

Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 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 and repealing Directive 2001/37/EC (Text with EEA relevance)

## TITLE II

### TOBACCO PRODUCTS

#### CHAPTER III

#### *Tobacco for oral use, cross-border distance sales of tobacco products and novel tobacco products*

##### *Article 18*

#### **Cross-border distance sales of tobacco products**

1 Member States may prohibit cross-border distance sales of tobacco products to consumers. Member States shall cooperate to prevent such sales. Retail outlets engaging in cross-border distance sales of tobacco products may not supply such products to consumers in Member States where such sales have been prohibited. Member States which do not prohibit such sales shall require retail outlets intending to engage in cross-border distance sales to consumers located in the Union to register with the competent authorities in the Member State, where the retail outlet is established, and in the Member State, where the actual or potential consumers are located. Retail outlets established outside the Union shall be required to register with the competent authorities in the Member State where the actual or potential consumers are located. All retail outlets intending to engage in cross-border distance sales shall submit at least the following information to the competent authorities when registering:

- a name or corporate name and permanent address of the place of activity from where the tobacco products will be supplied;
- b the starting date of the activity of offering tobacco products for cross-border distance sales to consumers by means of Information Society services, as defined in point 2 of Article 1 of Directive 98/34/EC;
- c the address of the website or websites used for that purpose and all relevant information necessary to identify the website.

2 The competent authorities of the Member States shall ensure that consumers have access to the list of all retail outlets registered with them. When making that list available, Member States shall ensure that the rules and safeguards laid down in Directive 95/46/EC are complied with. Retail outlets may only start placing tobacco products on the market via cross-border distance sales when they have received confirmation of their registration with the relevant competent authority.

3 The Member States of destination of tobacco products sold via cross-border distance sales may require that the supplying retail outlet nominates a natural person to be responsible for verifying — before the tobacco products reach the consumer — that they comply with the

national provisions adopted pursuant to this Directive in the Member State of destination, if such verification is necessary in order to ensure compliance and facilitate enforcement.

4 Retail outlets engaged in cross-border distance sales shall operate an age verification system, which verifies, at the time of sale, that the purchasing consumer complies with minimum age requirements provided for under the national law of the Member State of destination. The retail outlet or natural person nominated pursuant to paragraph 3 shall provide to the competent authorities of that Member State a description of the details and functioning of the age verification system.

5 Retail outlets shall only process personal data of the consumer in accordance with Directive 95/46/EC and those data shall not be disclosed to the manufacturer of tobacco products or companies forming part of the same group of companies or to other third parties. Personal data shall not be used or transferred for purposes other than the actual purchase. This also applies if the retail outlet forms part of a manufacturer of tobacco products.