



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

The Secretary General

Brussels, 07 FEB. 2013
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Mr Koen Roovers (ALTER-EU)
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Dear Mr Roovers,

President Barroso has received your letter dated 17 January regarding Commission compliance with article 5.3 of the WHO Framework Convention on Tobacco Control (FCTC) and has asked me to reply on his behalf.

I take this opportunity to clarify an issue that has already been the subject of abundant and sometimes confusing press coverage: the Commission is strongly committed to complying with the EU's international commitments in this regard and is confident that the EU and the Commission in particular have well established rules for that purpose.

More precisely as regards the main points made in your letter, I would like to make the following remarks.

First and foremost, it is important to underline that the WHO Guidelines for the implementation of Article 5.3 of the FCTC are not binding. Parties are encouraged to follow them to the extent possible, in accordance with their national law. Those Guidelines contain no specific compulsory requirements on holding meetings or on the publicity of such meetings¹.

The Commission's ethical framework, the existing rules and tools concerning transparency and lobbying, and the policy in terms of stakeholder consultations are fully compatible with these non-binding guidelines.

EU legislation on access to documents (regulation 1049/2001), which ensures a high level of transparency is compatible with the transparency requirements of the FCTC guidelines. All documents held by the Commission can be subject to request for access. This is clearly demonstrated by the fact that documents related to contacts with the tobacco industry and other stakeholders were recently released in response to requests.

The fact that DG SANCO, the DG with responsibility for health has developed specific guidelines for its staff is understandable given its responsibility for the Tobacco Products Directive but in no way implies any contradiction or incoherence with the general framework applicable to all services. In fact the Guidelines indeed indicate that "while

¹ Decision FCTC/COP3(7)

the measures recommended in these guidelines should be applied by Parties as broadly as necessary... Parties are strongly urged to implement measures beyond those recommended in these guidelines when adapting them to their specific circumstances".

Second, as regards Commission relations with stakeholders and lobbyists, the Commission has developed strong procedures for consultations when developing policies. This is enshrined in the Treaty (Article 11 of the Treaty on European Union and Protocol n°2 on the application of the principles of subsidiarity and proportionality). The preparation of the proposal on the Tobacco Products Directive has generated a huge interest and requests for meetings in many departments of the Commission from the tobacco industry and sectors which are closely linked to it, as well as from anti-tobacco organisations. The FCTC and its principles have been respected throughout the whole preparation of the Tobacco Products Directive.

Third, as regards your suggestions about updating the Code of Conduct for Commissioners, the Staff Regulations and the EU's Transparency Register, the Commission has already replied to them on 3 and 6 December 2012 in response to previous correspondence from ALTER-EU and various NGOs ².

Yours sincerely,



Catherine Day

Cc: Mr John Stewart (*Corporate Accountability International*)
Ms Monika Kosinska (*European Public Health Alliance*)
Ms Florence Berteletti Kemp (*Smoke-Free Partnership*)
Mr Laitenberger, Head of Cabinet of the President
Mr Romero-Requena, Director-General LS
Ms Testori-Coggi, Director-General DG SANCO

² Replies given by letters ARES (2012) 1437802 and ARES(2012) 1451715