

TOBACCO INDUSTRY

CURRENT SITUATION

The tobacco industry in Serbia is one of the strongest sectors of the Serbian economy, with three major international players present with their production capacities. Therefore, and in order to use these capacities and raise the competitiveness of Serbian tobacco industry on the European level, it would be of utmost importance if Government could develop and adopt long-term tobacco industry strategy in Serbia. We believe that, current stage in Serbian European Integration process is an excellent timing for creation of this strategy which should result in future for Serbia to be a significant hub and exporter of tobacco products on the EU level.

POSITIVE DEVELOPMENTS

In the last year, the biggest issue in the tobacco regulation area was a controversial adoption of the Excise Law amendments, which triggered speculation and large public attention. This type of non transparency in the regulatory development process adds to uncertainty and lack of confidence among foreign investors. However, FIC welcomes later adoption of Law on excise which has provided much

needed predictability in taxation, which is one of the most important conditions for attracting foreign investment.

REMAINING ISSUES

- Ministry of Health initiative to introduce total smoking ban will create significant losses in hospitality and its related industries and will lead into further increase of unemployment in Serbia;
- Law on advertising which was adopted in 2005 allowed arbitrary interpretation of some of its provisions which resulted in difficulties in its implementation in the area of tobacco industry;
- Tobacco industry exclusion from the dialogue with the Serbian Government and its agencies could result in significant problems in enforcement of current and future regulation;
- The concept of ear marked tax on tobacco products introduced via Law on tobacco intended for financing of Health Budget fund deteriorates the transparency of tobacco products taxation and is not aligned with EU positive practice.

FIC RECOMMENDATIONS

- Regulation on smoking in indoor public places has to strike an appropriate balance between the rights of smokers and non smokers, and to provide a solution which can be effectively enforced. With this in mind, Serbia should look for the most appropriate solution within EU countries. The solutions such as those implemented in Spain, Portugal, Germany, Austria, and most recently in Greece and Belgium can be used as guidance in this process. The very essence of these solutions is a realistic approach towards smoking in hospitality outlets, which are traditional places of leisure. This solution would provide smaller hospitality outlets with the possibility to decide to be entirely smoking or non-smoking, while larger hospitality outlets would have the possibility to set up physically separate smoking sections.

It is very important to provide an appropriate transition period for necessary adjustments to hospitality outlets of at least 2 years. This would maximize the effectiveness of the regulation and ensure its proper enforcement without negative effects on the hospitality industry and employment;

- Issues in the implementation of the Law on advertising arise from a lack of clarity of a number of provisions. Such lack of clarity leads to diverse practices among industry players and arbitrary interpretation by the Trade inspectors,

which results in a lack of transparency and deterioration of regulation effectiveness. FIC believes that the regulator has to set forth clear rules which would be effectively enforced and which would create level playing field for all market participants. We hope that the expected changes in the Law on Advertising will include more precise formulations, particularly in reference to Article 64, ensuring its coherent interpretation and ultimately effective enforcement in the future.

The current Law on Advertising is in force since 2005 and the industry has gained comprehensive and in-depth experiences with its implementation. FIC believes that the industry can provide practical inputs for the regulatory improvement. Therefore involvement of the industry in the consultancy process at the earliest stage is highly recommended.

For the first time since the privatization of the Serbian cigarette manufacturers (which provided over EUR 1 billion in foreign investments) the government representatives were reluctant to engage with the industry on regulatory matters, as a result of pressure from the Ministry of Health;

- FIC supports open and transparent dialogue between regulators and the tobacco industry, just as for any industry investing in Serbia. Limiting the ability of the tobacco industry to participate in the process of regulatory development is contrary to long established principles of participatory democracy and good governance rules in many countries. Regulators should follow the principles of participation, openness, accountability, effectiveness and coherence adopted by the EU, which includes consultation of all affected parties. We agree that all branches of government should be aware of the health effects of tobacco and should integrate this knowledge when developing tobacco control policies. However, we do not support a policy of demonizing or denigrating tobacco companies. Moreover, given the complexities of regulation, especially in areas such as illicit trade prevention, fiscal policy, and product regulation, FIC believes that the expertise of tobacco companies is especially important to develop regulation that is technically viable, practically workable, enforceable, and with minimal or no unintended consequences;
- FIC recommends that all fiscal charges on tobacco products should be directed specifically through Law on excise. Additionally, the position of FIC is that newly adopted Law on Excise is adequately regulating further increases of tobacco products' taxation until 2012 and that any changes to this law would seriously undermine predictability of operating environment for investors in this industry.