



**EUROPEAN COMMISSION**

Directorate-General for Communications Networks, Content and Technology

Director-General

Brussels,  
CONNECT/I2/CA/hz (2017) 4713486

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

Ms Margarida SILVA  
CEO  
Audible Magic  
Rue d'Edimbourg 26,  
1050 Brussels, Belgium

***Advance copy by email:***  
[ask+request-4465-  
b98de40a@asktheeu.org](mailto:ask+request-4465-b98de40a@asktheeu.org)

**Subject: Your application for access to documents – Ref GestDem No 2017/4050**

Dear Ms Silva,

I refer to your e-mail dated 10/07/2017 in which you make a request for access to documents, registered on the same day under the above mentioned reference number. I also refer to our holding reply of 25/07/2017 (Ref. Ares(2017)3738864) concerning the extension of the deadline and to our letter of 24/08/2017 (Ref. Ares(2017)4163948).

You request access to "*documents which contain the following all communications, including emails, and documents (agenda, minutes, list of participants, etc) between Audible Magic Corporation and DG CNECT officials, Commissioner Ansip and Commissioner Oettinger, their respective offices and Cabinets, since the 1st of November 2014*".

Your application concerns the following documents:

1. Powerpoint Presentation by Audible Magic dated 11 July 2016 (Ref. Ares(2017)4595074)
2. Presentation by Audible Magic: Content Recognition Technology (Ref. Ares(2017)312988)
3. Document - Audible Magic Services Description (Ref. Ares(2017)4595115)
4. Email from Audible Magic to DG CNECT dated 7 April 2016 and attachment (PowerPoint Presentation) (Ref. Ares(2017)4053880)
5. Email from Audible Magic to DG CNECT dated 7 April 2016 and attachment (Reply to the Copyright office) (Ref. Ares(2017)4053919)

6. Email from Audible Magic to DG CNECT dated 12 January 2017 (Ref. Ares(2017)4054021)
7. Email from Audible Magic to CAB Ansip dated 29 June 2017 and attachments (Presentation on Content Recognition Technology; Audible Magic-content recognition technology.pdf) (Ref. Ares(2017)3257224)
8. Mission report, Mission Silicon Valley USA 19-23 June 2017 (Ref. Ares(2017)4594818)
9. Email from Audible Magic to DG CNECT dated 18 July 2016 and attachment (Audible Magic follow-up notes on meeting with Cabinet Ansip) (Ref. Ares(2017)4053973)

Since some of these documents (all documents but document no. 4) originate from a third party, Audible Magic, this latter has been consulted pursuant to article 4(4) of the Regulation (EC) No 1049/2001 (hereinafter "Regulation 1049/2001") regarding public access to documents.

**Documents n° 1 to 7: Full disclosure of documents only expunged of personal data (Annex I)**

Following an examination of the documents requested under the provisions of this Regulation and taking into account the consultation of Audible Magic according to which it did not object to their disclosure, I have arrived at the conclusion that all these documents may be fully disclosed. I enclose a copy of these documents (from N° 1 to 7) in Annex I.

Please note that the documents received by the Commission from Audible Magic are disclosed for information only. It does not reflect the position of the Commission and cannot be quoted as such.

Certain parts of the documents containing personal data of Commission officials or third persons have been expunged. Their disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with the Community legislation regarding the protection of personal data (Article 4(1)(b) of Regulation (EC) No 1049/2001). 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<sup>1</sup> (hereinafter "Regulation 45/2001").

When access is requested to documents containing personal data, Regulation 45/2001 becomes fully applicable<sup>2</sup>. According to Article 8(b) of that 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.

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, I am disclosing the documents requested expunged from this personal data.

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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.

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 (following the procedure specified at the bottom of this letter) requesting the Commission to review this position.

#### **Document n° 8: Partial disclosure (Annex II)**

Having examined the document n° 8 under the provisions of Regulation 1049/2001 regarding public access to documents, I have arrived at the conclusion that it may be partially disclosed. Some parts of the document have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4(1)(b) and Article 4(2) of this Regulation.

Document n° 8 is a mission report of a mission in the USA which occurred on 19-23 June 2017.

Some of the deleted parts of the documents contain personal data, in particular names of participants to the mission, which have been redacted according to the above mentioned legislation regarding the protection of personal data (Article 4(1)(b) of the Regulation 45/2001).

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 (following the procedure specified at the bottom of this letter) requesting the Commission to review this position.

Other parts of this document have been redacted to protect commercial interests, in accordance with the Articles 4(2), first indent, of the Regulation 1049/2001. Actually, the redacted parts contain commercially sensitive business information of the company Audible Magic that was submitted during the mission of the Commission, whose disclosure would undermine the protection of Audible Magic's commercial interests.

The exception laid down in Articles 4(2) of Regulation 1049/2001 applies, unless there is an overriding public interest in disclosure of the documents. I have examined whether there could be an overriding public interest in disclosure, but I have not been able to identify such an interest.

#### **Document n° 9: Non-disclosure (Annex III)**

Document n° 9 originates from the company Audible Magic which has objected to its disclosure. The company deems its disclosure would undermine the protection of its commercial interests.

Following an examination of the document and taking into account the consultation of Audible Magic, I regret to inform you that your application cannot be granted, as disclosure is indeed prevented by an exception to the right of access laid down in Article 4 of Regulation 1049/2001.

This document contains information representing commercial interests, which are protected against disclosure under the first indent of Article 4(2) of Regulation 1049/2001.

I have considered whether partial access could be granted to the document requested and I have arrived at the conclusion that this is not possible, since the invoked above exception covers the document in its entirety.

The exception laid down in Articles 4(2) of Regulation 1049/2001 applies, unless there is an overriding public interest in disclosure of the documents. I have examined whether there could be an overriding public interest in disclosure, but I have not been able to identify such an interest.

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In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review the above positions.

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 Brussels

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Roberto Viola', is positioned above the printed name.

Roberto Viola

Contact: [CNECT-I2@ec.europa.eu](mailto:CNECT-I2@ec.europa.eu)