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DECISION OF THE EUROPEAN COMMISSION

on former Commissioner Karmenu Vella's post term of office professional activities as member of the 'Ocean Unite' Network, of the Advisory Council of the 'Sustainable Ocean Alliance' and of the Advisory Board of the "Treelion Foundation"

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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.
- 3) 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 Article 11, paragraph 3, second subparagraph, lit. (a) to (f).

- 4) On 30 January 2020, Former Commissioner Karmenu Vella notified the Commission about his intention to engage in three post term of office professional activities as member of the 'Ocean Unite' Network, of the Advisory Council of the 'Sustainable Ocean Alliance' and of the Advisory Board of the 'Treelion Foundation'.
- 5) The envisaged activities are related to Former Commissioner Vella's portfolio on Environment, Maritime Affairs and Fisheries. On 26 February 2020, the Commission requested an opinion of the Independent Ethical Committee on the compatibility of the activities with Article 245 of the Treaty on the Functioning of the European Union. The Committee delivered its opinion on 21 April 2020. The Committee established the scope and context of each activity, recalled the legal framework and assessed the level of compatibility of the envisaged activities with Article 245 of the Treaty.
- 6) The Committee noted that, in general, former 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. The Committee underlined, however, that this right needs to be balanced with the obligations set out in Article 245 Treaty on the Functioning of the European Union and in the Code of Conduct for the Members of the European Commission.

Member of the 'Ocean Unite' Network

- 7) 'Ocean Unite' is a non-governmental organisation founded in 2015 and based in the United States. Its stated aim is to unify and mobilise impactful voices in order to drive action in the field of ocean conservation, protection and resilience. 'Ocean Unite' aims at supporting key global events and advocating for the protection of the oceans. The organisation's declared priorities are: first, the adoption of a new 2030 international biodiversity target of 30% high protection of oceans, through an internationally recognised and binding target; second, the negotiation and adoption of a strong high seas UN agreement; third, the increase of high-level political engagement of the Commission for Conservation of Antarctic Marine Living Resources Members; and finally to secure commitments from governments to increase transparency and funding for technology to track global fishing activities.
- 8) Ocean Unite is a tax-exempt non-profit corporation. According to information on its website, it relies on donations, sales of products and partnerships, more specifically with philanthropists, business, organisations and foundations. It has not received any funding from the Commission.
- 9) The governance structure of 'Ocean Unite' consists of a Board of Directors and a team managed by a Chief Executive Officer. 'Ocean Unite' works moreover with a 'Network' composed of various known personalities.
- 10) Former Commissioner Vella has been asked to join the 'Ocean Unite' Network. He is expected to defend, support and communicate on 'Ocean Unite's' work and support its goals. Former Commissioner Vella is also expected to engage in specific missions such as participating in events to help secure further progress in ocean conservation. He will not engage in any activity involving direct lobbying of any EU institution. Mr Vella will not get any remuneration except for the reimbursement of travel expenses.

- 11) The Independent Ethical Committee notes that Former Commissioner Vella is expected to engage in networking activities, to attend events related to ocean conservation and, generally, to support and amplify the messages and positions of 'Ocean Unite'. The activity is not related to the acquisition or distribution of funds, and does not involve any direct activities of lobbying the EU institutions. The Committee considers that the Former Commissioner's envisaged contribution to the protection of oceans and environmental awareness does not represent a risk with regard to the interests of the Commission.
- 12) The Committee concludes that there are no legal or other impediments to accepting the envisaged function as long as Former Commissioner Vella respects the obligations set out in the Treaties and the Code of Conduct. The Committee highlights in particular Article 11(4) of the Code of Conduct, i.e. the obligation not to lobby Members or staff of the Commission on behalf of 'Ocean Unite' on matters for which he was responsible within his portfolio for a period of two years after ceasing to hold office. The Committee notes however that the prohibition to lobby (i.e. the promotion of certain interests with the objective to influence the formulation or implementation of policy or legislation, or the decision-making process of the Commission *directly or indirectly*) does not affect a possible participation in public events or general exchanges of, and on, publicly available information with Members of the Commission or Commission staff.
- 13) Taking into consideration the restrictions proposed by the Independent Ethical Committee, the Commission considers that the nature of this envisaged activity does not present any risk of incompatibility either with Mr Vella's former role as a Member of the Commission or with the interests of the institution.

Member of the Advisory Council of the 'Sustainable Ocean Alliance'

- 14) 'Sustainable Ocean Alliance' is a non-profit organisation founded in 2014 and based in San Francisco. It declares to aim at developing leaders, cultivating ideas and accelerating solutions in the field of ocean health and sustainability. Its goal is to address the threats to the global ocean through two different programmes, in alignment with the UN's Sustainable Development Goal number 14. The first programme aims at 'training young people to take action and give them a voice in order to fight for oceans' needs'. The second is a programme for entrepreneurs who are building start-ups using new technologies to face the ocean's biggest threats. The organisation declares to work in more than 155 countries, support more than 1,000 Ocean Impact Projects and have accelerated 20 ocean-tech start-ups in two years. 'Sustainable Ocean Alliance' relies, according to its website, on sponsorships and donations. It has not received funding from the Commission.
- 15) Its governance structure consists of a Board of Directors with five members and a team of ten employees led by a Chief Executive Officer. 'Sustainable Ocean Alliance' intends to create a 'Global Policy Advisory Council', which should leverage the experience of high-level political and governmental experts, activists and leaders in the field of ocean protection. This council is expected to provide expertise, guidance and support for the organisation's initiatives in areas such as marine pollution, sustainable fisheries or climate change.

- 16) Former Commissioner Vella has been asked to join the Global Policy Advisory Council. He is expected to attend meetings of the council at key international fora, to provide input on the annual policy priorities of the ‘Sustainable Ocean Alliance’ and on its key policy outputs. He is also expected to collaborate with the Youth Policy Advisory Council of the ‘Sustainable Ocean Alliance’ and to connect ‘Sustainable Ocean Alliance’ with influential networks. Finally, he is expected to provide advice on how to best amplify the voice of the young leaders of the ‘Sustainable Ocean Alliance’.
- 17) Former Commissioner Vella will not engage in any direct lobbying activity with the EU institutions. His activity will not be remunerated by the organisation, and his travel expenses will not be reimbursed.
- 18) The Independent Ethical Committee notes that Former Commissioner Vella intends to become a member of the Advisory Council whose role is to provide expertise, guidance and support for ‘Sustainable Ocean Alliance’ initiatives. He will not be involved in operational day-to-day management nor in acquiring or distributing funds.
- 19) The Committee concludes that there are no legal or other impediments to accepting the envisaged functions as long as Former Commissioner Vella respects the obligations set out in the Treaties and the Code of Conduct. The Committee highlights in this regard in particular Article 11(4) of the Code of Conduct, i.e. the obligation not to lobby Members or staff of the Commission on behalf of the ‘Sustainable Ocean Alliance’ on matters for which he was responsible within his portfolio for a period of two years after ceasing to hold office. However, the prohibition to lobby (i.e. the promotion of certain interests with the objective to influence the formulation or implementation of policy or legislation, or the decision-making process of the Commission *directly or indirectly*) does not affect a possible participation in public events or general exchanges of, and on, publicly available information with Members of the Commission or Commission staff.
- 20) Taking into consideration the restrictions proposed by the Independent Ethical Committee, the Commission considers that the nature of this envisaged activity does not present any risk of incompatibility either with Former Commissioner Vella’s role as a Member of the Commission or with the interests of the institution.

Member of the Advisory Board of the ‘Treelion Foundation’

- 21) The ‘Treelion Foundation’ has been established in 2019 and registered in Singapore, with its main office located in Hong Kong. The Foundation is linked to the Elion Group. The Foundation’s declared mission is to ‘create an inclusive green financial system based on a safe, reliable and scalable blockchain backed by real ecological assets’ reserves’. The Foundation declares to be committed ‘to global environmental protection and desertification control by planting trees and supporting scientific research. It wants to ‘use blockchain technology to facilitate the development of eco-friendly projects’ and wants to ‘enhance the liquidity of green assets’ markets on a global scale’. It states as its goal to promote social and public welfare undertakings, to focus on desertification and ecological protection, to forge sustainable and green business patterns by combining ecology, finance and internet, to build the largest green digital data ecosystem, to build a “big data platform of global ecology’ to promote green cooperation and to create development opportunities for sharing and

establishing ecological civilisation.

- 22) The 'Treelion Foundation' has been established and operated by the Elion Group, which is, according to the Foundation's website, an 'UN-recognised Chinese leading company and a world leader in ecological restoration and desertification control'.
- 23) The governance structure of the 'Treelion Foundation' comprises a Steering Committee, a Foundation Council and an Advisory Board. The Steering Committee is chaired by the founder and chairman of the Elion Group and co-chaired by the former Executive Director of the United Nations Environment Programme (UNEP). The Foundation Council is composed of representatives from Elion and two directors from other companies in the financial sector. The Advisory Board is expected to meet once a year, to give strategic advice and to use its networks to promote green investments.
- 24) The 'Treelion Foundation's finance structure consists, according to the information provided on its website, of the use of financial instruments to raise funds for investment in green projects and of donations. The Treelion Foundation and the Elion Group have not received funding from the Commission.
- 25) Former Commissioner Vella has been asked to join the Advisory Board, which is expected to meet once a year in order to give strategic advice and to promote the organisation's activities. Mr Vella declared that his role would not require to engage in any lobbying activities with EU institutions. Mr Vella declared that he would be offered remuneration through a 'green digital currency' ("TRN"), which is issued by Treelion. His travel expenses will be covered by the Foundation.
- 26) Based on the available information about the Foundation, the Independent Ethical Committee does not see any reason to refuse the authorisation of the envisaged activity. It recommends, however, stressing in the Commission decision the importance to respect Articles 245 and 339 TFEU at all times. Given the very recent creation of the Foundation and its close links with the promotion of green investment interests, the Committee considers that the Commission decision should emphasise the general obligations set out in Article 11(1) of the Code, in conjunction with Article 5, namely that former Members of the Commission have to act at all times in compliance with the duty of integrity and discretion as well as the duties of collegiality and discretion with respect to the Commission's decisions and activities during their term of office.
- 27) The Commission considers that the nature of this envisaged activity is compatible with Mr Vella's former role as a Member of the Commission, taking into account the general principles and restrictions set out in the Treaty and the Code of Conduct, Mr Vella's declaration that the role will not involve any lobbying activities with the EU institutions and, in particular, the recommendations by the Independent Ethical Committee.

HAS DECIDED AS FOLLOWS:

Article 1

Former Commissioner Karmenu Vella's envisaged activities as member of the 'Ocean Unite' Network and of the Advisory Council of the 'Sustainable Ocean Alliance' are compatible with Article 245(2) of the Treaty on the Functioning of the European Union, subject to the following conditions:

- 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 Vella shall refrain from lobbying the Members or the staff of the Commission on behalf of, or in the interest of, 'Ocean Unite' and the 'Sustainable Ocean Alliance' on matters for which he was responsible within his portfolio;
- In accordance with Article 339 of the Treaty on the Functioning of the European Union, Former Commissioner Vella shall refrain from participating in any activity or decision-making procedure within 'Ocean Unite' and/or 'Sustainable Ocean Alliance' which might involve using information of the kind covered by the obligation of professional secrecy regarding, in particular, undertakings, their business relations or their cost components;
- In line with Article 11(1), in conjunction with Article 5, of the Code of Conduct for the Members of the Commission, Former Commissioner Vella remains bound by the duties of integrity, collegiality and discretion, with respect to the Commission's decisions and activities during his term of office.

Article 2

Former Commissioner Karmenu Vella's envisaged activity as member of the Advisory Board of the 'Treelion Foundation' is compatible with Article 245(2) of the Treaty on the Functioning of the European Union, subject to the following conditions:

- 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 Vella shall refrain from lobbying the Members or the staff of the Commission on behalf of, or in the interest of, the 'Treelion Foundation' and the Elion Group;
- In accordance with Article 339 of the Treaty on the Functioning of the European Union, Former Commissioner Vella shall refrain from participating in any activity or decision-making procedure within the 'Treelion Foundation' which might involve using information of the kind covered by the obligation of professional secrecy regarding, in particular, undertakings, their business relations or their cost components;

- In line with Article 11(1) of the Code of Conduct for the Members of the Commission, Former Commissioner Vella remains bound by his duties of collegiality and discretion, as laid down in Article 5 of the Code of Conduct, with respect to the Commission's decisions and activities during his term of office and by his general duty of integrity and discretion pursuant to Article 245 of the Treaty on the Functioning of the European Union.

Done at Brussels, on 27 May 2020.

The President
Ursula von der Leyen