



To:
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, 8 May 2024

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

Dear Mrs Gallina,

Following the guidance from the European Ombudsman, we¹ are writing to you 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.

As you know, we wrote to the Ombudsman on 13 March 2024 about this complaint and copied DG SANTE to this correspondence. As recommended by the Ombudsman's investigation officer, we are therefore contacting you to provide again a detailed account of our concerns, listed below.

As originally stated, it has come to our attention that an employee of Open Evidence participated in the international COP10 event held in Panama, possibly as a delegate of a Spanish cancer non-governmental organization (NGO) named "Asociación Española contra el Cancer", particularly active against our industry.

This NGO, in partnership with the European Network for Smoking and Tobacco Prevention (ENSP), another DG SANTE contractor being currently under Ombudsman's investigation², presented a campaign against electronic cigarettes at COP10, in which the Open Evidence employee actively participated as visible from social media activity³. 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.

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 Ombudsman Case [517/2024/FA](#)

³ <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>



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 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 Commission to provide clarification 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?

Our concerns are exacerbated by the Commission's lack of proactive response, notably its failure to reply to our letter from 13 March 2024.

This behaviour contradicts the recommendations of the Ombudsman, who has repeatedly stressed the importance of a proactive and transparent handling of potential conflict of interests⁴. Similarly, the Ombudsman has stressed the need of managing public perception related to conflicts of interests, as the legitimacy of the decision-making process and its outcomes hinges on public trust⁵. It appears that these essential considerations have not been sufficiently addressed by the Commission.

We remain committed to upholding the principles of transparency and professionalism in regulatory processes. We urge the Commission to further investigate these concerns and take appropriate actions 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.

Yours sincerely,

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

Nathalie Darge

Secretary General,
Tobacco Europe AISBL

Cc: Ilze Juhansone, Secretariat-General, European Commission

⁴ Case OI/6/2016/AB Retrieved from <https://www.ombudsman.europa.eu/en/decision/en/80338>

⁵ Case 1402/2020/TE Retrieved from <https://www.ombudsman.europa.eu/en/decision/en/148938>