



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY
Health systems and products
Substances of human origin and Tobacco control

Brussels, 19 May 2015

MEETING WITH THE EUROPEAN CIGAR MANUFACTURERS ASSOCIATION (ECMA)

Participants:

**ECMA: Marcel Crijnen, ECMA; Rob Zwarts, Scandinavian Tobacco Group (STG);
Gema Belén Hidalgo Castaño, Tabacalera; Frederik Vandermarliere, J. Cortès Cigars**

**SANTE D4: Dominik Schnichels, Anna-Eva Ampelas, Isabel Holmquist, Kerstin
Selbach**

Date: 8 May 2015

Summary

The meeting took place following a request from ECMA and focused on the application of Articles 9 and 10 of the new Tobacco Products Directive 2014/40/EU (TPD) to cigars and cigarillos.

1. Timing

ECMA stressed the importance of knowing whether Member States will make use of the exemption for cigars and cigarillos in Article 11 of the TPD as soon as possible to allow companies time to adapt their production processes. Due to the differences between Article 11 on the one hand and Articles 9 and 10 on the other, ECMA explained that the implications of the current uncertainty are huge. Decisions to invest in new machinery can only be taken once the Member States' transposition is known. No 'general rule' is possible, as those decisions are both general (depending on the size of the Member State markets that go for Article 11 versus Articles 9/10) and company-specific (whether or not a particular company is active in that Member State).

DG SANTE indicated that the final decision on the labelling regime for cigars and cigarillos lies with Member States. DG SANTE has also informed Member States of the need to communicate their plans soon to allow industry sufficient time to adapt to the new labelling regime.

2. The application of the new labelling regime to cigars and cigarillos

ECMA indicated that they find many of the provisions related to Articles 9 and 10 unworkable in practice due to the production constraints for cigars and cigarillos, in particular due to the enormous variety of packaging types and the small production batches and orders. ECMA argued that cigars and cigarillos should be labelled under the

exemption regime of Article 11 due to the reasons outlined in recital 26, although this may also pose difficulties.

a) Regarding the application of the Article 9 and 10 regime, ECMA referred to its earlier letters and explained some of the examples mentioned in those letters in more detail. Without a maximum size for combined health warnings, 65% will be a very large area on some cigar packages. It would also mean that for products which are stickered, the standard 'maximum size' sticker could not be used for all large packages, but rather the warnings would need to correspond to 65% of the front and back surfaces of that particular package. Very large stickers (65% of large cigar boxes) would also be practically impossible to put on boxes without air bubbles.

ECMA also stressed that if a minimum height of 16mm would apply for shoulder-hinged boxes of cigars and cigarillos a number of packages would no longer be allowed. Furthermore it would be hard to place a sticker on to cover exactly half of a lateral side of 16 mm.

Additionally, it may also be difficult to ensure that the front and back surfaces carry the same combined health warnings for some packages, as for example the bottom and lid of tin packs are made separately and joined at random.

ECMA noted that the transitional exemption in Article 10(1)(e), which allows the placement of combined health warnings below the tax stamp, only applies to carton and soft packages but does not apply for packages in tin.

The 'overview of smoked tobacco packages on the EU market' presented at the April stakeholder meeting was also discussed. ECMA enquired whether cigar tubes that open in the middle comply with the Directive. DG SANTE explained that as long as the split does not break the combined health warning there should be no problem complying with the TPD. In general, cigar tubes are problematic as there are few surfaces to place warnings, tax stamps and identification marks. ECMA also noted that, in some of the examples presented the tax stamp may overlap with the general warning and should be repositioned.

ECMA also expressed concern regarding the rotation of the health warnings if the first set would only be used from May to December 2015. DG SANTE clarified that "annual basis" does not necessarily mean a calendar year, but rather May to May.

b) Regarding the application of Art. 11, ECMA explained that putting the general warning on the inside of boxes is challenging (as is foreseen for hinged lid packages). For small volume products, health warnings are applied after production and may mean that pre-filled boxes would need to be opened to place these warnings.

3. The application of the new labelling regime to pipe tobacco

In the context of the work of the consortium, STG briefly raised the issue of vacuum tins, which are commonly used for pipe tobacco, and whose sides are very narrow for the placement of combined health warnings. STG offered to send alternative solutions, which – according to its assessment - comply with TPD. It was agreed that the documentation should be sent to DG SANTE and its contractor working on labelling.

4. Closing remarks

DG SANTE indicated that many of ECMA's questions relate to the correct interpretation of the TPD. The TPD itself cannot be changed by the Commission. Ultimately it would be the task of the courts to decide on the interpretation of the TPD. In this light the indications on a possible interpretation of the TPD given by DG SANTE are not binding.

DG SANTE also explained that they are working closely with Member States and stakeholders to ensure a uniform application and future enforcement of the TPD. DG SANTE undertook that it would bring the request of ECMA on a timely indication of the applicable labelling regime to the attention of Member States.

STG promised to send all information by two weeks after the meeting.