



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Directorate D - Twin Transition, Economic & Social Affairs
SG.D.1 - Digital Transition, Industry & Single Market

Brussels
SG.D.1/TKV

Luca Bertuzzi
Brussels Network Office -
International Press Centre
Bd Charlemagne 1
1041 Brussels
Belgium

By email: ask+request-10934-4c0025fd@asktheeu.org

Subject: Your applications for access to documents – GESTDEM 2022/1932

Dear Mr Bertuzzi,

We refer to your email of 31 March 2022 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 (hereinafter ‘Regulation 1049/2001’), registered on 4 April 2022 under the above-mentioned reference number. We further refer to our email of 16 May 2022 informing you about the extension of the deadline, our reference Ares(2022)3699639.

By your application, you request access to documents with information from *the office of the President of the European Commission Ursula von der Leyen* and *the office of the Executive Vice-President Margrethe Vestager*.

Therefore, by your applications, you request access to the following:

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents that contain the following information held by the Office of the President of the European Commission Ursula von der Leyen and her cabinet members and of the office of the Executive Vice-President Margrethe Vestager and her cabinet members.

All communications between the office of the President of the European Commission Ursula von der Leyen and her cabinet members and the office of the Executive Vice-President Margrethe Vestager and her cabinet members in the context of the Digital Markets Act (DMA) concerning

** remuneration for digital content OR*

** the role of publishers OR*

**the role of rightsholders OR*

** rules on fairness for the provision of services OR*

** the inclusion of search engines in the context of the DMA (in particular in the context of article 6) OR*

** FRAND provisions OR*

** the relationship of the DMA with the Copyright in the Digital Single Market Directive OR*

** any communication with publishers or their representatives, associations or people acting on their behalf in the context of the DMA OR*

**Article 6.1.kb*

For the avoidance of doubt, the term "information" and "documents" should be understood as broadly as possible and it should definitely include such information and documents that the Commission considers "short-lived" or "unimportant", including letters, correspondence, memos, drafts, meeting notes, records regardless of medium, language or format.

If you hold information in an electronic format, I am asking for an electronic copy of such information in its original data format.

The scope of this request includes but is not limited to any proposals, such as drafting suggestions or table documents for Art 6.1.kb and the relevant recitals in preparation for or during the Digital Markets Act trilogue of 24 March 2022. This request includes third party communications.

I am happy to grant you a reasonable amount of time for the required third party consultations regarding the release of content in possession of the Commission provided by third parties, such as business representatives, lobbyists, outside legal counsel and member states. If permitted by applicable law, I am looking also for the names and affiliations of people who have submitted such information and I am asking for only the minimum amount of redaction of such names if required by law.

The scope of this request includes any comment, email, text message, draft or any other piece of data exchanged between the President of the European Commission Ursula von der Leyen and any cabinet and staff member of her office with Executive Vice-President Margrethe Vestager and any cabinet and staff member of her office. If you - for whatever reason - do not consider it relevant to be included in the EU eDomec or ARES system, it does not lose its property as a document under Regulation 1049/2001.

If you end up considering invoking exceptions such as those concerning ongoing legislative work, I am willing to accept partial delivery of documents and kindly

ask you to indicate the time at which other documents would no longer be covered by such an exception to allow for a speedy re-filing of this request.

A number of documents are currently undergoing third party consultations and cannot yet be disclosed. Apart from those documents, the following documents fall within the scope of your application:

1.1.1. EMMA & ENPA request for a meeting to the President of the European Commission with a high-level delegation of European press public

[...]

1.1.3. Ares(2020)5453482 RE Ares(2020)7522647 EMMA & ENPA request for a meeting

1.2.1. Ares(2020)7522647 European Magazine Media Association (EMMA) and European Newspaper Publishers (ENPA) 2

[...]

1.2.3. Ares(2021)6211416 Minutes meeting Cabinets with EMMA and ENPA - 7 October 2021 Final

[...]

1.3.2. Ares(2022)3961930 - EMMA & ENPA - Paper by Prof. Hoeppe on extending fair and non-discriminatory access (6.1k) 1

1.3.3. Ares(2022)3961930 - EMMA & ENPA - Paper by Prof. Hoeppe on extending fair and non-discriminatory access (6.1k) 2

[...]

1.3.5. Ares(2022)3961902_DMA_Comments on Article 6-1-k_Fair und Non-Discriminatory Access_Thomas Höppner_V2 1

1.4.1. Ares(2022)644288 BDZV-VDZ-Schreiben an Frau Präsidentin von der Leyen

[...]

1.4.3. Ares(2022)644288 22 01 20 DMA_Comments on Article 6-1-k_Fair and Non-Discriminatory Access.pdf

1.4.4. Ares(2022)644288 (Annex I_Why Taming Gatekeeper_s Intermediation

[...]

2.1.1. European Magazine Media Association (EMMA) and European Newspaper Publishers (ENPA) letter on upcoming Digital Market Act (DMA) proposal - Ares(2020)7522647 (addressed to VDL, CC to MV)

[...]

- 2.1.5. *Meeting request for CC and WS on copyright and the DMA from EMMA and ENPA with positive answer (meeting on 22/03/2021) - Ares(2021)2050378*
- 2.1.6. *EMMA and ENPA meeting request on the Digital Markets Act (DMA)/Digital Services Act (DSA) - accepted at Cab level (on 07/10/2021) - Ares(2021)5782185*
- 2.2.1. *ACT request for meeting on 25/11/2021 + positions on DSA/DMA - Ares(2021)3542896*
- 2.2.2. *270521 ACT - DMA - Position Paper - FINAL*
- 2.2.3. *210510 ACT - ACT Position Paper - DSA - FINAL*
- 2.2.4. *210525-Digital-Markets-Act-Joint-Statement-by-European-Media-Association*
- 2.2.5. *[Re] ACT request for meeting on 25/11/2021 + positions on DSA/DMA - Ares(2021)4412398*
- 2.2.6. *RE_ ACT leadership meeting with EVP Vestager – 29 November 2021- Ares(2021)6438878*
- 2.2.7. *Ares(2022)715254_Meeting between CAB Vestager and DG COMP and ACT leadership - Ares(2022)715254*
- 2.3.1. *RE DG EBU - Meeting with Margrethe Vestager and EBU Ares(2020)1480145*
- 2.3.2. *[Re] Meeting request on behalf of Noel Curran, director general of EBU - Ares(2020)1750026*
- 2.3.3. *EVP3/2020/154 - Briefing - EVP Vestager - HoC - Phone call with the European Broadcasting Union (EBU) - Ares(2020)3520118*
- [...]*
- 2.4.1. *ICPM_Article 17, DSM Directive_Draft Guidance to MS_DSA & DMA proposals - Ares(2021)2055799*
- 2.4.2. *Ares(2021)2705162_Meeting with the International Confederation of Music Publishers - Ares(2021)2705162*
- [...]*
- 2.5.2. *Meeting request addressed by MPA to exchange views about digital agenda - Ares(2020)581571*
- 2.5.3. *sg.dsg2.e.1 2020 1252063_Meeting between MPA and CAB Vestager - [sg.dsg2.e.1\(2020\)1252063](#)*
- 2.6.1. *CCI delegation - request for a meeting (GESAC) for WS with positive answer - Ares(2021)891836*

2.6.2. Minutes of meeting with delegation from cultural and creative industries_15.02.21 - Ares(2021)1322672

2.7.1. RE EIBF letter to EVP Vestager - DMA appointment request - Ares(2020)7753264

[...]

2.7.3. FW EIBF letter to EVP Vestager - DMA appointment request [COMP]

2.7.4. Note of phone call with the European & International Booksellers Federation (EIBF) on 09/02/2021

3.1.1. Flash report_Fourth and final trilogue on the Digital Markets Act, Brussels 24 March 2022

With regard to the documents identified, a complete 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 and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other institutions or natural persons.

Article 9(1)(b) of the Data Protection Regulation (Regulation 2018/1725) 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 neither express any particular interest to have access to these personal data, nor put forward arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Documents 1.2.3, 2.2.7., 2.3.3., 2.4.2., 2.5.3., 2.6.2., 2.7.4., and 3.1.1. were drawn up for internal use under the responsibility of the relevant services of the European Commission. It solely reflects the author's interpretation of the interventions made and does not set out any official position of the third parties to which the documents refers, which were not consulted on its content. It does not reflect the position of the Commission and cannot be quoted as such.

Please note that document 2.2.2., 2.2.3., and 2.2.4. originating from third parties are 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.

Please note that document 1.3.2, 1.3.3., 1.3.5., 1.4.3., and 1.4.4. are studies carried out by external experts. They do not reflect the position of the Commission and cannot be quoted as such.

In case you would disagree with this position, 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:

Yours faithfully,

Elisa Roller
Director

Enclosure: disclosed documents