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STATUTORY INSTRUMENTS

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**2016 No. 507**

**The Tobacco and Related Products Regulations 2016**

**PART 7**

**Electronic cigarette advertising**

**Interpretation of Part 7**

**41.**—(1) In this Part “electronic cigarette advertisement” means an advertisement with—

- (a) the aim of promoting an electronic cigarette or refill container; or
- (b) the direct or indirect effect of promoting one.

(2) In this Part—

“the E-Commerce Directive” means [Directive 2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce)(**1**);

“information society services”—

- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of [Directive 98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations(**2**)); and
- (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;

“recipient” means a person who (whether for professional purposes or otherwise) uses an information society service, in particular for seeking information or making it accessible;

“service provider” means a person providing an information society service;

“the Union market” means the market of one or more member States; and

“third country” means a state which is not a member State.

(3) For the purposes of this Part, a service provider is established in a particular EEA State, if the service provider—

- (a) effectively pursues an economic activity in that EEA State using a fixed establishment for an indefinite period; and
- (b) is a national of an EEA State, or a company or firm as mentioned in Article 54 of the Treaty on the Functioning of the European Union (**3**).

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(1) OJ L 178, 17.7.2000, p.1.

(2) OJ L 204, 21.7.1998, p.37, as amended by [Directive 98/48/EC](#) (OJ L 217, 5.8.1998, p.18).

(3) Cm 7310.

(4) The presence or use in a particular place of equipment or other technical means of providing an information society service is not itself sufficient to constitute the establishment of a service provider.

(5) Where it cannot be decided from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider's activities relating to that service.