

SUMMARY: Meeting with Small Guys Cigar Group

Subject: Proposed Tobacco Products Regulations (Plain and Standardized Appearance)

Date: July 27, 2018

Participants:

Health Canada (HC)

Manager, Labelling and Plain Packaging Office, Tobacco Control Directorate (TCD) (Chair)
(replaced Saira David, Director of Labelling and Plain Packaging Office)

Manager, Labelling and Plain Packaging Office (TCD)

A/Manager, Labelling and Plain Packaging Office (TCD)

Senior Policy Analyst, Labelling and Plain Packaging Office (TCD)

Small Guys Cigar Group (SGCG)

Henry Boyd
Principal, Legal Counsel for SGCG, Stosic & Associates

Beatriz Perez
President, Havana House Cigar and Tobacco Merchants Ltd.

Sylvain Laporte
President, Scandinavian Tobacco Group Canada

Colm O'Shea
Vice President/Owner, House of Horvath Inc.

Daniel G. Solomon
Legal Counsel, Goodman, Solomon & Gold

Introduction:

A meeting was held at the request of the SGCG to discuss the proposed Tobacco Products Regulations (Plain and Standardized Appearance).

The Chair opened the meeting by extending regrets that Saira David, the Director of the Labelling and Plain Packaging Office could not attend. The Chair then proceeded with round table introductions.

HC reiterated its international obligation to protect tobacco control policies from the vested interests of the tobacco industry. In addition, in the interest of transparency, the department stated that it would be making a record of the meeting publicly available.

In that light, HC established that the meeting would focus on the following objectives: 1) gain a better understanding of the issues that require clarification, 2) note any provisions that are problematic/challenging and 3) encourage that recommendations and information be submitted in writing through the formal consultation process.

HC also indicated at the onset that it would be the responsibility of the SGCG legal counsels to provide interpretive advice on the proposed regulations.

SGCG noted that the memorandum (attached) would be referred to throughout the meeting.

Subjects:

General comments and concerns

SGCG highlighted that tobacco products should be regulated based on sub-types and available evidence. SGCG recommended that cigars over 1.4g be exempt from the application of the proposed regulations on the basis that cigars are not intended to appeal to young persons as young persons do not smoke expensive cigars and cigars represent such a small market of tobacco products. SGCG indicated its belief that regulating cigars would not help to achieve the objectives of the regulations.

SGCG referred to the Minister of Health mandate letter commitment of proposing measures “similar to Australia or the UK” and felt that Canada’s approach was not consistent with either.

SGCG indicated that there is a lack of clarity in the regulations for products other than cigarettes and little cigars and that it is difficult to interpret the requirements for cigar and pipe tobacco products and packaging.

SGCG also indicated that it met with the Department of Finance to discuss the potential loss in tax revenue and how Canadian consumers will shift to purchasing products online from international sellers, tax-free. It also noted its concerns with regards to the proposed regulations resulting in a potential increase in illicit cigars.

Specific provisions requiring clarification

SGCG indicated that there are specific provisions that require additional information or clarification prior to CGII, including:

- whether the regulations apply to products and packages sold in duty-free shops and excise warehouse licensees;

- what “common name” means;
- given the diversity of cigar packages (between 300-500 SKUs), what colours, types and materials of packages are permitted for cigars; and,
- what the prohibition regarding colour in a brand name means (e.g. would “Captain Black” be prohibited?).

Product identity

SGCG noted that certain packaging elements are currently used to inform consumers such as colours to represent taste and strength and cut-out windows to depict filters. SGCG provided recommendations in the interest of informing consumers, including permitting the following elements on cigar packaging:

- variant/product information to allow consumers to distinguish between strength and leaves (e.g. moduro vs. candela cigars);
- the same information that is permitted on a cigar band (e.g. country of origin); and,
- the factory number, excise tax number and manufacturer’s website.

Product quality

SGCG also recommended the following, to preserve the quality of cigars:

- align requirement of interior surfaces to Australia. SGCG noted that there is a health hazard associated with painting the interior surfaces of packages as the paint would be absorbed into the cigar and affect product quality; and,
- allow fillers in cigar packages as cigars aren’t always sold in the same quantity and can become damaged if the box is not full.

Implementation/Compliance

SGCG stated that there are a number of implementation and compliance-related considerations, including:

- the low turnover rate for cigars;
- international manufacturers do not have the equipment or supplies to comply;
- implementation time should be extended; and
- there is a significant cost of conversion to small business.

Conclusion:

Henry Boyd from SGCG summarized the discussion into four themes for HC to consider as the final regulations are drafted, including: 1) the complexities/diversity of cigar packaging; 2) the economic impact to small business; 3) the diminished cigar quality should regulations be implemented (e.g. interior surface paint being absorbed into cigar); and 4) the turnover rates/supply chain for cigars being unique.

HC reiterated that it is in its interest to have regulated parties comply with the regulations and committed to review the questions posed in the Memorandum and provide a written response, where possible. However, HC again informed the SGCG that written submissions will be considered as the regulations are finalized and an updated Regulatory Impact Analysis Statement (RIAS), containing a summary of what was heard will be published following the public consultation.

The meeting was then concluded.

Documents:

- Memorandum submitted by Stosic & Associates on behalf of the SGCG, detailing their questions and concerns.