



## Letter from the European Ombudsman to the European Commission on the transparency of its interactions with representatives of the tobacco industry

Correspondence - 22/03/2022

**Case** OI/6/2021/LDS - **Opened on** 26/11/2021 - **Institution concerned** European Commission |

Ms Ursula von der Leyen

President

European Commission

Dear President,

As a party to and active partner in the Framework Convention on Tobacco Control (FCTC) of the World Health Organisation (WHO) [1], the European Commission has committed to prevent the tobacco industry from having a negative impact on public health policies. In this context, I have stressed in the past the need for the Commission be fully and proactively transparent about meetings with representatives of the tobacco industry. [2]

The Commission has taken several steps towards more lobbying transparency in recent years, and its departments for health and food safety (DG SANTE) and taxation and customs (DG TAXUD) are proactively transparent about their interactions with tobacco interest representatives. [3]

The Commission's *2021 Europe's Beating Cancer Plan* [4] demonstrates why proactive transparency is important. As tobacco consumption is the leading cause of preventable cancer, this plan seeks to achieve a " *tobacco-free generation* " through a range of tobacco control measures, including through further restrictions on the tobacco industry's ability to use advertisement and sponsorship, and through further taxation of tobacco products, for example.

It is likely that any new legislative initiatives to curb tobacco consumption, will be challenged by tobacco interest representatives. In that light, it is unfortunately still the case that the



Commission does not proactively make public details on meetings that happen below the level of directors-general, aside from in the abovementioned DGs SANTE and TAXUD. This is despite the fact that other departments and services may also interact with tobacco interest representatives, which may influence tobacco control and related policies.

In my view, this practice does not facilitate full public scrutiny of the Commission's interaction with the tobacco industry, which an effective implementation of the FCTC would require, according to the WHO Guidelines for implementation of Article 5.3 of the protocol [5] .

I have therefore decided to open an inquiry to assess how the Commission ensures that its interactions with tobacco interest representatives are transparent.

As a first step, I would be grateful if the Commission could facilitate an inspection of all documents it holds regarding:

(i) Interactions, including meetings and (video-)calls, between commissioners, their cabinets and/or Commission staff members and tobacco interest representatives, which occurred in 2020 and 2021;

(ii) Requests for public access to documents on the Commission's interactions with the tobacco industry under Regulation 1049/2001 [6] , submitted in 2020 or 2021;

(iii) Any guidance related to the subject of this inquiry that was shared within the Commission in 2020 and 2021.

I would be grateful if the Commission could provide my inquiry team with access to the documents that the Commission identifies as falling within the scope of my inspection request **within two months** of receiving this letter.

Should your staff have any queries, they may contact the responsible inquiries officers, Ms Leticia Díez Sánchez and Mr Koen Roovers.

Yours sincerely,

Emily O'Reilly European Ombudsman

Strasbourg, 26/11/2021

[1] See: <https://fctc.who.int/publications/i/item/9241591013> .

[2] In December 2016, I issued a recommendation based on a complaint-based inquiry



concerning the obligations of the European Commission under Article 5(3) of the *WHO Framework Convention on Tobacco Control* with a finding of maladministration.  
<https://www.ombudsman.europa.eu/en/decision/en/73774> . Earlier this year I raised this issue in a strategic initiative with the European Commission.  
<https://www.ombudsman.europa.eu/en/case/en/58713> .

[3] See: [https://ec.europa.eu/health/tobacco/events\\_en#anchor6](https://ec.europa.eu/health/tobacco/events_en#anchor6) (DG SANTE)  
[https://ec.europa.eu/taxation\\_customs/meetings-tobacco-industry\\_en](https://ec.europa.eu/taxation_customs/meetings-tobacco-industry_en) (DG TAXUD).

[4] The Europe Beating Cancer Plan states that 27 percent of all cancers can be attributed to tobacco use. It furthermore states that by eliminating tobacco use, nine out ten cases of lung cancer could be avoided.

[https://ec.europa.eu/health/sites/default/files/non\\_communicable\\_diseases/docs/eu\\_cancer-plan\\_en.pdf](https://ec.europa.eu/health/sites/default/files/non_communicable_diseases/docs/eu_cancer-plan_en.pdf)  
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[5] <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>

[6] Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents:

<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32001R1049>