



Brussels, 20 February 2012

MINUTES OF THE MEETING

Participants:

Dominik Schnichels, Antti Maunu, Anna-Eva Ampelas, Katja Bromen, Matus Ferech (DG SANCO D4)

George Battrick (ERA), Kieran O' Keeffe (ECMA), Jerzy Czubak (ECMA), Peter Konieczny (ECMA), Per Lundeen (ECMA), Sven Ballschmiede (EFFA), Gerard Collette (GAMA), Dino Tommasetti (GAMA), Maria Teresa Scardigli (GAMA), Dani Kolb (GAMA), Arnd Brinker (Deutsche Benkert), Mr. Huub Vizee (Delfort), Bastian Benkert (Benkert), Melanie Hanning (Benkert)

Place: Rue Froissart 101, 1/89

Date: 6 February 2012

The meeting was organised on the request of industry representatives in order to discuss the ongoing revision of the Tobacco Products Directive (TPD). It was agreed that the meeting will be structured according to product categories: cartons, fine paper, cellulose acetate and flavourings.

ECMA

The representative of ECMA presented a PPT titled 'Plain Packaging undermines EU Public Health Objectives.' By way of introduction ECMA explained that its 500 members generate a turnover of about €8.1 billion annually in the EU, about 10% of which is derived from the tobacco industry. ECMA members account by volume for 90% of the European market. ECMA announced to submit more detailed information, also via its members, as available.

ECMA stated that it supported EU's health objectives. However, ECMA believes that the possible introduction of plain packaging – whilst being well intended – would lead to serious negative consequences in form of increased counterfeits. In this respect reference was made to

- lower entry barriers for counterfeit production ("production equipment required for plain packaging is simple and therefore can be sourced as second hand equipment with costs only up to €1 million compared to new equipment for current complex

designs with graphical health warnings that costs more than €10 million per production line"),

- an increased scale for the counterfeit markets (the packages are all alike) and
- the limited capability for consumers to identify counterfeits.

Increased counterfeit would lead to greater health risks (counterfeited products are unregulated) and tax losses (already today, according to EU figures, Member States lose €10 billion annually in tax revenues due to counterfeit and contraband). ECMA also claimed that it was far from certain whether plain packages would lead to better health outcomes, in particular reduction in prevalence and consumption.

ECMA explained that the only way of fighting counterfeiting effectively is allowing a variety of designs which are complex and frequently changed. Currently, there are increasingly frequent changes made to the design of cigarette packages by the cigarette manufacturers independent of legislative requirements. The life span of a design / pack shape could be as little as three to six months.

After the introduction of graphical health warnings in some of the EU Member States, ECMA members have made substantial investment in printing technologies used for cigarette packs in order to combine the existing complex design features with the newly required graphical health warnings. If plain packaging was to be introduced, much of this specialized equipment would become obsolete as plain packaging eliminates all complex design features and hence can be produced with less sophisticated equipment and at lower cost. This is what would drive the risk of counterfeiting.

As a possible alternative to plain packaging, ECMA mentioned mandatory picture warnings for all EU Member States. ECMA had however no firm position on the exact size of the warnings. This option would maintain some space for pack design and hence protect against counterfeits (e.g. embossing/ debossing, hot foil stamping, use of spot colours, pack shapes). ECMA believes there is a good chance that the existing equipment would be sufficient to supply the entire EU for the years to come (life span of a machine is around 30 years). Thus there would be no major investments for manufacturers, even if pictorial warnings were to be made mandatory. The variable costs of packages with picture warnings would be slightly above the costs for the packages with text-only warnings.

Finally ECMA stated that it is not possible/allowed to add flavourings to cigarette cartons.

Fine Paper Industry

Affected companies supplying the tobacco industry are not organised in a European association. Therefore a significant number of the companies decided on an ad hoc basis to entrust Deutsche Benkert to represent their interest in the meeting with the Commission. Fine paper manufacturers produce (1) (white) "cigarette paper" wrapping the tobacco, (2) "tipping paper" wrapping the filter and "plug wrap paper" connecting both parts of a cigarette. In addition Deutsche Benkert represents further companies that are supplying the paper industry (ink, printing) and which strongly depend on the tobacco industry as they have very much focussed on this sector over many years. Turnover data of individual companies (mostly family run SMBs/SMEs) was already submitted to the Commission bilaterally before the meeting.

Deutsche Benkert agreed with the statements of ECMA that plain packaging leads to increased counterfeits, which would not only be detrimental for the package industry, but also for the paper industry (jobs would probably shift to illicit producers in Asia). It was also recalled that the paper market in the European Union is already highly regulated and e.g. in Germany does not allow for the addition of flavours in fine papers. Further binding regulations such as the German Tobacco Law (= TVO), the German Food Law, an abundance of pureness directives and various decrees which very strictly regulate not only the European cigarette manufacturers but also the entire multi-tiered supply chain within the European Union regulations are not applied by counterfeiters. Counterfeiters do not adhere to any regulation such as low ignition propensity legislation when it comes to the production of a cigarette either. Deutsche Benkert alluded to corresponding research projects which revealed that missing regulations and supervision can lead to harmful contaminations, such as lead contents, rat and bird droppings etc. in counterfeited products. As a consequence, this might represent an additional health risk to regular smokers and possibly commencing smokers.

Deutsche Benkert finally summarized the consequences the fine paper industry expects due to counterfeiting:

- Loss of jobs
- Loss of taxes
- Additional health risks
- Increasing organized crime
- No restricted access to under aged

The second area of concern is the reporting on ingredients. Deutsche Benkert explained that there are confidentiality agreements in place already, i.e. the industry frequently discloses detailed information confidentially to business partners and concerned public authorities. The list of ingredients for papers etc. would be of great interest to the illicit market as it would allow them to better copy the genuine products. Deutsche Benkert therefore insisted that the information is only handed over to the authorities and not to the public at large. Public disclosure would also create competitiveness issues between different companies in the market.

Finally Deutsche Benkert explained that tipping paper is subject to very frequent changes and that this is also a mechanism to counteract counterfeiting. Also all materials supplied to the industry are traceable. If a fine paper producer were caught selling to the illicit market, it would lose all business with the legal supply chain.

GAMA

GAMA is the international industry association representing the 6 leading producers of acetate filter tow, which is the filtration media for cigarette. 90% of the production is sold to tobacco industry. It is estimated that acetate filter tow accounts for 3-5 % of the total cost of production of a cigarette. In the European factories (UK, Belgium, France, Germany) approximately 1800 workers are employed. As in the case for paper, acetate is traceable back to its producer.

GAMA calls for a scientific basis for the changes to the TPD. Plain packaging might lead to counterfeiting of filters made from substances other than acetate, for example cotton fibres of

paper particles, which have worse filtration properties. Like Deutsche Benkert GAMA warned against detailed ingredients reporting with subsequent publication of industry data.

European Flavour Association

The European Flavour Association has decided not to be represented in the meeting, insofar as EFFA is not actively involved in the TPD dossier. Instead EFFA sent the head of the German Association of the Flavour Industry (DVAI), which represented a group of companies affiliated to DVAI and/or the French Association of the Flavouring Industry (SNIAA). This is due to the fact that the majority of companies supplying the tobacco industry are located in Germany and France. It was stated that a number of those firms could be SMEs, some dealing exclusively with tobacco flavourings.

The representative promised to provide the requested economic information on the structure of the sector as soon as possible. Regarding the upcoming revision the representative criticised the concept of 'attractiveness' as being subjective (i.e. tastes vary between different people) and scientifically too 'vague' (in this respect reference was made to the SCENIHR report).

The industry representatives thanked DG Sanco for the opportunity to make their views known. DG Sanco thanked the participants for their comments and announced that certain representatives might receive some additional questions. The industry representatives promised to reply promptly. DG Sanco offered the opportunity to submit additional factual input or any other relevant information which is felt could be of assistance in the revision process of the TPD. In relation to illicit trade, DG Sanco asked participants to substantiate their concern and provide evidence.