

Brussels, 30 October 2024

To:

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

Cc :

Mr Maroš Šefčovič
Executive Vice-President, European Green Deal, Interinstitutional Relations and Foresight
European Commission

Mr Rytis Martikonis
Chair of the Regulatory Scrutiny Board Committee

Subject: Inquiry Regarding Fitness Checks and Evaluations, including Conflict of Interest cases

Dear Ms Ilze Juhansone,

I am writing to you on behalf Tobacco Europe¹ AISBL in relation to the list of fitness checks and evaluations selected for scrutiny on a yearly basis: we wanted to verify whether the ongoing evaluation of the Tobacco Control Acquis², including the Tobacco Products Directive (TPD) and the Tobacco Advertising Directive (TAD), has been selected among the evaluations to be scrutinised by the Regulatory Scrutiny Board (RSB) this year or in 2025.

We understand that the Secretariat General selects evaluations for the Regulatory Scrutiny Board (RSB) to examine, based on various factors, including the importance of the topic, expected high impacts, and the need to balance different policy areas. We also understand evaluations are chosen from a list of planned evaluations, which are conducted at different times depending on the availability of implementation data, legislative review clauses, or indications of issues within existing policies.

We therefore ask that the tobacco control acquis evaluation be carefully considered for selection, given the substantial anticipated impact on the internal market and on public health protection, as well as the high volume of responses generated in the consultations – far surpassing average response rates and underscoring the importance of the topic.

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 [Evaluation of the legislative framework for tobacco control](#)

Importantly, we are also writing this letter to draw your attention to ongoing conflict of interest allegations involving two members, namely the European Network for Smoking and Tobacco Prevention (ENSP) and Open Evidence (OE), of the consortium selected by the Commission for the framework contract on tobacco control³. Tobacco Europe raised its concerns to the European Ombudsman,⁴ who opened a formal inquiry into the case involving the ENSP for which we are awaiting an outcome, and who is currently assessing opening one concerning OE. All in all, we are concerned that these contractors are in a conflict of interest situation which compromises the objectivity and impartiality of their services under the framework contract.

Kindly note OE is the lead consortium member and responsible for the specific contracts dealing with the tobacco control acquis evaluation, as well as the update to the 2009 Council Recommendation on Smoke-free Environments.

We strongly recommend the Secretary General to factor in these issues to ensure the quality of the evaluation and the soundness of any regulatory decisions stemming from it.

Please note that according to the Commission's website⁵, the evaluation report of the Tobacco Control Acquis was foreseen in Q3/2024, and we understand that such publication is still planned in 2024. Therefore, we would greatly appreciate your clarification on the scrutiny of this evaluation and your consideration of the conflict-of-interest concerns raised in this letter.

We look forward to your prompt response.

Yours Sincerely,

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

Nathalie Darge
Director General Tobacco Europe

³ <https://ted.europa.eu/en/notice/-/detail/048118-2023>

⁴ <https://www.ombudsman.europa.eu/en/opening-summary/en/185486>

⁵ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13481-Evaluation-of-the-legislative-framework-for-tobacco-control_en