

## Importance of FCTC Article 5.3 in the EU context

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Good [day] everyone and thank all of you for attending the event today.

As we are living the collective experience of the pandemic, no day goes by without thoughts about our health and the health of those close to us.

There is also, and rightly so, a lively public debate about our healthcare systems and the policies and regulations that are meant to protect our societies. A part of this debate focuses on the accountability and transparency of the interaction between public authorities and private sector stakeholders. Especially with regard to the COVID-19 vaccines, transparency has very much been in the public eye.

The topic of today's event is of similar importance, namely the need for strong safeguards to protect public decision making concerning tobacco products.

The WHO's Framework Convention on Tobacco Control (FCTC) is, in part, based on the principle that *"there is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interest"*.

As European Ombudsman, my mandate is concerned with good and bad administration. Undisclosed or improper interactions of the EU administration with the tobacco industry can be a ground for my Office to open inquiries.

In June 2014, at the start of my tenure as Ombudsman, I opened an inquiry into whether the Commission was meeting its obligation under Article 5(3) of the FCTC to be transparent in its interaction with the tobacco industry.

The case was based on a complaint from Corporate Europe Observatory, who have co-authored the report on which today's event is based. The complaint alleged that the Commission, with the exception of its Directorate General for Health (DG Health), was not proactively making public all information on meetings between the Commission and the tobacco industry - and was thus in violation of the letter and the spirit of the FCTC. Information on these meetings could, in fact, only be accessed by making requests for access to specific documents.

In October 2015, having analysed the issue carefully, I recommended that the Commission





should apply DG Health's proactive transparency policy to all Commission officials, irrespective of their seniority. Disappointingly, the Commission replied that, in its view, the general ethical and transparency rules already prevent undue influence from the tobacco industry as its highest-ranking staff members and the Commissioners themselves were under special obligations.

The FCTC states *"in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law"*.

If there is no timely information available on **all** the meetings with the tobacco industry, whether at Commissioner or desk officer level, then how can the public take a view as regards whether tobacco control policies are adequately monitored and enforced?

The FCTC says, in Article 5.3, that *"parties should require rules for the disclosure or registration of the tobacco industry entities, affiliated organizations and individuals acting on their behalf, including lobbyists"*. The FCTC therefore does not make a distinction between senior and other staff.

I closed my inquiry with the conclusion that the refusal to apply the proactive transparency policy of DG Health across the entire Commission amounted to maladministration.

What was true then is true now.

I was, however, pleased to read that DG TAXUD has now agreed to start making minutes of its meetings with the tobacco industry public. This shows that change sometimes takes time and requires perseverance. Now may be the time to step up all monitoring and enforcement activities and, from this perspective, your report is timely.

Currently, key pieces of tobacco related legislation loom large on the horizon; legislation on which the Commission may propose changes.

I would like to remind you of the research of the Tobacco Control Research Group of the University of Bath (of which Mr Rowell is a member) published in the British Medical Journal on the lobbying activity in relation to the 2014 Tobacco Products Directive. The conclusion: the directive had been the most lobbied dossier in the history of the EU institutions up to then.

When the stakes are this high, one would expect that the Commission would reflect carefully on whether more transparency around its interaction with the tobacco industry should be embraced - like a form of health insurance.

Finally, we should not forget to join the dots across the civil service, especially bearing in mind the sophisticated and intricate tactics used by the tobacco industry. In this vein, the Commission recently authorised a former Commissioner to join a global communications consultancy, which listed Philip Morris International as one of its largest clients in the EU Transparency Register.





I thought it important to contact the Commission on this matter and allow it to reassure the public that it will take all necessary steps to ensure that it meets its obligations under the FCTC by monitoring the compliance of the conditions it has placed on the former Commissioner.

Finally, I would like to reiterate, that transparency of tobacco lobbying is not a question of policy, it is an obligation under an international convention to which the EU is a party.