

EUROPEAN COMMISSION
Directorate General Internal Market and Services

Director General

Brussels, **12.04.2013** – 689707
MARKT F3/MZ/DM/av (2013) 458884

Mr Kim BIZZARRI

By email only:

ask+request-377

803a9c96@asktheeu.org

Subject: Your requests for access to documents 15 February 2013 and 22 February 2013 (Ref. GestDem No 2013/913 and 2013/1030)

Dear Mr Bizzarri,

I refer to your emails dated 15 February 2013 and 22 February 2013 in which you make two requests for access to documents. Your requests have been registered under the reference numbers noted above.

These requests concern all evidence documenting communications (email, fax, letters, reports, briefings) and meetings (including minutes), relating to the “non-financial reporting” dossier, from September 2009 until the present date, between DG Internal Market and Services and the following stakeholders: EuroCommerce; BusinessEurope; UEAPME; the Federation of German Employers (BDA); the Global Reporting Initiative (GRI); Royal Dutch Shell and the German Government.

Your request represents an application for access to documents in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001, regarding public access to European Parliament, Council and Commission documents.

Following on from the Single Market Act 1¹ and the CSR Communication², DG Internal Market is currently working on a legislative proposal on disclosure of non-financial information (commonly referred to as “non-financial reporting”). In this context, we would like to stress that the proposal has not yet been adopted in formal proceedings by the College of Commissioners.

¹ "Single Market Act-Twelve levers to boost growth and strengthen confidence", COM (2011) 206, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0206:FIN:EN:PDF>

² "A renewed strategy 2011 – 2014 for Corporate Social Responsibility", COM(2011) 681 final of 25 October 2011

Consultations on the content of the proposal, including a formal consultation of other Commission services concerned, as well as preliminary contacts with Member States, the European Parliament and other stakeholders, have been taking place since October 2010.

An online public consultation on this matter was conducted between October 2010 and January 2011. The feedback statement published by the Commission, along with all contributions received and authorised for publication (including letters from BusinessEurope, GRI, UEAPME, Shell and Eurocommerce) can be retrieved at this link:

http://ec.europa.eu/internal_market/consultations/2010/non-financial_reporting_en.htm

Furthermore, an ad-hoc expert group was set up in 2011 in order to provide advice to the Commission in the framework of its Impact Assessment work. All information concerning this group, including minutes and discussion papers, is publicly available at this link: http://ec.europa.eu/internal_market/accounting/committees/disclosure/index_en.htm

Only once all the internal procedures have been completed, the legislative proposal will be adopted by the College and published together with the accompanying Impact Assessment Report. It will then be transmitted to the European Parliament and the Council to initiate the legislative process.

Fourteen documents in total were identified as relevant for your requests, and duly assessed. In these circumstances, I regret to have to inform you that the documents you require come under the system of exceptions provided for in the access to documents rules, and that we cannot provide them to you.

The exception that applies to the above documents is provided for in Article 4 (3) of Regulation No 1049/2001 which stipulates that *"Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure. Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure."*

Although Article 4 (3) of Regulation No 1049/2001 stipulates that in cases in which an overriding public interest for disclosure exists, access to documents will be granted, the examination of your request has not led to the conclusion that such an overriding public interest exists. The Commission's proposal should nevertheless be published in a few months' time,

pending a decision on the final text by the College of Commissioners.

In examining your request, the possibility of granting partial access to the requested documents was considered. However, for the reasons cited above, the documents are covered in their entirety by the exception of Article 4(2) of Regulation No 1049/2001 so that partial access is not possible.

If you wish to appeal against this decision you should write to the Commission's Secretary-General at the address below, repeating your initial request. You have fifteen working days in which to appeal from receipt of this letter. Beyond this deadline, your initial request will be deemed to have been withdrawn. The Secretary-General will inform you of the result of this review within fifteen working days from the registration of your request, either granting you access to the documents or confirming the refusal. In the latter case, you will be informed of how you can take further action.

All correspondence should be sent to the following address:

The Secretary General

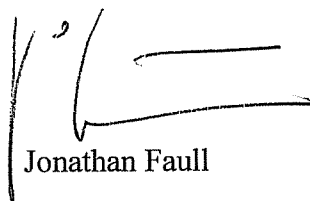
European Commission

Unit SG/E/3: "Transparency, Relations with Stakeholders and External Organisations"

Confirmatory application BERL 5/388

B-1049 Brussels, Belgium E-mail: sg-acc-doc@ec.europa.eu

Yours sincerely,



Jonathan Faull

Contact:

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