



EUROPEAN COMMISSION  
SECRETARIAT-GENERAL

Directorate E - Single Market & Connectivity  
SG.E.1-Competitiveness, Innovation & Digital Europe

Ref. Ares(2020)1335408 - 03/03/2020

Brussels,  
SG.E.1/OG

**Mr. Samuel Stolton**  
**EURACTIV Brussels**  
**International Press Centre**  
**Boulevard Charlemagne 1,**  
**1041 Bruxelles**

*By registered letter with acknowledgment of receipt*

*Advance copy by email: ask+request-7593-f67af05e@asktheeu.org*

Dear Mr Stolton,

**Subject: Your application for access to documents – Ref GestDem No 2020/0414 and No 2020/0415**

We refer to your e-mails dated 21/01/2020 in which you make a request for access to documents, registered on 21/01/2020 under the above-mentioned reference numbers.

You request access to:

- *detailed minutes and participants list of the meeting on 20/01/2020 between Google's Sundar Pichai and Commission Executive Vice-President Vestager*
- *detailed minutes and participants list of the meeting on 20/01/2020 between Google's Sundar Pichai and Commission Executive Vice-President Timmermans*
- *minutes of any meeting held in the month of January 2020 between any officials from Google and any representatives of the European Commission*
- *all correspondence between any Commission officials or representatives and Mr. Pichai or a representative of his, over the past year*
- *detailed minutes and participants list of the meeting on 20/01/2020 between Microsoft's Brad Smith and Commission Vice-President Vestager*
- *detailed minutes and participants list of the meeting on 20/01/2020 between Microsoft's Brad Smith and Commission Vice-President Jourova*
- *detailed minutes and participants list of the meeting on 20/01/2020 between Microsoft's Brad Smith and Commissioner Reynders*
- *minutes of any meeting held in the month of January 2020 between any officials from Microsoft and any representatives of the European Commission*
- *all correspondence between any Commission officials or representatives and Mr. Smith or a representative of his, over the past year*

Please note that due to the wide scope of your request, covering also areas falling under the responsibility of other Directorates-General, parts of your request have been attributed to other Directorates-General<sup>1</sup>. This reply relates only to the documents held by DG GROW, JUST,

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<sup>1</sup> GestDem 2020/0502 and Gestdem 2020/0504 attributed to DG CONNECT.

TAXUD, JRC, and the Cabinets of Executive Vice-President Vestager, Executive Vice-President Timmermans, Vice-President Jourova and Commissioner Reynders, not those held by DG CONNECT.

Pursuant your application we have identified the following documents:

1. Ares(2020)744442 Meeting with Google on Google Cloud, April 2019
2. Ares(2020)240492 Meeting request Google and GROW B1
3. Ares(2020)557784 Meeting request Google and GROW F2
4. Ares(2020)377448 BTO of meeting between DG GROW and Google on 17.01.20
5. Ares(2020)936656 Email from Google 14.01.20
6. Ares(2020)936848 Email from Google 23.09.19
7. Ares(2020)937049 Email from Google 06.01.20
8. Ares(2020)937186 Email from Google 11.10.19
9. Ares(2020)1108509 Meeting request Commissioner Reynders - Google
10. Ares(2019)6915104 Email thread meeting Google 20.01.2020
11. Ares(2019)5291852 Email thread phone call Google
12. Ares(2020)3201 Meeting request Google 20.01.20
13. Ares(2019)7652360 Reply to meeting request Google VDL
14. Ares(2019)5907631 Invitation from Microsoft to GROW, October 2019
15. Ares(2019)5634293 Reply to meeting request Microsoft VDL
16. Ares(2020)551846 Minutes of meeting Commissioner Reynders and Microsoft 20.01.20
17. Ares(2019)7792601 Request meeting Commissioner Reynders and Microsoft 17.12.19
18. Ares(2020)936480 Email from Microsoft 21.01.20
19. Ares(2019)7532667 Letter from Microsoft 06.12.19
20. Ares(2020)243371 Reply to email and letter from Microsoft 20.01.20
21. Ares(2020)1093941 Minutes of meeting between Microsoft and EVP Vestager
22. Ares(2020)575387 Reply to requesting meeting on 20/01/2020 with Commissioner Jourova and Microsoft

With reference to “*detailed minutes and participants list of the meeting on 20/01/2020 between Google's Sundar Pichai and Commission Executive Vice-President Timmermans*”, “*detailed minutes and participants list of the meeting on 20/01/2020 between Microsoft's Brad Smith and Commission Vice-President Jourova*” and “*minutes of any meeting held in the month of January 2020 between any officials from Microsoft and any representatives of the European Commission*”, we regret to inform you that no such documents exist.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001, I have come to the conclusion that the documents listed above may be partially disclosed. Some parts of the documents have been blanked out as their disclosure is prevented by exception to the right of access laid down in Article 4 of this Regulation.

Pursuant to Article 4(2) of Regulation (EC) No 1049/2001 regarding public access to documents, access to a document has to be refused if its disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property.

With reference to “*detailed minutes and participants list of the meeting on 20/01/2020 between Google's Sundar Pichai and Commission Executive Vice-President Vestager*”, we regret to inform you that this document cannot be disclosed as it contains commercially sensitive business information of the company that submitted it, pursuant to Article 4(2) of Regulation (EC) No 1049/.

Pursuant to Article 4(1)(b) of Regulation (EC) 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 (EU) 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<sup>2</sup> ('Regulation 2018/1725').

The documents to which you request access contains personal data, in particular email addresses and phone numbers.

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.<sup>3</sup>

Please note in this respect that the names, signatures, functions, telephone numbers and/or initials pertaining to staff members of an institution are to be considered personal data.<sup>4</sup>

In its judgment in Case C-28/08 P (*Bavarian Lager*)<sup>5</sup>, 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<sup>6</sup>

Pursuant to Article 9(1)(b) of Regulation 2018/1725, 'personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies 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.

According to Article 9(1)(b) of Regulation 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted for a specific purpose in the public interest. It is only in this case that the European Commission has to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced and, in the affirmative, establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

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<sup>2</sup> Official Journal L 205 of 21.11.2018, p. 39.

<sup>3</sup> Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, *Peter Nowak v Data Protection Commissioner*, request for a preliminary ruling, paragraphs 33-35, [ECLI:EU:C:2017:994](#).

<sup>4</sup> Judgment of the General Court of 19 September 2018 in case T-39/17, *Port de Brest v Commission*, paragraphs 43-44, [ECLI:EU:T:2018:560](#).

<sup>5</sup> Judgment of 29 June 2010 in Case C-28/08 P, *European Commission v The Bavarian Lager Co. Ltd*, [EU:C:2010:378](#), paragraph 59.

<sup>6</sup> Whereas this judgment specifically related to 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, the principles set out therein are also applicable under the new data protection regime established by Regulation 2018/1725.

In your request, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subject's legitimate interests might be prejudiced.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, 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 is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

In case you would disagree with the assessment that the redacted data are personal data which can only be disclosed if such disclosure is legitimate under the applicable rules on the protection of personal data, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, to submit 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 Secretariat-General of the Commission at the following address:

European Commission  
Secretariat-General  
Unit C.1. 'Transparency, Document Management and Access to Documents'  
BERL 7/076  
B-1049 Bruxelles, or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,



Olivier GIRARD  
Head of Unit