



To:
Mr Mattia Pellegrini
Head of Unit B.3 Waste Management and Secondary Materials
DG Environment
European Commission

Cc:
Mr Jorge Diaz Del Castillo

Brussels, 12 November 2020

Directive (EU) 2019/904 Implementing Act on Marking Requirements

Dear Mr Pellegrini,

Further to our¹ letter of 01 July 2020 and of September 14th, we wish to reiterate our support for the application of product markings on unit packs of tobacco products with filters containing plastic in order to support responsible consumer behaviour against littering.

We are herewith also sharing with you our concerns again regarding the delayed adoption of the Implementing Act on Pack Markings and the compliance deadline of July 2021.

We understand that the European Commission is facing unprecedented challenges due to the COVID-19 pandemic, however it is important that we stress that the delayed adoption of the Implementing Act is problematic for many sectors involved, as the technical lead time to change packaging designs and to procure new packaging material from suppliers requires approximately 12 months from the time technical specifications become available to the compliance date for products placed on the market. If the Implementing Act is adopted in December 2020, as is expected, this leaves a mere 6 months for preparation.

This delay is particularly problematic for the tobacco sector given that producers are already required by law to apply and rotate combined health warnings annually to all product packaging.

In fact, while the original period of 12 months as set out in the Directive and communicated at the stakeholder workshops conducted by the Commission and its consultants under Work Package 2 in 2019 and 2020, did match with technical lead times required, the delayed adoption of the Implementing Act, will now significantly limit the ability to convert packaging designs for the new marking requirements in due time in a sustainable and efficient manner. As previously stated by this working group, **we propose that the application date of the placement of products with new markings under article 7 of the Directive is moved to January 1st, 2022. This would also allow combining in Member States the implementation of the new marking together with the annual rotation of the Combined Health Warning (prescribed by the Tobacco Products Directive) in a sustainable and efficient manner.**

It is our understanding that in order for the Commission to delay the application date and its enforcement, the SUP Directive would need to be punctually reopened in article 17(1) bullet point 3 only. Such procedure would

¹ The Industry Working Group is made up of the members of Tobacco Europe (Japan Tobacco International, Imperial Brands and British American Tobacco) and Philip Morris International.



not be unprecedented. By way of example: DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2004/40/EC on minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (eighteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) as well amending Commission Directive 2014/39/EU. It is also our understanding that for such punctual and limited amendment the legislative procedure could be quick, without the need for lengthy negotiations with the European Parliament and the Council as the matter speaks for itself. Such procedure and resulting amended application date by means of adoption of a separate Directive would provide both Member States and producers of concerned products with sufficient legal planning certainty and would ensure coherence with the internal market principles.

However, should this option for whatever reason not be followed, we respectfully request that the Commission consider issuing guidance to Member States to delay enforcement to January 2022 with the guarantee that no proceedings will be issued for non-compliance with the official deadline, thus avoiding any necessity to re-open the Directive. Alternatively, a softer solution could be a written confirmation by the Commission in the explanatory note that accompanies its proposal of the IA in question, in which it will clearly be stated that the Commission will monitor the implementation of the SUP Directive in this regard while taking into account and considering the late adoption of the this IA leaving no room to stick with the original deadline.

In addition to the request for a postponement to the application deadline, we would be grateful if the Commission could:

- timely provide the technical printing data in a vectorized Adobe illustrator format, which can take the form of a downloadable file on the DG ENVI website; and
- provide the translation of the sentence "Plastic in filter" in all 24 official languages in order to ensure that each Member State has the correct translated version for their local application of the marking.

In closing, we assure the Commission that the industry sector will do its utmost to timely comply with the new marking requirements and we remain available for any further specific information you may require or questions you may have.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Darge", with a long horizontal line extending to the right.

Nathalie Darge
Director Tobacco Europe