Tobacco Advertising Regulation in Belgium

ABSTRACT. Since 1975 several laws have been promulgated concerning labelling (warning of health danger of smoking, content of nicotine and tar) and restrictions on advertising for tobacco (cigarettes, cigars, etc.) marketed in Belgium.

The most recent decree, partly in force since December 31st, 1982, and partly coming into force on July 1st, 1983, contains restrictions on content and volume of tobacco ads and prohibits the use of certain media (such as radio, T.V., and products which are not linked to the use of tobacco).

Because of its particularities and the absence of an underlying anti-smoking policy, the Belgian regulation is more likely to be successful as an instrument of restraint of competition than as one of consumer protection.

An Act of Parliament of April 3rd 1975 made it obligatory for each package of cigarettes sold in Belgium to carry the phrase “Smoking cigarettes may damage your health.” In the Moniteur Belge of March 14th 1980 two Royal Decrees were published relating to tobacco labelling and advertising. These decrees were made on the basis of the Act of January 24th 1977 on the protection of the health of consumers in the area of food stuffs and some other products (cosmetics, tobacco, detergents, etc.). The first Royal Decree (dated December 28th 1979) introduced regulations about composition and labelling of tobacco products and replaced the Act of 1975. The second one (dated March 5th 1980) contained a number of restrictions on tobacco advertising.

Due to pressure of the interested industry and deficiencies in the formulation of certain regulations and the unpracticability of others, both decrees had to be amended several times. Some important provisions had not even been brought into force on the eve of the publication of a new decree on tobacco advertising in the Moniteur of December 31st 1982; a Royal Decree dated December 20th 1982 that replaced the Royal Decree of March 5th 1980. In the same Moniteur a decree is published which brings a new amendment to the Royal Decree of December 28th 1979 on the composition and labelling of tobacco products.

LABELLING

The packages or containers of cigarettes, cigars, cigarillos, pipe
and roll tobacco, chewing tobacco, and snuff have to carry in the
language of the region (Dutch, French, German): (a) the warning
"Tobacco damages health" (tabac nuit à la santé) in rather small
print (corpus 8); (b) the date of manufacture (may be in codes);
(c) the content of tobacco substitutes.

There is a fourth disclosure requirement for cigarettes. Each
package has to carry tar and nicotine contents in mg. For cigars,
cigarillos, chewing tobacco, and snuff (not for cigarettes, pipe and
roll tobacco) the warning has to be printed either on the packages
or containers or on the enclosure or the tax band. In the latter case
an abbreviation ("Tobacco damages") may be used.

ADVERTISING

General Remarks

The new advertising rules for tobacco were partly brought into force
on December 31st 1982. Two sets of regulations, restrictions on the
content of newspaper and magazine advertising and restrictions on
the amount of billboard advertising, will be applicable from the 1st
of July 1983 (provided there is no further postponement).

The actual and future restrictions on tobacco advertising are a
harshening of an agreement from 1971 between the Minister of
Public Health and the members of FEDETAB, the Association of
Belgian and Luxemburg Tobacco Industry, whose members market
approximately 95% of the cigarettes and 75 to 80% of the cigars and
cigarillos in Belgium.1 Self-regulation in order to avoid legislation
is a well-known phenomenon. Here we might have an example of
industry encouraging legislation (government regulation) as a means
of imposing constraints on outsiders. One of the obvious motives
for seeking general application of trade regulations2 is restraint
of competition. It helps established tobacco manufacturers to get
out of the well-known "prisoner's dilemma" (to have to advertise at
least as much and as aggressively as competitors) because advertising
restrictions must hinder the entry of newcomers onto the market
or the break-through of smaller competitors. So although the recent
Royal Decree contains some far-reaching restrictions which on balance
must certainly conflict with the private wishes of the industry, it
could nevertheless suit the market leaders very well by giving them a
possibility to maintain their market share at less cost. The more so
as the intended decrease of tobacco consumption as a result of
restrictions on advertising has nowhere been observed (see, e.g.,
Röper, 1976).