The 2014 European Union (EU) Tobacco Product Directive (TPD) mandates and suggests a range of policy domains for regulating nicotine-containing e-cigarettes. Nine mandated provisions include: reporting and notification, safety and quality (five provisions), packaging and labeling (two provisions), advertising/promotion/sponsorship; suggested provisions include regulations around importation and cross border sales, application of taxes, vape-free laws, minimum age of purchase. All 28 EU Member States were required to transpose these rules by May 20, 2016. The objective was to identify which EU Member States have implemented the TPD and assess the extent of implementation.

Background

- Nine mandated provisions include: reporting and notification, safety and quality (five provisions), packaging and labeling (two provisions), advertising/promotion/sponsorship; suggested provisions include regulations around importation and cross border sales, application of taxes, vape-free laws, minimum age of purchase.
- All 28 EU Member States were required to transpose these rules by May 20, 2016.
- Objective: to identify which EU Member States have implemented the TPD and assess the extent of implementation.

Methods

- As part of an ongoing effort to capture how countries are regulating e-cigarettes, national policies regulating e-cigarettes in the 28 EU Member States were identified through searching the respective Ministry of Health websites, as well as media monitoring and general web searches.
- Findings report data through December 31, 2016.
- Policy domains identified include mandated provisions, as well suggested provisions.
- The interpretation of each policy was reviewed by a country expert.

Results

- 14 of the 28 EU countries have implemented the TPD provisions regarding e-cigarettes as of December 31, 2016.
- Approach to implementing provisions on health warning labeling varies across countries.
  - Of the 13 countries with rules on labeling, nine countries require warnings that cover 30%, two countries specify 32%, and two are unclear about coverage.
- 12 EU countries have transposed some of the recommended provisions of the TPD as of December 31, 2016 (Figure 1).
  - In regards to regulating cross-border distance sales, six countries prohibit cross-border distance sales, while six countries require manufacturers/importers/retailers to register with the competent authorities in the relevant countries.

Policies that transcend EU TPD mandates or recommendations

- Applying the TPD to non-nicotine e-cigarettes (Denmark, Germany and Malta).
- Prohibiting use by minors (Estonia, Germany, and Lithuania).
- Prohibiting possession by minors (Finland and Lithuania).
- Prohibiting use on school premises (France, Italy).

Figure 1: Implementation of non-mandatory provisions of the TPD across EU countries

<table>
<thead>
<tr>
<th>Provision</th>
<th>Number of EU countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Importation</td>
<td>1</td>
</tr>
<tr>
<td>Tax</td>
<td>1</td>
</tr>
<tr>
<td>Vape-free</td>
<td>2</td>
</tr>
<tr>
<td>Minimum age</td>
<td>2</td>
</tr>
<tr>
<td>Registration of cross-border distance sales</td>
<td>2</td>
</tr>
<tr>
<td>Ban on cross border distance sales</td>
<td>2</td>
</tr>
</tbody>
</table>

Note: the 14 countries identified as having implemented the TPD include: Austria, Denmark, Estonia, Finland, France, Germany, Ireland, Italy, Latvia, Lithuania, Malta, Netherlands, Portugal, and the United Kingdom.

Legal challenge: Belgium is in the process of reworking its policy due to a legal challenge by an e-cigarette company.

Conclusion and Implication

- A number of EU countries have not transposed the EU TPD provisions; among countries that have implemented the TPD, there are inconsistencies or variations in how certain provisions are implemented.
- Inconsistencies in implementation may undermine the EU’s TPD intended impact on public health and present enforcement challenges.

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