Brussels, January 20, 2014

Dear Chairman,

Dear Rapporteur and Shadows,

First of all, we would like to wish you a very happy new year and best wishes for 2014.

With 2013, a very busy and eventful year came to an end. After long and complex negotiations, the Council and the European Parliament on the 16th of December rejected the express classification of electronic cigarettes as medicinal products and agreed to regulate them within the framework of the TPD. This was a critical step towards creating a proper regulatory framework for the growing electronic cigarettes sector in Europe; a framework that should ensure the high quality and the safety of these products without disproportionate barriers for placing them on the market. In other words, and despite some important compromises which the European Parliament had to unfortunately accept, the co-legislators have confirmed that a less harmful alternative to conventional tobacco products must be available to European citizens and must meet strict quality and safety criteria.

The Tobacco Vapour Electronic Cigarettes Association (TVECA), also on behalf of the electronic cigarette national associations of France (CACE), Germany (VdeH), Greece (SEEHT), Italy (ANAFE), Netherlands (Ecigbond), Poland (STEP) and Spain (ANCE), supports the text adopted during the trilogue on the 16th of December, although with a number of reservations. Representing the biggest share of the European electronic cigarettes industry, we are confident that the agreed provisions are a compromise that the industry can comply with. We encourage the Parliament to adopt the text with no amendments during the upcoming votes in the ENVI committee and at the Plenary in, respectively, January and March. We would like to use this opportunity to personally thank you for your efforts in reaching the trilogue agreement.

We are aware that certain stakeholders continue to lobby the Parliament to amend Article 18 or try to apply procedural tricks that would undermine the credibility of the agreement. Any amendment at this stage would automatically lead to a 2nd reading and mean an unhelpful step back. We believe this would be an insult to the co-legislators who have worked hard to reach this compromise.

In the meantime we still would like to draw your attention to a number of provisions, some of which were included in the text at the very last stage of the process and may still negatively impact the European electronic cigarettes industry at the implementation phase. These include:

- ***Medicines by function (Recital 32a).*** Member States may regulate electronic cigarettes as medicines "*by function*". This only undermines the TPD's purpose to ensure harmonisation across the EU. Member States could de facto ban electronic cigarettes on their respective markets while conventional tobacco products remain freely available;

- ***Medicine-like evaluation (p.2c art.18a).*** Electronic cigarettes will be required to undergo a medicine-like evaluation. This means they will indirectly be treated as medicinal products and provide Member States with another tool to impose a ban;
- ***Regulation of flavours by Member States (Recital 32l).*** Member States will continue to have the freedom to ban flavours. In this scenario it would considerably decrease the attractiveness of electronic cigarettes vis-à-vis conventional tobacco products;
- ***Advertising of flavours on packages (Art. 18.4(b)ii).*** Packages of electronic cigarettes cannot refer to the flavouring of the product as set out in Art. 12 of the TPD. This is highly illogical because consumers would have no information about the flavouring of the product being purchased.
- ***Ban on advertising (p.5 art. 18a).*** Bans on advertising and cross-border sales of electronic cigarettes would unfairly deprive the growing electronic cigarettes industry of the chance to establish a market that can compete with conventional tobacco products;
- ***Regulation of brand-stretching by Member States (Recital 32m).*** Brand-stretching is currently banned only in 5 Member States, although this should be the case for the entire European Union. The non-application of this ban in certain Member States would benefit "Big Tobacco" and facilitate their expansion into the electronic cigarettes market.

In other words, these provisions bear the risk of bringing about the categorisation of electronic cigarettes as medicinal products through the indirect provisions which would not only sustain regulatory fragmentation across the EU but place the electronic cigarettes sector at a disadvantage and uncompetitive position vis-à-vis "Big Tobacco". Also it would squander a major opportunity to promote a less harmful alternative to conventional tobacco products in the European Union.

However, TVECA, also on behalf of the national associations (CACE, VdeH, SEEHT, ANAFE, Ecigbond, STEP, and ANCE) as representatives of the majority of the European electronic cigarettes industry appreciate that compromise is necessary, and we would like to express our full support to regulating electronic cigarettes within the framework of the TPD while we will continue to strive for achieving improvements of the regulatory requirements where possible. Our joint efforts should now be directed to ensure harmonised and consistent implementation of the Directive, its provisions and standards in all Member States to ensure fair treatment, foster a competitive environment and give European smokers every opportunity to change to a less harmful alternative if they choose to do so.

Yours sincerely,

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