



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Directorate B
Director

Brussels, 08.02.2013
SG.B.5/MM/rc - sg.dsg1.b.5(2013) 193211

Mr Olivier Hoedeman
Corporate Europe Observatory

By email only to:

olivier@corporateeurope.org
ask+request-314-0c08b288@asktheeu.org
ask+request-315-88585e09@asktheeu.org

Subject: Your requests for access to documents under Regulation (EC) No 1049/2001 – reference GestDem No 2013/243 and 2013/246

Dear Mr Hoedeman,

We refer to your emails of 21 January 2013, transmitted via the *asktheeu* website, in which you make the following requests:

GestDem No 2013/243:

- The letter from Swedish Match to the European Commission dated 14 May 2012;
- The letter by Catherine Day to Fredrik Peyron (Swedish Match) of 30 May 2012.

GestDem No 2013/246:

- The letter from Ms Catherine Day to Ms Testori Coggi (DG SANCO) of 23 September 2012;
- The response from Ms Testori Coggi to this letter;
- Any other correspondence between Ms Catherine Day and Ms Testori Coggi regarding the Tobacco Products Directive in the period July-December 2012.

1. CORRESPONDENCE WITH SWEDISH MATCH

The letter sent by Swedish Match to the European Commission on 14 May 2012 contains allegations concerning former Commissioner Dalli. The Secretary-General of the Commission forwarded this letter to OLAF, which initiated an investigation. On 30 May 2012, the Secretary-General acknowledged receipt of this letter and informed Swedish Match that it had been transmitted to OLAF.

This last letter can be disclosed and a copy is attached.

As regards the letter from Swedish Match of 14 May 2012, this document is part of the investigation file of OLAF. When concluding its investigation, OLAF transmitted its findings to the Maltese authorities. These authorities undertook a subsequent judicial investigation, which is still on-going.

Disclosing the content of this letter at this stage would undermine the protection of the purpose of the whole investigative process, which is to establish the facts and the role played by each of the persons and entities involved.

Consequently, this letter cannot be disclosed since it is manifestly covered by the exception provided for under Article 4(2), 3rd indent of Regulation 1049/2001.

The public interest in disclosure of the letter of Swedish Match does not, on balance, outweigh the need for continued protection of the on-going investigation by the Maltese authorities.

Partial access to this letter is not possible as its content is fully covered by the exceptions invoked.

2. CORRESPONDENCE BETWEEN MS DAY AND MS TESTORI COGGI

The full correspondence between the Secretary-General and the Director-General for Health and Consumers regarding the Tobacco Products Directive in the period from July to December 2012 consists of the following documents:

- Email of 7 September 2012 from Ms Testori Coggi to Ms Day;
- Email exchange of 23 September 2012 between Ms Day and Ms Testori Coggi;
- Email exchange of 25 September 2012 between Ms Day and Ms Testori Coggi (complementary to the email exchange of 23 September);
- Email of 27 September 2012 from Ms Testori Coggi to Ms Day.

All these documents can be disclosed. Copies are attached.

3. POSSIBILITY TO REQUEST A REVIEW OF THIS POSITION

To the extent that no access is granted to the letter from Swedish Match to the Commission of 14 May 2012, you are entitled to make a confirmatory application in accordance with Article 7(2) of Regulation 1049/2001.

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-5
BERL 5/327
B-1049 Bruxelles

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

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Szlaszewski' with a stylized flourish below it.

Hubert Szlaszewski
Director

Enclosures: 5 documents