



19 May 2014

Ana de Miguel  
Consumer and Competition Policy  
Department for Business, Innovation and Skills  
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ref: LL/CR/LC-UK

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Dear Ms de Miguel

**BIS Review of Enforcement Provisions of the CPR'S: Copycat Packaging**

Having read the response to this consultation submitted by the British Brands Group ("BBG"), the Scotch Whisky Association ("SWA") wishes to record its support for their position.

The SWA is the trade association of the Scotch Whisky industry. Its members include the principal Scotch Whisky distillers, bottlers and brand owners, who together account for around 90% of Scotch Whisky sold worldwide. One of the SWA's principal objects is to protect the Scotch Whisky industry from unfair competition from products falsely presented as Scotch Whisky or whisky. At any one time we will be dealing with around 50 court cases across the world against such products, in addition to several hundred administrative actions and other investigations.

The SWA's experience is that in the UK, public authorities have very limited resources to take action against misleadingly labelled goods and the BBG's findings that there has been only one enforcement action under the CPR's comes as no surprise to us. We fully support the idea that brand owners should be able to enforce the CPR's through the civil courts as not only will this allow them to better enforce their own rights, but also it will also better protect consumers from deception at no cost to the public purse.

The SWA frequently litigates in countries such as France where there already exists a civil wrong of parasitism and indeed the German Unfair Competition law is based on the Unfair Commercial Practices Directive. We have seen no evidence that the granting of these wider, private rights of enforcement has led to a surge of spurious cases and we cannot see any reason why the situation would be different in the UK.

Yours faithfully

A handwritten signature in blue ink, appearing to read "L. M. Low", with a stylized flourish at the end.

Lindesay M Low  
Legal Adviser

**Legal Affairs**

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