

# ANNUAL REPORT

*2016*

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**TOBAKS  
PRODUCENTERNE**

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*Tobaksproducenterne (Tobacco Manufacturers Association Denmark) was established in December 2012 to represent tobacco companies in Denmark.*

*Our job is to raise general awareness about tobacco companies, tobacco products, the tobacco market and Danish tobacco consumers.*

*It is the aim of Tobaksproducenterne to ensure that legislation is based on an informed foundation, and we see it as our task to engage in dialogue with Danish decision makers, the media and the general public.*

*We represent the interests of our members by being solution-oriented, factual and reliable. This is the foundation on which we engage in dialogue with politicians and institutions to seek fair and effective regulation of the tobacco market in Denmark.*



A handwritten signature in white ink, appearing to read 'M. Krüger Torp', written in a cursive style.

**Maria Krüger Torp**

Managing Director

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# *Illicit cigarette trade*

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*Illicit trade in cigarettes in Denmark is on the rise. This not only means a loss in tax revenues, it also strengthens the economic foundation of gang-related organised crime.*

**The issue in brief**

According to the European Anti-Fraud Office (OLAF), there is up to DKK 800 million in trade of illicit cigarettes in Denmark, trade that is relatively risk-free as a criminal offense.

The KPMG SUN Project annually estimates the scale of the illicit cigarette market in the EU, Norway and Switzerland. By collecting physical packs and analysing data from each country, KPMG arrives at a conservative estimate of the scale of the problem: at least 1 in 10 cigar-

ettes smoked in the EU is illegal. In Denmark, KPMG estimates a scale of at least 150 million cigarettes a year, and DKK 245 million in lost Government tax revenue.

The industry believes the scale to be far greater. It has a very well-founded estimate for the extent of the illicit cigarette trade in Denmark because it has been investigating the problem for many years both nationally and internationally.

### Our position

Combating gang-related criminal activity in Denmark means tackling how gangs make their money, since the only effective deterrent is to hit them where it hurts most; financially.

Since there is no risk of a custodial sentence for trading in illegal cigarettes, this is an almost penalty-free source of income for Danish crime gangs, and the profits are reinvested in other, and even more lucrative, criminal activities.

We are calling for stricter legislation to ensure faster search and seizure warrants, more fines and consistent maximum penalties. Trading in illicit cigarettes should not be risk free. We are also seeking to establish a taskforce so that we can assist the police with a crack-down in this area.

We are looking to the Danish authorities' vigilance and resources for investigating and combating the problem.

### What we are doing

We are in dialogue with the Danish authorities on both maximum penalties as deterrents and an intelligence-sharing initiative.

We meet with relevant party spokespersons to discuss solutions. Above all, we want to direct focus at the problem, which we also do at parliamentary conferences and meetings with the Legal Affairs Committee.

We are assisting the Danish Tax and Customs Administration by training customs officers, and

by sharing our industry intelligence on the criminal market.

We are hoping for a cooperative agreement with the police in order to direct further focus to the area, and we are endeavouring to establish a working group with the police.

## § 191

Under section 191 of the Danish Criminal Code, the penalty for selling euphoric substances is up to 10 years' imprisonment. If the sale concerns a significant amount of a particularly dangerous or harmful substance, the penalty can be as high as 16 years.

Under the same section, the penalty for selling performance-enhancing substances (doping) to a large number of people is up to 6 years' imprisonment.

Tobaksproducenterne wish the sale of illegal cigarettes to also be covered by section 191 with the penalty of imprisonment.



**At least 1 in 10 cigarettes smoked in the EU is illegal.**

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# *Youth smoking prevention*

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*In society, the focus on smoking minors under the age of 18 has been intensified. Tobaksproducenterne believe that smoking is an adult choice and that minors under the age of 18 should not start smoking.*

## **The issue in brief**

The Danish Parliament has enacted a minimum age for purchasing tobacco products to deter minors under the age of 18 from taking up smoking. This is because understanding the consequences of smoking requires sufficient maturity. Studies by the National Institute of Public Health indicate that the earlier the smoking debut, the greater the risk of becoming a heavy smoker. Still, experimentation with smoking among children and adolescents is a global phenomenon.

While it is difficult to determine what causes minors to take up smoking, the general consensus is that parental habits and the prevailing youth culture are significant factors.

The smoking prevalence among minors in Denmark has generally been declining over the last two decades, meaning that we are on the right track, but not there yet.

### Our position

Tobaksproducenterne believe that smoking is for adults who know and understand the risks of smoking. Minors under 18 do not.

Danish citizens are aware of the health risks of smoking. It is difficult to find Danes who are not familiar with the risks associated with smoking. Some still actively choose to smoke cigarettes and we believe that people are free to choose. We must protect our free society in which adult Danes decide over their own lives.

This means that the national campaign against smoking must target minors under the age of 18 – they *must not* start.

While it is tempting to resort to regulatory remedies, we do not believe that prohibition is not the way forward.

#### *Better enforcement is the way forward*

The rules in this area are sound, and simply need to be better enforced; and we would like to help to make that happen.

For the rules to be enforced effectively, non-compliance should carry a consequence. We believe that the authorities are best at enforcing the law, but as manufacturers, we are also ready to look at how we can assist. For example, we will follow up on traders who systematically sell to minors and make sure that young people show photo IDs if they wish to purchase tobacco products.

### What we are doing

We are discussing the issue with the national authorities, parliamentary committees and relevant spokespersons from a broad cross-section of the Danish political parties. We propose solutions and options for how we can jointly counter the problem.

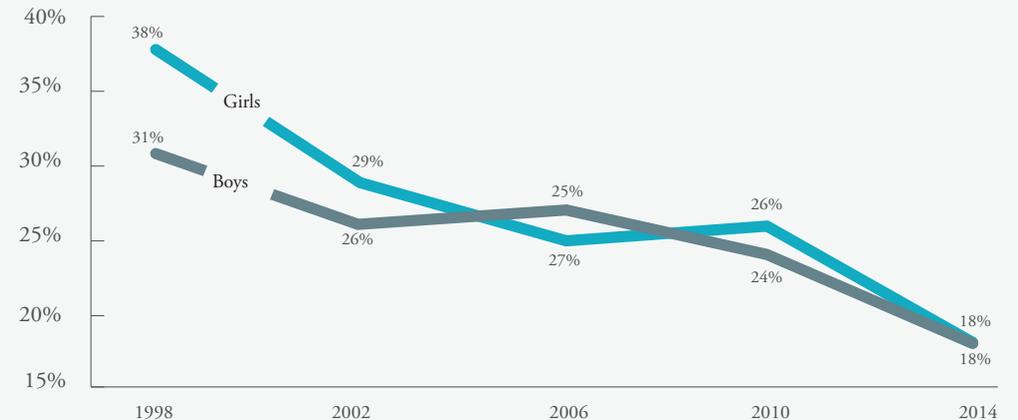
The Danish Ministry of Health has established a trade and industry partnership in the area, in which we and our partners contribute knowledge and ideas. We also back the initiatives in the Danish Government's Cancer Plan IV and have placed our knowledge and experience at the disposal of the national health authorities.



The rules in this area are sound, and simply need to be better enforced; and we would like to help to make that happen.

- Tobaksproducenterne

Smoking prevalence among 15 year olds in Denmark



Source: Youth smoking in figures, Danish Cancer Society.

## FACT

If we look at total tobacco consumption, i.e. smoking, snus etc. in comparable countries, Denmark has the lowest share of tobacco users among 15-29 year olds.

- DAMVAD Analytics 2015

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# Marketing regulation

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*In legislation, it is important to maintain focus on an effective and fair regulation with an actual effect, rather than resorting to symbolic measures with no effect.*

## **The issue in brief**

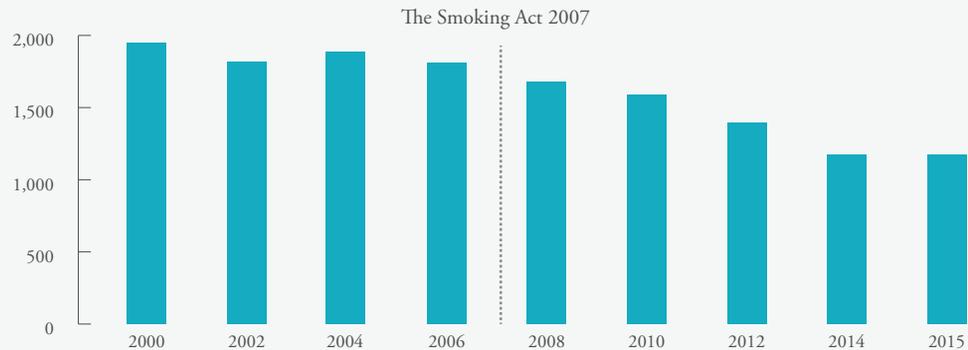
In recent years, we have seen frequent political discussions about potential new regulations for limiting smoking. Tobaksproducenterne believe that smoking is an adult choice and that minors under the age of 18 should not start smoking.

Looking at European legislation and the history of smoking in Denmark, it is not the number of rules that causes people to stop smoking. When looking at the tobacco consumption of Danes, there has been a clear trend towards a lower consumption of cigarette sticks both before and after smoking regulation.

The Smoking Act of 2007 instituted the strictest regulation of smoking in decades in Denmark, with no visible impact on the tobacco consumption of Danes.

The trend is the same when looking at countries such as Norway and Canada, which have taken more radical steps than Denmark to implement display bans that hide cigarettes away in shop's backrooms. However, these countries have also failed to see any connection between the new rules and trends in people's smoking habits.

*Tobacco consumption of Danes, 2000-2015 (sticks per inhabitant)*



*The Smoking Act of 2007 instituted the strictest regulation of smoking in decades in Denmark, with no visible impact on the tobacco consumption of Danes.*

Australia has introduced cigarette packets with no logos or design at all, replacing them with strong health warnings. All packets also have the same colour and design so that consumers cannot see any difference between the packets. The difference between legal and illegal products is thereby eliminated, giving major competitive advantages to illegal cigarettes. Data from Australia also shows that the country has experienced a significant increase in trade in illegal cigarettes.

Looking at young people and smoking, it is telling that a heavily regulated country such as Finland has many young smokers, while a very liberal country such as Germany has far fewer young smokers than in the rest of Europe.

### **Our position**

Tobaksproducenterne are opposed to the introduction of legislation that has no effect, but only serves symbolic purposes. There is no doubt that smoking is harmful to people's health, but in the government's fervour to limit the problem, it must not lose the ability to focus on effective and fair regulation.

It is wrong to believe that removing logos from packets or hiding cigarettes in a backroom will make people stop smoking. Tobacco is a legal and fully regulated product. This fact is undermined when the products are hidden from the public and are stripped of their trademarks. The line between legal and illegal is erased.

Furthermore, we believe that packets with no logos or design prevent trademarks from being used on lawfully available products are not good policy. They leave society worse off because consumers can no longer rely on the reputation mechanism to guide their purchases and producers have a reduced incentive to invest in product differentiation. Trademarks are often the most valuable asset a manufacturer possesses and are at the

centre of the global economy, as recently recognised by the World Intellectual Property Organisation (WIPO).

There is no magic button that will make all smokers disappear from one day to the next. Smoking is deeply rooted in European culture, and it is an illusion to believe that a culture can be changed with legislation. Years of informational campaigns have demonstrated their effect, and there has been a steadily declining consumption of cigarettes throughout the 62 years that the Danish Health Authority has compiled statistics on smoking. And it continues to decline by an average of 1.6% each year.

Tobaksproducenterne believe that legislation must be based on facts, rather than emotions and myths. We should be able to have an open dialogue about what is fair and effective – and what does not work. We welcome such a dialogue.

### **What we are doing**

Tobaksproducenterne have many years of national and international experience, as well as knowledge and data to contribute to the debate.

We engage in dialogue with decision-makers on fair legislation that considers consumers, retailers, and manufacturers, while meeting the government's needs for regulation.

To bring attention to our case, we meet with leaders of the government's supporting parties, where we present our ideas and alternative solutions and input from other countries.

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We are opposed to the introduction of legislation that has no effect, but only serves symbolic purposes.

- Tobaksproducenterne

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# Implementation of the Tobacco Products Directive

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*The Tobacco Products Directive II is the EU's regulatory framework for the tobacco industry. The intention is to establish common rules in Member States on the regulation of tobacco products. Tobaksproducenterne believe that uniform and clear rules are good for consumers, retailers and the industry.*

## **The issue in brief**

As a result of the implementation of the directive in Danish legislation, the rules on expanded health warnings took force on 20 May 2016 and the new warnings must be fully phased-in by 20 May 2017. The new health warnings now cover 65% of the cigarette packet and are based on standardised photos that all manufacturers must use.

As part of the Tobacco Products Directive II, the European Commission initiated the development of a track & trace system that will make it more difficult to trade in illegal cigarettes in the EU. This system can be activated on 1 January 2019 at the earliest. At present, 1 in every 10 cigarettes in the EU is illegal.

## **Our position**

The tobacco industry is becoming more and more regulated. As long as legislation is based on knowledge and facts, Tobaksproducenterne believe that uniform and clear rules are good for consumers, retailers and the industry.

Tobaksproducenterne and the entire industry support a common track and trace system, and Tobaksproducenterne want to contribute to ensuring a good and fair solution for everyone.

According to Tobaksproducenterne, a good solution is a system that:

- Has *open standards*, to prevent the formation of monopolies and to ensure that manufacturers can choose their suppliers.
- Keeps *costs down*, so the system does not become an undue financial burden on manufacturers and thereby on consumers.
- Gives manufacturers *time* to adapt their manufacturing processes.
- Optimises *security* in the long term, for example with digital tax stamps.
- Is as *simple* as possible, due to the very large number of products on the market.

## **What we are doing**

Tobaksproducenterne are in dialogue with the central authorities so that the parties can work together to find the most effective solution. We collaborate with them to achieve the political objectives of the Tobacco Products Directive without burdening distributors, authorities and manufacturers with excessive technical and economic challenges.

We also collaborate with our neighbouring countries to create an optimum system under the auspices of the EU.

# Market report

## Tobacco sales

Tobacco sales in Denmark have been steadily decreasing for some years.

Tobacco Sales (subject to excises duties) 2008-2016

	2008	2009	2010	2011	2012	2013	2014	2015	2016*
Sales of cigarettes (millions of sticks)	7,903	7,868	7,702	6,904	6,756	6,852	5,051	5,954	5,735
Sales of cigars and cigarillos (millions of units)	82	71	67	68	84	121	140	82	61
Sales of smoking tobacco	849	779	715	677	669	618	597	573	573

2008-2013: Statistics Denmark, February 2015  
2014-2016: Internal estimates and sales figures

## Danish governmental revenue on tobacco

The revenue generated from taxes and excise in Denmark fluctuates, but is estimated to be around DKK 7.4 billion.

	2009	2010	2011	2012	2013	2014	2015*	2016*
Tobacco tax and excise DKK bn.	7,148	8,312	7,466	8,212	8,412	7,795	7,670	7,470
Tobacco tax and excise EUR bn.	0,958	1,114	1,001	1,101	1,128	0,952	1,022	1,003

\*Source: Danish Tax Authorities

## Tobacco consumption

In 2016, 16% of the Danish population smoked tobacco products on a daily basis. 5% were occasional smokers. It appears that the steady, annual decline has continued.

Tobacco Consumption in the Danish Population 2008-2016

Year	Daily smokers	Occasional smokers
2008	23 %	5 %
2009	16 %	7 %
2010	19 %	4 %
2011	18 %	6 %
2012	17 %	6 %
2013	17 %	6 %
2014	17 %	4 %
2015	17 %	6 %
2016	16 %	5 %

Rygevanundersøgelse (Smoking Habits Survey) 2016, Danish Health Authority

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