Subject: Your application for access to documents – GestDem 2022/5204

Dear Sir,


We apologize for the delay in our reply.

1. SCOPE OF YOUR APPLICATION

Your application reads as follows:

`Dear Internal Market, Industry, Entrepreneurship and SMEs,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents on the internal deliberations within the Commission in 1996 and 1997 on the draft 'Media Ownership Directive'. This is meant to include documents from rounds of consultations with the member states, consultations within the Commission including legal opinions, studies and...`
letters/faxes between members of the Commission and their cabinets, as well as submissions from stakeholders on the draft Directive.’’

In this regard reference is made to our email dated 9 November 2022, our reference Ares(2022)7735893 wherein we informed you that your request was re-attributed to the Directorate-General for Communication Networks, Content and Technology (hereinafter ‘DG CONNECT’).

Given the wide-scope of your request we contacted you on 15 November 2022, our reference, Ares(2022)7884673 and on 19 January 2023, our reference, Ares(2023) 421779, with a view to finding a fair solution based on Article 6(3) of Regulation 1049/2001. In order to help you narrow down the scope of the request, we provided you with the main categories and sub-categories of documents and the approximate number of documents and pages that had been identified at that stage. By your email dated 19 January 2023, our reference Ares(2023)440837, you limited the scope of your request to the following documents:

’’- Reports from meetings with MS/stakeholders
- Notes to the attention of members of the Commission, DGs, etc
- Letters to other members of the Commission, members states, stakeholders
- Letters, position papers, speeches from member states’’

2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST

We have identified the following documents which fall within the scope of your application after having been restricted as set out above:

- Allocution de Madame Catherine Trautmann, Ministre de la Culture et de la Communication, Port-Parole du Gouvernement, MIPCOM Cannes 26 Septembre 1997, ref.Ares(2023)2461927 (‘Document 3’)
- Letter from the Chancellor of the Federal Republic of Germany to President Santer dated 6 June 1997, ref. 83626/09.06.1997 (‘Document 5’)
- Speech by Prof. Dr. Manfred Dammeyer Minister of Federal and European Affairs of the Land of North Rhine -Westphalia at the meeting of the European Newspaper Publishers Association ENPA on ’’European Directive on Media Concentration-Impact on the dual
broadcasting system” given in Muenster on December 9, 1997, Ares(2023)2462392 (‘Document 7’)
-Letter dated 26 November 1996 from the President of the European Commission to the MEP, President of the Commission for Culture, Youth, Education and Media, Mrs Luciana Castellina, ref. SG (96)D/86702/26-11-1996 (‘Document 12’)
- Office Statistique de Communautés Européennes, Note à l’attention de Directeur Général de la DG XV, Proposition de directive relative à la propriété des médias, ref. DG34/D/6130/ 000184/05.03.1997 (‘Document 14’)
-Note à l’attention des membres de la Commission, ref. SEC(97)395/2, O.J. 1330, 07.03.1997 (‘Document 17’)
-Service Juridique, Note à l’attention de Directeur Général de la DG XV, Projet de Proposition de directive relative à la protection du pluralisme dans le contrôle des médias, ref. JUR(96)06184/15.07.1996 (‘Document 18’)
-Note à l’attention de M. Mogg, Proposition de directive relative à la propriété des médias, ref. SG(97)D/165069/13.02.1997 (‘Document 19’)
- Note à l’attention de DG XV, Groupe des Commissaires sur la société de l’information et l’audiovisuel-Projet de directive sur la propriété des médias, ref. SG.C.1/D(97)/165089/21.02.1997 (‘Document 20’)

3. ASSESSMENT UNDER REGULATION 1049/2001

Following an examination of the identified documents under the provisions of Regulation 1049/2001, we have arrived at the conclusion that partial access can be granted to the identified documents, as their disclosure is prevented by the exception to the right of access laid down in Article 4(1)(b) of Regulation 1049/2001 in relation to the protection of privacy and integrity of the individual. Parts of Document 10 have been also redacted as being outside the scope of the request.

Full disclosure of the identified documents is prevented by the exception concerning the protection of privacy and integrity of the individual outlined in Article 4(1)(b) Regulation 1049/2001, since they contain the following personal data:
- Names, functions, initials, handwritten notes and signatures and contact details of Commission staff members not pertaining to the senior management

- Names, initials, functions, contact details and handwritten signatures of other natural persons.

Article 9(1)(b) of the Data Protection Regulation\(^1\) 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) Regulation 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.

4. REUSE OF DOCUMENTS

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 the Commission documents. You may reuse Documents 8-22 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.

Please note that Documents 8-10 were drawn up for internal use under the responsibility of the relevant services of DG CONNECT. They solely reflect the services’ interpretation of the interventions made and do not set out any official position of the third parties to which the documents refer, which were not consulted on their content. They do not reflect the position of the Commission and cannot be quoted as such.

Documents 1-7 originate from third parties. Please note that they 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 originators, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

5. CONFIRMATORY APPLICATION

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed to the Secretariat-General of the Commission within 15 working days upon receipt of this letter. You can submit it in one of the following ways:

by asking for a review via your portal2 account (available only for initial requests submitted via the portal account),

or by mail:

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

Yours faithfully,

Electronically signed

Roberto Viola

Enclosures: (22)