



EUROPEAN COMMISSION
Competition DG
The Director General

Brussels, 15 February 2023
COMP/F1/MS/TVA/dd

Mr Maximilian Henning
Eendrachtskade 12-35
9726 CW Groningen
The Netherlands

Via e-mail:
ask+request-12379-355f2bbc@asktheeu.org

Subject: EASE 2023/0593 - your application for access to documents of 2 January 2023 pursuant to Regulation 1049/2001¹

Dear Mr Henning,

We refer to your request for access to European Commission documents, registered under the above-mentioned reference number.

You request access to *“all minutes, agendas, summaries, notes or memos issued before or after; documents prepared for, issued in preparation for, or exchanged during; as well as all correspondence including attachments by either of the meeting parties related to”* a number of meetings of the members of the Cabinet of EVP Vestager.

Please note that due to the wide scope of your request, covering also areas falling under the responsibility of other Directorates-General, parts of your request have been attributed to the Secretariat-General². This reply relates only to the documents held by Directorate-General for Competition. I understand that you already received the reply from the Secretariat-General.

First, the following two documents, related to the 12.12.2022 meeting between Penelope Papandropoulos and CMA CGM, fall within the scope of your application:

- Ares(2022)8074043 – Meeting request CMA CGM & Hill+Knowlton Strategies on CBER
- Ares(2022)8728295 – Minutes of CAB meeting with CMA-CGM, 12.12.2022

Having examined the above two documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that both documents may be partially disclosed. Some parts of the documents have been blanked out as they contain personal data and their disclosure is prevented by the exception to the right of access laid down in Article 4(1)(b).

¹ Regulation (EC) N° 1049/2001 regarding public access to European Parliament, Council and Commission documents, OJ L145 of 31.5.2001, p. 43

² Case number EASE 2023/0064, attributed to the Secretariat-General

Second, the following two documents, related to the 12.12.2022 meeting between Penelope Papandropoulos and CMA CGM, also fall within the scope of your application:

- The economic study commissioned by CMA-CGM in the context of the evaluation of the Consortia Block Exemption Regulation (CBER)
- The briefing that was prepared by the Directorate-General for Competition (DG COMP) for the meeting between Penelope Papandropoulos and CMA CGM

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

Disclosure of the requested economic study would undermine the protection of the commercial interests of the company that submitted it, as putting this information in the public domain would affect its competitive position on the market. More specifically, the economic study is based on CMA-CGM business data, and its public disclosure would cause direct prejudice to the latter by revealing commercially sensitive information to its competitors. Moreover, the disclosure of the study would breach CMA-CGM intellectual property rights in relation to the study by allowing third parties to use the study without the proper arrangements for the protection of those rights. Therefore, the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies to this document.

Disclosure of the briefing would undermine the protection of the decision-making process of the Commission in relation to the possible Commission's actions following the evaluation of the CBER, namely whether to prolong the CBER (with or without amendments), or to let the CBER expire. It would reveal preliminary views and policy options which are currently under consideration. The Commission's services must be free to explore all possible options in preparation of a decision free from external pressure. Therefore, the exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies to this document.

The exceptions laid down in Article 4(2) and 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. I have not been able to identify such an overriding public interest in this case. Similarly, your request does not refer to an overriding public interest.

Disclaimers:

Please note that a document originating from third parties 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.

Please also note that access is granted to minutes of a meeting with external parties. This document was drawn up for internal use under the responsibility of the relevant service of the European Commission. It solely reflects the service's interpretation of the interventions made and does not set out any official position of the third parties to which the document refers, which was not consulted on its content. It does 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 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 portal³ 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,

(e-Signed)

Olivier Guersent
Director-General

Annexes:

Ares(2022)8074043 – Meeting request CMA CGM & Hill+Knowlton Strategies on CBER
Ares(2022)8728295 – Minutes of CAB meeting with CMA-CGM, 12.12.2022

³ <https://www.ec.europa.eu/transparency/documents-request>