



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Food and feed safety, innovation
Food information and composition

Brussels,
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Manuel Abele
Public Eye,
Dienerstrasse 12,
8021 Zürich,
Switzerland

By email only:
[ask+request-11632-
18bf8a62@asktheeu.org](mailto:ask+request-11632-18bf8a62@asktheeu.org)

Dear Mr Abele,

Subject: Your application for access to documents – Ref GestDem 2022/4233

We refer to your email dated 20 July 2022 in which you make a request for access to documents, registered on 22 July 2022 under the above-mentioned reference number.

1. Scope of your request

In your application, you requested on the basis of Regulation (EC) No 1049/2001¹ access to:

‘- any documents (including emails, briefings, reports, as well as attachments) received from (or sent to) representatives of Nestlé since May 2020 that concern or make mention of the commitments in the Farm to Fork Strategy that the EU will 1) “propose harmonised mandatory front-of-pack nutrition labelling” or 2) “seek opportunities to facilitate the shift to healthier diets and stimulate product reformulation, including by setting up nutrient profiles to restrict the promotion (via nutrition or health claims) of foods high in fat, sugars and salt.”;

- a list of meetings held (and minutes of those meetings when available) with representatives of Nestlé since May 2020 at which there was any discussion of the commitments in the Farm to Fork Strategy that the EU will 1) “propose harmonised mandatory front-of-pack nutrition labelling” or 2) “seek opportunities to facilitate the shift to healthier diets and stimulate product reformulation, including by setting up nutrient profiles to restrict the promotion (via nutrition or health claims) of foods high in fat, sugars and salt.”

2. Identification and assessment of relevant documents

We have identified 11 documents that fall within the scope of your request.

You will find attached a table listing the identified documents and summarising the outcome of the assessment carried out on the basis of Regulation (EC) No 1049/2001.

Since 8 documents originate from a third party, in accordance with Art. 4(4) of Regulation (EC) No 1049/2001, the originators of the documents have been consulted in order to assess whether an exception established in Article 4 applies to these documents.

Having examined all the documents under the provisions of Regulation (EC) No 1049/2001 and considered the opinion of third parties, we have come to the following conclusion, which is further explained below:

- Documents No 6 and 7 are already publicly available and the links are provided in the table.
- Full access can be granted to documents No 1.1, 1.2, 2.1 and 3.1.
- Partial access can be granted to documents No 1, 2, 3, 4 and 5 as their full disclosure is prevented by an exception to the right of access laid down in Article 4 of the Regulation);

We enclose a copy of the documents No 1.1; 1.2; 2.1 and 3.1.

We enclose a copy of the documents No 1, 2, 3, 4 and 5 redacted of the parts which cannot be disclosed, as further explained below.

Please note that documents 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 documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

The minutes or summary records of a meeting with external parties were drawn up for internal use under the responsibility of the relevant services of the Directorate-General for Health and Food Safety. These solely reflect the services' interpretation of the interventions made and do not set out any official position of the third parties to which the document refer, which were not consulted on their content. They do not reflect the position of the Commission and cannot be quoted as such.

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf based on the [Commission Decision on the reuse of Commission documents](#). You may reuse the documents disclosed free of charge and for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

3. Reason for partial refusal

Protection of the privacy and integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data - Article 4(1)(b) of Regulation (EC) No 1049/2001

With regard to the documents listed under points from No 1; 2; 3; 4 and 5 of the Annex, 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 and contact details of natural persons;
- other information pertaining to an identified or identifiable natural person, such as titles and functions.

In your application, you indicate that your address is in Switzerland. Transfers of personal data from the Commission to countries that are not members of the European Economic Area (EEA), or to international organisations are regulated under Chapter V of the Data Protection Regulation².

According to Article 47(1) of this Regulation, a transfer of personal data to a third country or an international organisation may take place where the Commission has decided that the third country, a territory or one or more specified sectors within that country, or the international organisation in question ensures an adequate level of protection and where the personal data are transferred solely to allow tasks within the competence of the controller to be carried out.

Based on the information available, the country of your residence is recognised by the Commission as ensuring an adequate level of protection. However, we would further like to inform you that Article 9(1)(b) of the Data Protection Regulation (EU) 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 not express any particular interest to have access to these personal data nor do you put forward any argument to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, we 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.

² 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, OJ L 295, 21.11.2018, p. 39.

Therefore, we are disclosing the documents listed expunged from this personal data.

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
Secretary-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

Yours sincerely,

[e-signed]
Sabine PELSSER
Head of Unit

Enclosures: List with the assessment and 9 partially or fully disclosed documents