



Mr José Manuel Barroso
President
European Commission
Rue de la Loi, 200
B-1049 Brussels
BELGIUM

12 December 2012

Dear President,

Several member federations of BUSINESSEUROPE have written to you and members of the Commission with regard to the revision of the Tobacco Products Directive. We understand that the draft proposal is currently being discussed by the Commission. Recent events have put this revision into the spotlight and BUSINESSEUROPE considers it necessary to reiterate a number of points already raised.

BUSINESSEUROPE understands that the Commission is envisaging a number of significant changes to the current Directive which would lead to far reaching product and pack standardisation, and thus eliminate complete product groups. We are concerned that this would also lead to a general weakening of the protection of property rights in the EU and abroad. As such, the proposal could affect the business community in general, not just the tobacco sector.

BUSINESSEUROPE is primarily concerned with the effects this proposal could have on branding rights for companies. For example, a 75% health warning on products goes substantially beyond what is necessary to warn consumers about product risk which suggests that the real aim is to remove branding. In addition, wide ranging restraints on the use of branding, including in relation to the distinctiveness of the shape of packages and products would set a dangerous precedent. Such measures would be highly alarming and go to the heart of the value and purpose of companies' intellectual property - to distinguish products and compete both within and outside the single market. They would cast doubt on the EU's continued commitment to the protection of property, in particular intellectual property. Such proposals would not just weaken property right protection in the EU, but also undermine internationally where EU companies are often targets of intellectual property rights violations.



In times where the European Union is pursuing indispensable growth mission strategy, BUSINESSEUROPE believes that new regulation must have tangible, sustainable and measurable positive outcomes to foster growth and value, secure against new jobs and minimise regulatory burdens on industry.

BUSINESSEUROPE therefore counts on the Commission to fully pursue better regulation and to maintain a high standard of intellectual property protection in future legislative proposals. The revised Tobacco Products Directive should therefore be evidence-based, fully respect proportionality and intellectual property rights, and take account of the interests of all stakeholders involved.

Yours sincerely,



Jürgen R. Thumann