To:

Florija Fink-Hooijer, Director-General for Environment, European Commission

CC:
Virginijus Sinkevičius, Commissioner for Environment, Oceans and Fisheries, European Commission
Stella Kyriakides, Commissioner for Health and Food Safety, European Commission
Sandra Gallina, Director-General for Health and Food Safety, European Commission
Aptric Anthony Child, Deputy Director-General for Environment, European Commission
Axel Ciobanu Dordea, Director for “Implementation, Governance and Semester”, Directorate-General for Environment, European Commission

Dear Ms Fink-Hooijer,

Re: Request for a meeting to discuss concerns on the compliance with the Framework Convention on Tobacco Control (WHO FCTC) in the transposition and application of the Single Use Plastics Directive

We, the undersigned organisations, are committed to tobacco control, public health and the protection of the environment, and wish to alert you of the transposition in some Member States of the Directive 2019/904 “On the reduction of the impact of certain plastic products on the environment” (hereinafter the “SUP Directive”).

The SUP Directive was adopted on June 5, 2019 and imposes several obligations to tobacco producers. The text provides in particular for:

- Producers of tobacco products with filters to cover the costs relating to management and clean-up of waste covered by the Directive (Article 8);

- Member States shall take measures to inform and incentivise consumers about responsible behaviour to reduce the impact of littering (Article 10).

Some Member States of the European Union have already implemented measures to transpose these provisions and others are in the process of doing so. For example, on February 10, 2020, France passed the law n° 2020-105 "on the fight against waste and the circular economy". Under this law, the French government has taken several regulatory measures to delegate to an entity bringing together the world's major tobacco producers (under an ‘eco-organism’ called "ALCOME") the management of the waste covered by the SUP Directive and the development of awareness raising measures on this matter.  

As a result, it appears that, in transposing the Extended Producer Responsibility of the SUP Directive (Art. 8 SUP directive), several Member States delegated to the tobacco industry, or its representatives, the management, or part of the management, of the waste covered by the Directive as well as the development of consumers awareness raising measures on this subject. We fear that, without clear guidance, other Member States would also leave the implementation of the Extended Producer Responsibility to the tobacco industry.

Tobacco is unlike any other product. Therefore, 182 Parties including the European Union and all its Members States adopted the WHO Framework Convention on Tobacco Control (WHO FCTC). The  

1 Arrêté du 28 juillet 2021 portant agrément d’un éco-organisme de la filière à responsabilité élargie du producteur des produits du tabac équipés de filtres composés en tout ou partie de plastique et des produits qui sont destinés à être utilisés avec des produits du tabac relevant du 19° de l’article L. 541-10-1 du code de l’environnement
FCTC is more than just a health treaty; it aims to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and second hand smoking (Article 3), as also underlined in its preamble. The ratification engaged the Party as a whole, including all its ministers and agencies, including environment ministry. Article 5.3 of the FCTC, based on the principle that the interests of the tobacco industry are incompatible with the public interest, requires Parties to the treaty to protect their policies from the “commercial and other vested interests of the tobacco industry”. The Guidelines elaborating on Article 5.3 recommend that governments and public officials reject tobacco industry partnerships, in any areas related or not to tobacco control. These provisions stemmed from overwhelming evidence of tobacco industry misconduct and recognition that it remains the greatest obstacle to the global goal of advancing tobacco control policies and preventing tobacco use.

The SUP Directive acknowledges this specificity and the policies targeting tobacco products (10): “particular with regard to consumption reduction measures, product requirements, marking requirements and extended producer responsibility, this Directive supplements Directives 94/62/EC and 2008/98/EC and Directive 2014/40/EU of the European Parliament and of the Council”. The Tobacco Product Directive recognises and emphasises the importance of the WHO FCTC. Thus, the eco-organism that will be responsible for the management and processing of cigarette butts as well as the prevention of cigarette litter should not have any links, direct or indirect, to the tobacco industry.

In addition to that, the Guidelines on 5.3 also recommends to “denormalise and, to the extent possible, regulate activities described as “socially responsible” by the tobacco industry (...)”, a goal shared by the EU and its MS, especially when the Commission adopted the "Tobacco-Free Generation" in the "Europe’s Beating Cancer Plan". Provided by governments to the tobacco industry, as in France in the supervisory or management bodies of the ‘eco-organism’, will undoubled use the roles to create an appearance of respectability for a company – and indeed an industry – with an abysmal record of accomplishment. In the end, the best way to prevent tobacco product waste is to ensure that people do not start smoking, or quit. Health should be implemented in all policies, as in environment policy, and will undoubtedly participate to protecting the environment.

Thus, the undersigned, wish to alert the European Commission about those measures that are incompatible with the WHO Framework Convention on Tobacco Control, which recognized in its preamble the devastating worldwide health social economic and environmental consequences of tobacco consumption and exposure to tobacco smoke, especially its Article 5.3. We also invite the European Commission to remind Member States about the importance of implementing the WHO FCTC in all policies, and to not delegated policies to the industry, including the management of waste covered by the Directive, and particularly the development of awareness raising measures related to this subject. If not the tobacco, industry will succeed, through this environmental whitewashing enterprise, in obtaining from the institutions and the Member States a new role in public decisions.

We would be delighted and honoured if you were to agree to meet with a small group of our organisations and discuss our concerns. We will contact your office to arrange a mutually convenient date in the coming days. In the meantime, we are at your disposal for any further information.

Please accept, Madam, the assurance of our highest considerations,

Sincerely,
Smoke Free Partnership,
(SFP main partners: SFP Main Partners: Belgian Foundation against Cancer,
Cancer Research UK, Dutch Cancer Society, European Heart Network, Norwegian Cancer Society)