



## EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Resources and Support  
**Compliance and Planning**  
Head of Unit

Brussels,  
CONNECT/R4

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*Advance copy via email:*

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### **REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT**

**Subject: Your application for access to documents- Ref GestDem 2019/0499**

Dear Ms. Cann,

We refer to your letter dated 28/01/2019 in which you make a request for access to documents pursuant to 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 ('Regulation 1049/2001'), registered under the above-mentioned reference number. We also refer to our email dated 14/02/2019, our reference Ares(2019)89770, whereby we informed you that the time limit for handling your application was extended by 15 working days pursuant to Article 7(3) of Regulation 1049/2001.

In your application addressed to DG CONNECT, you requested: *“all minutes of meetings held with Audible Magic in July 2016.”*

#### **1. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST**

We have identified the following documents:

- 1) Email exchanges between Audible Magic and Cabinet Ansip, June 13-16 2016 (Ref. Ares(2019)1523674)
- 2) Steering briefing, Meeting with Audible Magic of 12 July 2016 (Ref. Ares(2019)1523647)

## 2. ASSESSMENT UNDER REGULATION 1049/2001

Having examined these documents under the provisions of Regulation 1049/2001, we have arrived at the conclusion that **partial access** can be granted, since an exception under Article 4 of the Regulation applies.

Parts of the identified documents contain personal data, in particular names, email addresses and other details of the Commission staff or external individuals.

Pursuant to Article 4(1)(b) Regulation No 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 European Union legislation regarding the protection of personal data.

The applicable legislation in this field is Regulation (EC) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC ('Regulation 2018/1725').

Indeed, Article 3(1) of Regulation 2018/1725 provides that personal data 'means any information relating to an identified or identifiable natural person [...]'. The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data.

In its judgment in Case C-28/08 P (Bavarian Lager), the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable.

Pursuant to Article 9(1)(b) of Regulation 2018/1725, personal data shall only be transmitted if '[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests'.

Only if these conditions are fulfilled and the processing constitutes lawful processing in accordance with the requirements of Article 5 of Regulation 2018/1725, can the transmission of personal data occur.

We consider that, with the information available, access cannot be granted to the personal data, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in the document, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy.

You may reuse the briefing free of charge for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the document. Please note that the Commission does not assume liability stemming from the reuse.

With regard to the emails received by the Commission from Audible Magic, please note that they are disclosed for information only. They do not reflect the position of the Commission and cannot be quoted as such.

### **3. CONFIRMATORY APPLICATION**

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, Document Management & Access to Documents (SG.C.1)  
BERL 7/076  
B-1049 Bruxelles

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

Yours sincerely,

(e-Signed)  
Katleen Engelbosch