



E C M A

## EUROPEAN CIGAR MANUFACTURERS ASSOCIATION

Dr. Franz Pietsch  
 Bundesministerium für Gesundheit  
 Radetzkystraße 2  
 A-1030 Wien  
 Österreich  
 By e-mail: leg.tavi@bmg.gv.at  
 Copy to: begutachtungsverfahren@parlinkom.gv.at

Tilburg, 29 January 2016

Dear Dr. Pietsch,

I am writing to you on behalf of the European Cigar Manufacturers Association (ECMA), the trade association of cigar manufacturers in the Member States of the European Union. Recently we have been advised about the 'Novelle des Tabakgesetzes zur Implementierung der TPD II'. In this context we would like to draw your attention to the following:

- 1) As the general warning and the information message should be located on these surfaces, the lateral surfaces of a shoulder box should have a height of not less than 16 mm according to 19. § 5. (4). According to 20. § 5b. however, the general warning and the information message on packages of tobacco products for smoking other than cigarettes, roll-your-own tobacco and waterpipe tobacco have to appear on the most visible surface and the next most visible surface, i.e. not on the lateral sides of the package. For this reason a minimum height of 16 mm is not required for packages of tobacco products for smoking other than cigarettes, roll-your-own tobacco and waterpipe tobacco according to Article 11 of Directive 2014/40/EU. We would like to urge you to bring 19. § 5. (4) in line with Article 11 of the Directive, i.e. to make clear that the 16 mm requirement does not apply to packages of tobacco products for smoking other than cigarettes, roll-your-own tobacco and waterpipe tobacco.
- 2) According to 31. § 8b. (1) the placing on the market of tobacco products with a charactering flavour is prohibited. According to § 8b. (6) the prohibition of paragraph § 8b. (1) as well as the prohibition of paragraph § 8b. (3) do not apply to tobacco products other than cigarettes and roll-your-own tobacco. In line with Article 7.12 of Directive 2014/40/EU the reference should read § 8b. (4) instead of § 8b. (3).
- 3) According to 40. § 18 Abs. (12) sub 1 wholesalers may deliver tobacco products manufactured or released for free circulation and labelled in accordance with Directive 2001/37/EC before 20 May 2016 to the retailers until 20 July 2016. As tobacco products for smoking other than cigarettes, roll-your-own tobacco and waterpipe tobacco are slow moving products with low levels of retail turnover, ECMA considers that these products should preferably be given the full year until 20 May 2017 as foreseen in Article 30(a) of Directive 2014/40/EU to sell through old compliant stock.

Yours sincerely,



Marcel Crijnen,  
 Secretary General.