



ECMA

EUROPEAN CIGAR MANUFACTURERS ASSOCIATION

Bonn, 24.05.2019

ECMA point of view public consultation on “standaardverpakking voor sigaretten en shag”

ECMA, the European Cigar Manufacturers Association, is the trade association of cigar and cigarillo manufacturers in the Member States of the European Union. ECMA members together account for over 90% of the traditional cigars and cigarillos produced in the European Union. ECMA represents 19 cigar and cigarillo producing companies with 24 manufacturing plants in the European Union. Together these companies employ more than 5,000 persons in their cigar and cigarillo businesses in the European Union and another 20,000 in countries outside the European Union. Of the 19 ECMA member companies, eleven are family-owned and seven fall under the definition of small and medium sized enterprises. The rest of the European cigar and cigarillo industry, i.e. some 30 companies, one bigger company the rest generally employ between 1 to 20 people and are all family owned.

Herewith we would like to comment on the public consultation on “standaardverpakking voor sigaretten en shag”, Although the public consultation is only about cigarettes and finecut tobacco at this moment, we would like to give already now our comments on a possible future introduction of plain packaging for cigars and cigarillos. We would like to make clear our in-principle opposition to the introduction of plain packaging for all types of tobacco products, because the evidence available does not justify this approach. However, we also take this opportunity to outline the particularities of the cigar/cigarillo market to emphasise why plain packaging would be a disproportionate and unnecessary measure.

Summary: the cigar and cigarillo market

With an annual total consumption of approximately 346 million pieces, cigar and cigarillo consumption is declining since years and represents only a small market share of the consumption of tobacco products in the Netherlands. This very small market share is not coincidental and it indicates strongly that cigars and cigarillos shall rightfully continue to be regulated in a separate category from the tobacco market. Consequently the European Directive 2014/40/EU (TPD 2) clearly demands its Member States not to regulate cigars and cigarillos identically as cigarettes. (s Art 7.12 TPD2): “Whereas (19): Considering this Directive’s focus on young people, tobacco products other than cigarettes and roll-your-own tobacco, should be granted an exemption from certain requirements relating to ingredients as long as there is no substantial change of circumstances in terms of sales volumes or consumption patterns of young people”¹.

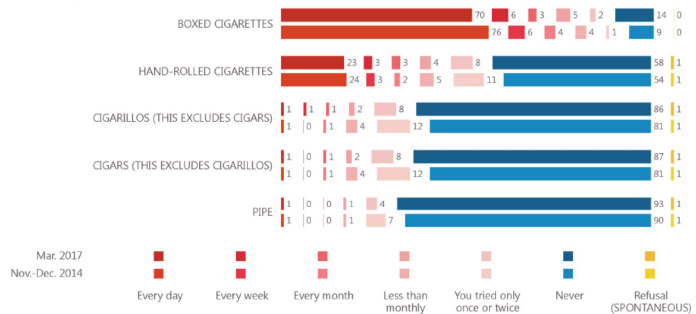


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Cigar smokers have a specific consumer profile. According to the Special Eurobarometer report “Attitudes of Europeans towards tobacco and electronic cigarettes, published May 2017”

“Only 1% of smokers smoke cigarillos, cigars or pipes on a daily basis; these tobacco products are more likely to be smoked on an occasional basis or tried only once or twice.” The report comes to the conclusion:... “but other tobacco products like cigars, cigarillos and pipes are consumed regularly only by a minority.”

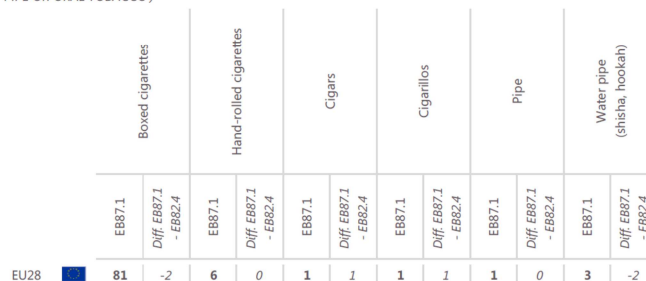
QB4a How often do you use the following tobacco products? (% - EU)



This report also shows that cigars and cigarillos are not a product to start smoking

QB16 Which of the following products did you use or try first? (%)

(IF 'SMOKE OR USED TO SMOKE OR USE OR USED OR TRIED ELECTRONIC CIGARETTES OR AT LEAST TRIED WATER PIPE OR ORAL TOBACCO')



According to the Special Eurobarometer report “Tobacco” that was published by the European Commission on 27 May 2010, “it was concluded “demographically, cigar smokers tend to be men (21% among men compared with 3% among women) and from the higher social groups (17% of higher social groups compared with 11% in lower social groups)”.

From the Special Eurobarometer report “Smoking and the environment: actions and attitudes” dated November 2003 it becomes clear that cigar smokers are somewhat older individuals (in 2003 1.9% of 40-54 year-olds smoked cigars or a pipe).

Cigar and cigarillo making is a particular and labor-intensive process of a very traditional trade craft that can be especially seen in the so called handmade cigars. Cigars and cigarillos are produced and sold in an enormous variety of models, brands, types of packaging and prices compared to the purely industrialized production of more or less identical cigarettes. The variety of products means that cigars and cigarillos are generally produced in small production runs. Machine made cigars and cigarillos are produced at a speed between 16 and 160 pieces per minute (excluding packing, which is an additional step

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in the process), to be compared with up to 20,000 cigarettes per minute (including packing, which is an integral part of the process). Resulting high production costs for cigars and cigarillo separate these products clearly from mass produced cigarettes and the prize difference separates also the consumer communities.

For all the above reasons we are of the opinion that cigars and cigarillos need to be treated differently from other tobacco products: the specific characteristics of the cigar consumer, sector and product need to be taken into account when regulating tobacco products. A “one size fits all approach” to tobacco regulation would not work as it would create a disproportionate burden for the cigar industry. Due to its enormous variety of models and brands, its small scale production processes and its many small to medium sized businesses, of which a big part is still family owned, most cigar companies simply do not have the resources and know-how to cope with the same requirements as larger firms with much smaller assortments and higher sales volumes.

Our opposition to plain packaging

Concerning the public consultation and a possible introduction of plain packaging also for cigars and cigarillos in the future we would like also to stress the following points

- The consultation is premature as the draft Prevention Plan has not been discussed yet in Parliament. It appears as if the State Secretary for Health is trying to rush through this disproportionate and flawed measure.
- Misinterpreting Art 5.3 of the FCTC and not consulting with the sector concerned has resulted in unbalanced regulation that is not based on evidence but speculation and misinformation.
- Packaging is not a risk-factor for smoking initiation & removing brands from packs does not prevent people from smoking, or from starting to smoke.
- Measures aimed at preventing children from starting to smoke should focus on preventing access to tobacco products, including better enforcement of the age limit of 18 for purchasing tobacco products and introducing measures against purchasing them on behalf of minors.
- Plain packaging should not be introduced for any tobacco product, as a matter of principle, but as it is more than disproportionate for cigars and cigarillos, in view of their consumer profile, cigars and cigarillos should be exempted from such a regulation.
- The EU Tobacco Product Directive sets a threshold for the introduction of plain packaging, that includes a test on proportionality, on restrictions on trade and WTO compatibility.

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- Two cigar exporting countries, the Dominican Republic and Honduras, have appealed the WTO panel decision on Australia's plain packaging legislation. The WTO Appellate Body will not issue its judgement before the end of the year. This is ignored in the Explanatory Note. Even if the WTO would ultimately find plain packaging legal in Australia, that does not mean it would be legal in the Netherlands.
- Plain packaging will not work. It has failed to reduce smoking rates in Australia, the UK and France. Indeed, the most recent AIHW data on overall smoking rates in Australia shows that the decades long downward trend has stopped declining between 2013 and 2016.
- The Draft Decree and Explanatory Note provide no references to credible evidence; there is reference to only a single study ("Cochrane"). Its reviewers found five studies that considered key outcomes of which only one looked at changes in prevalence and this one is graded "low". Even the Cochrane authors therefore conceded the quality of the evidence as "weak".
- Furthermore, only one of the 51 studies considered for this review is about cigars: a small sample of cigar and cigarillo smokers was asked to report about any changes in consumption in the last two years (which included the introduction of plain packaging in Australia). It did not measure actual behaviors. With all its limitations, the study (for cigar smokers, 42% reported lower consumption, 13% more, and 45% the same. For cigarillo smokers 44% reported lower consumption, 15% more, and 42% the same) can certainly not justify the introduction of the measure in the Netherlands.
- The cost-benefit-analysis in the Explanatory Note is far from complete as it is unclear about the actual number of brands and incorrectly suggests that only IT costs are required to implement plain packaging.
- One year after the introduction of additional packaging measures and one year before the introduction of a ban on product display at point-of-sale, the Netherlands should not rush to introduce a measure which has failed elsewhere. Instead, the current measures should be evaluated before considering whether the introduction of additional regulation is necessary.

Once again we would like to stress that the cigar constitutes a special tobacco product in many aspects. ECMA is of the opinion that authorities should treat the cigar industry in a way, which takes into consideration the nature of the industry and the very particular characteristics of its products and consumers. For this reason an introduction of plain packaging would be totally disproportional, especially taking into consideration the variety of models, brands, types of packaging.

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We will be happy to assist you in anyway including providing further information.

Kind regards

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