



Veronesestraat 73 • 1000 Brussel • Belgium
paul.wujek@ecma.eu • www.ecma.eu

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ECMA's contribution to the public consultation organised by the Dutch Ministry of Health, Wellbeing and Sports in relation to the proposal to introduce plain packaging for cigars and cigarillos

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 16 cigar and cigarillo producing companies with 19 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. ECMA boasts eleven family-owned companies as part of its membership. Of the full sixteen ECMA member companies, five fall under the definition of small and medium sized enterprises.

ECMA supports evidence-based tobacco control policies aimed at preventing young people from taking up smoking. As such, ECMA is worried about the lack of evidence justifying the expansion of a regulatory measure meant for mass-consumption tobacco products to cigars and cigarillos.

ECMA earlier shared several of these comments as part of the governmental consultation on the National Prevention Plan.

Lack of evidence supporting plain packaging for cigars and cigarillos

The National Prevention Agreement provides no references to credible evidence; there is reference to only a single study ("Cochrane, Database Syst Rev 4, CD011244"). 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.

In its replies to parliamentary questions in November 2019, the State Secretary for Health Mr Blokhuis, did not provide reasons justifying the extension of plain packaging for cigarettes and roll-your-own tobacco products to cigars and cigarillos.



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On the contrary, Mr Blokhuis argued that *“no hard evidence has yet to be found that young people have shifted to cigars”*¹ in countries only applying plain packaging to cigarettes and roll your own products. Moreover, referring to the only three countries in the world applying plain packaging to all tobacco products, Mr Blokhuis explained that *“it is difficult to say whether the neutral packaging of cigars in Ireland, Australia or New Zealand has led to a lower use of cigars. Cigars are not used enough in those countries to provide reliable prevalence figures”*².

ECMA would like to remind the Dutch government that cigars are niche traditional products, and as such are not widely used nor consumed in the Netherlands or in any other countries in the world for that matter. With an annual total consumption of approximately 346 million pieces in 2018, cigar and cigarillo consumption has been declining for years³ (even in the presence of derogation for the use of flavours) and represents only a small market share of the consumption of tobacco products in the Netherlands (1.9 % of total tobacco consumption).

Mr Blokhuis additionally compared, with no justification, a potential increase of cigar consumption with the increase of gin or vodka drinks consumption, claiming these *“products that were first consumed only by the elderly and are now considered attractive and interesting by young people and are used extensively in all kinds of mixes”*⁴. ECMA rejects this comparison, and would like to point out that cigars and cigarillos, unlike the aforementioned alcoholic beverages, are not mass-consumption products, are neither physically nor financially easily accessible to young people, are not allowed to be promoted through commercial advertisement and are final products that cannot be “mixed” nor “diluted”.

While the Dutch government argues that the proposed measures are justified in order to reduce the temptation of young people to buy cigars, we would reiterate that young people are demonstrably not cigar nor cigarillo consumers.

The proposed implementation date for the introduction of plain packaging in 2022 is also not reasonable considering it will come only 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. ECMA is additionally concerned that the Dutch government is proposing to implement plain packaging for cigars and cigarillos without carrying out the feasibility study it originally proposed to investigate the requirements and effects of plain packaging for these products in countries that have already introduced this measure⁵.

¹ Third answer, *State Minister Blokhuis' responses to written questions from the Chamber about neutral packaging cigarettes and roll-your-own tobacco*, Parliamentary Paper 32011, dated 8 November 2019, accessible here: <https://www.rijksoverheid.nl/documenten/kamerstukken/2019/11/08/beantwoording-kamervragen-over-standaardverpakking-voor-sigaretten-en-shagtabak> (accessed on 3 September 2020).

² *Ibidem*.

³ From 395 million pieces in 2012 to 332 million pieces in 2019.

⁴ See footnote 1.

⁵ For examples, see 136th answer, *State Minister Blokhuis' responses to concerns of the VWS Committee on the National Prevention Agreement*, Parliamentary Paper 32011, dated 26 April 2019, accessible here: <https://www.rijksoverheid.nl/documenten/kamerstukken/2019/04/26/beantwoording-kamervragen-nationaal-preventieakkoord>; See footnote 1; and Exchange of views between MP Edgar Mulder (PVV) and State Minister Blokhuis', *Plenary session of the House of Representatives of the Netherlands*, 3rd September 2019, accessible here: https://www.tweedekamer.nl/kamerstukken/plenaire_verslagen/detail/f82c2479-9efb-47ee-8998-0311443d59a9 (accessed on 16 September 2020).

The Netherlands should therefore not rush to introduce a measure which has not proven effective elsewhere. Instead, the measures already adopted for other tobacco product categories should be evaluated before considering whether the introduction of additional regulation for cigars and cigarillos is necessary.

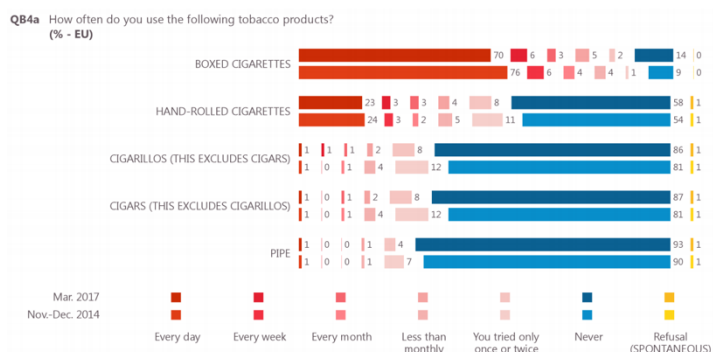
Evidence supporting a differential treatment for cigars and cigarillos

Cigars and cigarillos represent only a small fraction of the total consumption of tobacco products and should continue to be regulated in a separate category from the rest of the tobacco market. The European Parliament and Member State governments reached the same conclusion in 2014 when they adopted TPD2, which in several instances distinguishes cigars and cigarillos from mass-consumption tobacco products⁶.

Tobacco products	2018 Consumption in NL
Cigarettes**	11,13 billion pieces
RYO/MYO**	6,58 billion pieces***
Cigars/Cigarillos*	0,34 billion pieces

Source: * ECMA (no DG TAXUD figures available) / ** [European Commission DG TAXUD](#) / *** corresponding to 6.589 tonnes

Cigar smokers have also a specific consumer profile. According to the Special Eurobarometer report *Attitudes of Europeans towards tobacco and electronic cigarette*, “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 concludes that “other tobacco products like cigars, cigarillos and pipes are consumed regularly only by a minority.”⁷



⁶ Recital 26 of Directive 2014/40/EU: “For tobacco products for smoking, other than cigarettes and roll-your-own tobacco products, which are mainly consumed by older consumers and small groups of the population, it should be possible to continue to grant an exemption from certain labelling requirements as long as there is no substantial change of circumstances in terms of sales volumes or consumption patterns of young people”.

⁷ Attitudes of Europeans towards tobacco and electronic cigarettes, published May 2017, page 20.



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	Boxed cigarettes	Hand-rolled cigarettes	Water pipe (shisha, hookah)	Cigars	E-cigarettes or similar electronic devices	Pipe	Oral tobacco (snus)	Cigarillos	Nasal tobacco (snuff)	Chewing tobacco	Other (SPONTANEOUS)	Don't know
EU28	81	6	3	1	1	1	1	1	0	0	2	3
AT	71	11	5	2	2	1	0	0	1	0	1	6
BE	75	8	2	3	1	1	0	1	0	0	7	2
BG	92	3	2	0	1	0	0	0	0	0	0	2
CY	78	8	9	0	3	0	0	0	0	0	1	1
CZ	78	7	6	2	2	0	0	1	1	1	0	2
DE	76	7	5	1	2	2	0	1	1	0	1	4
DK	79	3	6	2	0	5	0	1	1	0	1	2
EE	80	1	6	3	2	1	1	0	1	0	2	3
EL	92	4	1	1	1	0	0	0	0	0	0	1
ES	90	4	3	2	0	0	0	0	0	0	0	1
FI	84	7	2	1	1	1	2	0	0	0	0	2
FR	88	5	1	1	1	0	0	0	0	0	3	1
HR	85	5	1	6	0	0	1	1	0	0	0	1
HU	82	9	4	0	0	0	0	0	0	0	2	3
IE	79	7	1	1	4	1	1	0	1	0	1	4
IT	82	9	0	1	1	1	1	0	0	0	1	4
LT	84	2	7	0	1	0	0	1	0	0	1	4
LU	73	6	6	3	1	1	0	2	0	1	5	2
LV	83	1	6	2	1	0	0	1	2	0	3	1
MT	84	3	3	1	3	0	0	0	0	0	2	4
NL	66	19	4	4	1	2	0	1	0	0	2	1

The report also confirms that cigars and cigarillos are **not products associated with starting smoking**. Among all respondents in the Netherlands who have tried tobacco products, the most common first experience of tobacco is by far cigarettes (66%), followed by hand-rolled cigarettes (19%) with only 4% mentioning cigars (and only 1% for cigarillos)⁸. Cigar consumption is in other words, a “*characteristic of the oldest age groups*”⁹ with an average cigar smoker being a male adult over 35 years of age.

As the Draft Order in Council correctly notes¹⁰, cigars are produced and packaged in a diverse array of sizes, formats, and materials which far exceed factory-made cigarettes in variety and complexity. Hand- and machine-made cigars vary significantly in length, weight, shape and diameter. Packaging materials can include cardboard, plastic, metal, and wood. Packages

themselves have multiple sizes and formats – split boxes, fold-out boxes (in both cardboard and plastic), insert boxes, tins with both attached and removable covers, and wooden boxes with sliding, removable or attached tops and that range from basic to high-end in their design and the type of wood used in their manufacture. Some cigars are individually wrapped in cellophane to ensure moisture content and freshness, others are sold in their own individual metallic or plastic tubes.

This broad variation in cigar packaging is not, as the Draft Order in Council suggests, merely a means to “make cigars attractive” but rather reflects the diversity of cigar formats and manufacturing methods, which are tailored to ensure that cigars are packaged and stored in a way that optimally preserves their freshness and quality. There are cigar formats, for example, that are produced only for consumption in The Netherlands, and not in any other markets.

Moreover, cigars are mostly manufactured by small and medium-sized enterprises in Europe. Cigar and cigarillo production is a particular and labor-intensive process often employing traditional trade craft that can be seen especially in handmade cigars. Cigars and cigarillos are also produced and sold in an enormous variety of models, brands, types of packaging and prices compared to the mass-production of cigarettes. The variety of products means that cigars and cigarillos are generally produced in small production runs. Machine made cigars and cigarillos are traditionally produced at a rate between 16 and 160 pieces per minute (excluding packing, which is an additional step in the process), compared with up to 20,000 cigarettes per minute (including packing, which is an integral part of the process). The resulting

⁸ Attitudes of Europeans towards tobacco and electronic cigarettes, published May 2017, page 85.

⁹ Attitudes of Europeans towards tobacco, published May 2012, page 16.

¹⁰ Point 2.1 of the Draft Order in Council released by the Ministry of Health, wellbeing and sports on 21 August proposing the introduction of plain packaging for cigars.



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higher production costs for cigars and cigarillo clearly separate these products from mass produced cigarettes.

Taking the above into account, ECMA would like to point out that nearly every European market which has already introduced (or plans to introduce) plain packaging, including France, Belgium, Denmark, Hungary, Norway, Slovenia and the United Kingdom, have recognised the specific characteristics of cigars and cigarillos and exempted them from plain packaging. And, even with these exemptions, all are still widely regarded as countries with comprehensive and effective tobacco control policies¹¹.

Finally, while TPD2 allows the possibility for Member States to introduce further requirements, it also sets a threshold for the introduction of plain packaging; a test on proportionality.

Considering the above, ECMA would like to stress in closing that cigars and cigarillos constitute special tobacco products with unique production characteristics and patterns of consumption - characteristics shared with other traditional tobacco products excluded from the scope of the proposed legislation.

For these reasons, ECMA considers the introduction of plain packaging for cigars and cigarillos to be greatly inappropriate and unjustified, and ECMA respectfully request the Dutch government to exempt cigars and cigarillos from the scope of the legislation implementing plain packaging.

Contact:
Paul Wujek
ECMA Director General

¹¹ Association of European Cancer Leagues and the Tobacco Control Unit of the Catalan Institute of Oncology, *Tobacco Control Scale 2019*, accessible here: <https://www.tobaccocontrolscales.org>