

Letter from the European Ombudsman to the European Commission on upcoming revision of tobacco related legislation

Correspondence - 11/02/2021

Case SI/1/2021/KR - **Opened on** 11/02/2021 - **Decision on** 12/07/2021 - **Institution concerned** European Commission |

Ms Ursula von der Leyen

President

European Commission

Strasbourg, 11/02/2021

Strategic initiative SI/1/2021/KR

Subject: Upcoming revision of tobacco related legislation

Dear President,

In December 2016, my inquiry concerning the obligations of the European Commission under Article 5(3) of the *WHO Framework Convention on Tobacco Control* [1] to be transparent in any dealings with the tobacco industry was closed with a finding of maladministration. [2]

While I welcome the increased transparency of lobby meetings since then [3], it is still the case that, apart from the Directorate General for Health and Consumers [4], the Commission does not proactively publish all information on interactions between the Commission and the tobacco industry. As a party to the Framework Convention, the EU has committed to protect public health policies from the tobacco industry.

I wish to raise this issue with you again as the Commission will soon revise several relevant pieces of legislation:

- the Council Directive on cross-border purchases of tobacco products by individuals [5];



- the Council Directive [6] on the minimum excise duties on cigarettes;
- and possibly the Tobacco Products Directive [7], following the Commission report on its application, as regards measures such as mandated pictorial warnings on cigarette packaging and a ban on flavoured cigarettes.

As a medical doctor, you will be very much aware of the damage posed to the health of citizens by tobacco, and I am sure you will also anticipate that these legislative revisions are likely to be a heavy focus of the tobacco industry.

In that context, I note the Commission recently authorised a former Commissioner to join a global communications consultancy [8]. One of the conditions of the approval was that the former Commissioner will not help the consultancy or its clients directly or indirectly lobby the Commission. On taking the position, the former Commissioner said that “[b]ecoming a member of this international advisory board gives me the opportunity to pass on my experience and knowledge to consultants and clients”. [9]

Given that this consultancy’s largest client listed under the EU Transparency Register is *Philip Morris International* [10], you can understand the public should be reassured that the Commission will take all necessary steps to ensure that it meets its obligations under Framework Convention by monitoring the compliance of the conditions it has placed on the former Commissioner.

We note, inter alia, that the former Commissioner who was responsible for ensuring obligations under *Article 16 of the Staff Regulations* on staff as Commissioner for Human Resources, has been authorised for 13 post-mandate activities.

Finally, I note the Commission has also recently announced the ‘*Europe’s Beating Cancer Plan*’ [11], which sets out a new EU approach to cancer prevention, therefore I hope you agree on the importance of this matter.

I would welcome your views by 16 April 2021.

Yours sincerely,

Emily O'Reilly European Ombudsman

[1] https://www.who.int/fctc/treaty_instruments/adopted/article_5_3/en/ [Link]

[2] <https://www.ombudsman.europa.eu/en/decision/en/73774> [Link]

[3]

<https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/transparency/transparency-1> [Link]



[4] https://ec.europa.eu/health/tobacco/events/ev_20101019_en [Link]

[5] See:

<https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12650-Cross-border-acquisitions-of-excise-g>
[Link].

[6] See:

<https://www.europarl.europa.eu/legislative-train/theme-an-economy-that-works-for-people/file-tobacco-directive-revisi>
[Link].

[7] See: https://ec.europa.eu/health/tobacco/products/implementation/report_en [Link].

[8] See: https://ec.europa.eu/info/files/commission-decision-c-2020-9044_en [Link].

[9] See:

<https://www.kekstcnc.com/insights/guenther-h-oettinger-joins-communications-consultancy-kekst-cnc-s-global-advis>
[Link].

[10]

<https://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=486438336738-84>
[Link]

[11] See: https://ec.europa.eu/commission/presscorner/detail/en/ip_21_342 [Link]