



CONFEDERATION OF EUROPEAN COMMUNITY CIGARETTE
MANUFACTURERS AISBL

CECCM submission on the “Consultation Paper on the structure and rates of excise duty applied on cigarettes and other manufactured tobacco”.

CECCM views will be limited only to cigarettes and in the form of general comments, addressing some of the key questions raised in the document. CECCM member companies will address these more extensively in their separate submissions.

1. Current tax structure and impact on the market

Ever since the first EU Directive on tobacco tax in 1972, the EU has aimed to further harmonise the national rules on tobacco tax levels and structures, with a view to establishing an internal market for tobacco products. In 1992, the EU introduced a minimum excise incidence of 57% of the retail selling price of the MPPC. In 2002, it introduced, in addition to the 57%, a minimum excise tax level of EUR 60 per 1000 cigarettes on the MPPC, raised to 64 as from July 2006.

Despite all these efforts, the harmonisation of tobacco excise tax rates is today no nearer than it was a few years ago. Indeed, with the recent enlargement of the EU, the tax differentials between Member States widened, and derogation periods were needed in order to permit the new Member State to progressively adapt their tax rates and achieve the EU excise tax minima.

Considering the data provided in the summary of the market study provided by DG TAXUD, it is likely that large tax difference will continue in the near future. As long as there are significantly different levels of income across the EU, it will be difficult to harmonise cigarette taxation and retail prices between the individual Member States.

The consequence of the current tax and retail price differences within the EU is increased intra-EU cross border sales and illegal trade. Equally, the consequence of even larger tax and retail price differences between the EU and its eastern neighbours is significant levels of smuggling into the EU. Both these phenomena have reached significant volumes and undermine the health objectives and the tax revenue of many Member States.

Smuggling is an illegal activity and CECCM member companies' position is clear and unequivocal: they are totally opposed to illicit trade in their products

2. Proposal for the new revised excise structure

CECCM recognizes the Commission's objective to improve the cigarette excise regime in order to set the ground for long term protection of public health and sustainable government revenues.

CECCM supports and recommends the following measures:

2.1 Minimum Excise Burden for all cigarettes

We recommend that a minimum excise burden requirement be set for all cigarettes. This measure will serve to converge excise levels, providing a tax floor for all cigarettes and therefore adequately and effectively address health concerns. However, setting the rate at Euro 64 for all cigarettes from 2010 as suggested would represent a significant tax excise increase for many Member States. Therefore the Commission and the Council may need to allow derogations and transitional periods if implementing this measure.

2.2 Mandatory Mixed Tax Structure

The requirement for a mixed excise structure for cigarettes should continue as all 27 Member States have a mixed tax structure in place and it is recognised as the best way to achieve both their health objectives and the optimisation of the government revenues.

We recommend this can be implemented simply by setting a requirement for ad valorem excise (in % of the Retail Selling Price) replacing the current specific 5-55% rule.

The combination of a mandatory mixed system with a minimum excise burden for all cigarettes would result in more convergence of pricing at the lower end of the market.

2.3 The "57% rule"

CECCM supports the first part of the option as described in Article 4.2 (minimum excise burden for all cigarettes) of the Consultation paper. However, CECCM strongly opposes the second part of this option, 57% requirement for all cigarettes, since it is not necessary to have two minimum requirements - one specific and the other ad valorem – applicable to all brands in a market. It will be far too complex to manage without providing any additional benefit.

Therefore, CECCM would recommend the deletion of the 57% minimum excise incidence rule since it neither guarantees achieving the general aim of tax approximation, nor is it required to achieve health objectives.

The “57% rule” has not prevented wide differences in retail prices because ad valorem does not necessarily impact total tax yield (Euro per pack) which is the correct measure to evaluate the purchasing power impact of taxation. It follows that CECCM does not support a minimum tax incidence including VAT either. VAT rates vary considerably between Member States and such a measure would just enhance discrepancies.

2.4 MPPC Concept

CECCM member companies acknowledge some of the limitations of the MPPC concept and the fact that the cigarette market has changed since it was introduced. However, CECCM member companies will address this issue in their separate submissions.

3. Other comments: Pre-tax price differentials

The manufacturer freedom of pricing is represented by the pre-tax price and this element is controlled and limited by market competitive pressures as for any other consumer good.

The average EU MPPC retail selling price (RSP) is divided into government taxes 75%, manufacturer take 15% (production, sales cost and profit) and a 10% trade margin. The significant differences in RSPs between EU countries are created by the overall tax burden since it represents by far the biggest cost element. Therefore the manufacturer pre-tax price remains a limited factor of influence on the final retail price in any given market.

CECCM firmly opposes the assertions made in section 5.5 of the Consultation document concerning the fact that the current legislation facilitates price fixing by manufacturers. Such statements reflect a deep misunderstanding of the operation of open free markets in general and the cigarette market in particular. All consumer items are priced according to the specifications of the national market. Indeed section 5.2 (as in particular 5.2.1.) correctly makes this point and contradicts the statements made in section 5.5.

4. Conclusions: the CECCM Position in brief

- Support for an equitable and transparent taxation framework that does not destabilise legal markets and impede upon the EU principles of free market competition.
- Support for the maintenance of the mandatory mixed tax structure, with a EU minimum ad valorem rate.
- Support for a EU minimum excise tax burden for all cigarettes that more effectively addresses Member States’ health objectives.

- Support for taxation that takes into consideration the economic reality and the large income differentials in the individual Member States. CECCM re-emphasises that the level of taxation and the health objectives interact in many different ways. In particular, higher taxation of cigarette leads to increased illegal trade and cross border shopping, undermining the health policy implemented at Member State level.
- Support for improved coordination among Member States in securing of internal and external borders and improved controls aimed at tackling of illicit trade.
- CECCM member companies acknowledge that taxation is seen by Member States as a primary tool in the fight against smoking, however, it is time to recognise its limitations when faced with growing contraband and related criminal activities. Many countries are now focusing equally on other tools to reduce smoking incidence as they realise that taxation cannot provide a one size fits all solution.

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