}_k \text{ tax exclusive price } MS_i + \text{Product}_k \text{ excise } MS_i) \times \text{VAT rate } MS_i \end{aligned}$$

The specific methodology and sources for the excise and VAT inputs are presented in Euro Equivalent Excise Rate Annex.

As with other estimates, this was scaled-up to the EU level using the per capita excise and VAT lost for each Member State and the adult population of that Member State.

$$\begin{aligned} & \text{EU total tax lost product}_k \\ &= \sum (\text{Excise and VAT revenue lost product}_k \text{ per capita MS}_i \\ & \times \text{adult population of MS}_i) \end{aligned}$$

The EU average tax exclusive value per capita of each product was calculated as a function of the EU total tax exclusive value per product and the EU adult population:

$$\text{EU average tax exclusive value per capita} = \frac{\text{EU total tax lost product}_k}{\text{EU adult population}}$$

This was repeated for all products and then aggregated by product type (alcohol products; tobacco products).

## **Fraud**

### **Proportion of consumers who consider it common for individuals to purchase excise goods on behalf of others**

This metric is a simple presentation of data from the consumer survey. It presents the unweighted proportion of consumers who consider it common for individuals to purchase goods on behalf of others to bring back home at the EU average and Member State level.

For each Member State and the EU total, this metric was calculated using the consumer survey question on whether consumers consider it common for individuals to purchase excise goods on behalf of others (comprise of the questions: "Do you think you should be able to purchase excise goods on behalf of someone else (for example a friend) in another EU country?" and "Do you think this is common practice?"). Due to screening questions in the survey, not all consumers answered this question. Therefore, this was calculated using the number of respondents who consider it common as a proportion of the respondents who answered the question:

$$\begin{aligned} & \% \text{ of MS}_i \text{ respondents who consider it common} \\ &= \frac{\# \text{ of respondents from MS}_i \text{ who consider it common}}{\# \text{ of respondents from MS}_i \text{ who answered the question}} \end{aligned}$$

This is complemented with responses to the question, "In your opinion, has this become more common, less common, or broadly stayed the same over the past five years?".

### **Proportion of consumers who are aware of retailers selling excise goods that were purchased by individuals**

This metric is a simple presentation of data from the consumer survey. It presents the unweighted proportion of consumers who are aware of retailers selling excise goods that were purchased by individuals.

For each Member State and the EU total, this metric was calculated using the consumer survey question on whether consumers are aware of retailers selling excise goods that were purchased by individuals ("Are you aware of any shops selling excise

goods that were purchased privately in another country?") . Due to screening questions in the survey, not all consumers answered this question. Therefore, this was calculated using the number of respondents who consider it common as a proportion of the respondents who answered the question:

$$\% \text{ of } MS_i \text{ respondents who claim they are aware of shops doing this} \\ = \frac{\# \text{ of respondents from } MS_i \text{ who claim they are aware}}{\# \text{ of respondents from } MS_i \text{ who answered the question}}$$

This is complemented with responses to the question, "In your opinion, has this become more common, less common, or broadly stayed the same over the past five years?".

### **Fraudulent purchases identified by Member State authorities**

Rather than a single estimate, this metric is the presentation of data and estimates received from Member State authorities on fraudulent purchases. Only four Member States provided relevant data on this topic in the Member State authority questionnaire, and the nature of the estimates shared by Member State authorities varies significantly.

### **Distance Selling**

This section covers the methodology employed to estimate the magnitude of distance selling across the EU.

**Table 74: Data sources for distance selling magnitude estimates**

<b>Data source</b>	<b>Date</b>	<b>Key data points</b>
Business survey	2018/2019	Described in detail for specific estimates below
Consumer survey	2018/2019	Described in detail for specific estimates below
European Commission	2015	The European Commission (2015a) Evaluation of current arrangements for movements of excise goods released for consumption provide key inputs on: <ul style="list-style-type: none"> <li>- Average cost of a tax representative per consignment</li> </ul>
EuroStat	2018	<ul style="list-style-type: none"> <li>- Quantity of excise products (in 100kg) imported across the EU (disaggregated by beer, still wine, sparkling wine, fortified wine, spirits, cider) (2018i)</li> <li>- Estimated hourly labour costs (€) (2018c)</li> <li>- 18+ population as at 1 January (2018e)</li> <li>- GDP (in PPP terms) for the EU-28 (2018h)</li> </ul>
European Taxes in Europe Database v3	1 July 2018	<ul style="list-style-type: none"> <li>- Excise duty across the EU for all products</li> <li>- VAT across the EU for all products</li> </ul>
IWSR Global	2018	Price per unit, tax exclusive:

Database, 2019		<ul style="list-style-type: none"> <li>- Still wine;</li> <li>- Sparkling wine;</li> <li>- Fortified wine; and</li> <li>- Spirits.</li> </ul> Price per unit, tax inclusive: <ul style="list-style-type: none"> <li>- Beer; and,</li> <li>- Cider.</li> </ul> We calculated the pre-tax price of beer and cider using excise and VAT data from the Taxes in Europe Database.
Tax Authority Questionnaire	2018/2019	<ul style="list-style-type: none"> <li>- Authorities staff time to process transactions in the Member State of destination and despatch to process a distance selling transaction.</li> <li>- Proportion of Member States with national measures in place that hamper or prevent distance sales.</li> </ul>
Statista	2018	<ul style="list-style-type: none"> <li>- Estimate of cross-border retail ecommerce for 16 EU countries</li> <li>- Estimate of the proportion of ecommerce comprising alcohol products</li> </ul>

### Limitations specific to distance selling

As discussed in Chapter 5, the current situation and problems associated with distance sales of excise products are difficult to measure due to limited available data. The tax authority questionnaire highlighted that many Member States do not consistently collect data, and if data was available, it was at a very high level. This was also noted in the European Commission study (2015a). Since the 2015 evaluation, there have not been any significant further studies carried out into distance selling in the EU, and secondary sources of data, such as business and national authority metrics, remain limited.

Due to the lack of sufficient quality data received from the authorities and secondary sources, our metrics make greater use of the responses from the business and consumer survey and combine these with macroeconomic estimates based on independent data. Similar to the limitations with the acquisition by private individuals, distance selling magnitude estimates produced using the consumer survey are only indicative at the Member State level. For metrics reliant on the consumer survey, Cyprus, Luxembourg and Malta were excluded from the EU total due to insufficient data.

The business survey covered 521 businesses, primarily from 10 Member States. The outputs of this survey therefore provide valuable insights into the activities of businesses but may not be representative of all EU businesses.

### Metrics estimated for distance selling

- Total value of annual intra-EU distance sales of alcohol products;
- Total value of annual import distance sales of alcohol products;

- Proportion of EU distance sellers that sell each product type via distance selling;
- Total number of annual intra-EU distance sales of alcohol products;
- Total number of annual import distance sales of alcohol products;
- Total excise duty collected on intra-EU distance sales of alcohol products in the past 12 months;
- Total excise duty collected on import distance sales of alcohol products in the past 12 months;
- Average annual number of distance sales per EU distance seller, for alcohol products only;
- Number of EU economic operators performing distance sales of alcohol products;
- Average cost of a tax representative per distance sale of alcohol;
- Average total compliance cost per distance sale of alcohol;
- Average cost per transaction for the authorities in the Member State of destination and despatch to process a distance selling transaction;
- Distance sales of alcohol not made due to regulatory burden;
- Number of undeclared intra-EU distance selling transactions;
- Value of undeclared intra-EU distance selling transactions;
- Excise duty lost on undeclared intra-EU distance selling transactions; and
- Proportion of Member States with national measures in place that hamper or prevent distance sales.

## **General metrics for distance selling**

### ***Total value of annual intra-EU distance sales of alcohol products***

This metric brings together data from several different sources to estimate the annual value of intra-EU distance sales of alcohol products. The value of total cross-border ecommerce for the largest European economies<sup>73</sup>, excluding travel, was €95bn in 2018 (Cross-border Commerce Europe, 2018). This value is then scaled for the EU-28 by removing Norway and Switzerland and using GDP data (Eurostat, 2019) to proxy cross-border ecommerce for countries where values are unavailable.

Ecommerce data does not include any transactions that are made via other channels, including mail-order or telephone sales (e.g. agri-tourists phoning a vineyard they previously visited and placing an order directly). To take account of all non-internet transactions, the model applies a 5% uplift to the ecommerce market value. The size of this uplift is a modelling assumption, as data is not available to approximate the proportion on non-ecommerce orders.

Alcohol represents approximately 1.6% of overall European ecommerce (Statista, 2019) and this proportion is used to approximate the products' share of the overall distance selling market. One final assumption is made regarding the proportion of alcohol distance sales that come from other Member States, and what proportion come from non-EU countries. Again, data here is limited, so sensitivity analysis is

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<sup>73</sup> United Kingdom, Ireland, Portugal, Spain, France, Italy, Netherlands, Belgium, Luxembourg, Denmark, Sweden Finland, Austria, Poland, Norway and Switzerland

applied, with a central estimate of 97% of sales ( $\pm 2$  percentage points) being from other Member States.

### **Total value of annual import distance sales of alcohol products**

This metric brings together data from several different sources to estimate the annual value of import EU distance sales of alcohol products. The calculations are similar to those set out above but are presented again here for reference.

The value of total cross-border ecommerce for the largest European economies<sup>74</sup>, excluding travel, was €95bn in 2018 (Cross-border Commerce Europe, 2018). This value is then scaled for the EU-28 by removing Norway and Switzerland and using GDP data (Eurostat, 2019) to proxy cross-border ecommerce for countries where values are unavailable.

Ecommerce data does not include any transactions that are made via other channels, including mail-order or telephone sales (e.g. agri-tourists phoning a vineyard they previously visited and placing an order directly). To take account of all non-internet transactions, the model applies a 5% uplift to the ecommerce market value. The size of this uplift is a modelling assumption, as data is not available to approximate the proportion on non-ecommerce orders.

Alcohol represents approximately 1.6% of overall European ecommerce (Statista, 2019) and this proportion is used to approximate the products' share of the overall distance selling market. One final assumption is made regarding the proportion of alcohol distance sales that come from other Member States, and what proportion come from non-EU countries. Again, data here is limited, so sensitivity analysis is applied, with a central estimate of 3% of sales ( $\pm 2$  percentage points) being from outside the European Union.

### **Proportion of EU distance sellers that sell each product type via distance selling**

This metric is a simple presentation of data from the business survey, to understand the nature of the products being purchased via distance sales. Businesses were asked which excise products they distance sell to consumers in other Member States. The number of businesses which selected each product was then divided by the total number of businesses surveyed selling any product direct to consumer cross-border to estimate the proportion of EU distance sellers selling each product in this way:

$$= \frac{\text{\# of business distance selling alcohol product}_k}{\text{\# of businesses distance selling any alcohol products}}$$

The six alcohol products that are presented here are: beer, cider, still wine, sparkling wine, intermediate products and spirits. This estimate was also made separately for SME distance sellers, using the same approach and selecting SMEs on the basis of headcount (250 or fewer employees). This metric presents the results of the business

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<sup>74</sup> United Kingdom, Ireland, Portugal, Spain, France, Italy, Netherlands, Belgium, Luxembourg, Denmark, Sweden Finland, Austria, Poland, Norway and Switzerland

survey, which included 215 distance sellers, 118 of which were SMEs. The business survey involved a range of businesses from across the EU but was not a large enough sample to be representative, so can only be interpreted as an indication of proportions at the EU level.

### **Total number of annual intra-EU distance sales of alcohol products**

This metric estimates the total number of distance sales (from within the EU) at an EU level, and per capita at a Member State and EU level, to understand the current size of the distance selling market and as a basis to calculate other metrics. These metrics use our estimate of total value based on independent macroeconomic data and the consumer survey, which asked respondents whether they had made an intra-EU distance purchase and how many times they had done so over the past 12 months.

The consumer survey provided data on the proportion of consumers making distance purchases of excise products, by Member State. The per capita distance sales estimate was based on the proportion of consumers making distance purchases, multiplied by the median number of purchases per year (of those making distance purchases):

$$\begin{aligned} & \textit{Proportion of individuals in } MS_i \textit{ who made a distance purchase in past 12 months} \\ &= \frac{\textit{respondents from } MS_i \textit{ who made a distance purchase}}{\textit{total respondents from } MS_i} \end{aligned}$$

$$\begin{aligned} & \textit{Per capita \# of distance purchases for } MS_i \\ &= \textit{Proportion of individuals in } MS_i \textit{ who made a distance purchase} \\ & \times \textit{median number of purchases per year for } MS_i \textit{ (of those making purchases)} \end{aligned}$$

For the EU level estimate, these were scaled up on the basis of 18+ population data from Eurostat (2018g), to estimate the total number of distance sales (orders) across the EU:

$$\begin{aligned} & \textit{Total EU distance sales in past 12 months} \\ &= \sum (\textit{Per capita distance sales in } MS_i \times \textit{adult population of } MS_i) \end{aligned}$$

And the overall proportion of individuals in the EU who made a distance purchase in the past 12 months:

$$= \frac{\sum (\textit{Proportion of individuals in } MS_i \textit{ who made a distance purchase} \times \textit{adult population of } MS_i)}{\textit{adult population of the EU}}$$

However, we believe there is an inherent bias in these estimates that needed to be accounted for. Individuals may believe they have bought alcohol online from another Member State (and, on that basis, have included it their survey response), when in reality the products were shipped from a business based in their Member State. For example, an individual living in Germany may have purchased French wine online and believed it to be a distance purchase sent to them directly from the French vineyard, when in actual fact it was a domestic purchase shipped to them from a local German retailer.



To account for this inherent bias in the consumer survey, the proportion of consumers making distance purchases and the estimate of the number of distance sales were scaled downwards so that the implied value of the orders aligned with our estimate of total value (which is independent of the consumer survey and therefore not subject to the bias described above).

### **Total number of annual import distance sales of alcohol products**

This metric estimates the total number of distance sales from outside the EU at an EU level, and per capita at a Member State and EU level, to understand the current size of the import distance selling market and as a basis to calculate other metrics. These metrics use our estimate of total value based on independent macroeconomic data and the consumer survey, which asked respondents whether they had made an extra-EU (import) distance purchase and how many times they had done so over the past 12 months.

The consumer survey provided data on the proportion of consumers making import distance purchases of excise products, by Member State. The per capita estimate was based on the proportion of consumers making distance purchases from outside the EU, multiplied by the median number of purchases per year (of those making import distance purchases):

$$\begin{aligned} & \text{Proportion of individuals in } MS_i \text{ who made an import distance purchase in past 12 months} \\ & = \frac{\text{respondents from } MS_i \text{ who made an import distance purchase}}{\text{total respondents from } MS_i} \end{aligned}$$

$$\begin{aligned} & \text{Per capita \# of import distance purchases for } MS_i \\ & = \text{Proportion of individuals in } MS_i \text{ who made an import distance purchase} \\ & \times \text{median number of import purchases per year for } MS_i \text{ (of those making purchases)} \end{aligned}$$

For the EU level estimate, these were scaled up on the basis of 18+ population data from Eurostat, to estimate the total number of import distance sales (orders) across the EU:

$$\begin{aligned} & \text{Total EU import distance sales in past 12 months} \\ & = \sum (\text{Per capita import distance sales in } MS_i \times \text{adult population of } MS_i) \end{aligned}$$

And the overall proportion of individuals in the EU who made an import distance purchase in the past 12 months:

$$= \frac{\sum (\% \text{ of individuals in } MS_i \text{ who made an import distance purchase} \times \text{adult population of } MS_i)}{\text{adult population of the EU}}$$

However, as with intra-EU distance sales, we believe there is an inherent bias in these estimates that needed to be accounted for. Individuals may believe they have bought alcohol online from outside the EU (and, on that basis, have included it their survey response), when in reality the products were shipped from a business based in the EU or even in their own Member State. For example, an individual living in Hungary may have purchased New Zealand wine online and believed it to be an import distance

purchase sent to them directly from the New Zealand vineyard, when in actual fact it was a domestic purchase shipped to them from a local Hungarian retailer.

To account for this inherent bias in the consumer survey, the proportion of consumers claiming to have made import distance purchases and the estimated number of import distance sales were scaled downwards so that the implied value of the orders aligned with our estimate of total value (which is independent of the consumer survey and therefore not subject to the bias described above).

***Total excise duty collected on intra-EU distance sales of alcohol products in the past 12 months***

As well as a useful metric on its own, this estimate is used in estimating tax lost due to undeclared movements. The EU level estimate is presented in terms of total value, while the Member State level is per capita.

This estimate builds from the volume estimates, applying the relevant excise and VAT rates to the estimated volume of each product arriving in each Member State. Acknowledging that not all movements are declared for tax purposes, the estimated proportion of undeclared movements was also applied to the volume estimates.

For excise, this was estimated as:

$$\begin{aligned}
 & \text{Excise revenue collected per capita, by product}_k \text{ per capita} \\
 & = \text{Volume of product}_k \text{ distance purchases by MS}_i \text{, per capita} \\
 & \times \text{product}_k \text{ excise MS}_i \times (1 - \text{estimated \% of intra EU movements undeclared})
 \end{aligned}$$

For VAT, it was also necessary to consider tax exclusive value:

$$\begin{aligned}
 & \text{VAT revenue collected per capita, by product}_k \\
 & = \text{Volume of product}_k \text{ distance purchases by MS}_i \text{, per capita} \\
 & \times (\text{product}_k \text{ tax exclusive price MS}_i + \text{product}_k \text{ excise MS}_i) \\
 & \times \text{VAT rate MS}_i \times (1 - \text{estimated \% of intra EU movements undeclared})
 \end{aligned}$$

The specific methodology and sources for the excise and VAT inputs are presented in the Euro Equivalent Excise Rate Annex. For the EU level estimate, these were scaled up on the basis of 18+ population data from Eurostat:

$$\begin{aligned}
 & \text{Total excise revenue collected on distance sales across EU:} \\
 & = \sum (\text{Per capita excise revenue collected in MS}_i \times \text{adult population of MS}_i)
 \end{aligned}$$

$$\begin{aligned}
 & \text{Total VAT revenue collected on distance sales across EU:} \\
 & = \sum (\text{Per capita VAT revenue collected in MS}_i \times \text{adult population of MS}_i)
 \end{aligned}$$

$$\begin{aligned}
 & \text{Total tax revenue collected on distance sales across EU:} \\
 & = \text{Total excise revenue} + \text{Total VAT revenue}
 \end{aligned}$$

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### **Total excise duty collected on import distance sales of alcohol products in the past 12 months**

As well as a useful metric on its own, this estimate is used in estimating tax lost due to undeclared movements. The EU level estimate is presented in terms of total value, while the Member State level is per capita.

This estimate builds from the volume estimates, applying the relevant excise and VAT rates to the estimated volume of each product arriving in each Member State from outside the EU. Acknowledging that not all movements are properly declared for customs purposes, the estimated proportion of fraudulent movements was also applied to the volume estimates.

For excise, this was estimated as:

$$\begin{aligned} & \text{Excise revenue collected per capita, by product}_k \text{ per capita} \\ &= \text{Volume of product}_k \text{ import distance purchases by MS}_i \text{, per capita} \\ & \times \text{product}_k \text{ excise MS}_i \times (1 - \text{estimated \% of extra EU movements undeclared}) \end{aligned}$$

For VAT, it was also necessary to consider tax exclusive value:

$$\begin{aligned} & \text{VAT revenue collected per capita, by product}_k \\ &= \text{Volume of product}_k \text{ import distance purchases by MS}_i \text{, per capita} \\ & \times (\text{product}_k \text{ tax exclusive price MS}_i + \text{product}_k \text{ excise MS}_i) \\ & \times \text{VAT rate MS}_i \times (1 - \text{estimated \% of extra EU movements undeclared}) \end{aligned}$$

The specific methodology and sources for the excise and VAT inputs are presented in Euro Equivalent Excise Rate Annex. For the EU level estimate, these were scaled up on the basis of 18+ population data from Eurostat:

$$\begin{aligned} & \text{Total excise revenue collected on import distance sales across EU:} \\ &= \sum (\text{Per capita excise revenue collected in MS}_i \times \text{adult population of MS}_i) \end{aligned}$$

$$\begin{aligned} & \text{Total VAT revenue collected on import distance sales across EU:} \\ &= \sum (\text{Per capita VAT revenue collected in MS}_i \times \text{adult population of MS}_i) \end{aligned}$$

$$\begin{aligned} & \text{Total tax revenue collected on import distance sales across EU:} \\ &= \text{Total excise revenue} + \text{Total VAT revenue} \end{aligned}$$

### **Average annual number of distance sales per EU distance seller, for alcohol products only**

This metric presents an estimate of the median and mean number of distance sales per EU distance seller each year, for alcohol products only. It is used to understand the current size and structure of the distance selling market.

Businesses were not asked how many individual consignments they had made, but instead provided data on "how many cross-border transactions did you make in the past 12 months, to consumers in another Member State, that contained X product". As

each consignment may or may not contain more than one product type, we determined the maximum number of consignments (i.e. assuming all orders were for distinct products) and the minimum (assuming all orders contained multiple products, where possible) and then took the midpoint. The values are heavily skewed by a number of companies making a large number of distance sales, so we provide both the mean and median.

In practice, taking the midpoint of the range of possible values did not affect the estimates in a significant way. For the mean of 3,640 the possible values ranged from 3,520-3,750 ( $\pm 3\%$ ) and for the median of 53 the possible values ranged from 50-55 ( $\pm 5\%$ ). Because these results are based on the subset of business survey respondents engaging in distance selling, the results are only indicative of the true EU-level values.

### ***Number of EU economic operators performing distance sales of alcohol products***

This metric is used to understand the size of the current distance selling market. In the absence of scalable data, this is estimated as a simple function of two other estimates: the mean number of distance sales per EU distance seller and the total number of intra-EU distance sales:

$$\text{Number of economic operators making distance sales} = \frac{\text{Estimated number of distance sales}}{\text{Mean distance sales per distance seller}}$$

The inputs to this calculation are estimates described in detail above. We assume that a typical distance sale predominantly consists of alcohol products and that the distance sale of tobacco products are negligible.

### **Regulatory burden**

#### ***Average cost of a tax representative per distance sale of alcohol***

In order to estimate the current compliance costs associated with distance selling, an estimate for the average cost of tax representative was calculated.

Tax representatives charge fees in several different ways (e.g. per transaction, monthly, yearly) depending on the country they operate in and the type of distance seller they are working with, so the assimilation of different data sources was required.

The low, medium and high estimates for the average cost on a per transaction basis make use of the estimates included in the 2015 Evaluation (European Commission, 2015a), which were subsequently tested and refined through further consultation with industry specialists.

#### ***Average total compliance cost per distance sale of alcohol***

As the regulatory burden is more than just the fees of a tax representative, this metric builds upon the previous estimate to determine the total compliance cost faced by economic operators when undertaking distance selling.

Using the results of the business survey, it was possible to estimate the weighted-average time it takes EU businesses to comply with the requirements set out in the current distance selling legislation. Businesses were asked “typically, how much time do you spend per transaction on administration for cross-border distance sales?” and respondents could select options from “10 minutes or less” to “6-8 hours”.

We estimated a weighted-average time to comply using the following calculation:

$$\text{Time to comply with administrative procedures} = \frac{\sum(\text{Time to comply} \times \# \text{ of respondents})}{\# \text{ of respondents}}$$

The average time required to comply was then combined with the average hourly labour rates in each Member State (using Eurostat wage data) to compute the overall cost to comply with the average compliance requirements of a distance selling transaction. The wage data included estimates for non-wage costs for each Member State.

$$\begin{aligned} \text{Cost to comply with administrative procedures} \\ = \text{Time to comply with administrative procedures} \times \text{Average labour cost} \end{aligned}$$

These estimates were then combined with the average cost of a tax representative to produce an overall estimate of the total compliance burden faced by economic operators.

### **Average cost per transaction for the authorities in the Member State of destination and despatch to process a distance selling transaction**

There are also costs faced by Member State authorities to process the relevant documents, returns and applications associated with distance sales. This metric provides an estimate of the costs authorities face as a result of the current arrangements.

The primary source for this metric was the tax authority questionnaire, however many organisations were unable to provide data on the amount of staff time it takes to process transactions or returns, either when they are acting as the Member State of destination or despatch. The metric is therefore based on the quantitative data provided by six Member State authorities.

An average (mean) was taken of the six responses, which represents our high estimate:

$$\text{Average time to process a transaction} = \frac{\sum \text{Time to process a transaction}}{\# \text{ of respondents}}$$

This estimate was then combined with hourly labour cost data from EuroStat for each Member State in the sample, to provide an overall estimate of the cost of the time spent by national authorities on the administration of distance sales.

$$\text{Average cost per transaction} = \frac{\sum(\text{Time to process a transaction } MS_i \times \text{Average labour cost } MS_i)}{\# \text{ of respondents}}$$

This process was repeated using an average (median) for a low estimate.

### ***Distance sales of alcohol not made due to regulatory burden***

Due to the high regulatory burden and associated costs, many distance sellers do not undertake as many distance sales as they might otherwise. This metric estimates how much more distance selling businesses would likely undertake if these costs from the regulatory burden were significantly reduced.

The metric is presented in terms of both the overall percentage increase in sales, and also the overall increase in value of the intra-EU distance sales market. The estimated increase in alcohol distance sales are not disaggregated to a SME-only level, as there was not sufficient data available to derive reliable estimates.

Through the business survey, economic operators were asked to estimate how much higher their own cross-border distance sales may have been in the absence of any administrative burden. Based on individual responses by businesses, we estimated a weighted-average increase in cross-border distance sales using the following calculation:

$$\begin{aligned} \text{Weighted average increase \%} \\ = \frac{\sum(\text{Volume sold} \times \% \text{ increase in the absence of any administrative burden})}{\text{Total volume sold}} \end{aligned}$$

We used the weighted average increase to estimate the volume of distance sales not made due to the regulatory burden. This was done using the following calculation:

$$\begin{aligned} \text{Volume of intra EU distance sales not made due to the regulatory burden} \\ = \text{Total volume of intra EU distance sales} \times \text{Weighted average increase \%} \end{aligned}$$

Similarly using the total value of annual intra-EU distance sales of alcohol products, it was possible to derive an estimate of the value of sales that were not made due to the burden:

$$\begin{aligned} \text{Value of intra EU distance sales not made due to the regulatory burden} \\ = \text{Total value of intra EU distance sales} \times \text{Weighted average increase \%} \end{aligned}$$

The value of intra-EU distance not made due to regulatory burden was subject to the simplifying assumption that value would increase by the same proportion as volume, although in practice this may not be the case.

This estimate is based on the behaviour of existing distance sellers. We expect, however, that a lower regulatory burden would also incentivise businesses to engage

in distance selling who don't currently. This estimate does not include those businesses.

## **Fraud on intra-EU transactions**

### ***Number of undeclared intra-EU distance selling transactions***

This metric estimates the number of intra-EU distance selling transactions of alcohol products that are undeclared at a total EU level in 2018/2019. In acknowledgement of the uncertainty inherent in any estimate of undeclared transactions, low, medium and high values were used in the estimations.

Our original intention was to use responses from the tax authority questionnaire, which explicitly asked authorities for estimates of the number of fraudulent transactions identified between 2013 and 2017. However, national authorities were, in general, either unable to provide this data or chose not respond to this specific question.

As an alternative approach, perceptions of businesses working in the industry were used, based on responses to the business survey. The survey asked businesses from across the EU to estimate the proportion of cross-border distance sales which they believe are not declared by economic operators. All of the responses were collated to create an EU average figure, and then combined with the above metric estimating *the total number of annual intra-EU distance sales* to create an estimate of the number of undeclared intra-EU distance selling transactions:

$$\begin{aligned} & \textit{Estimated \# of undeclared distance sales} \\ & = \textit{estimated \# of distance sales} \\ & \times \textit{perceived proportion of undeclared distance sales} \end{aligned}$$

The low, medium and high estimates come from different 'perceived proportions' in this calculation. For the central estimate, the perceived proportion of undeclared distance sales is a mean of the proportions stated by business responses making distance sales. For the low and high estimates, the central estimate is adjusted by  $\pm 10$  percentage points. In all cases the central *estimated number of distance sales* is used in the calculation.

### ***Value of undeclared intra-EU distance selling transactions***

This metric presents an estimate of the total value of intra-EU distance selling transactions of alcohol products that were undeclared at a total EU level in 2018/2019. As above, low, medium and high values were produced.

As with the previous metric, our original intention was to use responses from the tax authority questionnaire, which explicitly asked authorities for estimates of the value of fraudulent transactions identified between 2013 and 2017. However, national authorities were, in general, either unable to provide this data or chose not respond to this specific question.

As an alternative approach, perceptions of businesses working in the industry were used, based on responses to the business survey. The survey asked businesses from across the EU to estimate the proportion of cross-border distance sales which they believe are not declared by economic operators. All of the responses were collated to create an EU average figure, and then combined with the metric estimating *the total value of annual intra-EU distance sales* to create an estimate of the value of undeclared intra-EU distance selling transactions:

$$\begin{aligned} & \textit{Estimated value of undeclared distance sales} \\ & = \textit{estimated value of distance sales} \\ & \times \textit{perceived proportion of undeclared distance sales} \end{aligned}$$

The low, medium and high estimates come from different 'perceived proportions' in this calculation. For the central estimate, the perceived proportion of undeclared distance sales is a mean of the proportions stated by business responses making distance sales. For the low and high estimates, the central estimate is adjusted by  $\pm 10$  percentage points. In all cases the central *estimated value of distance sales* is used in the calculation.

This estimate inherently assumes that a typical undeclared sale is of a similar value to a typical declared distance sale.

### ***Excise duty lost on undeclared intra-EU distance selling transactions***

This metric estimates the level of excise revenue that is lost as a result of undeclared intra-EU distance selling transactions.

For consistency with the previous two metrics, perceptions of businesses working in the industry were used, based on responses to the business survey. The survey asked businesses from across the EU to estimate the proportion of cross-border distance sales which they believe are not declared by economic operators. All of the responses were collated to create an EU average figure, and then combined with the metric estimating *total excise duty collected on intra-EU distance sales* to create an estimate of the value of excise revenue lost on undeclared intra-EU distance selling transactions. In this case the estimate of excise revenue collected is only for declared transactions, so the equation is slightly different than the one used in the previous two metrics:

$$\begin{aligned} & \textit{Estimated excise revenue lost on undeclared distance sales} \\ & = \textit{estimated excise duty collected on distance sales} \times \frac{\% \textit{ undeclared}}{1 - \% \textit{ undeclared}} \end{aligned}$$

Where "% undeclared" = *perceived proportion of undeclared distance sales*

The low, medium and high estimates come from different 'perceived proportions' in this calculation. For the central estimate, the perceived proportion of undeclared distance sales is a mean of the proportions stated by business responses making distance sales. For the low and high estimates, the central estimate is adjusted by  $\pm 10$  percentage points. In all cases the central *estimated excise duty collected on distance sales* is used in the calculation.



The same calculation is undertaken for both excise and VAT.

This estimate inherently assumes that a typical undeclared sale consists of a similar mix of alcohol products to a typical declared distance sale (or at least, the excise and VAT due on a typical undeclared distance sale is similar to that due on a typical declared one).

## National measures that hamper cross-border distance sales

### ***Proportion of Member States with national measures in place that hamper or prevent distance sales***

This metric presents the proportion of Member States who have the following domestic measures in place that can hamper or prevent distance sales:

- Proportion of Member States that require *age verification* for distance sales of excise goods;
- Proportion of Member States that require *tax stamps* for distance sales of excise goods;
- Proportion of Member States that require *health warnings* for distance sales of excise goods; and
- Proportion of Member States that *ban distance sales of tobacco products*.

As well as the overall number of Member States who have each national measure in place, there is also information on which individual Member States deploy different domestic policies. This information was primarily gathered through both the tax and health authority questionnaires, as well as further correspondence with representatives of these authorities, including targeted telephone interviews. National measures concerning tobacco were cross-referenced with the PwC Network survey.

## Wholesale to Retail

This section covers the methodology employed to estimate the magnitude of wholesale to retail across the EU.

**Table 75: Wholesale to retail magnitude estimate data sources**

Data source	Date	Key data points
Business survey	2018/2019	Described in detail for specific estimates below
DG ENER Weekly Oil and Gas Bulletin	1 January 2018	- Unleaded petrol (Super Euro 95) price, excise, VAT and other indirect tax inputs
EMCS data export	2017/2018	- Total number of movements under duty suspension regime as recorded under EMCS (for all EU 28 Member States, including inbound, outbound and bilateral movements)

European Commission	2015c	- Key study finding that 99% of intra-EU movements of excise goods use the duty suspension regime.
European Commission	2016	- Conversion rates for tobacco products
Eurostat	2018	- Intra-EU import and export data in value (Euros) (ext_go_detail, DS-016890); - Intra-EU import and export data in value (quantity 100kg) (ext_go_detail, DS-016890).
European Taxes in Europe Database v3	1 July 2018	- Excise duty across the EU for all products. - VAT across the EU for all products.
Tax authorities questionnaire	2018/2019	- Tax authorities estimate on time taken to process business to business transactions. - Tax authorities estimate of proportion of movements recorded under EMCS that are energy goods.

### Limitations specific to wholesale to retail

As with distance selling, Member State authorities provided limited data on cross-border business to business transactions excise goods. We were able to obtain bilateral and aggregate Excise Movement and Control System (EMCS) data, which was critical to several of the estimates. However, as EMCS only includes movements under duty suspension, we were not able to produce volume, value or tax revenue estimates for duty paid movements.

The business survey in this area provided useful insights into the compliance burden of both duty paid and duty suspended arrangements. However, for the volume and value estimates we have primarily made use of Eurostat import and export data. Eurostat trade data simultaneously achieves a greater level of coverage and granularity than we could hope to achieve through a business survey, however in using this data we have had to make a number of simplifying assumptions. For example, in line with the European Commission (2015c) study, it is assumed that 99% of business to business movements of excise goods take place under duty suspension.

The business survey covered 521 businesses, primarily from 10 Member States. The outputs of this survey therefore provide valuable insights into the activities of businesses but may not be representative of all EU businesses.

### Metrics estimated for wholesale to retail

- Number of business to business transactions of excise goods
- Value of business to business transactions of excise goods
- Administrative burden for a business selling excise goods (to a business based in another Member State)
- Administrative burden for a business buying excise goods (from a business based in another Member State)

- Time taken for Member State authorities to process a B2B transaction

### **Number of business to business transactions of excise goods**

This metric captures the total movements of excise goods under the duty suspension regime in 2018, using EMCS data. For each Member State, the number of inbound and outbound movements was shown, as well as the percentage of total inbound or outbound movements sent from or received by that Member State. As EMCS data only includes movements under duty suspension, the estimate does not include duty-paid arrangements. As this metric is based entirely on EMCS data, no complex calculations were necessary.

### **Value of business to business transactions of excise goods**

This metric is an estimate of the total value of cross-border trade in excise goods under the duty suspension regime in 2018, using Eurostat intra-EU import and export data. We did not estimate the value of duty paid business-to-business transactions.

An estimate of the total value of business-to-business transactions was produced for the Member State of despatch (export) and destination (import). Each Member State estimate includes all alcohol, tobacco and energy products.

We produced these estimates using data on bilateral intra-EU movements of excise goods, classified by CN codes. As the Eurostat data includes both duty suspended and duty paid transactions, we adjusted the value data by the European Commission (2015c) estimate of duty suspended transactions (99%) to estimate the total value of business to business transactions of excise goods under the duty suspension regime.

The value of goods by Member State of destination was estimated using the following calculation:

$$\begin{aligned} & \text{Total value of outbound duty suspended transactions } MS_i \\ &= \sum (\text{Alcohol exports } MS_i + \text{Tobacco exports } MS_i + \text{Energy exports } MS_i) \times 0.99 \end{aligned}$$

The value of goods by Member State of destination was estimated using the following calculation:

$$\begin{aligned} & \text{Total value of inbound duty suspended transactions } MS_i \\ &= \sum (\text{Alcohol imports } MS_i + \text{Tobacco imports } MS_i + \text{Energy imports } MS_i) \times 0.99 \end{aligned}$$

We also present each Member State estimate as a percentage of the total EU outbound and inbound value.

### **Administrative burden for a business selling excise goods (to a business based in another Member State)**

This metric captures the time taken by businesses to complete all administrative procedures (e.g. processing and payment of excise) per consignment when selling excise goods to businesses based in another Member State, providing useful insight into the administrative burden in the wholesale to retail market.

Respondents to the business survey were asked '*how long does it take to complete all administrative procedures for each consignment?*', with a single-select responses ranging from a minimum of '*10 minutes or less*' to a maximum of 6-8 hours. Responses to this question were used to calculate the average time taken to complete all administrative procedures relating to the sale of excise goods to a business in another EU country. This was calculated using the following formula:

$$\text{Average time to comply} = \frac{\text{Total time to comply from business survey}}{\text{Number of respondents}}$$

An overall estimate was produced for duty paid and duty suspend, as well as SME specific estimate for each duty arrangement. This was done by filtering the sample for businesses with less than 250 employees.

#### ***Administrative burden for a business buying excise goods (from a business based in another Member State)***

This metric captures the time taken by businesses to complete all administrative procedures (e.g. processing and payment of excise) per consignment when buying excise goods from businesses based in another Member State, providing useful insight into the administrative burden in the wholesale to retail market.

Respondents to the business survey were asked '*how long does it take to complete all administrative procedures for each consignment?*', with a single-select responses ranging from a minimum of '*10 minutes or less*' to a maximum of 6-8 hours. Responses to this question were used to calculate the average time taken to complete all administrative procedures relating to the purchase of excise goods from a business in another EU country. This was calculated using the following formula:

$$\text{Average time to comply} = \frac{\text{Total time to comply from business survey}}{\text{Number of respondents}}$$

An overall estimate was produced for duty paid and duty suspend, as well as SME specific estimate for each duty arrangement. This was done by filtering the sample for businesses with less than 250 employees.

#### ***Time taken for Member State authorities to process a B2B transaction***

This metric provides insight into the administrative burden for Member States authorities to process wholesale to retail transactions. Tax authorities were asked to provide an estimate on time taken to process cross-border business-to-business transactions under duty paid and duty suspended arrangement for inbound and outbound transactions.

We received eight responses to this question, which were used to calculate an average time to process a transaction:

$$\text{Average time to process a transaction} = \frac{\text{Total time to process transactions}}{\text{Number of respondents}}$$

## Market segmentation methodology

This annex outlines the methodology used to estimate the per capita purchases made by particular groups of cross-border shoppers, and the market share of these segments as a proportion of total volume purchased. This is used in Chapter 4: Acquisition by private individuals.

### **Identification of segments**

The segments analysed in Chapter 4 were identified through literature on cross-border shopping, stakeholder consultation and exploratory analysis of our consumer survey. We focused on price-sensitive consumers, occasional travellers, and those living close to the border.

### **Annual quantity of alcohol and tobacco products purchased cross-border by market segment, per cross-border shopper**

This is an estimate of the amount purchased in a 12 month period by cross-border shoppers belonging to one of the four segments analysed. The estimate was produced using the same methodology as the estimate of the *volume of excise goods purchased by individuals across borders* per capita, with a few exceptions:

- This per capita estimate is based only on cross-border shoppers in our sample, rather than the entire sample including those who did not make a cross-border purchase of alcohol or tobacco in the past 12 months;
- This is not weighted by EU population; and
- As this is an estimate of cross-border shoppers across the EU, rather than a specific Member State, this estimate was not subject to the calibration adjustments outlined in the previous annex.

The estimate was produced for all alcohol and tobacco products brought for home consumption. The amount per cross-border shopper was estimated using the following calculation:

$$\begin{aligned} & \text{Volume purchased per cross border shopper, segment}_i \\ & = \% \text{ of segment}_i \text{ purchasing product}_k \times \text{Median volume purchased segment}_i \end{aligned}$$

We also estimated the per capita volume purchased by each segment in litres of pure alcohol equivalent:

$$\begin{aligned} & \text{Volume of pure alcohol equivalent purchased per cross border shopper} \\ & = \text{Segment}_k \text{ volume of product}_k \text{ purchased per cross border shopper} \\ & \times \text{ABV of standard consumer product}_k \end{aligned}$$

***Annual quantity of alcohol and tobacco products purchased cross-border by market segment, as a percentage of total volume purchased across border***

This is an estimate of the market share of each segment, measured as a proportion of the total volume purchased. To derive the proportion belonging to each segment, it was first necessary to estimate the number of cross-border shoppers in each segment.

Using our estimate of the *number of individuals who purchased alcohol or tobacco in person from another Member State in the past 12 months to consume back home*, we calculated the size of each segment based on the number of respondents in that category:

$$\begin{aligned} & \# \text{ of cross border shoppers, segment}_i \\ & = \text{Total \# of cross border shoppers} \\ & \times \# \text{ of respondents segment}_i / \text{Total \# respondents cross border shopping} \end{aligned}$$

With the number of cross-border shoppers per segment, we were able to estimate the market share of each segment:

$$\begin{aligned} & \% \text{ of total volume purchased across border by segment}_i \\ = & \frac{\# \text{ of cross border shoppers, segment}_i \times \text{Volume purchased per cross border shopper segment}_i}{\text{Total volume purchased by individuals across border}} \end{aligned}$$

The estimate was produced for all alcohol and tobacco products brought home consumption, as well as for pure alcohol equivalent.

## Public health policies recommended by the WHO, and their implementation in the EU

**Note:** This annex expands on the content contained in the "Public health policies in the EU" section of Chapter 4.

Governments make use of different policy tools at their disposal to compensate for the challenges of using taxation policy effectively. The WHO Global and European alcohol strategies (WHO, 2010; 2012) group possible policy options and interventions for national action into ten action areas, ranging from regulations of availability and pricing policies, to actions to reduce marketing of alcoholic beverages. While a broad portfolio of complementary policies is recommended, the WHO Global Action Plan for the prevention and control of NCDs 2013-2020 (WHO, 2013) lists three of them as the most cost-effective actions:

- Increase excise taxes;
- Enact and enforce bans or comprehensive restrictions on exposure to advertising (across multiple types of media); and
- Enact and enforce restrictions on the physical availability of products.

Two of these three actions focus on the supply side, by regulating the economic availability (e.g. excise duty) and physical availability (e.g. regulating the number and location of outlets, the days and hours of retail sales, and an appropriate minimum age for purchase or consumption, in order to raise barriers against sales to underage consumers). Excise-rate differentials and the availability of products cross-border have the potential to greatly undermine the effectiveness of these actions when taken at a national level.

The fourth edition of the European Code Against Cancer (European Commission, 2015d), included the recommendation "If you drink alcohol of any type, limit your intake. Not drinking alcohol is better for cancer prevention." Following the call for a European plan to beat cancer in President-elect Ursula von der Leyen's political guidelines, the Commission will prepare an EU Action Plan addressing all key stages of the disease, including lifestyle related prevention.

The WHO convention on tobacco also provides recommendations concerning the actions that should be prioritised (WHO, 2014a). The 10 target areas recommended by the WHO are regarded as complementary, as effective action is deemed to require comprehensive policies with a variety of interventions on both the supply and demand sides. Furthermore, prevention is seen as complementary and supportive to enforcement and repressive measures.

Beyond the immediate policy calibration and implementation issues, strong leadership, a solid base of awareness, and political will and commitment are essential. These elements are needed on different levels – international, national, regional and local – for policy and prevention actions to be effective. In this respect, the health policy work on curbing tobacco consumption has progressed further than alcohol, with extensive tobacco control reforms incorporated in Directive 2014/40/EU. Nevertheless, Member



States differ in the comprehensiveness of their health policies on alcohol and tobacco consumption (Hawkins et al., 2018).

Variations in alcohol policy between Member States are more significant than for manufactured tobacco, as there has been less convergence on excise duty rates on alcoholic beverages. While the non-tax policy recommendations of the WHO may also be effective to a certain extent, they are unlikely to be enough to tackle the impacts of excessive cross-border shopping for alcoholic beverages.

The Nordic countries, Ireland and the UK have implemented most of the WHO's recommendations, as have Estonia and Lithuania in recent years. This includes high standards of consumer protection, especially for underage drinkers, and high excise duty rates. There has been significant investment in enforcing these regulations (WHO, 2018c).

In conclusion, it is the view of the WHO, and others, that active use of the taxation instrument is a fundamental part of any comprehensive public health policy on alcohol and tobacco consumption and is considered the most cost-effective prevention tool available<sup>75</sup>. However, the current arrangements hamper the optimal use of taxation policy to achieve the health policy objectives of some Member States.

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<sup>75</sup> See, for example: WHO (2010), WHO (2014c), WHO (2018a), Levy et al. (2007), Barbor et al. (2010).

## Methodological approach to economic modelling

This annex provides further detail and information on the different economic modelling and cost-benefit analysis approaches that were undertaken during this study. In the following section, further explanations have been provided for each key area of the study, along with a separate overview of the use of the DG TAXUD IT Cost Model.

### Personal acquisition

#### Methodology overview

The modelling and cost-benefit analysis for the personal acquisition policy options is based around the following three parameters:

- 1) The extent to which policy options will affect cross-border shopping patterns, i.e. what real impact would each policy option have if fully enforceable? This step focusses on analysis of the current cross-border shopping patterns by private individuals across the EU.
- 2) The extent to which each policy option can reasonably be considered to change the behaviour of impacted consumers, economic operators and wider agents. This step is primarily based on expert assessment.
- 3) The extent to which reductions in cross-border shopping affect overall consumption. First, the impact on cross-border shopping is calculated for each policy option. Next, the price impact on the average consumption bundle of domestic and foreign tobacco and/or alcohol is calculated, i.e. the average price increases as less alcohol and tobacco can be acquired cross-border and hence consumers are subject to domestic prices to a larger extent. Finally, such price increases are transformed into overall consumption impact using price elasticities for tobacco and alcohol products, respectively.

The next section of this annex outlines the various inputs and assumptions that were used throughout the analysis. It also provides more detail regarding the application of the overall analytical methodology.

### Inputs and assumptions

#### ***The baseline scenario***

The baseline forecasts rely on the historical trends in alcohol & tobacco consumption. Specifically, the following data was particularly important:

- 1) *Alcohol*: Data from the WHO (2018a) was used to develop linear interpolations. The projected values of alcohol consumption going forward are based on the WHO's Global Health Observatory Data Repository forecasts for 2020 and 2025. This database reports 95 percent confidence intervals along its estimates which we use as the lower and upper bounds.
- 2) *Tobacco*: Consumption data from KPMG's project STAR (2010) and SUN (2013, 2017) reports are used. Projections of tobacco consumption are based on WHO (2018a) forecasts for the prevalence of smoking in the WHO European region

for 2020 and 2025.<sup>76</sup> Values for tobacco consumption before 2007 are for the EU-25 (excluding Bulgaria, Romania and Croatia), and values before 2013 for EU-27 (excluding Croatia). The low and high estimates of the consumption trend in tobacco products going forward are proportional to the lower and upper bounds of the 95 percent confidence interval provided by the WHO for alcohol.

When forecasting the general personal acquisition metrics to 2023 at EU level, the projected values for alcohol are assumed to follow the historical trend in unrecorded alcohol consumption from 2010 to 2016 provided by WHO (2018a). For tobacco products, data from 2007 to 2017 for intra-EU cross border consumption are available from KPMG project STAR (2010) and SUN (2015, 2017) reports and form the basis for the projected values of the metrics used in this study.

Consumer prices for alcohol and tobacco are available from Eurostat. Particularly, annual data on the Harmonized Index of Consumer Prices (HICP) with 2015 as index year was used. The projected values are based on the average annual growth rates observed over the time period.

### ***Impact assessment of identified policy options***

To quantify the impact of each policy option on volume and related metrics, we use consumer survey data providing distributions of the volume acquired on an average trip to another EU country. These distributions identify the share of individuals whose purchases exceed guide levels<sup>77</sup> and thus are essential for our impact assessment irrespective of whether we consider reducing guide levels or making them more enforceable etc. In the case where the policy option involves augmenting the levels with a frequency, we combine the volume distributions<sup>78</sup> with data on number of trips that an individual makes abroad to buy excise goods, which is also sourced from the consumer survey.

The inputs from the WHO (2018a) and KPMG (2017) enable us to present the magnitude of cross-border shopping expressed as a share of total consumption for alcohol and tobacco respectively, given an assumption that cross-border trade of alcohol beverages explains 29 percent of unrecorded consumption on average. The WHO (2018a) provides statistics on unrecorded, recorded and total alcohol consumption, and recent data on intra-EU cross-border trade and total cigarette consumption are provided by KPMG (2017). The reductions in volume and value of cross-border trade following implementation of the policy option in question are reported as annual figures by anchoring the impact on acquisition per average trip to magnitude estimates.

An assessment of the impact of a policy option on total consumption is carried out by supplementing the data with price level indices for alcohol and tobacco products from Eurostat. This allows for quantification of retail prices in the baseline scenario. Next,

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<sup>76</sup> This region includes more countries than EU-28. However, no significant difference is expected.

<sup>77</sup> In this context, it is assumed that quantities are equally distributed within each interval and that the current empirical distribution is representative of the 2023 status quo forecast.

<sup>78</sup> Specifically, the midpoint of the interval on volume acquired per average trip to another EU country by an individual is multiplied by the number of trips taken by that individual within the given period.

based on the magnitude of the reduction in volume acquired on an average trip as a result of the policy option, the decompositions between cross-border and domestic consumption are assessed. Specifically, a shift occurs from the consumption of excise goods bought abroad to domestic consumption, representing an average increase in retail prices of alcohol and tobacco faced by the residents in hotspot countries. It is assumed that consumption choices can be nested such that substitution between domestic and foreign alcohol and tobacco products are uncorrelated with other types of consumption. The dynamic macroeconomic effects are expected to be negligible considering the very limited scope of these policy options. Note also that transportation costs are implicitly assumed to be marginal, implying that the estimates tend to reflect the potential upper bound of the decrease in consumption.

In a final step, the average price increases are translated into changes in overall consumption. As argued in the report, significant uncertainty about the response is present. Generally, overall elasticities of general price increases in alcohol and tobacco are found to be in the region of -0.50 and -0.40 for alcohol and tobacco products, respectively, see e.g. Nelson (2013) for alcohol and the WHO for tobacco. This implies that a 10% increase in prices is expected to decrease consumption by 5% and 4% for alcohol and tobacco products, respectively. However, such estimates are not necessarily representative of cross-border shopping, as the price motive for this specific type of trade is of particular importance. We have therefore provided a range of estimates to recognise that the literature finds higher elasticities on cross-border trade, see e.g. Friberg et al. (2019) finding a price elasticity of -1.1 on average for residents living near the border.

It is also important to recognise, that different groups of consumers potentially react differently to price changes e.g. heavy drinkers. However, such evidence must be treated with caution, as there is, to the best of our understanding, no real consensus on the price responsiveness. Some studies find higher price responsiveness among heavy users of alcohol, e.g. Purshouse et al. (2010) Estimated effect of alcohol pricing policies on health and health economic outcomes in England: an epidemiological model and Byrnes et al. (2016) Is response to price equal for those with higher alcohol consumption?

The evidence is generally mixed, as lower price responsiveness is found in e.g. Pryce et al. (2019) Alcohol quantity and quality price elasticities: quantile regression estimates, Aepli (2014) Consumer demand for alcoholic beverages in Switzerland: a two-stage quadratic almost ideal demand system for low, moderate, and heavy drinking house-holds; and Wagenaar A C et al (2009), and 'Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1,003 estimates from 112 studies'. All these studies focus on general price elasticities not cross-border shopping.

In addition, youth is consistently found to be more price responsive than the general population, see e.g. Euromonitor International, Price Elasticities in Alcoholic Drinks and WHO, The demand for cigarettes and other tobacco products.

### **Expected impact**

A central element for all policy options is the assumption on compliance. The table below provides further information.

**Table 76: Compliance assumptions**

Policy option	Assumption
Options 2 and 5	<p>Private individuals purchasing below the current guide levels, but above reduced guide levels, will remain equally as compliant when guide levels are reduced, i.e. reduce cross-border shopping to be below guide levels.</p> <p>Individuals currently above current guide levels will lower volumes acquired per average trip by 50 percent of the proportional reduction in guide levels.</p>
Options 3, 5 and 6	<p>Private individuals above current guide levels will lower the volumes acquired per average trip to another EU country to become just compliant according to the share of purchases affected.</p>
Option 4	<p>Private individuals above current guide levels applied cumulatively given the defined frequency, will reduce the amount of cross-border shopping exceeding these guide levels by 10 percent.</p>
Option 8	<p>Given a frequency of 1 year, 25 percent of cross-border purchases above guide levels are for gifts or large events, and an additional 50 percent reduction in volume for purchases above reduced guide levels is assumed.</p>

In addition, the impact assessment is built upon two key underlying assumptions:

- The volume that will be reduced for cross-border purchases exceeding guide levels on an average trip is assumed to be 125.5, 96.5 and 12 litres for beer/cider, wines and spirits, respectively.
- For alcohol, the overall impact is based on a consideration of each type of alcohol beverage individually, namely beer/cider, wines, sparkling wine, fortified wine and spirits, corresponding to those where a guide level in Article 32 exists.

Therefore, by combining the collected survey data on volume and frequency distributions with existing literature, official price statistics and compliance assumptions, it is possible to calculate the impact of introducing each identified policy option on cross-border trade as well as overall consumption of excise goods.

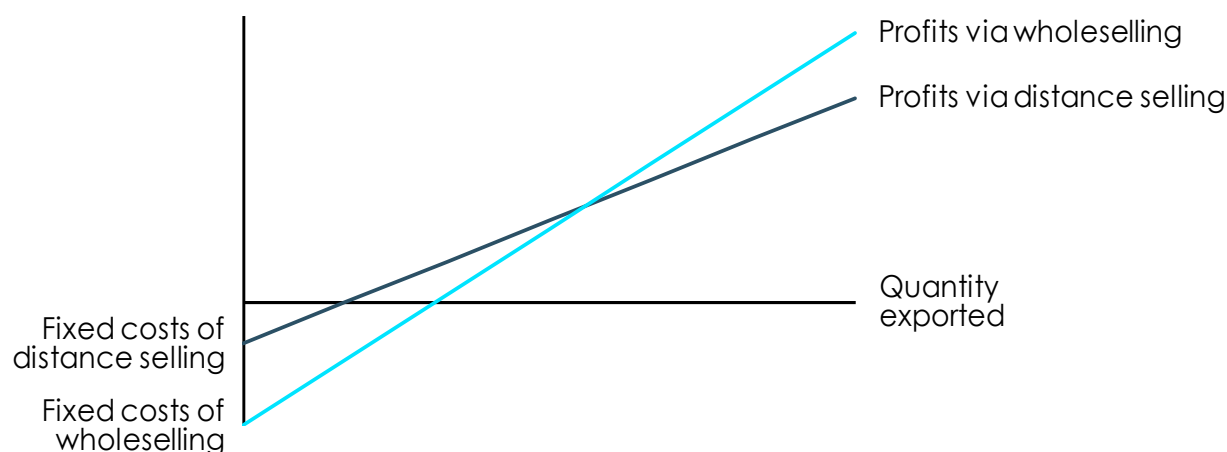
## **Economic modelling for distance selling**

### **Methodology overview**

The modelling for distance selling is constructed to capture the effects of implementing simplifications to the current arrangements of distance selling of excise products. Generally, the model is based on per transaction administrative costs (current and future), value of consignments, current distance selling of alcohol products and size of B2B trade (both intra-EU & extra-EU).

The conceptual idea behind the modelling follows Melitz (2003)<sup>79</sup>. In this model, firms are heterogeneous in terms of their productivity level and self-select into exporting if they are sufficiently productive. Applying a similar argument in the current setting allows us to think of firms self-selecting into distance selling or wholesaling depending on their productivity or size and exporting quantity, see the figure below.

**Figure 70: Firms self-selecting into different modes of trade based on productivity**



Firms decide whether to sell their products abroad or solely on the domestic market. If a firm decides to export, the firm chooses between distance selling or wholesaling. These choices depend on the costs and benefits associated with each of them. The benefits are selling its goods, while the costs span both fixed and variable costs and the dynamics of the different types of costs are both of interest.

It is expected that the fixed costs are higher for distance selling than for selling domestically, and even higher for wholesales. This is the case as the fixed costs of distance selling include understanding the regulation of exporting excise duty goods. The fixed cost of exporting via wholesaling also includes finding an interested wholesaler and wholesalers often require a substantial quantity, or the transaction is unlikely to be profitable.

The variable costs, on the other hand, are expected to be lower for wholesaling than for distance selling. This introduces a trade-off for economic operators. If they expect to sell a sufficiently large quantity, they can incur the large fixed costs of selling via a wholesaler. However, if it is a smaller firm, e.g. a small wine producer, that only expects to export wine to customers who have visited the vineyard, distance selling is likely to yield the highest profits. The figure below illustrates the profits through the two modes of exporting depending on the exported quantity.

In theory, economic operators will always choose the export option that yields the highest profits for their organisation. Hence, smaller firms that expect to export small

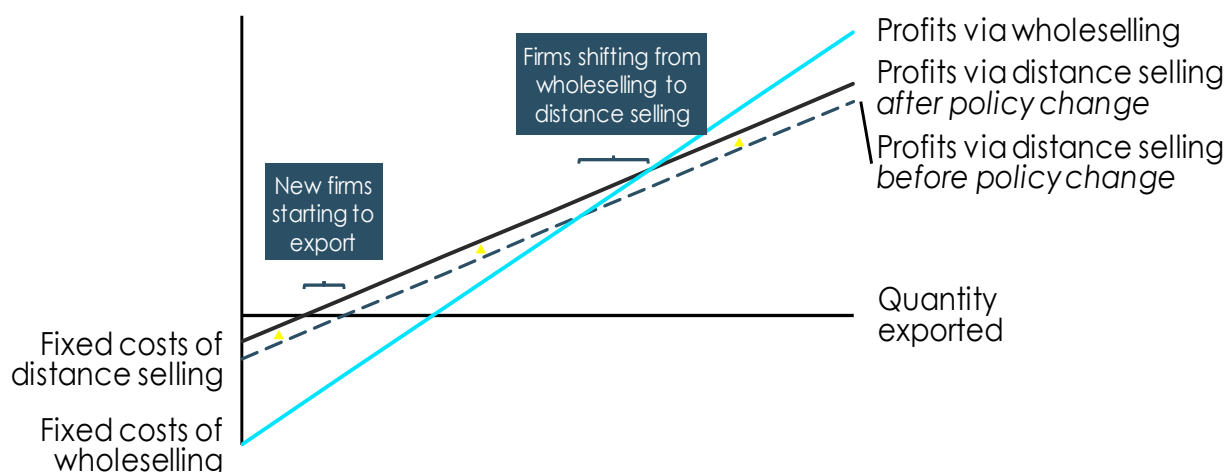
<sup>79</sup> See Melitz (2003) The impact of trade on intra-industry reallocations and aggregate industry productivity

quantities choose to export via distance selling. They are not large enough to incur the large fixed costs of exporting via wholesaling.

When the firm grows, or if foreign demand increases sufficiently, the firm incurs the higher fixed costs and start exporting via wholesaling. Two points should be highlighted. First, firms that expect to only export very small quantities will abstain from doing so due to the fixed costs of exporting. Secondly, it is the fixed costs and not the variable costs that determines whether a firm export or not. The variable costs affect the quantity that is exported.

The figure below provides an example of the effect of a simplification that can reduce the fixed costs of exporting via distance selling. When the fixed costs are lowered, more firms will export through this channel.

**Figure 71: The effect of a policy intervention that reduced the fixed costs of exporting via distance selling**



The policy change shifts the profit line up when exporting via distance selling. The reduction of the fixed costs reduces the barriers to trade and some firms that previously did not export will start doing so. Furthermore, some firms that previously exported via wholesaling will shift into distance selling. Firms exporting sufficiently large quantities will be unaffected by the policy change (except for potential general equilibrium effects, which we will ignore in all partial equilibrium models in this analysis) and will keep exporting through wholesalers.

## Inputs

### **The baseline scenario**

The baseline forecasts are modelled on an expected annual growth rate for the European eCommerce market of 8.5 percent. This is based on recent forecasts by Statista<sup>80</sup> and is assumed to be representative of growth in distance selling of alcohol products. These projections are anchored to the distance selling metrics as set out in the magnitude of problems section.

<sup>80</sup> See <https://www.statista.com/outlook/243/102/ecommerce/europe> [Accessed: 25/10/2019]

### **Impact assessment of identified policy options**

The impact assessment relies on the following input data:

- Forecasts of the size of distance selling, for both intra-EU and extra-EU, and the growth of B2B trade<sup>81</sup> in alcohol products;
- The average value of consignments;
- The average fee for a tax representative and cost to comply with the administrative burden for businesses;
- The elasticity on the intensive and extensive margin<sup>82</sup>;
- The elasticity of substitution between B2B and distance selling<sup>83</sup>; and
- The average decrease in compliance costs of each policy based on expert assessments.

### **Expected impact**

The impact is calculated using a 4-step approach:

- 1) For both intra-EU and extra-EU distance selling, the compliance cost reduction from each policy option is calculated on a per transaction basis by aggregating the expected cost reductions from tax representative fees and general compliance costs. However, such cost reductions are based on expert assessment due to limited availability of data.
- 2) Next, the impact of the simplification is calculated in terms of the price of an average consignment. These reductions are very significant given that current procedures are assessed as highly burdensome.
- 3) The decrease in average price per consignment is translated into increases in distance selling at the extensive and intensive margin using relevant elasticities<sup>84</sup>. In this step, the substitution between W2R and distance selling is also calculated. Note that the average intrinsic value of each distance sale is assumed to be constant.
- 4) In the last step, these effects are aggregated to provide the overall estimate of the impact on distance selling and overall trade in alcohol products taking into account the substitution between cross-border B2B and distance selling.

This approach generates the results and output reported in the cost-benefit analysis for distance selling. Below we have provided an example for how to calculate the impact on intra-EU distance selling from introducing the excise OSS:

### **Figure 72: Intra-EU distance selling impact analysis**

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<sup>81</sup> Based on 2023 forecasts (see W2R modelling below).

<sup>82</sup> Specifically, -1.0 on the extensive margin and -0.5 on the intensive margin, cf. Lawless (2008) *Deconstructing Gravity - Trade costs and extensive and intensive margins*, and Crozet and Koenig (2010) *Structural gravity equations with intensive and extensive margins*.

<sup>83</sup> Specifically applying a substitution elasticity of -1.0.

<sup>84</sup> An elasticity approach was found appropriate as current levels of distance selling are significant.



Background information	Label	Formula
Elasticity, extensive margin (exports by non-exporters)	A	From literature
Elasticity, intensive margin (additional export by current distance sellers)	B	From literature
Elasticity (distance selling vs. B2B)	C	From literature
Average transaction value; all distance sellers	D	From DS metrics
Transaction costs; per transaction (compliance)	F	T+U
<b>Before policy change</b>		
Share of exports via wholesalers	J	K/O
Exports via wholesalers (2023/2024 forecast)	K	From DS metrics
Exports via distance selling (2023/2024 forecast)	L	From DS metrics
Exports (before policy change)	M	K+L
Number of transactions; distance selling	N	L/D
Total transaction costs; distance selling (compliance)	O	F*N
<b>OSS-system</b>		
<b>Introduction into OSS-system</b>		
Average decrease in compliance costs	Q	$-(V-(T*(1-R)+U*(1-S)))/V$
Decrease in cost to comply with the admin by introducing policy option	R	Expert assessment
Decrease in average fee of a tax representative by introducing policy option	S	Expert assessment
Cost to comply with the admin	T	From DS metrics
Average fee of a tax representative	U	From DS metrics
Total compliance cost	V	T+U
Increased exports by (current) non-exporters	W	A*L*Q
Increased exports by (current) distance sellers	X	B*L*Q
Increased exports (distance selling vs. B2B)	Y	C*L*Q
<b>After policy change</b>		
Exports via wholesalers	$\alpha$	K-Y
Exports via distance selling	$\beta$	L+W+X+Y
Increase in Intra EU trade	$\gamma$	$(\beta-L)/L$
Exports after policy change	$\epsilon$	$\alpha+\beta$
Number of transactions	$\kappa$	$\beta/D$
Increase in number of distance sales	$\eta$	$(\kappa-N)/N$
Transaction costs per transaction	$\iota$	$F*(1+Q)$
Total transaction costs; distance selling (compliance)	$\mu$	$\kappa*\iota$

With DS metrics referring to 'distance selling metrics' as described above. Also note that different assumptions on cost reductions were applied to capture the inherent uncertainty attached to such assessments.

## Economic modelling of wholesale to retail

### Methodology overview

The modelling for whole-to-retail is constructed to capture the effects of implementing simplifications to the current arrangements of B2B trade in excise products. Generally, the model focuses on changes to the per transaction administrative costs (current and future), the average value of movements and the current size of B2B trade in excise products (for both intra-EU & extra-EU).

Similarly to the distance selling modelling, the conceptual idea behind the analysis follows Melitz (2003)<sup>85</sup>. In this model, firms are heterogeneous in terms of their productivity level and self-select into exporting if they are sufficiently productive. Firms decide whether to sell their products abroad or solely on the domestic market. Hence, any simplifications as a result of individual policy options increase trade at both the extensive and intensive margin.

<sup>85</sup> See Melitz (2003) for further information on the impact of trade on intra-industry reallocations and aggregate industry productivity.

However, unlike distance selling, the modelling follows Melitz (2003) more closely. An example of this is that the substitution between B2B and distance selling drops out, as the current arrangements for distance selling are too burdensome (on an average per consignment basis) compared to wholesale to retail to generate any significant substitution effect<sup>86</sup>. For further information, please refer to the modelling methodological overview from distance selling (page 80).

## Inputs

### *The baseline scenario*

The current statistics underlying baseline forecasts of duty-suspended inbound figures are based on data provided by Eurostat and are used in combination with the Ramboll (2016) study stating that 99 percent of excise goods moves under the duty suspension regime. Projections are based on European Economic Forecasts suggesting a general growth rate in trade of 3.50 percent year-to-year and, where relevant, are adjusted for inflation (assumed to be 2 percent).

### **Impact assessment of identified policy options**

The impact assessment relies on the following input data:

- Forecast size of B2B trade (intra-EU and extra-EU)<sup>87</sup> in excise products (tobacco, alcohol and energy products, separately).
- The average value and size of consignments.
- The average cost to comply with the administrative burden for businesses for seller and customers respectively, using the weighted average time spent on duty paid and duty suspended movements.
- Average wage costs in the EU according to Eurostat.
- The elasticity of the intensive and extensive margin respectively<sup>88</sup>.
- The average decrease in compliance costs of each policy based on expert assessments.

## Expected impact

The impact is calculated using a 4-step procedure:

- 1) For B2B trade in excise products, the compliance cost reduction from each policy option is calculated on a per transaction basis, based on the expected decline in the general administrative burden.
- 2) The impact of the simplifications was calculated in terms of the price of an average movement. Unlike distance selling, these reductions are very small, i.e. current barriers to trade are limited.

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<sup>86</sup> In the baseline, current arrangements for distance selling are assumed to be the similar to current levels.

<sup>87</sup> Based on 2023 forecasts (see W2R modelling below).

<sup>88</sup> Specifically, -1.0 on the extensive margin and -0.5 on the intensive margin, cf. Lawless (2008) *Deconstructing Gravity - Trade costs and extensive and intensive margins*, and Crozet and Koenig (2010) *Structural gravity equations with intensive and extensive margins*.

- 3) The decrease in average price per consignment is translated into increases in B2B trade in excise products at the extensive and intensive margin using relevant elasticities. The average value of each excise movement is assumed to be constant.
- 4) In the last step, consideration was made to the impact on consumption. However, given the limited expected impact on trade, these effects were considered insignificant.

This approach generates the output reported in the cost-benefit analysis for the wholesale to retail policy options.

## **IT cost model**

### **Methodology overview**

The IT Cost Model, provided by DG TAXUD, quantifies the effort and cost associated with implementing IT projects for DG TAXUD and individual Member States. The overall cost for IT implementations is determined by a set of sizing parameters, assumptions on the effort required to implement each project activity and the average man-day cost across Member States, which allows for translation of time into monetary costs.

For each policy option with envisioned IT systems, a detailed mapping of all processes, tasks, messages and interfaces has been developed. The mappings are then translated into sizing parameters.

Specifically, the sizing parameters are:

- Total number of processes
- Number of changed processes
- Total number of tasks
- Number of changed tasks
- Number of new or updated messages
- Total number of interfaces
- Number of impacted interfaces

The IT costs for DG TAXUD and Member States are based on the same values for the sizing parameters. The applicable sizing parameters for each policy option involving an IT transformation are presented in the next section.

### **Sizing parameters**

In order to analyse the various IT Cost implications, an assessment was undertaken for each policy option to gauge the number of IT-related changes that would be required. The following figure presents an overview of the sizing parameters for each relevant policy option:

#### **Table 77: Policy option sizing parameters overview**

	SIZING PARAMETERS						
	# of process	# of new/changed process	# of Tasks	# of new/changed Tasks	# of new/updated Msg	# of interfaces to systems	# of impacted interfaces to systems
<b>1. Distance selling</b>							
1.1. Creation of an OSS platform only for Excise goods	17	17	81	81	18	3	0
1.2. OSS+ or Integrated OSS covering both VAT and excise duties	17	17	81	81	18	3	3
1.3. Combine de minimis thresholds with OSS	17	17	81	81	18	3	0
1.4. OSS + Split Payment mechanism	13	13	61	61	15	3	0
1.5. OSS + EU Excise Web Portal	17	17	81	81	18	3	3
<b>2. Wholesale-to-retail</b>							
2.1. Creation of an OSS platform only for Excise goods: declaration via periodical returns	17	17	81	81	18	5	0
2.2. OSS+ or Integrated OSS covering both VAT and excise duties	17	17	81	81	18	5	5
2.3. Split payment mechanism	13	13	61	61	15	5	0

In the following section, further information is provided to show how the above assessment was undertaken.

## Distance selling

### ***OSS for excise only***

To count the processes, tasks and messages, we identified the business requirements for OSS that DG TAXUD designed on Aris Publisher.

OSS's processes are contained in several enabling business domains:

- E-commerce Excise Tax Management; and
- Registration and Authorisation Data Management for Distance Selling, which is also mapped in BPM Level 2 of E-commerce Excise Tax Management.

The enabling business domains related to e-commerce excise tax management and registration and authorisation data management for distance selling, including business processes of level 3 (BMPN), which we used as a basis to count the processes changes and implementation impact. E-commerce excise tax management includes 12 processes; registration and authorisation data management for distance selling has 4 processes.

Each BPMN or process contains several tasks, which relate to an action carried out by the user (identified as blue boxes on Aris Publisher), and messages, which materialise notifications of information between the stakeholders (distance seller, authorities of the Member State of identification and other Member States). For example, one of the identified tasks within the processing of the excise tax return relates to the action for the Member State of Identification to verify the structure and the content of the received excise tax return.

Finally, the number of interfaces that will have an impact on the implementation of OSS for excise were counted:

- Member States will use SEED to identify the distance seller for a given transaction of excise goods;
- The Member State of Identification will make sure that the distance seller provided a guarantee via the national guarantee system of the Member State of identification;

- The national payment system of Member State of consumption will receive the payment processed by OSS.

### ***Integrated OSS covering both VAT and excise duties***

The integrated OSS covering both VAT and excise duties includes the same number of processes, tasks and messages. Any changes in the current OSS for VAT must take into consideration all the excise tax processes, tasks and messages in addition to the VAT ones. We considered that OSS covering VAT and excise duties cannot merge VAT tasks in excise ones.

The main objective of combining both VAT and excise duties is to offer the distance seller the ability to perform their obligations in one single platform, and Member States to use the IT architecture they rely on for OSS for VAT.

### ***Combine de minimis threshold with OSS***

We do not expect any processes, tasks or messages in addition to the ones identified for OSS for excise due to the introduction of a *de minimis* threshold. OSS will automatically cross-check whether the threshold has been surpassed.

### **Wholesale to retail arrangement**

#### ***Virtual consignee on EMCS***

There will be no additional processes, tasks, messages or interfaces on EMCS because of the creation of the virtual consignee option.

#### ***OSS for excise only***

Retailers will bear a very limited level of administrative burden (if any) to simplify the formalities for them to purchase excise goods in another Member State. We considered them in a similar way to those placed on a private consumer, like in the distance selling modelling. Therefore, the processes, tasks and messages apply in the same way for OSS in the context of distance selling of excise goods, as for wholesale to retail.

To cross check the excise tax return against the tracking of the movement of excise goods, OSS will be interfaced with:

- EMCS for duty-paid movements; and
- EMCS for duty-suspension movements.

To link the excise authorisations of the wholesaler with OSS, the latter will be interfaced with:

- SEED for duty paid movement; and
- SEED for duty-suspension movements.

For the same reasons explained for OSS for distance selling, OSS will be interfaced with the national guarantee and payment systems of the Member State of destination.

### ***Integrated OSS covering both VAT and excise duties***

We expect the same number of changes to processes, tasks and messages for the integrated OSS for distance selling. Please see the above section for further information. The interfaces with other systems have been counted in the same way than for OSS for excise applied to wholesale to retail transactions.

### ***OSS combined with split payment mechanism***

Member States are expected to implement process, task and message changes as the Member State of identification will use OSS for transmitting the excise tax payment to the Member State of destination. Therefore, they are expected to perform all the related tasks, including the verification of the structure and content of the received excise tax payment. Interfaces foreseen in the context of OSS for excise only and integrated OSS will also apply for OSS combined with the split payment mechanism, since Member States will implement the processes that relate to excise tax payment.

### **Overview of calculation of IT costs**

The implementation tasks that are included in the effort and related cost estimation for DG TAXUD and/or Member States involve:

- Functional system specifications (FSS) and technical system specifications (TSS) which are assumed to be 20 percent of the time spent by DG TAXUD on specifications for each Member State;
- System design, build and testing (DBT) activities;
- Deployment, roll-out and conformance (DRC) test activities, which are again assumed to be 20 percent of the DBT activities, and an additional 20 percent of the TSS for DG TAXUD only; and
- Project management (PM) and quality assurance (QA) activities assumed to be 15 percent and 20 percent (including PM) of all the previous activities respectively, for DG TAXUD. For each Member State, these activities are merged into a single activity equal to 38 percent of DBT and DRC efforts.

These figures are dependent upon one or more of the sizing parameters in combination, either directly or indirectly, with the underlying assumptions listed in the table below.

**Table 78: Underlying assumptions**

Variable	Value	Comment
Effort per process	50 man-days	
Effort per process with change	50 man-days	
Effort per task/message with change	35 man-days	Updates in tasks and messages lead to the same implementation effort
DBT factor	3% <sup>89</sup>	Total DBT effort is increased by an additional percent per changed interface to an existing system
Man-day cost <sup>90</sup>	€619 per man-day	

In addition, the model is based upon the following core assumptions:

- DG TAXUD will incur only 50 percent of the computed DBT effort;
- All processes are of equivalent size/complexity;
- A single IT situation applies for a Member State regardless of variation across projects; and
- There are no significant collaboration savings.

In addition, the estimates of the IT costs do not account for the following implementation tasks:

- Training and organisation change management;
- Infrastructure costs;
- Maintenance, support, operations efforts and costs;
- National IT architecture change implementation efforts and costs; and
- EU and national program, governance, business strategy, clarification, definition, decision phases efforts and costs.

### **Detailed methodology**

The algorithm used to estimate Member State and European Commission project implementation effort considers the following steps and parameters:

1. For each policy option user requirements are used to count:
  - The total number of processes in scope (*# processes*);
  - The number of processes where a change is occurring (*# of changed processes*);

<sup>89</sup> This factor depends on the IT situation for Member States. We assume that all Member States can use existing IT infrastructure when implementing the IT transformation in question, as the OSS for VAT purposes will be in place at the envisioned time of implementation.

<sup>90</sup> The average man-day cost is taken to be €551.2 in 2012 following from IT Master Plan Study Report which has been converted into 2018-prices using inflation rates available from Eurostat. These costs are considered to be more accurate than the average costs in the Standard Cost Model.

- The total number of unique tasks in those processes (*# of tasks*);
  - The number of tasks where a change is occurring (*# of changed tasks*);
  - The number of new or updated information exchanges (messages) in these processes (*# of messages*); and
  - In addition, for each project, the number of new or updated interfaces with other (existing) systems (or other process areas) (*# of impacted interfaces*), and the total number of interfaces (*# of interfaces*).
2. The different policy options are assumed to be dependent on one or many of the above parameters, as follows:
- Functional System Specifications (FSS):
    - The total number of processes determines the effort for Functional System Specifications activities (it is assumed that all the processes will need to be specified, even if no change);
    - The effort is computed as follows:  
 $total\ FSS\ effort = \# \text{ processes} \times \text{effort for 1 process FSS};$
  - Technical System Specifications (TSS):
    - The number of processes only where a change is occurring, determines the effort for the Technical System Specifications activities;
    - The effort is computed as follows:  
 $total\ TSS\ effort = \# \text{ of changed processes} \times \text{effort for 1 changed process TSS};$
  - Design, Build and Test (DBT):
    - The number of tasks where a change is occurring and the number of new or updated information exchanges (messages) determine the effort for the Design-Build-Test activities;
    - The number of interfaces to other (existing) systems (or other process areas) adds an effort percentage to Design-Build-Test activity;
    - For estimating the Design-Build-Test effort for each project, the MSs are assumed to be:
      - Type 1: The existing IT system has been built using flexible/modular architecture, such as Service Oriented Architecture and it will be upgraded to support the new functionality. Therefore the DBT estimation is done as follows: the number of new tasks added to the number of new messages, multiplied by the effort for one task and message. The Design-Build-Test effort (DBT) effort is also increased by an additional 3% per changed interface to an existing system (e.g. if the project needs to change for instance 3 interfaces to other systems, the effort is increased by 9%):  
  
 $total\ DBT\ effort = (\# \text{ of changed tasks} \times \text{effort for 1 task} + \# \text{ of messages} \times \text{effort for 1 message}) \times (1 + \# \text{ of impacted interfaces} \times 0,03);$



3. The other project activities are assumed to be a percentage of the previous activities' efforts, as follows:
- The Deploy-Rollout-Conformance Tests activities are assumed to be 20% of the Design-Build-Test;
  - The Project Management activities are assumed to be 15% of all the previous activities; and
  - The Quality Assurance activities are assumed to be 20% of all the previous activities (including PM).

In addition, the effort and cost method for MS also take into account the following variations:

- For functional and technical systems specifications (FSS and TSS), each MS contribution for consultation and reviews of specifications, and for possible additional national specifications, is calculated to be 20% of the total specifications' effort;
  - For project management and quality assurance (PM and QA) MS efforts presented above are merged in a single multiplication factor, assumed to be the same as DG TAXUD and equal to 38% of Design-Build-Test and Deploy/Roll-out efforts.
4. To calibrate the model, the input data described above is used to count the parameters, and come to effort values for the parameters (for FSS, TSS and DBT):
- Applied value for 1 process: 50 Man-days;
  - Applied value for 1 process with change: 50 Man-days;
  - Applied value for 1 task with change: 35 Man-days;
  - Applied value for 1 message exchange: 35 Man-days.

## Methodological approach to mirror statistics

This Annex outlines the Mirror Statistics methodology used to analyse discrepancies in intra-EU bilateral trade data. In Chapter 6, we detailed the theoretical framework for analysis of bilateral trade, as well as the output of our analysis. The purpose of this Annex is to summarise the steps we took to calculate the trade data asymmetries.

The approach used Eurostat intra-EU trade statistics, which were analysed for statistical discrepancies and irregularities in recorded bilateral intra-EU movements of excise goods. Our analysis proceeded along the following lines:

1. *Scoping:* We first identified the relevant CN codes for the products to be analysis, which were beer, cider, fortified wine, sparkling wine, spirits, wine, cigarettes, cigars and fine cut tobacco. We also intended to analyse unleaded petrol, however this was not possible much of the trade data on Eurostat is restricted.
2. *Thresholds:* Before conducting our analysis, we determined thresholds in reporting differences that would help us identify and understand large trade data asymmetries. As discussed in Chapter 6, these were 5% for net asymmetries and 20% for absolute asymmetries.
3. *Data preparation:* We extracted the bilateral trade data for each Member State pairing over a three year period from 2016-2018. The data was cleansed and structured, e.g. removing confidential or unavailable bilateral pairs. As the products contain more than one CN code, we aggregated the balance under the product headings listed above.
4. *Three year average:* As trade data discrepancies can be driven in part by timing differences, we calculated a three year average of import and export flows for each bilateral pair in all products to smooth out discrepancies.
5. *Matching of bilateral pairs:* The bilateral trade flows were matched to the opposite pairing, e.g. the reported imports of country A from country B were matched to the reported exports of country B to country A. In some instances the matching trade flow was not reported and in these cases the balance was taken as zero.
6. *Analysis of bilateral pairs:* With the trade flows matched, we calculated the net and absolute differences in euro for each bilateral pair. The asymmetries were also shown as a percentage of the reported balance, either imports or exports depending on the trade flow.

To understand the magnitude of the discrepancies, the bilateral asymmetries were aggregated in two ways: first, at the product level; and, second at the Member State level, for each product. This enabled us to identify the products with the largest trade data asymmetries and to subsequently identify the drivers of the difference. The results of this analysis, shown in Chapter 6, are present the net and absolute differences for each product.

The limitations of this approach are also outlined in Chapter 6. The first key limitation is that while certain fraudulent movements (i.e. those recorded in one location but not accurately recorded in the corresponding location) will be captured in the analysis, fraudulent movements that are not recorded anywhere will not be captured at all. The second is that the discrepancies may be attributable to other factors. The Statistical Office of the European Communities (2000), focussing on VAT, listed fifteen main causes for asymmetries in mirror statistics, only one of which was fraud. The full list includes:

1. Non-response
2. Thresholds
3. Adjustment methods
4. Statistical confidentiality
5. Indirect exports
6. Triangular trade
7. Methodological differences
8. Differences in the classification of goods
9. Partner country
10. Different ways of defining the value of goods
11. Time gap
12. National and Community concept
13. Exchange rate differences
14. Incomplete PSIs (Providers of Statistical Information) registers
15. Fraudulent declarations

For these reasons, discrepancies in mirror statistics provide an indication of where this kind of fraud may be occurring, but not definitive evidence.

## Methodological approach to business prevalence analysis

Chapter 4 presented analysis of business prevalence: a way of identifying possible tax-driven economic distortions around borders with high excise differentials. The steps of forming and testing this hypothesis were as follows:

1. Retail prices for alcohol and tobacco products are assumed to be lower in towns/cities<sup>91</sup> on the side of the border with lower excise rates. This assumption is justified on the basis that the underlying costs of production, transportation and retail are unlikely to differ significantly between towns on either side of the border, given the free movement of goods in the internal market.
2. Where prices are lower, we expect the volume of purchases on that side of the border to be higher (due to high volumes of cross-border shopping). In the absence of data limitations, we would then compare purchase volumes on either side of the border.
3. Purchase data is not available at this level of granularity, however, which makes it difficult to test this directly. Instead, the number of retailers as a proportion of the resident population (business density) is used to proxy purchases. On this basis, lower excise rates is expected to lead to a higher business density.
4. Taken together, these assumptions imply that significantly lower (higher) excise rates should be accompanied with a notably higher (lower) density of retailers in border towns. This is the hypothesis that was tested.

It is plausible to expect, however, that there may be specific factors that influence the density of businesses in one Member State vs another. For example, it would not be valid to compare the business density in one Member State where the majority of alcohol can only be sold in state-owned monopoly retailers with the business density in another where private enterprises may retail alcohol. To control for Member-State specific factors like this, each border town was instead compared with an internal control town. Instead of comparing two towns on either side of the border, the business density of each border town was compared with the density in its internal control town.

Comparison towns were carefully chosen using the following criteria:

- First, Member States with high excise-rate differentials and clear border points were identified.

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<sup>91</sup> For ease of reference we refer to "towns" hereafter, although the exact classification of each urban areas or agglomerations may be different.

- Border towns had to be situated within a short journey (either by car, train or ferry) of Member States with a high excise differential for alcohol and/or tobacco products.
- The corresponding internal town had to be situated within the same Member State and not within a short drive of any border with a high differential<sup>92</sup>.
- To control for economies of scale and other factors relating to population size, the internal town was required to have as similar a population as possible to the border town. In some instances (e.g. a capital city) no internal towns of the same size existed, so the most populous town that met the other criteria was used.
- Finally, to avoid differences driven by income the towns were chosen so as to have a broadly similar level of GDP per capita. This was difficult to ensure, however, as consistent data was only available at NUTS 3 level (regions often containing more than one town), and in some cases very few comparable towns were available (e.g. large cities comparable in size to capitals but not near a border).

These criteria were applied as closely as possible, subject to limitations on the availability of comparable towns in a given Member State. To protect the results from bias, towns were chosen according to these objective criteria and included in the results irrespective of the outcome of the analysis.

Population data was taken from CityPopulation, a website that collates data from official sources and displays it in defined geographical boundaries using geospatial mapping software. This was combined with retailer data taken from Google Earth, which allowed us to ensure the retailer was located in the exact same area the population data related to (some retailers may have addresses that appear to be within the same location as the population data, but in fact be in the outskirts beyond the limits of the population count).

The analysis focused on twelve towns in high-traffic border areas between Finland-Estonia, Sweden-Denmark, France-Spain, and Greece-Bulgaria. The specific towns are listed below:

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<sup>92</sup> The exception to this was Copenhagen. Rather than comparing Copenhagen with an internal city (given the next largest city, Aarhus, is approximately one-fifth of the population), different districts of Copenhagen were compared with each other.

**Table 79: List of towns used in business prevalence analysis**

Member State	Internal/border	Town/city/region	Population
Denmark	Border	Amager Øst and Amager Vest	129,700
	Internal	Brønshøj-Husum and Vanløse	85,600
Estonia	Border	Tallinn	434,600
	Internal	Tartu	93,900
Greece	Border	Drama	44,800
	Internal	Kozáni	41,100
Bulgaria	Border	Gotse Delchev	18,400
	Internal	Nova Zagora	20,700
France	Border	Hendaye	16,600
	Internal	Saint-Jean-de-la-Ruelle	16,300
Spain	Border	Irun	62,000
	Internal	Valdemoro	74,700

No towns were included for Sweden or Finland, because the presence of a state-owned alcohol monopoly in those Member States would have made the approach unsuitable. Economic distortions cannot be examined where the government or its agents make the location decision for retail stores.

This analysis provides a useful indication of the presence (or absence) of excise-driven economic distortions, but it has its limitations and is not equivalent to a statistical analysis to which margins of error can be attached. Although designed to capture as many as possible, the approach does not capture all businesses that retail either alcohol or tobacco products, as in practice many of these retailers are very small businesses who sell a range of products and are not picked up by the search terms.

However, the use of identical search terms for both towns in a Member State (in English and the relevant local language) ensures consistency in the type of retailers that are identified and allows for comparable results. Finally, the presence of high volumes of ferry retailers may dilute the results. For example, ferries operating between Helsinki and Tallinn may drive down the number of retailers in Tallinn by making excise goods available to Finnish consumers en route.

These limitations aside, this approach has successfully been used by a previous study to examine the impacts of differences in VAT across Member States. The *Reform of Rules on EU VAT Rates* study (European Commission, 2017a) used the same approach to identify evidence of cross-border shopping for a range of non-excise goods and services, including food and non-alcoholic beverages, motorised wheelchairs, luxury watches, notebook computers, dental services and hairdressing.

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