



EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

The Director General

Brussels, 26/05/2018  
DG CONNECT/H1 (2018) 1426702

**By registered letter with  
acknowledgment of receipt**

Ms Vicky Cann  
Rue d'Edimbourg 26  
1050 Brussels  
Belgium

Copy sent in advance by email:  
[ask+request-4347-  
c3b096e6@asktheeu.org](mailto:ask+request-4347-c3b096e6@asktheeu.org)

**Subject: Your application for access to documents – Ref GestDem No 2017/3148**

Dear Madam,

We refer to your email dated 30/05/2017 in which you make a request for access to documents, registered on the same date under reference number GestDem No 2017/3148. We also refer to our holding reply of 21/06/2017 concerning the extension of the deadline (our reference [Ares\(2017\)3115894](#)), to our informal prolongation email dated 12/07/2017 (our reference [Ares\(2017\)3508988](#)), to your email dated 21/09/2017 (our reference [Ares\(2017\)4615882](#)), to our first reply of 24/10/2017 (our reference [Ares\(2017\)5191649](#)), to your email dated 29/11/2017, our email dated 05/12/2017 (our reference [Ares\(2017\)5956314](#)), our second reply of 19 January 2017 (our reference [Ares\(2018\)340985](#)), your email dated 6/03/2018 and our email dated 16/03/2018 (our reference [Ares\(2018\)1458191](#)).

You request access to:

*"all meeting' agendas and minutes or notes; plus background papers or other briefings, held by CNECT officials on the issue of ePrivacy, dated from 1 October 2016 to 31 January 2017, from Application Developers Alliance, Cable Europe, Computer and Communications Industry Association, COCIR - sustainable competence in advancing healthcare, DIGITALEUROPE, European Competitive Telecommunications Association (ECTA), European Digital Media Association (EDiMA), European Telecommunications Network Operators' Association (ETNO), European Internet Services Providers Association (EuroISPA), IAB Europe, GSMA Europe, European Publishers' Council, European Magazine Media Association, Telefónica, Deutsche Telekom, and Google. This would include the following list of meetings retrieved from the online publication of*

*meetings by Commissioners Ansip, Oettinger, and their cabinets, but should also include meetings / papers held by lower-level officials too:*

*Andrus Ansip 19/12/16 "European Round Table of Industrialists (ERT)  
European Telecommunications Network Operators' Association (ETNO)  
BUSINESSEUROPE  
European Internet Services Providers Association (EuroISPA)  
Computer & Communications Industry Association (CCIA)  
European Banking Federation (EBF)  
Union européenne de l'Artisanat et des petites et moyennes entreprises,  
aisbl (UEAPME)  
DIGITALEUROPE (DE)  
Ecommerce Europe  
Interactive Advertising Bureau Europe (IAB Europe)  
BSA | The Software Alliance (BSA)  
European CIO Association (EuroCIO)  
Federation of European Direct and Interactive Marketing (FEDMA)  
Coalition of European Organisations on Data Protection "Discussion with industry on  
general data protection regulation implementation*

*Andrus Ansip 23/11/16 "European Association of Communications Agencies (EACA)  
Interactive Advertising Bureau Europe (IAB Europe)  
European Publishers Council (EPC)  
European Magazine Media Association (EMMA)  
The European Interactive Digital Advertising Alliance (EDAA)  
European Newspaper Publishers' Association (ENPA)  
Federation of European Direct and Interactive Marketing (FEDMA) "Eprivacy review*

*Stig Joergen Gren 31/01/17 News Corporation (News Corp) DSM general, platforms,  
publishers' right*

*Stig Joergen Gren 09/01/17 DIGITALEUROPE (DE) DSM general*

*Juhan Lepasaar, Laure Chapuis-Kombos 19/12/16 "European Round Table of  
Industrialists (ERT)  
European Telecommunications Network Operators' Association (ETNO)  
BUSINESSEUROPE  
European Internet Services Providers Association (EuroISPA)  
Computer & Communications Industry Association (CCIA)  
European Banking Federation (EBF)  
Union européenne de l'Artisanat et des petites et moyennes entreprises, aisbl (UEAPME)  
DIGITALEUROPE (DE)  
Ecommerce Europe  
Interactive Advertising Bureau Europe (IAB Europe)  
BSA | The Software Alliance (BSA)  
European CIO Association (EuroCIO)  
Federation of European Direct and Interactive Marketing (FEDMA)  
Coalition of European Organisations on Data Protection "Discussion with industry on  
general data protection regulation implementation*

*Laure Chapuis-Kombos 25/11/16 Computer & Communications Industry Association  
(CCIA)  
e-privacy*

Laure Chapuis-Kombos 23/11/16 "European Association of Communications Agencies (EACA)  
 Interactive Advertising Bureau Europe (IAB Europe)  
 European Publishers Council (EPC)  
 European Magazine Media Association (EMMA)  
 The European Interactive Digital Advertising Alliance (EDAA)  
 European Newspaper Publishers' Association (ENPA)  
 Federation of European Direct and Interactive Marketing (FEDMA) "E-privacy review

Laure Chapuis-Kombos 23/11/16 DIGITALEUROPE (DE) e-privacy position paper

Laure Chapuis-Kombos 09/11/16 European Magazine Media Association (EMMA) e-privacy directive

Laure Chapuis-Kombos 08/11/16 Deutsche Telekom (DT) ePrivacy

Laure Chapuis-Kombos 18/10/16 European Telecommunications Network Operators' Association (ETNO) Review ePrivacy Directive

Laure Chapuis-Kombos 29/09/16 Facebook Ireland Limited (FB-I) eprivacy issues

Gunther Oettinger 21/12/16 European Competitive Telecommunications Association (ECTA) Telecom review, state of competition in Europe

Gunther Oettinger 18/11/16 Google DSM

Gunther Oettinger 15/11/16 European Magazine Media Association (EMMA) copyright & eprivacy

Gunther Oettinger 08/10/16 Computer & Communications Industry Association (CCIA) DSM

Martin Übelhör 13/12/16 Deutsche Telekom (DT) ePrivacy directive

Martin Übelhör 15/11/16 "European Magazine Media Association (EMMA) European Newspaper Publishers' Association (ENPA) "ePrivacy directive

Martin Übelhör 10/11/16 Microsoft Corporation ePrivacy directive

Martin Übelhör 09/11/16 Google ePrivacy directive

Martin Übelhör 08/11/16 "European Telecommunications Network Operators' Association (ETNO) Telefonica, S.A. "ePrivacy directive

Bodo Lehmann 03/11/16 Deutsche Telekom (DT) ePrivacy

Bodo Lehmann 26/10/16 European Telecommunications Network Operators' Association (ETNO) e-privacy directive

Anna Herold 26/10/16 Computer & Communications Industry Association (CCIA) Copyright

Anna Herold 18/10/16 European Telecommunications Network Operators' Association (ETNO) ETNO

*Bodo Lehmann 10/10/16 "European Magazine Media Association (EMMA) European Newspaper Publishers' Association (ENPA) "e-privacy directive*

*Michael Hager 27/09/16 "DIGITALEUROPE (DE) European Internet Services Providers Association (EuroISPA) Computer & Communications Industry Association (CCIA) BSA | The Software Alliance (BSA) "DSM*

*Michael Hager 27/09/16 European Magazine Media Association (EMMA) copyright, AVMSD, eprivacy".*

This is a third and final reply to your access to document request. This reply concerns the last documents which have been lately identified:

- 1) the briefing prepared for the EMMA publishers dinner in November 2016 (our reference Basis CAB Oettinger/1001);
- 2) the minutes of the meeting between the representatives of Deutsche Telekom and of DG CONNECT in November 2016 (our reference Ares(2018)2041584);
- 3) the minutes of the meeting between the representatives of EDAA, EACA and of DG CONNECT in November 2016 (our reference Ares(2018)2041703);
- 4) the minutes of the meeting between the representatives of Google and of DG CONNECT in November 2017 (our reference Ares(2018)2041768); and
- 5) the minutes of the meeting between the representatives of the European Publishers' Council and of DG CONNECT in December 2016 (our reference Ares(2018)2041826).

I enclose a copy of the above-listed documents with certain parts expunged pursuant to the Regulation (EC) No 1049/2001 on public access to document (hereinafter "Regulation 1049/2001"). For each expunged part, a comment next to it indicates the reason for it.

Please note that certain parts of this document concern topics other than ePrivacy and therefore do not fall under the scope of your request. These parts have been thus redacted.

Moreover, the above-listed documents to which you have requested access contains personal data.

Pursuant to Article 4(1) (b) of Regulation 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 data (hereinafter "Regulation 45/2001")<sup>1</sup>.

When access is requested to documents containing personal data, Regulation 45/2001 becomes fully applicable<sup>2</sup>. 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

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<sup>1</sup> Official Journal L 8 of 12.1.2001, p. 1

<sup>2</sup> 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.

to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

I 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 document requested expunged from this personal data.

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. The procedure is indicated in the last paragraph of this letter.

As far as the other documents you listed in your request, please note that in the meetings between Commissioner Oettinger and CCIA (on 08/10/16), Google (on 18/11/16) and ECTA (on 21/12/16), ePrivacy was not an agenda point, not discussed during the meeting and not part of the briefing.

As regard the other requested documents not previously identified in our first two above-mentioned replies, we regret to inform you that the Commission does not hold any documents that would correspond to the description given in your application.

As specified in Article 2(3) of Regulation 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution. Given that no such documents, corresponding to the description given in your application, are held by the Commission, the Commission is not in a position to handle your request.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled 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 5/282  
B-1049 Bruxelles  
or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,



Roberto VIOLA