

EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Directorate B
Director

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Ms Rachel TANSEY

By e-mail only: ask+request-355-2ddfdb1b@asktheeu.org

Subject: Your application for access to documents pursuant to Regulation No. 1049/2001 – GestDem N° 2013/830

Dear Ms Tansey,

I refer to your confirmatory application of 7 June 2013, registered on 10 June 2013, in which you request, pursuant to Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents¹, a review of the position taken by the Directorate General for Internal Market and Services (DG MARKT) on 23 May 2013 in reply to your initial application of 6 February 2013.

In your initial application, you requested access to "all documents, including notes of minutes, emails and other correspondence, relating to contacts between staff of DG MARKT and staff of law firm Clifford Chance (the Brussels, Paris and London offices) between February 2012 and February 2013."

DG MARKT identified four files as falling within the scope of your request. It considered that you had no interest in the first file, granted full access to the second file and granted partial access to the third file.

As regards the fourth file, DG MARKT refused access based on the exception of Article 4(2), first indent (protection of commercial interests). This file consists of the following correspondence between Clifford Chance and the Commission relating to two CHAP ("Complaint Handling – Accueil des Plaignants") cases from 2011 and 2012 falling within the scope of DG MARKT's activities:

- Letter from DG MARKT staff to Clifford Chance of 28.06.2012 concerning complaint CHAP(2011)/02303;

¹ Official Journal L145, 31.05.2001, p.43.

- Letter from DG MARKT staff to Clifford Chance of 08.03.2012 concerning complaint CHAP(2012)/00476;
- Letter from DG MARKT staff to Clifford Chance of 05.10.2012 concerning complaint CHAP(2012)/00476.

In your confirmatory application, you request a review of DG MARKT's position.

You specify that "[...] Clifford Chance offers lobbying services to clients, but has chosen not to be transparent about **which companies etc it is lobbying for**, on which issues, at EU level, by not signing up to the Transparency Register. It is therefore not possible for citizens to exercise their right to know about lobbying. **It is in this context that this request to DG MARKT about correspondence between Clifford Chance and the Brussels, Paris and London offices (those most likely to be lobbying the EU institutions) has been made – in order to gauge if and for which clients Clifford Chance is lobbying DG MARKT.**[...]"

Following these specifications concerning the scope of your request, it appears that your request solely concerns the correspondence forming part of the possible interest representation activities of Clifford Chance (on behalf of private firms) towards DG MARKT falling within the scope of the Inter-Institutional Agreement on the Joint Transparency Register².

However, the documents which DG MARKT had initially identified as falling under the scope of your request (fourth file) consist exclusively of letters drafted by Clifford Chance on behalf of private citizens or received by it as part of this firm's "legal assistance" activities. As these activities there fall outside the scope of, and have no relation with, the interest representation activities which are the object of your request as indicated by you, I conclude that the documents identified by DG MARKT went beyond the scope of your request, and that your confirmatory request is therefore devoid of purpose.

Should our interpretation be erroneous, please feel free to contact the Commission's Secretariat General at the following e-mail address:


Sg-Acc-Doc@ec.europa.eu.

In your e-mail of 7 June, you also request clarifications as regards DG MARKT's statement that the documents released to you as part of the third file were *disclosed for information purposes only and cannot be re-used without the agreement of the originator, who holds a copyright on it*. Please note that this is the standard wording used by the Commission services when transmitting documents originating from third parties. The latter part of the sentence should be read to apply only to those documents covered by a copyright (which, as you rightly point out, is not the case for the documents transmitted to you by DG MARKT). I thank you for pointing this out to us.

² Article 8 of the Agreement between the European Parliament and the European Commission on the establishment of a transparency register for organisations and self-employed individuals engaged in EU policy- making and policy implementation (commonly referred to as the "Inter-Institutional Agreement on the Joint Transparency Register"), Official Journal L 191 of 22 July 2011, p. 29.

I have also taken due note of your comments about the scope of the Joint Transparency Register. Please be assured that your comments will be examined in the framework of the forthcoming review of the Register.

Yours sincerely,

A handwritten signature in black ink that reads "Peter Handley" with a stylized flourish underneath.

Hubert Szlaszewski
Director