



[www.tobaccofree.me](http://www.tobaccofree.me)

Jose Manuel Barroso  
President of the European Commission  
European Commission  
200 rue de la Loi  
B-1040 Brussels  
Belgium

Wednesday, 15 December 2010

Dear President Barroso,

**Re: Concerns regarding abuse of the Tobacco Products Directive on-line consultation**

As stated on the Commission's website, the Public consultation on the possible revision of the Tobacco Products Directive 2001/37/EC aims at offering an early opportunity for stakeholders and the public to comment on different policy options that such revision might involve. Whilst we commend this initiative, we would like to bring to your attention the fact that, on Monday 13 December, the Commission had received a very unusual and unprecedented **53,282<sup>1</sup>** number of responses to the on-line consultation. Today, at 9.26am, the website had received **54,638<sup>2</sup>** responses, an additional **1,356** responses overnight.

Whilst we support and would encourage responses from concerned members of the public about tobacco policies, we are very concerned that the majority of these responses do not seem to be responses from genuine, concerned citizens. Based on previous on-line consultations organised by the European Commission, one can observe that responses rarely exceed 500, with an average of 20 responses from citizens.<sup>3</sup>

The rationale for the Commission's consultation process as it is explained in the *General Principles and Minimum Standards for Consultation of Interested Parties*<sup>4</sup> is one of openness and accountability. Thus, consultation processes run by the Commission must also be transparent, both to those who are directly involved and to the general public. It must be clear what mechanisms are being used to consult, who is being consulted and,

<sup>1</sup> <http://ec.europa.eu/yourvoice/ipm/forms/dispatch>. Accessed at 17.57pm on Monday 13<sup>th</sup> December 2010.

<sup>2</sup> <http://ec.europa.eu/yourvoice/ipm/forms/dispatch>. Accessed at 9.28am on Tuesday 14<sup>th</sup> December 2010.

<sup>3</sup> A PDF version of the consultation document can be found [here](#) [43 KB]

<sup>4</sup> [http://ec.europa.eu/civil\\_society/consultation\\_standards/index\\_en.htm](http://ec.europa.eu/civil_society/consultation_standards/index_en.htm)

finally, what has influenced decisions in the formulation of policy. It follows that interested parties must themselves operate in an environment that is transparent, so that the public is aware of the parties involved in the consultation processes and how they conduct themselves.

We believe that the policy of openness and accountability of the European Commission is crucial and that the same principles should apply to all parties, including individuals, when they are seeking to contribute to EU policy development.

In the spirit of trust, transparency and openness, we are confident that the Commission will undertake an immediate investigation of responses so as to ensure an equitable treatment of all stakeholders who have genuinely participated in this consultation. More specifically, we urge the Secretary General to:

- Identify and indicate any group or groups of responses that reflect common patterns (if the response is devoid of text and content)
- Ensure that respondents have identified themselves and it can be confirmed that multiple responses have not been made from a single source. If this is not the case such responses should not be accepted as they are not open to verification.
- Identify as far as possible who (from the main interested parties) could have organised such coordinated lobbying.

The EU is a party to the WHO FCTC and under Article 5.3 to the FCTC is required, in setting and implementing public health policies with respect to tobacco control, to act to protect these policies from commercial and other vested interests of the tobacco industry.

Today, the biggest tobacco companies are still engaged in a global practice of misinformation as shown in their recent behaviour following the announcement of tobacco plain packaging in Australia<sup>5</sup> and their covert means of involving tobacco growers against Arts. 9 & 10 of the FCTC.<sup>6</sup> We are nonetheless confident that the Commission, and in particular the Secretary General, will remain vigilant against such "rent-a-mob" tactics by the tobacco industry, consistent with its obligations under Article 5.3 of the WHO FCTC. We realise you are very busy but hope that you will understand the urgency of this matter.

We look forward to your response,

Yours sincerely,

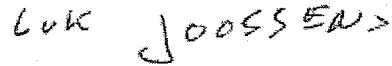
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<sup>5</sup> 54 page document of internal email correspondence, contracts and summary campaign points sent to the Australian national TV program, Lateline – please see attached document.

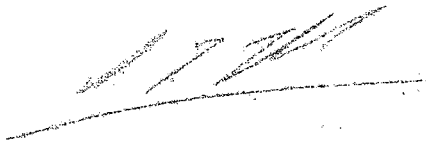
<sup>6</sup> [http://www.fctc.org/index.php?option=com\\_content&view=article&id=422:growers-association-attacks-fca&catid=233:product-regulation&Itemid=237](http://www.fctc.org/index.php?option=com_content&view=article&id=422:growers-association-attacks-fca&catid=233:product-regulation&Itemid=237)



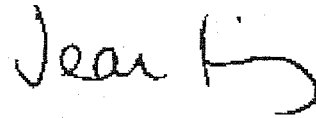
Florence Berteletti Kemp  
Director  
Smoke Free Partnership (SFP)  
[www.smokefreepartnership.eu](http://www.smokefreepartnership.eu)



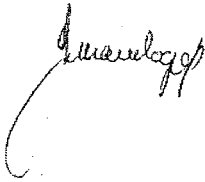
Luk Joossens  
European Cancer Leagues (ECL)  
[www.europeancancerleagues.org](http://www.europeancancerleagues.org)



Archie Turnbull  
Executive Director  
European Respiratory Society (ERS)  
[www.ersnet.org](http://www.ersnet.org)



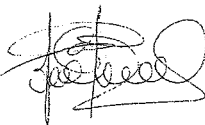
Jean King  
Director Tobacco Control  
Cancer Research UK  
[www.cancerresearchuk.org](http://www.cancerresearchuk.org)



Susanne Logstrup  
Director  
European Heart Network (EHN)  
[www.ehnheart.org](http://www.ehnheart.org)  
(Member of the Health Policy Forum)

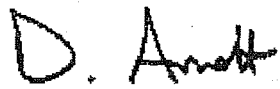


Eshan Latif  
Acting Director  
Department of Tobacco Control  
International Union Against  
Tuberculosis and Lung Disease  
68 boulevard Saint Michel  
75006 Paris  
FRANCE



Monika Kosinska  
Secretary General  
European Public Health Alliance (EPHA)  
(Member of the Health Policy Forum)  
[www.ephah.org](http://www.ephah.org)

Dr Anna Gilmore  
Clinical Reader in Public Health &  
Health Foundation Clinician,  
Scientist, University of Bath &  
London School of Hygiene and  
Tropical Medicine



Deborah Arnott

Director

Action on Smoking & Health (ASH)

[www.ash.org.uk](http://www.ash.org.uk)

C.c: Paola Testori, Director-General for Health and Consumer Protection  
John Watson, Secretariat General  
Stakeholder's Dialogue Group - DG SANCO

### **Background Documents:**

**Website of the tobacco industry regarding the revision of the Tobacco Products Directive:**

### **From Germany:**

<http://www.entscheiden-sie-selbst.de/>

The initiative „Entscheiden Sie selbst“ (decide for yourself) is supported by the major German associations of the tobacco sector e.g.

- Bundesverband des Tabakeinzelhandels (BTWE)
- Verband der deutschen Rauchtabakindustrie (VdR)
- Bundesverband Deutscher Tabakwaren-Großhändler
- Bundesverband deutsche Tabakpflanzer e.V. (BDT)
- Bundesverband der Zigarrenindustrie e.V. (BdZ)

### **In addition:**

- Automatenaufsteller (BDTA)
- Philip Morris GmbH
- Gewerkschaft Nahrung-Genuss-Gaststätten (NGG),

### **Advice at the website:**

[http://www.entscheiden-sie-selbst.de/public/Uebersetzung\\_und\\_Anleitung.pdf](http://www.entscheiden-sie-selbst.de/public/Uebersetzung_und_Anleitung.pdf)

“As employee you should choose the option „citizen“ if you don’t represent your company”.

### **Calls for participating in the consultation:**

<http://www.zigarettenverband.de/>

<http://www.bayern-sagt-nein.de/> (website of the campaign "Bayern sagt Nein")

<http://www.netzwerk-rauchen.de/> (*German section of Forces*)

- Action campaign of the „Bündnis für Toleranz“ (of the major German associations of the tobacco sector) to alert tobacco retailers and customers of the consultation process calling for participation of smokers.
- Establishment of a free telephone hotline for answering questions in regard to the consultation.

### **From the UK**

<http://www.youtube.com/watch?v=QVOeKdrmxlc>

<http://www.forestpetition.eu/>