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DECISION OF THE EUROPEAN COMMISSION

on Former Commissioner Sir Julian King's post term of office professional activity as Senior Adviser at Flint Global

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Commission Decision of 31 January 2018 (C(2018) 700 final) on a Code of Conduct for the Members of the European Commission, and in particular Article 11(3) thereof.

Whereas:

- 1) According to Article 245(2) of the Treaty on the Functioning of the European Union, the Members of the Commission, when entering upon their duties, shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and, in particular, their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.
- 2) Article 339 of the Treaty on the Functioning of the European Union provides that the Members of the institutions of the Union shall be required, even after their duties have ceased, not to disclose information of any kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.
- Article 11 of the Code of Conduct for the Members of the European Commission establishes a specific procedure for the assessment of planned professional activities which the Members or former Members of the Commission intend to take up after they have ceased to hold office. The Commission shall examine the information provided in order to determine whether the nature of the planned activity is compatible with Article 245 of the Treaty on the Functioning of the European Union. If the planned activity is related to the portfolio of the Member or former Member, the Commission shall decide only after having consulted the Independent Ethical Committee unless the planned activity falls within the exceptions foreseen in paragraph 3, second subparagraph, lit. (a) to (f).
- 4) On 23 July 2020, Former Commissioner Sir Julian King notified the Commission about his intention to engage in a post term of office activity as Senior Adviser at 'Flint Global'. The activity would be based in London, remunerated with a fixed salary and carried out on a part-time basis (three days a week), for a period of two years. The Former Commissioner added that he would assist Flint in advising on local

- and international economic policy and regulatory developments as they affect Flint's clients. His work would not be related to his former Commission portfolio and he would not be in contact with the European Commission in this role.
- 5) In an additional message of 31 July 2020, Sir Julian King emphasised that he would be 'based in London (not in Brussels), with no contact with the Commission, and not working on any of the subjects [he] covered in the Commission'.
- The Commission noted that the envisaged activity was not supposed to be linked to the Former Commissioner's portfolio on the Security Union, while being an advisory activity in the technology sector for a company which "provides advice at the point where government and business meet", with a strong presence in Brussels. It was furthermore noted that Flint's offer made to Sir Julian King referred to advice to clients that Sir Julian King might have met as Commissioner. Therefore, a link with the Former Commissioner's portfolio could not be excluded.
- Against this background, and in line with Article 11(3) of the Code of Conduct for the Members of the Commission, the Commission, on 30 July 2020, requested the Independent Ethical Committee's opinion on the compatibility of the envisaged activity with Article 245 of the Treaty on the Functioning of the European Union.
- 8) The Committee delivered its opinion on 10 September 2020.
- 9) The Committee first established the nature of 'Flint Global' and 'Flint Europe', on the basis of the information made publicly available by the company: 'Flint Global' is a business advisory company that 'supports companies who face the challenges of regulatory and policy change at national, European and international levels'. Whilst its headquarters are located in London, 'Flint Global' also has offices in Brussels ('Flint Europe') as well as in six other European capitals. Its sectors of activity encompass digital policy, technology, telecommunications, media, financial services, life sciences, manufacturing, retail, transport and energy. Its three main fields of expertise are 'markets and investor advisory', 'policy and political analysis' and 'competition and regulation'.
- The Committee furthermore noted that 'Flint Europe' provides advice to and helps clients 'managing risk and creating opportunity'. More specifically, 'Flint Europe''s stated activities include: (a)'identifying business-critical issues at EU level and help clients to understand and develop strategy in relation to them'; (b) 'provide insight and foresight on EU regulation and legislation so that their clients can stay ahead of business-critical developments' as well as 'advise on the political approaches of individual Member States on key issues in EU policy'; (c) preparing evidence-based narratives, strategies and strategic communication plans 'tied to commercial objectives and reflect a deep understanding of political reality'; (d) offering organisation advice to 'optimise [their] clients' representation and policy engagement in Europe, including help to recruit the best people for senior corporate EU positions'.
- As regards the Former Commissioner's responsibilities at 'Flint Global', the Committee noted that, according to Flint's offer included in Sir Julian King's notification, the Former Commissioner's main task would be to 'provide advice to clients on strategic policy issues, with a focus on the technology sector'.

- 12) More precisely, Former Commissioner King would be expected, through Flint's London office, to 'assist it in advising on local and international economic policy and regulatory developments as they affect our clients.' The Former Commissioner 'would be working with the teams advising existing clients on their business, as well as helping them develop new business.'
- 13) The Committee also underlined 'Flint Global' 's statement that it would be essential for both Flint and the Former Commissioner 'to respect fully the rules on the conduct of former Commissioners.' Flint's offer stated that, in line with these rules, Former Commissioner King would work in Flint's London office and be on a UK contract. Flint also specified that it would not expect Former Commissioner King to have contact with the Commission concerning Flint's business. It would also 'not ask him to work on matters that fell within his former Commission portfolio, specifically issues concerning the fight against cybercrime, EU funded security research, or security of critical EU infrastructure.' Nor would Flint ask former Commissioner King to advise clients in relation to issues they raised in discussions with him during his time as Commissioner.
- 14) The Committee also examined the links of 'Flint Global' with the European Commission. The Committee noted that the Financial Transparency System of the European Commission does not contain any records of funding received by 'Flint' from the EU Budget. According to the company's website, 'members of Flint's multinational team have experience of working at the most senior levels in European governments, the EU Commission, regulatory agencies, competition bodies and the private sector'. The Committee also noted that 'Flint Europe' is registered in the Joint Transparency Register of the European Parliament and the Commission as a consultancy company. According to the Transparency Register, 'Flint Europe' met 11 times with representatives and/or Members of the European Commission. There is no record in the Register of any meeting held with Commissioner King or a member of his Cabinet.
- On the basis of the facts established, the Committee assessed the compatibility of the envisaged position against the framework of the applicable legal context.
- 16) First, and in line with previous opinions, the Committee noted that the Members of the Commission have a right to engage in work and to pursue a freely chosen or accepted occupation after the term of their office, yet knowing that this right needed to be balanced with the obligations set out in Article 245 TFEU and the Code of Conduct for the Members of the European Commission.
- More precisely on Former Commissioner King's envisaged activity, the Committee considered the scope of his expected responsibilities and also the commitments made by the Former Commissioner and by Flint, as explicitly stated in Sir Julian's notification and in Flint's letter of 16 July 2020 attached to the Former Commissioner's notification.
- 18) On this basis, the Committee did not see an incompatibility with Article 245 TFEU as long as former Commissioner King would respect the commitments stated in his notification and the general obligations applying to former Members of the Commission.

- 19) The Committee noted nevertheless that advisory functions constitute by their very nature a potential risk that specific information or insights that former Commissioner King obtained during his mandate could be relevant for business decisions of his future employer and its clients. This could concern information obtained in areas of his portfolio, but also areas in which he was involved through his collegial responsibilities.
- 20) Therefore, the Committee considered it crucial that former Commissioner King is fully aware of his obligations as former Member of the Commission, which continue to apply after his term of office and recommended emphasising the need to have a prudent approach when providing advice to the company and its clients, notably by recalling the importance to comply with Article 339 TFEU, with Article 11(1) and Article 5 of the Code of Conduct as well as with Article 11(4) of the Code and the commitments made by the Former Commissioner.
- 21) The Commission has considered the Committee's opinion and shares its conclusions.

HAS DECIDED AS FOLLOWS:

Sole Article

Former Commissioner Sir Julian King's envisaged activity as Senior Adviser at 'Flint Global' is compatible with Article 245(2) of the Treaty on the Functioning of the European Union, subject to the respect, by Sir Julian King, of all the general obligations which apply to the former Members of the Commission and, in particular, the following conditions and restrictions:

- Former Commissioner Sir Julian King shall adopt a prudent approach when providing advice to 'Flint Global' and its clients and shall abide by his commitment to abstain from any contact with the Commission and from working on any of the subjects that he covered during his mandate as Member of the Commission;
- In line with Article 11(1), in conjunction with Article 5, of the Code of Conduct for the Members of the Commission, Former Commissioner King remains bound by the duties of collegiality and discretion with respect to the Commission's decisions and activities during his term of office. This includes not only refraining from disclosing what was said at meetings of the Commission but also a general duty to apply a high sense of discretion with regard to the use of information and insights that he has obtained during his mandate, be it within his portfolio responsibilities or within the College;
- In accordance with Article 11(4) of the Code of Conduct for the Members of the Commission, during a period of two years following his term of office, Former Commissioner King shall refrain from lobbying the Members of the Commission or Commission staff on behalf of 'Flint Global', 'Flint Europe' or their respective clients on matters for which he was responsible during his mandate. The prohibition of 'lobbying' applies independently of the location of the employment and includes indirect lobbying in the sense of influencing the Commission 'through the use of intermediate vectors such as media, public opinion, conferences or social events, targeting the EU institutions' as set out in paragraph 7 of the Agreement between the

European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation. The prohibition of lobbying also covers any potential activity with a view to obtaining EU funding;

- In accordance with Article 339 of the Treaty on the Functioning of the European Union, Former Commissioner King shall refrain, in the context of his advisory function at 'Flint Global' from using or disclosing information of the kind covered by the obligation of professional secrecy regarding, in particular, undertakings, their business relations or their cost components;
- Former Commissioner King shall inform the President of the Commission, according
 to Article 13(2) of the Code of Conduct, in case of doubt with regard to the application
 of the Code of Conduct or the application of this decision, in a timely manner and
 before acting on the matter relating to which the doubts arise.

Done at Brussels, on 28 October 2020.

The President Ursula von der Leyen