

## **CECCM contribution to the Consultation on the draft Commission Impact Assessment Guidelines**

*The Confederation of European Community Cigarette Manufacturers (CECCM) is a non-profit Association formed to represent and promote the common views of its Members, which are three major cigarette manufacturers based in Europe (British American Tobacco, Imperial Tobacco and JT International), as well as its Associate members, which are fifteen national tobacco or cigarettes manufacturers' associations.*

CECCM fully supports the Commission's Better Regulation strategy and agrees that IAs should ensure evidence-based policy making. Henceforth, CECCM is pleased to provide you with its contribution to the consultation on the draft Commission Impact Assessment Guidelines.

CECCM welcomes the Commission's emphasis on improving the quality of impact assessments and believes that the proposed Impact Assessment Guidelines – if fully applied in practice – will help to considerably enhance the quality of future impact assessments (IAs). However, we suggest that further improvement must be sought in the following areas:

1. A broader economic approach with relevant data will provide a more accurate IA and will enable regulators to assess not only economic impacts but also competitive positions of European businesses vs. third country operators.
2. The IA should be used as a help in the decision making process and not become a justification exercise. CECCM recently participated in an impact assessment consultation where it appeared that the Commission had already made its decision both on the policy content and on the appropriate delivery mechanisms to adopt before preparing, discussing and finalizing the IA. CECCM believes that the IA should assist regulators to identify good regulations and not be designed to support policy decisions already made.

To elaborate on this point:

- CECCM underlines that proper IAs require considering genuine alternative policy options. The concept of "policy options" should not be restricted to their 'delivery mechanisms' (i.e., legal form of the legislative initiative to be considered), otherwise the IAs become a justification exercise of policy choices already made. The assessment of alternative policy options is an integral part of any IA whereas 'delivery mechanisms' are only one of the design parameters within each policy option.
- CECCM also very much agrees that political mandates, previous political choices or political expectations by institutions, Member States or stakeholders should not be presented in the IA as reasons to dismiss what would otherwise be relevant or feasible options without further analysis.

CECCM understands that the Commission may have a preference for a particular policy option; nevertheless it should analyse all relevant options for action.

3. Subsidiarity and proportionality. CECCM believes that an ad hoc part of the IA document should address, separately, the two key principles of EU regulations: subsidiarity and proportionality. In order to assess whether these principles have been adhered to, we suggest that a list of existing EU or national regulations or provisions covering the issue be added as an annex to the IA.
4. Quality of Stakeholder consultation. CECCM supports the active involvement of all relevant stakeholders in the consultation on the IA and believes in a fair, open and transparent process – based on facts i.e., transparent, comprehensive and balanced evidence, and not on opinions or personal beliefs. It is important that the IA process is carried out in line with the Commission’s general principles and minimum standards for consultation. Early transparency to stakeholders of the full IA process timetable is essential to ensure efficiency with which submissions can be produced and efficacy of making submissions at the most appropriate points of the process. Stakeholders should be able to comment on the evaluation process itself at all stages: problem definition, implementation and post implementation. The IA should list the stakeholders involved in the process and indicate the evidence each of them has provided.
5. Possibility for stakeholder to review and provide feedback on the IA before the final version is agreed - ideally before the document is presented to the IA Board. CECCM believes that it is important that all relevant stakeholders are involved in all stages of the IA process and not only in the initial consultation where data are collected. Stakeholder consultations bring expertise, help to identify alternative solutions and potentially unintended consequences arising from regulatory solutions that may not have been previously considered. In addition, stakeholders/industry may provide a more realistic assessment of the costs and benefits associated with a particular solution. This would provide an opportunity for stakeholders to provide additional information and for the responsible DG to clarify and explain the IA document. In the event where the guidelines are misapplied to such a degree that the result of the assessment is unreliable and /or misleading, participating stakeholders should have the ability to bring this to the Board’s attention with the view of stopping proposals from going to the College of Commissioners.
6. Involvement of other Institutions. The Council and the European Parliament should develop impact assessment methodologies for substantive changes to draft proposals throughout the decision making process.
7. Finally, CECCM regrets that the proposed guidelines suggest that the Secretariat General/Impact Assessment Board may determine whether a proposal will undergo IA or not. It is recognized that not all proposals require equivalent extent of IA, although it is essential that they all follow the same procedural guidelines. The depth of analysis is then covered by the principle of ‘proportionate level of analysis’ which ensures that proposals are not over-assessed.

CECCM FIN – 04.08.08