



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Health systems, medical products and innovation  
**Cross-border health care and tobacco control**

Brussels  
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***Mr HOEDEMANN Olivier***  
***Corporate Europe Observatory***  
***Rue d'Edimbourg 26***  
***1050 Brussels***  
***Belgium***  
***By email only to:***  
***ask+request-7509-2ef07215@asktheeu.org***

**Subject:           Your application for access to documents – Ref GestDem No 2019/7290**

Dear Mr Hoedeman,

We refer to your e-mail dated 13 December 2019 in which you make a request for access to documents, registered on 17 December 2019 under the above-mentioned reference number.

On the basis of Regulation (EC) No 1049/2001, you requested access to the following:

‘- all reports (and other notes) from meetings between the European Commission and representatives of the tobacco industry (producers, distributors, importers etc, as well as organisations and individuals that are funded by and/or work to further the interests of the tobacco industry), during 2019.

- all correspondence (including emails) between the European Commission and representatives of the tobacco industry (producers, distributors, importers etc. as well as organisations and individuals that are funded by and/or work to further the interests of the tobacco industry), during 2019

- a list of all the above-mentioned documents (including dates, names of participants/senders/recipients and their affiliation, subject of meeting/correspondence).’

Your application concerns a very large number of documents, which need to be assessed individually. Such a detailed analysis, together with the need to consult the third parties concerned in accordance with Article 4(4) of Regulation (EC) No 1049/2001, cannot be

expected to be completed within the normal time limits set out in Article 7 of Regulation (EC) No 1049/2001.

However, the Regulation also provides for a possibility to confer with applicants in order to find a fair solution when an application relates to a very long document or concerns a very large number of documents. Article 6(3) provides that in the event of an application relating to a very long document or to very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution.

In accordance with the case law of the EU Courts, such a solution can only concern the content or the number of documents applied for, not the deadline for replying.<sup>1</sup> This means that the scope of the request must be reduced in a way that would enable its treatment within the extended deadline of 15 + 15 working days.

Based on the above-mentioned provision, we would kindly ask you to specify the objective of your request and your specific interest in the documents requested<sup>2</sup>, and whether you could narrow down the scope of your request (i.e. the subject matter(s) and/or timeframe covered), so as to reduce it to a more manageable amount of documents.

At this stage, we would like to suggest you to consider narrowing down in particular the material scope of your request by, for example, referring specifically to some companies involved in the manufacture and distribution of tobacco products which you would be more interested. Given your principal interest in tobacco lobbying, we would suggest that you consider focusing your request on the four big international tobacco companies: PMI, JTI, BAT and Imperial Brands.

In order to help you to narrow down your request, please note that the following categories of documents have been identified as falling under the scope of your request:

- reports and summary records from meetings and events to which stakeholders took part;
- documents and correspondence related to data storage contracts;
- Commission decisions relating to the approval of certain data storage providers.

According to our first estimates, taking into account other applications for access to documents and other tasks that the staff concerned are likely to have to deal with during the same period, the handling of your request would take 43 working days, broken down as follows:

- identification of the documents falling under your request: 8 working days;
- retrieval and establishment of a complete list of the documents identified: 4 working days;
- scanning of the documents: 2 working days;
- assessment of the content of the documents in light of the exceptions of Article 4 of Regulation (EC) No 1049/2001: 5 working days;
- third-party/Member State consultations under Article 4(4) and/or 4(5) of Regulation (EC) No 1049/2001: 8 working days;

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<sup>1</sup> Judgment of the Court of Justice of 2 October 2014 in case C-127/13, *Guido Strack v Commission*, paragraphs 26-28.

<sup>2</sup> Ibid, paragraph 28; Judgment of the General Court (then 'Court of First Instance') of 22 May 2012 in case T-344/08, *EnBW Energie Baden-Württemberg v Commission*, paragraph 105.

- final assessment of the documents in light of the comments received: 4 working days;
- drafting of the reply: 1 working days;
- redaction of those parts of the documents to which one or several exceptions apply(ies): 5 working days;
- internal approval of the draft decision on your request: 5 working days;
- preparation of the reply and the documents for dispatch (scanning of the redacted versions, administrative treatment,...): 1 working days.

It follows that, according to our first estimates, a maximum of 50 documents could possibly be dealt with within the extended deadline of 30 working days counting from the date of registration of your application on 17 December 2019.

In order to enable us to respect the time-limits of Regulation (EC) No 1049/2001, we would ask you for a swift reply to our invitation to propose a fair solution, within five working days at the latest:

- by email to: [sante-b2-Tobacco-Control@ec.europa.eu](mailto:sante-b2-Tobacco-Control@ec.europa.eu)

If you have any questions concerning the invitation, you can contact us at the same address.

In the absence of a reply within five working days, we will unilaterally restrict the scope of your application to those parts that can be dealt with within the extended deadline of 30 working days, counting from the registration of your application on 17 December 2019.

Thank you in advance for your understanding.

Yours sincerely,

(e-signed)

Thea EMMERLING  
Head of Unit