



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR INTERNAL MARKET, INDUSTRY, ENTREPRENEURSHIP
AND SMES

The Director-General

Brussels
GROW.B.1/PW

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Subject: Your application for access to documents – GESTDEM 2022/0103

Dear Madam,

We refer to your e-mail of 5 January 2022 in which you make a request for access to documents, registered on 7 January 2022 under the above-mentioned reference number.

1. Scope of your request

You request access to “*All documentation (including but not limited to all email correspondence, attendance lists, agendas, background papers, transcripts and recordings) and the meeting minutes/notes relating to the meeting between Thierry Breton and Business Europe on 9th November 2021*”.

We have identified six documents that fall within the scope of your request and presented in the enclosed table.

2. Non-disclosure of documents 5 and 6 under Regulation (EC) No 1049/2001

Since documents 1, 5 and 6 originate from a third party, we have consulted the originator of these documents. The originator objects granting public access to documents 5 and 6.

Document 5 (list of participants) contains exclusively data falling under the exception of the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001. It contains the following personal data: names/initials, functions of other natural persons, and other information relating to identified or identifiable natural persons.

Document 6 contains data falling under the exception of the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, such as names/initials, functions of other natural persons, and other information relating to identified or identifiable natural persons. In addition, document 6 contains commercially sensitive business information of the company that submitted it. This document concerns the programme of a private event organized by the third party. The disclosure of this

document would reveal non-public organizational matters relating to the third party's internal ways of conducting its business. It would therefore undermine the protection of the commercial interests and intellectual property of a legal person as laid out in Article 4(2) first indent of Regulation (EC) No 1049/2001.

The exceptions laid down in Article 4(2) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the document. We have examined whether there could be an overriding public interest in disclosure, but we have not been able to identify such an interest.

In view of the above, following an examination of documents 5 and 6 under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and taking into account the position of the originator, I regret to inform you that we cannot grant public access to these two documents. Their disclosure is prevented by the exceptions to the right of access laid down in Article 4(1)(b) and Article 4(2) first indent of Regulation (EC) No 1049/2001.

We have also considered whether partial access could be granted to documents 5 and 6. However, it is not possible to grant access to an expunged version of the documents, as the documents are entirely covered by the exception and as their redacted versions would be meaningless or illegible.

3. Partial disclosure of documents 1 to 4 under Regulation (EC) No 1049/2001

A partial disclosure can be granted to the rest of identified documents 1 to 4, as their full disclosure is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials, contact information and functions of Commission staff members not pertaining to the senior management;
- the names/initials, contact details and functions of other natural persons.

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested documents, 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.

Please note that a document originating from a third party is disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released document without the agreement of the originator, who may hold an intellectual property right on it. The European Commission does not assume any responsibility from their reuse.

4. Means of redress

In accordance with Article 7(2) of Regulation (EC) No 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
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Brussels
or by email to: sg-acc-doc@ec.europa.eu

Sincerely yours,

Electronically signed

Kerstin Jorna
Director-General

Enclosures: 5