



EUROPEAN COMMISSION

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C(2018) 3996 final

Ms Julia REDA
Member of the European Parliament

European Parliament
Altiero Spinelli Building 05F158
60, rue Wiertz
1047 Brussels

**DECISION OF THE EUROPEAN COMMISSION PURSUANT TO ARTICLE 4 OF THE
IMPLEMENTING RULES TO REGULATION (EC) No 1049/2001¹**

**Subject: Your confirmatory application for access to documents under Regulation
(EC) No 1049/2001 - GESTDEM 2018/1912**

Dear Ms Reda,

I am writing in reference to your email of 25 May 2018, registered on 31 May 2018, by which you lodge a confirmatory application in accordance with Article 7(2) of Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents² (hereafter ‘Regulation 1049/2001’).

1. SCOPE OF YOUR APPLICATION

In your initial application of 4 April 2018, addressed to the Directorate-General for Competition and registered under reference number GESTDEM 2018/1912, you requested access to:

- ‘all copyright related information sent from or to the DG COMP email account referenced in the “From” line of the 2018 email in Ares(2018)1186485’;

[and]

- ‘all copyright-related information sent from or to the DG COMP email account referenced in the “To” line of the 2018 email in Ares(2018)1186485’.

¹ Official Journal L 345, 29.12.2001, p. 94.

² Official Journal L 145, 31.05.2001, p. 43.

Document Ares(2018)1186485, to which you refer in your application, contains a transmission email of 15 February 2018, by which an earlier email dated 28 June 2016 from a staff member of the Joint Research Centre to several staff members of the European Commission was sent and received by one and the same email account held by an official of the Directorate-General for Competition. This email has been partially disclosed in the context of confirmatory decision C(2018)2107 final of 3 April 2018, adopted in reply to your previous confirmatory applications with reference numbers GESTDEM 2017/7583, 7585 and 7593.³

In its initial reply dated 25 May 2018⁴, the Directorate-General for Competition pointed out that ‘the only email’ [concerning the above-mentioned email from the Joint Research Centre of 28 June 2016] ‘or concerning copyright or neighbouring rights for press publishers’ was the above-mentioned transmission email registered under reference Ares(2018)1186485. It concluded that there was ‘no other relevant email to or from the account of that official’.

Through your confirmatory application of 25 May 2018, you request access to the ‘[c]ommunication between two DG COMP officials concerning copyright’.

In view of the link with your previous confirmatory applications mentioned above, I understand your current request to imply that you would like the European Commission to verify whether it holds any further documents in the context of document Ares(2018)1186485, i.e. further messages on copyright or neighbouring rights for press publishers sent or received by the email-account referred to in that document, which qualify as documents held by the European Commission in the sense of Article 2(3) of Regulation 1049/2001.

When assessing a confirmatory application for access to documents submitted pursuant to Regulation 1049/2001, the Secretariat-General conducts a fresh review of the reply given by the Directorate-General concerned at the initial stage.

Against this background, the European Commission has carried out a renewed, thorough search for documents that would fall within the scope of your confirmatory application as described above.

Following this renewed search, I confirm that the European Commission does not hold any further documents in this sense.

Indeed, 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 the European Commission does not hold any such documents corresponding to the description given in your application, it is not in a position to handle your request.

³ These applications related to documents ‘concerning copyright or neighbouring rights for press publishers’.

⁴ On 25 April 2018, the Directorate-General for Competition had sent you a request for clarification to which you replied on 26 April 2018 by maintaining your initial application.

Finally, I draw your attention to the means of redress available against this decision. You may either bring proceedings before the General Court or file a complaint with the European Ombudsman under the conditions specified respectively in 263 and 228 of the Treaty on the Functioning of the European Union.

Yours sincerely,

For the European Commission
Martin SELMAYR
Secretary-General

