



Ms Emily O'Reilly
European Ombudsman
1, avenue du Président Robert Schuman
F - 67001 Strasbourg

Cc :
Sandra Gallina
Director-General,
Directorate-General for Health and Food Safety
Rue de la Loi 200/ Wetstraat 200
B - 1049 Bruxelles/Brussel

Secretariat-General
European Commission
Rue de la Loi 200/ Wetstraat 200
B - 1049 Bruxelles/Brussel

Brussels, 13 March 2024

Subject: Concerns regarding a potential conflict of interest in the evaluation process of the Legislative Framework For Tobacco Control

Dear Mrs O'Reilly,

We¹ are writing to you today to draw your attention on a potential conflict of interest that involves Open Evidence, the leading party in the consortium contracted by the European Commission for services concerning EU actions in tobacco control, including the ongoing revision of the Tobacco control acquis.

It has come to our attention that an employee working for Open Evidence attended the international COP10 event held in Panama, possibly as a delegate of a Spanish cancer non-governmental organization (NGO) named "Asociación Española contra el Cáncer", particularly active against our industry.

This NGO, in partnership with the European Network for Smoking and Tobacco Prevention (ENSP), presented a campaign against electronic cigarettes at COP10, in which the Open Evidence employee actively participated as visible from social media activity². Furthermore, the employee attended and promoted a side event hosted by ENSP, addressing tobacco industry advertising and marketing tactics and their alleged targeting of youth.

While we obviously support every person's right to be active socially and politically at individual level, we note that the mentioned employee is directly involved in the evaluation of the tobacco control

¹ [Tobacco Europe](#) AISBL is the umbrella organisation representing the three largest tobacco and nicotine products manufacturers, namely British American Tobacco, Imperial Brands and Japan Tobacco International.

² <https://twitter.com/CarlosTorrado23>
<https://twitter.com/ContraCancerEs/status/1755623541314101448>
<https://twitter.com/FCTCofficial/status/1755013251639693411>
<https://twitter.com/FCTCofficial/status/1755703618001379785>
<https://twitter.com/ContraCancerEs/status/1755322010748514776>
<https://twitter.com/TheGGTC/status/1755581243452764272>



acquis as well as in the Smokefree environments and we are seriously concerned that the above activities may constitute both a conflict of interest and a breach of contractual obligations on the part of Open Evidence.

Specifically, we are worried about potential breaches of confidentiality, professional misconduct, and conflicts of interest, which could compromise the impartiality and objectivity required for the contractual work.

We therefore request the Ombudsman to seek clarification from the Commission on the following matters:

- Whether the Commission received confirmation that Open Evidence has communicated relevant obligations to its personnel in writing, as required by the contract, to prevent conflicts of interest?
- Whether Open Evidence has notified the Commission of this conflict of interest and, if so, what actions have been taken to pre-empt the repetition of this situation and to ensure the contracted work is not affected?

For your record, we already shared our concerns³ to the Commission on the role of ENSP as part of the same joint tender⁴ in October 2023 as we believe that the signatories to this tender are obliged to demonstrate they have no conflict of interest. The Commission confirmed⁵ that ENSP, as part of this consortium, signed a Declaration on honour and an additional absence of conflict of interest in the field of tobacco.

We are still wondering how an NGO, with a clear agenda and concrete campaigning to influence EU tobacco control legislation, was nominated to partake in such consortium.

We urge the Ombudsman to thoroughly investigate these concerns and take appropriate actions towards the Commission to ensure the integrity and impartiality of the contracted work and that the proper measures are put in place to prevent the reiteration of such misconducts.

We remain committed to upholding the principles of transparency and professionalism in regulatory processes.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Darge", with a long horizontal line extending to the right.

Nathalie Darge
Secretary General,
Tobacco Europe AISBL

Cc: Sandra Gallina, Director-General, Directorate-General for Health and Food Safety
Ilze Juhansone, Secretariat-General, European Commission

³ https://www.tobacco-europe.eu/wp-content/uploads/2023/12/RE_Procedural-Shortfalls-on-the-evaluation-of-the-Tobacco-Control-Acquis.pdf

⁴ <https://ted.europa.eu/en/notice/-/detail/48118-2023>

⁵ <https://www.tobacco-europe.eu/response-dg-sante-on-procedural-shortfalls-regarding-consultation-process-november-2023/>