

Ares (2013) 3698151

From: SCHNICHEL Dominik (SANCO)
Sent: 10 December 2013 22:53
To: 'Ronan_Barry@bat.com'
Cc: [REDACTED]
Subject: RE: follow up meeting with CECCM and PMI 27.11.13
Categories: TO REGISTER

Dear Mr Barry,

Many thanks for the paper.

Kind regards Dominik Schnichels

From: Ronan_Barry@bat.com [mailto:Ronan_Barry@bat.com]
Sent: Tuesday, December 10, 2013 9:23 AM
To: SCHNICHEL Dominik (SANCO)
Subject: RE: follow up meeting with CECCM and PMI 27.11.13

Dear Dr. Schnichels,

Following our short discussion on Article 18 when we met, I asked [REDACTED] (Nicoventures Ltd) to make contact with you to see if he can be of further assistance.

In addition, to follow up on our discussion about transition times, I attach a short paper. In summary, the key problems are related to the anticipated increase in demand for new machines and machine conversions from Articles 13, 8.3 and 9(1)(e). Work can begin 8.3 and 13 as soon as the Directive is finalised. However, new machines do need to be ordered and since normal lead times are circa 22 months, there is real concern about the ability of the machine industry to cope with the spike in demand for machines and deliver on time to enable compliance within two years. In addition, machines capable of manufacturing slims in packs compliant with Art 8.3 at speed do not currently exist. Appreciate that slims account for only 6% of the market, but on an EU wide scale that is 35.5 billions sticks per annum. Other sections require either implementing acts and/ or national legislation, including 9(1)(e) which depends on what Member States decide to do with their tax stamps. Hopefully the attached one page briefing will illustrate further. Finally, I checked your question about shelf life: it generally takes up to 12 months for stock to sell through the supply chain.

Kind regards

Ronan Barry
Head of Regulatory Affairs, BAT Western Europe Region
Ph: 0032 471 923100

From: <Dominik.Schnichels@ec.europa.eu>
To: <antonella.pederiva@ceccm.eu>
Cc: [REDACTED]
Date: 28/11/2013 19:16
Subject: RE: follow up meeting with CECCM and PMI 27.11.13

Dear Ms Pederiva,

Many thanks for your mail. We will have a look and will send you the minutes asap.

Kind regards Dominik Schnichels

From: Antonella Pederiva [<mailto:antonella.pederiva@ceccm.eu>]

Sent: Thursday, November 28, 2013 4:49 PM

To: SCHNICHELS Dominik (SANCO)

Cc: [REDACTED]

Antonella

Pederiva

Subject: follow up meeting with CECCM and PMI 27.11.13

Dear Dr. Schnichels,

We thank you and your team for the meeting held on the 27.11.13.

CECCM and PMI have significant concerns on many of the provisions covered by the Council General Approach document and the amendments carried by the European Parliament. During the meeting however, we focused only on practical issues associated with article 6, article 14 and articles 25 and 26.

You asked some precise questions relating to article 14 and the attached document provides you with our response. In this regard we urge avoidance of a situation where, due to insufficient transition times, many economic actors will be forced to either withdraw from the market or face legal sanctions. With regard to Article 14 in particular, the industry is willing to co-operate and put its resources behind bringing about a working Article 14 T & T system but please do not underestimate the challenge involved and the time required for the full supply chain to get it right.

Please do not hesitate to come back to us with any further request for clarification.

We look forward to comment on the minutes of the meeting.

Kind regards

On behalf of CECCM and PMI

Annex: CECCM PMI response to questions from DG SANCO re TPD Article 14

A Pederiva

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Comments on transition times in TPD

The compliance deadlines envisaged by the Directive are unrealistic:

- No country has produced a more wide reaching piece of tobacco legislation than the TPD.
- The proposed TPD asks both national implementing legislation and manufacturing compliance in 28 countries to be achieved in only two years. This is unrealistic.
- For example, provisions such as
 - the need for new packaging capable of holding slim products and avoiding product damage will have to be developed (consequent to Article 8(3)),
 - pack appearance requirements in Article 13 and
 - the repositioning of tax stamps (Article 9(1)(e))...will require a substantial number of new machines and machine conversions (that is, of course, if final outcomes are reasonably close to COM proposal).
- In a normal year, we estimate that demand for new machines is circa 25 and for machine conversions, circa 75+.
- As soon as there is clarity re final outcome on Articles 8(3), a new packaging solution for packaging slims in king size packs will need to be developed and, we estimate, circa 45 new machines ordered. In addition, our estimate is that, industry wide, circa 60 new machines will be ordered to replace machines rendered obsolete by Article 13. That is a fourfold increase in machine demand.
- A seven fold increase in demand for machine conversions should also be expected i.e. from 75 to almost 600 consequent to the need to reposition tax stamps. (Note that machine conversions on virtually every machine in use are required also for pack level track and trace but since special transitional arrangements are desperately needed in that area for a variety of reasons we do not count these for the purposes of this paper).
- The normal lead time for delivery and installation for new machines is up to 18 months to develop/ build and 2 months to install (20 months in total). The normal lead time for machine conversions is up to 11 months.
- The spike in demand for machines and machine conversions once the articles referenced above will increase these lead times substantially are there are real doubts about the ability of the machine supply industry to meet the demand within the 2 year timeframe envisaged by TPD. That is why the industry asks for **four years after entry into force is needed compliance with Articles 8(3), 9(1)(e) and 13.**
- Manufacturers are constrained from achieving earlier compliance by the capacity limitations and availability of engineers for design and installation in the machine manufacturing industry. There is no prospect of the machine production industry investing in significant new capacity to meet a one off year spike in demand (indeed they would not have the time to do so).

The fact that the deadlines for transition and transposition are the same is a problem for other parts of the Directive.

- While we can begin working on compliance with some Articles as soon as entry into force, others are dependent on national implementing legislation and/ or implementing acts for compliance work to begin. For example, it is unclear how Member State legislation will deal with the need to reposition tax stamps or the transposition of Article 12.

- This is why the industry asks that Article 26(1) allow 48 months for manufacturers to reach compliance (assuming of course that the transposition deadline remains at 24 months from entry into force).

Particular provision must be made for Article 14 due to the particular challenges associated with that Article – this is outlined elsewhere.