

PHILIP MORRIS

EFTA, EASTERN EUROPE,
THE MIDDLE EAST AND AFRICA REGION

WALTER THOMA
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AD (1)
27/3



23rd March 1987

Approved

Teleaxed withdrawal
on vote pending identification
of 27/3

Dear Dr. Eicher,

We know that the ISO Council Members are voting on the publication of the Standards 4387 and 8453, with a deadline of Friday, March 27, 1987.

We recognise that direct communication from private companies is not strictly foreseen in ISO procedures. However, the publication of these Standards in their present form is a matter of such concern to us that we feel compelled to write to you directly.

For an organization such as ISO and a company such as Philip Morris to be in genuine disagreement there must be an underlying misunderstanding.

We have read all the documentation available to us from ISO and have come to the conclusion that the heart of the issue and, therefore, the misunderstanding relate to responsibility to the consumer.

It would seem that ISO has concentrated upon the technical aspects of these Standards and upon the due procedures for their publication. Indeed the underlying dispute has probably been ascribed by ISO to a competitive squabble between Philip Morris and BAT.

Our interest is in the publication of Standards that would resolve the disputes that have arisen in various countries involving the authorities and often litigation.

The problem is the new type of cigarette called channel-ventilated (of which the BAT brand Barclay is the prime example). When tested by conventional means, such as in these two Standards, results are obtained which have been found to be misleading to the consumer. It is this aspect which has caused health and consumer protection authorities not to accept the straight results from conventional tests. This is the case in West Germany, Switzerland, Norway and the USA today.

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For your additional information we enclose for you:

1. A video tape showing two documentaries, one from British (BBC - "Tomorrow's World") and the other from West German television (NDR - "Nord 3"). These two programmes illustrate vividly and objectively the real issue for consumers.
2. A status report on the legal matters involving Barclay.

The present form of these Standards seeks to avoid responsibility for consumer information. The introduction states that the test methods are "applicable to all types of cigarettes; however, the results obtained from machine smoking of certain types of cigarettes may not be suitable for ranking or consumer information and may reveal the need for further and more adequate information to be made available."

This effectively passes the buck to the individual countries that wish to adopt these Standards. Yet as we all know, many countries, particularly in the third world, adopt ISO Standards as published, presuming them to be complete. We can then envisage companies and standards organizations alike making competing claims as to what was intended by such incomplete Standards. In the end, conflict is assured. Indeed, where the declaration of the constituent levels in the product is mandatory, manufacturers will have no choice when applying these Standards to channel-ventilated cigarettes but to declare information that would be misleading to the consumer. Then the authorities may take action and/or the competitors seek to redress a commercial disadvantage, and the kinds of disputes referred to above are the consequence.

Clearly the purpose of ISO is to prevent such occurrences and to facilitate the development of reliable and complete Standards. This is all the more true when consumers rely upon such information, as is the case for constituent levels on cigarette packaging.

The inability of many developing countries to deal with this consumer information aspect of the Standards makes it even more important that ISO does not abdicate responsibility. COPOLCO's existence highlights this point (ISO/IEC. Standards and the consumer. 1986).

We are genuinely perplexed at the dichotomy of positions in certain countries that have recognised the need to adapt their own domestic test methods for channel-ventilated cigarettes, in order to prevent misleading consumer information, but have not acted in the same fashion in the international arena. No one would deny that ISO has a responsibility for reliable consumer information, and we would respectfully submit that the proposed Standards in their present form would muddy the waters further. This is a matter that could usefully be brought before the ISO General Assembly and would certainly be of interest to consumer bodies such as IOCU (International Organization of Consumers Unions).

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There is another aspect which merits your consideration. Currently there are proposals within the EEC to introduce maximum constituent levels in cigarettes. Should these proposals be accepted, the normal course of action would be for CEN (Comite Europeen de Normalisation) to adopt the relevant ISO Standards. It would seem almost inevitable in this scenario that the European Commission's Directorate dealing with consumer affairs, DG 11, would be brought in because of the deficiencies of these Standards in their present form. In fact, if they were adopted and implemented without modification one could foresee litigation in the European Court.

In view of the foregoing, and with the status and reputation of ISO at stake, we would strongly urge that International Standards be published which, if they are not complete, at least do not encourage the kind of controversy and potential litigation that we fear. Such a result can be readily accomplished by having ISO/TC 126 amend the proposed introductory language to specify clearly that these Standards cannot be used for channel-ventilated cigarettes. In this way, ISO will not have created a situation which is potentially misleading, and for which there is no consensus. As such an amendment may not be possible immediately, we would respectfully suggest the publication of a Technical Report as envisaged in section 7 of the ISO Directives, referencing the on-going work of ISO/TC 126 with respect to channel-ventilated cigarettes.

We stand ready and willing to devote any resources of our company that could be useful to produce reliable, complete and universally accepted International Standards.

Yours sincerely,



Walter Thoma

cc: Secretary of COPOLCO /
ISO Council members

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