On 23/11/2015, we met with Japan Tobacco International and their (repeated) request. While the meeting was agreed upon due to the stated intention to raise issues related to the May better regulation package "new measures relating to implementing and delegated acts and how the measures can be as effectively as possible drafted at EU and transferred to the Member State level", the JTI representatives only raised a very specific issue related to the interpretation of the primary and secondary legislation provisions concerning the placing of health warning on cigarette packs with bevelled sides.

In a nutshell, given current legal requirements on the health warning (minimum width in mm and size in % of packet) and current (JTI) packet formats, it is not possible to abide by the legal
requirements without (an apparently very marginal) part of the health warning being printed on
the bevelled side.

Industry is concerned about an interpretative non-paper distributed by DG Sanco to MS experts
to facilitate transposition of the revised tobacco directive which apparently suggests the health
warning should never spill over to the beveled side. The example of Canada is used in the non-
paper. JTI provided some written background information and claimed that:

- This makes no sense as the spill over is so marginal it has no effect on the impact of the
  health warning in terms of public health results.
- This restrictive interpretation is not in line with the primary and secondary legislation
  (which has explicitly recognized the existence of beveled packets)
- This interpretation indicates a desire by DG SANCO “to get by the backdoor something
  they did not manage to during the legislative process”
- Since all packets will have to be compliant by May 16 2016, the required change in the
  size of packets is not only unnecessary but also an additional requirement that comes in
  late into the process and with high compliance costs (15% of the packaging industry
  apparently uses beveled packets). No cost estimates were provided when specifically
  asked.
- The example of Canada is wrong

JTI has already sent a multi-Commissioner letter (also to FVP). They are not satisfied with the
answer provided by the responsible Commissioner and plan a further letter (which will be copied
to us). They know that a revised non-paper will be distributed to MS experts for a meeting in
December 16 and will look at it with interest (with the fear the only changes will be the
elimination of the Canadian example and its substitution with the case of Singapore).

In his response, indicated that he did not know and would not get into the substance of the
arguments but noted how the Commission is often asked to provide indicative interpretations to
help transposition and how by facilitating a more harmonized interpretation, this could help
businesses who clearly would not want to be faced with 28 different interpretations of health
warning requirements in the case of beveled packets. Obviously various solutions were possible
and, to the extent possible, one should look for a solution that drew on any available evidence in
terms of both the benefits / risks and the costs. Clearly, however, this sort of interpretations
cover marginal issues relative to those which were impact assessed and settled in the primary
legislation (or even its delegated and implementing measures). indicated that he would
contact the cabinet of the responsible Commissioner to hear their side of the story. No further
commitments were undertaken.

European Commission
Cabinet of the First Vice President
Frans Timmermans