



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

The Director-General

11.04.2016

Brussels,

GROW C4/SPR/cdp(2016)1785474

***By registered letter with
acknowledgment of receipt***

Ms Ronja Heise
Corporate Europe Observatory
Rue d'Edimbourg 26
1050 Bruxelles
Belgique

Advance copy by email:

ask+request-2565-
7134c96d@asktheeu.org

Subject: Request for access to documents – GESTDEM No. 2016/666

Dear Ms Heise,

Thank you for your e-mail dated 11 February 2016 which was registered at the Internal Market, Industry, Entrepreneurship and SMEs Directorate-General of the European Commission on 12 February 2016, requesting access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L145, 31 May 2001, page 43 and following).

1. SCOPE OF YOUR REQUEST

In your e-mail you state: "*as a follow up to my previous request GestDem 2015/4795*". However, request GestDem 2015/4795 is one sent by Corporate Europe Observatory to DG CLIMA, to which they replied on 17 September 2015. Based on the information provided in your e-mail, we assume that you rather mean request GestDem 2015/4551, to which DG GROW replied to on 23 October 2015. We are thus basing this reply on request GestDem 2015/4551 and on our reply to it.

You have requested access to documents as follows:

- *any minutes and records of the meeting between DG Grow Policy Officer Nikolaus Steininger and ACEA Emission and Fuels Director Paul Greening, which took place on the 11. January 2015 and was not listed in the initially disclosed meetings list;*
- *review and complete the initially requested list of meetings for the period between 1st of October 2014 until now (1st of February 2016);*

- all documents and correspondence concerning the ACEA draft for the RDE test presented to the DG in December 2014;

- review and complete the initially provided list of documents and correspondence exchanged between the ACEA (and/or its members and/or its associated organisations) with DG Grow on the introduction of new car emission testing system (WLTP) and/or the introduction of the new real-world driving test on air pollution to be implemented with new Euro 6 vehicles (RDE), especially the period between 01.11.2014 and 01.03.2015 as well as the period between 01.04.2015 and 01.07.2015.

2. DESCRIPTION OF DOCUMENTS IDENTIFIED AND DISCLOSURE OF THE REQUESTED DOCUMENTS

This reply will cover each of the points you raised individually.

2.1. Request for minutes and records of the meeting between Nikolaus Steininger and Paul Greening on 11.01.2015

No meeting between Nikolaus Steininger and Paul Greening took place on 11 January 2015.

2.2. List of meetings between 1 October 2014 and 1 February 2016

Our reply to request GestDem 2015/4551 covered the period 1 September 2014 – 12 October 2015. We have reviewed the list provided and have identified one meeting which erroneously was not listed. Our apologies for this omission.

In addition, we have examined the period 13 October 2015 – 1 February 2016 (n.b. this is a new request). We have not identified any existing documents matching the scope of your request. Thus that part of the request has been treated as an access to information request, in accordance with the Code of Good Administrative Behaviour. Seven meetings have been identified. These, as well as the one meeting not previously identified, are listed in the enclosed document.

Minutes have been identified for two of these meetings. The minutes are enclosed.

For the other five meetings listed, no minutes have been identified. However, we will send you complementary information regarding these meetings in a separate reply.

2.3. Documents and correspondence concerning the ACEA draft for the RDE test presented to the DG in December 2014

One document matching the scope specified has been identified (an e-mail and attachment from ACEA, sent on 17 December 2014 to DG ENV and DG GROW). The document originates from a third party. I can confirm that DG Internal Market, Industry, Entrepreneurship and SMEs has consulted according to Article 4, paragraph 4 of Regulation 1049/2001 the third parties with a view to assessing whether an exception in paragraph 1 or 2 is applicable, and has obtained their permission to release the document. Please note that the document received from a third party is disclosed for information only and cannot be re-used without the agreement of the originator, who holds a copyright on it.

The document does not reflect the position of the Commission and cannot be quoted as such.

2.4. Review and complete the initially provided list of documents and correspondence

We have reviewed the initially provided list of documents and apart from the one document described in point 2.3. we have not identified further documents.

3. PROTECTION OF PERSONAL DATA

The documents to which you have requested access contain personal data.

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data¹.

In your request, you state: "in the light of the current diesel scandal and the public interest in the decision making of the new testing regime I also ask you not to redact the names in the provided documents".

We would like to specify that the reference to the "public interest in the decision making process" is not valid justification on whether personal data should or should not be expunged. Article 4(1)(b) of Regulation 1049/2001 is an absolute exception which does not require the institution to balance the exception defined therein against a possible public interest in disclosure.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable².

According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

If you wish to receive these personal data, we invite you to provide us with arguments showing the need for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

¹ Official Journal L 8 of 12.1.2001, p. 1

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.


In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/327
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Lowri Evans', with a stylized, flowing script.

Lowri Evans

Annexes: List of meetings
Document from ACEA
Minutes of two meetings