



EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Director-General

Brussels,  
CONNECT/I2/

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



***Advance copy by email:***



Subject: Your application for access to documents – Ref GestDem No 2016/5265

Dear [REDACTED],

I refer to the e-mail dated 19/09/2016, registered on XX/09/2016 under the above mentioned reference number, whereby [REDACTED] made, on your behalf, a request for access to "all Commission documents which include documents which include a legal opinion on the drafting of Title IV, chapter 2 in particular on article 13, and recitals 37, 38, 39 and 40 of the Commission's proposal for a directive on copyright in the digital single market (COM(2016) 593 final - 2016/0280)".

As you know, the Commission is responsible for the drawing up of legislative proposals. .

Any draft legislative proposal prepared by a Directorate General ('DG') is subject to internal consultations of other relevant DGs, which may result in comments of a legal nature by those consulted. In addition, in the context of the preparation of the proposal, legal opinions may be delivered by the Legal Service of the Commission. ~~is consulted and may issue opinions on the draft proposal. Request of access to the latter are dealt with directly by the Legal Service.~~

~~Following your specific request, As a result, you will find attached in Annex a list of documents that DG CNECT has we have identified as Commission documents of a legal nature containing containing a legal-an opinion on the draft proposal. Your request has also been sent in parallel to the Legal Service for the reasons explained above, which will reply separately. As you will see, these documents are internal to the Commission.~~

Based on Article 4 (3) ~~of Regulation n°1049/2001 of the European Parliament and of the Council, I consider that giving access to some of these the documents listed in Annex would undermine the protection of legal advice (article 4(2)) and that access to all these~~

~~documents would~~ seriously undermine the Commission's decision making process in the context of the future negotiation of the legislative proposal in the European Parliament and the Council (~~article 4(3)~~)

These documents contain or refer to issues which may result in the adoption of a legislative instrument and it is essential to preserve both the right of initiative of the Commission and the right of the legislator to make amendments to the Commission's proposal.

While I have considered whether partial access could be granted to these documents, it was concluded that this was not possible as the documents are covered by Article 4 in their entirety.

The exceptions laid down in Article ~~4(2) and~~ 4(3) of Regulation 1049/2001 ~~applies~~ unless there is an overriding public interest in the disclosure of the documents. Having considered this, I have concluded that the public interest in making the content of the documents public does not outweigh the harm that their disclosure would cause to the interests protected by the invoked exception. The Commission will remain open to any discussions with the Members of the European Parliament and the Council and provide the clarifications needed on the legal aspects of the draft proposal.

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 5/327

B-1049 Bruxelles

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

Yours faithfully,

Roberto Viola

Contact: [CNECT-I2@ec.europa.eu](mailto:CNECT-I2@ec.europa.eu) - +32 229-58842

## **Annex:**

### List of documents:

~~1. Note from the Director General of the Legal Service to the Head of Cabinet of the Vice President Ansip~~

~~2.~~ Fast-track consultation ISC/2016/04250 on the second set of copyright modernisation measures.

- [Summary record document](#)

~~Contribution from the Legal Service~~

- Contribution from DG EAC

- Contribution from DG GROW

-Contribution from DG JUST