



Ms. Catherine Day
Secretary General of the European Commission

Monday 25 May 2015

Dear Secretary General,

On 18 December 2014 Friends of the Earth Europe requested documents regarding Mr. Stoiber's appointment as Special Advisor for Better Regulation. We also asked questions related to potential conflicts of interest regarding his functions as:

- Chair of the Beirat (advisory board) of Deloitte
- Chair of the ProSiebenSat.1 Advisory Board

On 11 February 2015 you sent us 4 relevant documents related to Mr. Stoiber's appointment. You also sent us on 16 February a response to our questions regarding potential conflicts of interest.

We are grateful for those documents and responses. However, we noted that all documents regarding the appointment of Mr. Stoiber were drawn up and signed after Mr. Stoiber was appointed and his new position was publically announced. This relates to the:

- declaration of honour of no conflict of interest (dated 7 January 2015)
- declaration of activities (dated 7 January 2015)
- declaration of activities supplement (dated 2 February 2015)
- statement of assurance (dated 9 February 2015)

We believe this is not in accordance with the rules for special advisors¹ that prescribe that a request for the appointment of a special advisor should be presented to DG ADMIN, who then checks that there is no conflict of interest, on the basis of documents provided, including an overview of outside activities of Mr. Stoiber. In case that the Commission decides to use the oral procedure (mentioned under point 6), the necessary checks on a potential conflict of interest need to be done before. That was clearly not possible as Mr. Stoiber provided information about his outside interests only in January 2015.

Doing the necessary checks if there is a potential conflict of interest and deciding on the statement of assurance only after the appointment and public announcement of Mr. Stoiber would not be in line with good administrative behaviour. It prevents an unbiased check and makes the exercise one of ticking-the-box. This is all the more relevant as in the statement of assurance it says that there "may be a potential

¹ http://ec.europa.eu/civil_service/docs/special_advisers/comm_c_2007_6655_1_en.pdf

risk for the Commission's good name because of Dr Stoiber's activities for Deloitte Germany, ProSiebenSat.1 and Donner & Reuschel Privatbank". You mentioned that the President is willing to accept this potential risk. Considering that the President himself publically announced the appointment of Mr. Stoiber, it is likely to suggest that the Commission felt it had no other choice than accepting this potential risk. However, this precluded an unbiased and critical assessment.

Considering this, we request the Commission to explain:

- Why it decided to do the necessary checks on Mr. Stoiber's outside interests and the assessment if there is a potential conflict of interest *only after* the public announcement of his appointment?
- In case that the Commission used the so-called oral procedure, how does it justify that this decision was "unforeseen and urgent", which are conditions for using the oral procedure?
- In order to ensure good administrative behaviour, we are requesting you to reconsider the final outcome of the assessment, which is that the President is willing to accept the potential risks connected to the appointment of Mr. Stoiber.

For further information, please contact Paul de Clerck, Coordinator of the Economic Justice Program at FoE Europe: paul.declerck@foeeurope.org or phone: 0494380959.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Y' followed by a long horizontal stroke.

Magda Stoczkiewicz, Director, Friends of the Earth Europe
On behalf of Olivier Hoedeman, Corporate Europe Observatory