



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 28.11.2002
COM(2002) 699 final

2001/0119 (COD)

Amended proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on the approximation of laws, regulations and administrative provisions of
the Member States relating to the advertising and sponsorship of tobacco products**

(presented by the Commission pursuant to Article 250 (2) of the EC Treaty)

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the Member States relating to the advertising and sponsorship of tobacco products**

1. BACKGROUND

Transmission of the Proposal to the Council and the European Parliament (COM 2001 (283)-
final 2001/0119 (COD)) in accordance with article 95(1) of the Treaty 20 June 2001

Opinion of the Economic and Social Committee 17 October 2001

Opinion of the European Parliament - first reading 20 November 2002

2. OBJECTIVE OF THE COMMISSION PROPOSAL

This proposal for a Directive of the European Parliament and of the Council is intended to regulate the advertising of tobacco products and related sponsorship in the media, apart from that on television, already covered by other Community legislation. It therefore regulates tobacco advertising in the press and other printed publications, as well as advertising and sponsorship in the radio. It also regulates to the extent necessary for the completion of the Internal Market the rules concerning tobacco advertising using information society services. Finally, it regulates the sponsorship of events and activities having cross-border effects, and the free distribution of tobacco products in the context of this sponsorship.

It is intended to replace Directive 98/43/EC of 6 July 1998, which has been annulled by the Court of Justice of the European Communities.¹

It also takes account of the legislation of the Member States and of the development of international rules in this matter. It is intended to approximate the laws, regulations and administrative provisions of the Member States in order to eliminate barriers to the functioning of the Internal Market, with the objective of ensuring the free movement of goods and services which respect the rules of the Directive.

This proposal does not deal with issues such as indirect advertising, monitoring of tobacco companies' expenditures on advertising, or vending machines, which are addressed in the context of a proposal for a Council Recommendation based on Article 152 of the Treaty that the Commission has presented to the Council.²

¹ Case C-376/98 of 5 October 2000, *Germany v Parliament and Council*

² COM(2002) 303 final, 17.6.2002

3. COMMISSION OPINION ON THE AMENDMENTS ADOPTED BY THE PARLIAMENT

3.1. Amendments accepted by the Commission

The following amendments can be accepted:

Amendment 11 deletes the reference to the call for new proposals to address possible further obstacles to the smooth operation of the Internal Market. The Commission agrees that its right of initiative remains as provided for in the Treaty even if specific reference to the right to present new proposals is not indicated.

Amendment 26 improves the clarity of the text, by introducing a new recital which clearly identifies the matters within the scope of the Directive, and reminds that Member States retain the competence to regulate certain issues not covered by the Directive as they deem necessary to guarantee the health protection of individuals.

3.2. Amended proposal

Having regard to Article 250, paragraph 2, of the EC Treaty, the Commission modifies its proposal as indicated above.