

Tobacco track and trace tech: A warning

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If all cigarettes sold on the black market were sold legally, the budget of the EU and its member states would swell by more than €10bn annually, according to the Commission. [defotoberg/ Shutterstock]

Plans to tackle the problem of illicit tobacco by using track and trace technologies are gathering momentum among European policymakers. But Juan Yañez warns that concerns about the type and timing of the technology need to be raised.

Juan Yañez is chair of the International Tax Stamp Association (ITSA).

There's widespread consensus that illicit tobacco products damage public health and thwart efforts to collect tax excise.

Indeed, a recent European Commission report suggests that if all cigarettes sold on the black market were sold legally, the budget of the EU and its member states would swell by more than €10bn annually.

Moreover, markets flooded by illicit products serve to fuel the availability of cheap tobacco and undermine control policies, impacting on public health. So, fighting the illicit tobacco trade must be a key element in protecting the EU and its citizens.

However, the timing and content of an EC scientific report into anti-counterfeiting technologies raises concerns over how this can be achieved, and goes to the heart of the debate over the type of track and trace technologies to be applied as part of the EU Tobacco Products Directive (TPD).

Specifically, at a time when the Directorate General for Health and Food Safety (DG SANTE) is considering the track and trace options to meet the needs of the TPD, this separate EC report appears to create confusion, appearing to favour the Codentify serialised coding system invented by a major tobacco manufacturer as a technology that could be used for more widespread brand protection applications.

The report, published by the EC's own science service, the Joint Research Centre (JRC), is aimed at helping enforcers and brand owners in the fight against product and brand counterfeiting.

Although the JRC's paper is not an official policy position of the EC, the report does make some suggestions on the development of a single standard to support the authentication, tracking and tracing of goods. Among the report's conclusions is that Codentify could be one of the starting points for the development of any such standard.

Besides questions that could be raised as to whether the JRC information base was balanced and well-founded, this raises another issue: is it acceptable for one part of the EC to endorse a specific anti-counterfeiting technology while another department is actively involved in an independent process to determine the specifications of track and trace technology to be incorporated into the TPD?

The publication of the JRC report completely prejudices and undermines the work of DG SANTE. In particular, the timing of publication unfairly compromises what needs to be a fair, transparent and impartial consultation process.

Many share the concerns that Codentify (now rebranded as Inexto Suite) will not be able to deliver the protective measures stipulated by the WHO Framework Convention on Tobacco Control (FCTC) Protocol and the EU Tobacco Products Directive. Specifically, there are important control and security issues related to Codentify's use.

For example, FCTC Protocol's Article 8 requires that an acceptable track and trace solution must be under the control of the government and that duties may not be performed or delegated to the tobacco industry.

Although ownership of Codentify has been transferred to another entity, Inexto, WHO itself has expressed the view that this is simply a cynical manoeuvre by the tobacco industry, so it can claim its system is independent, but that in practice use of Codentify will ensure the tobacco industry remains in control.

In addition, security is also questionable: academics have pointed out the possibility of the digital codes generated by Codentify being duplicated (or 'cloned') and passed off as originals on a counterfeit or genuine (but undeclared) pack.

These codes are produced by unsecured commercially available equipment and lack any physical high security features capable of distinguishing genuine identifiers from duplicates.

This highlights an intrinsic security problem with stand-alone unique identifiers, when compared to physical tax stamps: whereas unique IDs are digitally transferable, physical tax stamps are not, and any duplicate of a high security tax stamp can usually be recognised as a fake.

This principle is clearly pointed out in ISO 16678:2014 security standard "Guidelines for interoperable object identification and related authentication systems to deter counterfeiting and illicit trade".

Common sense dictates that the governance of a secure track and trace system must not be based simply on trust because underlying conflicts of interest usually lead to people finding ways to circumvent controls. Rather than accepting the drawbacks of the Codentify system, a secure and effective track and trace programme that combines a serialised unique identifier with material-based security features, is a more effective way forward.

For example: an identifier can be integrated into a tax stamp provided by a party that is independent of the tobacco industry – such as a government security printer. Many tax stamps now carry unique identifiers – typically as 2D barcodes – with the potential to comply with the tracking requirements of the FCTC Protocol and the TPD.

More than 140 billion tobacco and alcohol stamps, in the form of securely affixed labels, are issued every year by over 150 provincial and national revenue agencies around the world.

They combine authentication and track and trace technologies, composed of both physical and digital features, supplied by independent third parties and thus meet the needs of both the WHO FCTC Protocol and the EU Tobacco Products Directive.

Many manufacturers are already equipped with tax stamp applicators on their production lines, and the continued use of this equipment for track and trace purposes would be neither disruptive nor costly to manufacturers.

Furthermore, most of the 28 member states of the EU currently require the application of tax stamps to tobacco products. As the Codentify solution does not meet the key requirements highlighted above, it would not make sense to consider it as a potential option under these regulations.

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