

KALIMAN CARIBE

PROPOSITIONS

Concerning the DRAFT ADMINISTRATIVE INSTRUCTION No... / 2024 ON THE AMENDMENT AND SUPPLEMENTATION OF ADMINISTRATIVE INSTRUCTION (Health) No. 05 / 2023 COMBINED WARNINGS

FROM:

“Kaliman Caribe SH.P.K”

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Dear Minister of Health,

Founded in 2010, Kaliman Caribe SH.P.K stands as a distinguished cornerstone in the world of luxury tobacco, serving as the premier distributor for the renowned handcrafted Habanos cigar brand. At its heart, the company is dedicated to a trifecta of paramount endeavors: distribution, import, and export of an array of tobacco offerings, encompassing the finest cigars, cigarillos, and a curated assortment of smoking accessories.

“Kaliman Caribe SH.P.K” is related party of Kaliman Carie LTD Sofia, founded in 1995, we are eminent enterprise extends its reach across the expanse of 12 European countries, catering to connoisseurs and aficionados alike. With an unyielding commitment to providing the pinnacle of tobacco experiences, Kaliman Caribe Ltd. has indelibly etched its name in the annals of opulence and indulgence.

The objective of this official letter is to express our considerations and recommendations and to contribute to the amendment and supplementation of the Administrative Instruction (Health) No. 05 / 2023 Combined Warnings.

We would like to draw your attention to the potential problems that the adopted Instruction may create on the market of tobacco products other than cigarettes, roll-your-own tobacco and water pipe tobacco (if applied unmodified). Therefore, we would like to propose amendments to the Administrative Instruction taking into consideration the specifics of these products.

With a view to the transposition of the provisions of Directive 2014/40/EU of the European Parliament and the Council of 3 April 2014, we hereby propose by virtue of Article

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11 on *Labelling of tobacco products for smoking other than cigarettes, roll-your-own tobacco and waterpipe tobacco of the mentioned Directive*, the following amendment to be made to the Draft Administrative Instruction of Combined Warnings by adding :

(1) Tobacco products for smoking other than cigarettes, roll-your-own tobacco and waterpipe tobacco should be exempt from the obligations to carry the information message laid down in **Article 4 The library of health warning**, and the combined health warnings laid down in **Article 5 General warnings and information messages on tobacco products for smoking** and **Article 6 Combined health warnings on tobacco products for smoking**. In that event, and in addition to the general warning provided for in Annex 1, each unit packet and any outside packaging of such products shall carry one of the text warnings listed in Annex 1. The general warning specified in Annex 1 shall include a reference to the cessation services referred to in same Annex 1.

(2) In the general warning and the information message referred to in **paragraph 10 of Article 5 General warnings and information messages on tobacco products for smoking** to be added additional paragraph where to be stated that The general warning and information message shall cover 30% of the relevant surface of the unit packet and any outside packet of tobacco products other than cigarettes, roll-your-own tobacco and water pipe tobacco.

(3) The general warning and the information message referred to in **paragraph 9 of Article 5 General warnings and information messages on tobacco products for smoking** for packets of tobacco products for smoking in the form of a tube for cigars, the general warning shall appear at the 30% of the overall surface of the tube.

(4) Combined warning referred to in **paragraph 1 of Article 6 Combined health warnings on tobacco products for smoking** shall cover each unit packet and any outside packaging of the tobacco product for smoking except for cigars and cigarillos.

(5) Given the complexity of the matter and the necessity to undertake a variety of technical measures to align the activity with new requirements, it is imperative to accomplish this with a reasonable timeframe. Therefore, we propose to extend the periods stipulated in Article 11 of the basic Administrative Instruction to be amended and supplemented as follows:

5.1. Paragraph 1 of Article 11 effectively from 1 March 2025, all tobacco products that are imported or produced for the market of the Republic of Kosovo must contain health warnings defined in this Administrative Instruction.

5.2. Paragraph 2 of Article 11 effectively from 1 September 2025, all tobacco products that circulate in the territory of the Republic of Kosovo must contain health warnings defined in this Administrative Instruction.

5.3. Paragraph 3 of Article 11 effectively from 1 September 2025, the circulation on the market of the territory of the Republic of Kosovo of all tobacco products that do not contain the health warnings defined in this Administrative Instruction is prohibited.

Our fundamental arguments in relation to the modifications proposed by us are founded on the historical and founding guidelines for the adoption the EU Tobacco Products Directive.

Commission's initial proposal:

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- Drafting a Tobacco Products European Directive is oriented to the young people, with the cigars being exception from article 9 and article 10 in the Commission's initial proposal.

European Parliament's point of view:

- The European Parliament was also on the opinion that the tobacco products for smoking other than cigarettes and roll-your-own tobacco should be exception from the obligation to carry an information message as provided for in article 9.2 and the combined health warnings stipulated in article 10 of Directive 2014/40/EU.

Changes during the tri-lateral meeting:

- Change in the initial version of the Directive from "exempt" to "may exempt" has an impact on article 11, which leads to a number of more misplaced, even unexpected consequences for the cigars due to the fact that articles 9 and 10 were not amended in conformity with this material amendment, having no references to the cigars.

Promptness and legal security:

- Taking into account that the transposition of the national legislation and the new production requirements coincide in view of terms, the tobacco industry will not be able to commence with the application thereof prior to the final adoption of the legal text in Bulgaria.
- The new Directive imposes mandatory execution of the contents thereof after two years from its promulgation in the Official Journal of the European Union which was on May 20, 2014. This means that all EU member – states shall meet any and all production requirements, imposed by the Directive, not later than May 20, 2016, regardless of the date of the transposition thereof in the national legislation.

The transposition word by word:

Grounds for specific treatment of cigars, cigarillos and pipe tobacco included in article 11 of Directive 2014/40/EU:

- ❖ Different profile of the users of cigars, cigarillos and pipe tobacco, both age-related as well as in relation to the smoking habits.
- ❖ Difficulties in the performance of the obligation regarding the labelling of cigars, cigarillos and pipe tobacco, related to the specific manufacture thereof, provided that the exceptions stipulated in article 11 are not adopted.
- ❖ Impact on the business with cigars, cigarillos and pipe tobacco and economic consequences.

1. Different profile of the users of cigars, cigarillos and pipe tobacco both age-related as well as in relation to smoking habits.

Considering (26) of Directive 2014/40/EU:

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- In relation to the tobacco products for smoking other than cigarettes and roll-your-own tobacco (mostly in relation to cigars, cigarillos and pipe tobacco), which are mainly used by older consumers and by small groups of the population the option shall remain to be exempted from certain labelling requirements provided that there is no substantial change in the circumstances in relation to the sales volume or models of use on behalf of the young people. The labelling of such tobacco products shall be made in accordance with particular rules concerning them.

Considering Eurobarometer “Attitudes of Europeans towards Tobacco and Electronic Cigarettes”, published in February 2021 *:

- The cigars, cigarillos and pipe tobacco share represents less than 1 % of the total consumption of tobacco products (cigarettes, roll-your-own tobacco, cigars and cigarillos) in the European Union.
- Only 1 % of the people interviewed stated that they use cigars or pipes on a daily or monthly base.
- The consumers using pipe tobacco can be included in the older group of the population. Namely exactly for this group of consumers it is most likely to smoke cigars. Generally the percentage of the people interviewed, using regularly these tobacco products, is low: 3 % for cigars and 2 % for pipes.
- Drop of 6 % for the cigars’ users and 4 % for the pipe’s users is noticed.
- The cigars, cigarillos and pipe tobacco users are mostly men rather than women: - for cigars /4 % to 0 %/, for cigarillos /5 % to 0 %/ and for pipe tobacco /2 % to 0 %/.

2. Difficulties in the performance of the obligation regarding the labelling of cigars, cigarillos and pipe tobacco, related to the specific manufacture thereof, provided that the exceptions stipulated in article 11 are not adopted.

I. Main difficulties related to the characteristic production processes are:

- Business such as the manufacture of cigars and cigarillos is characterized with huge variety of models, sizes, brands, package types (card-box, metal, plastics, wood).
- Due to the small scales of the production processes and predominantly small and medium-sized enterprises, a large part of which are still family-owned, the companies – manufacturers do not possess the required resources and know-how to meet the same requirements compared with bigger companies with much more-limited assortments and higher sales’ volume.
- Furthermore the manufacture of cigars is characterized with really small volumes realized for a long period of time. Sometimes a delivery of even several boxes only is realized for the duration of several years.
- The unit packets very often have collector’s, art and design value. The packets are characterized with huge variety of more than 300 types, resulting from the various forms and sizes of the cigars. They are irregular and being limited not only to parallelepiped or cylinder, in the most part being hand-made from

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wood, porcelain and china and other high-value materials, engraved by craftsmen and artists, which by themselves represent art works.

*https://data.europa.eu/data/datasets/s2240_506_eng?locale=en



Considering the aforementioned arguments, we propose that cigars, cigarillos and pipe tobacco be viewed and treated differently from other tobacco products.

II. Specific problems related to the labelling:

- Size of health warnings.
- General and information warning of the boxes with a hinged lid.

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- General health warning of the internal surface of the boxes with a hinged lid.
- Combined health warnings.

1. Problems related to the size of the health warnings.

- According to the regime of exemption stipulated in article 6 (4): The combined health warning must cover 65% of the visible surface of the front side and 65% of the visible surface of the backside of the unit packet and any outside packaging.
- If no exemption is allowed under article 6 (4), and if the provision does not contain a similar provision for maximum size, this causes two significant problems:
 - Due to the huge variety in the package sizes of cigars, cigarillos and pipe tobacco, the number of different in size and types health warning signs to be placed shall be enormous, thus causing many product lines to be withdrawn from the market.
 - A great number of the cigars' boxes have sides with area exceeding 150 cm², and in such case the size of the warning shall be mostly non-proportional, which was not the intent of the regulator.

2. Problems related to the general and information warning on the boxes with a hinged lid.

- The lateral surface is generally divided into two equal parts.
 - Machines used to place stickers are not very accurate. The only solution is to manually place the warnings, which involves ill-proportioned volume of additional labor and costs.
- Since the lateral surface is divided into two equal parts, the height of the warning stickers will be at least 8 mm, meaning:
 - Placing stickers with 8 mm height on the lateral surface of the boxes with a hinged lid shall be impossible in the practice, due to the size of the stickers.
 - The health warnings will be illegible.

3. Impact on the business with cigars, cigarillos and pipe tobacco and economic consequences.

Risk of violating the internal market's requirements.

Due to the fact that the specific regime for cigars, cigarillos and pipe tobacco is regulated in article 11 of Directive 2014/40/EU, the member-states shall adopt this article in order to avoid the risk of occurrence of contradictions with the legal regulations of the EU internal market.

The withdrawal from the market of forms, types and products highly valued by the users of cigars, cigarillos and pipe tobacco.

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The economic consequences are related to:

Increase of the illegal business and decrease in the tax proceeds

- The difficulties related to the adaptation and the inability to deliver the end products with the legally required vision will make way for the illegal business.
- The placement of combined health warnings on each unit packet in size of 65 % of the respective surface would lead to concealing and effacing the trade names and branding, logos and protective elements of the manufacturers, used by them in the fight against the contraband and differentiating the original product from counterfeit. The security of the product's authenticity will be questioned, considering that most probably the manufacturer's protective elements and excise labels are with violated integrity, which will happen if a health warning should be placed inside the unit packet.

The products other than cigarettes and roll-your-own tobacco are consumed by a truly small group of the consumers of tobacco products. Due to the higher sale price thereof the group of the users of cigars, cigarillos and pipe tobacco is rather limited and getting smaller, with these consumers being connoisseurs of these products' uniqueness and known for certain smoking culture.

We believe that the proposed amendments and supplementations to the Administrative instruction 05/2023 by Kaliman Caribe will lead to a greater harmonization of the national legislation with the European regulations and norms.

In closing, we appeal for your discerning consideration of our arguments. The intrinsic differences between cigars, cigarillos, and conventional cigarettes underscore the necessity for nuanced regulatory treatment. We believe that an approach acknowledging these distinctions will foster a balanced regulatory environment while honoring the distinctive character of cigars and cigarillos.

Yours sincerely,
Todor Dochev
Managing Director
"Kaliman Caribe SH.P.K"



April 19, 2024