Subject: Your application for access to documents – Ref GestDem No 2022/2844

Dear Mr Fanta,

We refer to your e-mail of 18/05/2022 (and clarification email dated on the same day) in which you make requests for access to documents, registered on 18/05/2022 under the above-mentioned reference number.

You request access to the following documents:

- All documents relating to meetings between cabinet members of Didier Reynders and TikTok on 29/03/2022. This includes meeting minutes, e-mails and any other communication related to said meeting.

- All documents relating to a meeting between a cabinet member of Didier Reynders and TikTok on 20/09/2021. This includes meeting minutes, e-mails and any other communication related to said meeting.

- All documents relating to a meeting between cabinet members of Vera Jourova and TikTok on 07/06/2021. This includes meeting minutes, e-mails and any other communication related to said meeting.

- All documents relating to a video meetings between Vera Jourova and TikTok on 20/04/2021 and on 22/02/2021. This includes meeting minutes, e-mails and any other communication related to said meeting.

- All documents relating to a meeting between cabinet members of Vera Jourova and TikTok on 16/12/2020. This includes meeting minutes, e-mails and any other communication related to said meeting.
- All documents relating to a meeting between cabinet members of Vera Jourova and TikTok on 06/11/2020. This includes meeting minutes, e-mails and any other communication related to said meeting.

- All documents relating to a meeting between Didier Reynders, cabinet members and TikTok on 07/09/2020. This includes meeting minutes, e-mails and any other communication related to said meeting.

- Other documents related to TikTok or originating from exchanges (e-mails, etc.) with TikTok since November 1, 2019

I consider your request to cover documents held up to the date of your initial application, i.e. 18/05/2022.

Please note that due to the wide scope of your request, covering also areas falling under the responsibility of other services, parts of your request have been attributed to the Secretariat-General (GESTDEM 2022/2845). This reply relates only to the documents held by Directorate-General for Justice and Consumers (in bold). You received the reply from the Secretariat-General on 14/06/2022.

Your application concerns the following documents:

<table>
<thead>
<tr>
<th>Doc No</th>
<th>DOCUMENT TITLE</th>
<th>REFERENCE</th>
<th>ASSESSMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Briefing for the meeting Cssr Reynders and TikTok on 07/09/2020.</td>
<td>BASIS 360</td>
<td>Partial access and personal data redacted</td>
</tr>
<tr>
<td>3.</td>
<td>Briefing for the meeting CAB Reynders and TikTok on 20/09/2021.</td>
<td>BASIS 938</td>
<td>Partial access and personal data redacted</td>
</tr>
<tr>
<td>5.</td>
<td>TikTok meeting invitation on 29/09/2021.</td>
<td>Ares(2021)5070329</td>
<td>Personal data redacted</td>
</tr>
<tr>
<td>6.</td>
<td>Briefing for the meeting CAB Reynders and TikTok on 29/03/2022.</td>
<td>BASIS 1261</td>
<td>Partial access and personal data redacted</td>
</tr>
<tr>
<td>7.</td>
<td>TikTok meeting invitation on 29/03/2022.</td>
<td>Ares(2022)1339730</td>
<td>Personal data redacted</td>
</tr>
<tr>
<td>8.</td>
<td>Flash report on meeting CAB Reynders and TikTok on 29/03/2022.</td>
<td>Ares(2022)4871971</td>
<td>Disclosure prevented by the third party</td>
</tr>
<tr>
<td>9.</td>
<td>Flash report on the meeting CAB Reynders and IT Companies on 24/06/2021.</td>
<td>Ares(2022)3074597</td>
<td>Partial access and personal data redacted</td>
</tr>
</tbody>
</table>
Exemptions

Having examined all the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we regret to inform you that your application cannot be granted fully, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

With regard to documents 1-7, 9-13, 16, and 17 listed above, 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, contact details and wet signatures 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 put forward 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 some of the requested documents.

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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.

With regard to documents 1, 3, 6, 9, and 10 listed above, I regret to inform you that your application cannot be fully granted, as disclosure is prevented by the exception to the right of access laid down in Article 4(3) of this Regulation. These documents were drafted for internal use as part of reflections, deliberations, and consultations and the full disclosure of such documents would seriously undermine the Commission’s decision-making process.

Under Article 4(3) of the Regulation 1049/2001 “Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure. Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure”. The documents you have requested are related to the recent dialogues of the European Commission and the network of national consumer protection (CPC) authorities with TikTok². Disclosure of these documents would reveal views, policy options and negotiation positions which are currently under consideration; the Commission’s services must be free from external pressure to explore all possible options in preparation of a decision. Therefore, the exception laid down in Article 4(3) of Regulation (EC) No 1049/2001 applies to these documents and they cannot be released fully.

With regard to document 8 listed above, since the document quotes or reflects third party statements (TikTok), the third party has been consulted. Following an examination of the mentioned Flash report under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and taking into account the opinion of the third party, I regret to inform you that your application cannot be granted, as disclosure is prevented by the exception to the right of access laid down in the first indent of Article 4(2) of this Regulation.

TikTok has objected to disclosure of the document and has motivated its position as follows:

*The disclosure of the document which you seek to obtain would undermine the protection of TikTok’s commercial interests arising from the fact that the report contains sensitive commercial information that is not in the public domain.*

We have considered whether partial access could be granted to this document. But it is entirely covered by the exception.

These exceptions apply unless there is an overriding public interest in disclosure of the documents. We have examined whether there could be an overriding public interest in disclosure, but I have not been able to identify such an interest.

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² Information about these dialogues can be found under the following link: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_3823
Out of scope

With regard to documents 4, 11, 14, and 15 listed above, a complete disclosure of the identified document is prevented by the fact that certain sections are out of the scope of your request.

Please note that the documents drawn up for internal use under the responsibility of Directorate-General Justice and Consumers and of the Cabinet of Commissioner Reynders solely reflect the services’/author’s interpretation of the interventions made and do not set out any official position of the third parties to which the documents refer. They do not reflect the position of the Commission and cannot be quoted as such.

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 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

This reply is sent to you via email only and we would appreciate if you could confirm receipt of the present e-mail by replying to JUST-ACCES-DOCUMENTS@ec.europa.eu.

Yours faithfully,

Ana GALLEGO

(e-signed)