Dear Ms Sumner,

Subject: Your application for access to documents – EASE 2023/3645

We refer to your email of 27 June 2023 in which you make a request for access to documents, registered on the same date under the above-mentioned reference number.

We also refer to our email of 17 July 2023 extending the time limit to respond to your request according to Article 7(3) of Regulation (EC) No 1049/20011.

1. Scope of your request

In your application, you requested on the basis of Regulation (EC) No 1049/2001 access to:

“Documents and minutes from meetings (in 2022) concerning the legislation package on Food Information to Consumers. This includes but is not limited to the conclusions of the assessment by the Regulatory Scrutiny Board in 2022.”.

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 other Directorates-General2. This reply relates only to the documents held by Directorate-General for Health and Food Safety.

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2 Case 2023/3881 –Directorate-General for Agriculture and Rural Development (AGRI)
2. Identification and assessment of relevant documents

We have identified 29 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 two documents originated from third parties, the originators of the document have been consulted in order to assess whether an exception established in Article 4 of the Regulation 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 conclusions, which are further explained below:

- partial access can be granted to documents 1-13 and 15-25 as their full disclosure is prevented by an exception to the right of access laid down in Article 4 of the Regulation;
- full access can be granted to documents No 14, 26 and 27;
- document No 28 is already publicly available, you will find the link in the attached table.
- No access can be given to documents No 29, as its disclosure is prevented by the exceptions to the right of access laid down in Article 4 of Regulation (EC) No 1049/2001 listed below

We enclose a copy of documents 14, 26 and 27 and of documents No 1-13 and 15-25 redacted of the parts which cannot be disclosed as further explained below.

Please note that parts out of scope of documents No 2, 3, 8 - 10, 12, 22 and 23 have also been withheld and labeled as “out of scope”.

Please note that the two documents originating from a third party 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.

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. Partial disclosure of documents and refusal to disclosure

a) 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, 4 - 7, 9, 11, 12, 13 - 18, 21 - 22 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 and contact details of natural persons;
- other information pertaining to an identified or identifiable natural person, such as titles and functions.

Article 9(l)(b) of the Data Protection Regulation (EU) 2018/1725\(^3\) 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.

In accordance with the above mentioned, partial access is granted to the mentioned documents, expunged of personal data.

b) Protection of the institution’s decision-making process - Article 4(3) first subparagraph of Regulation (EC) No 1049/2001

Access to document No 29 cannot be granted as its disclosure is prevented by an exception to the right of access laid down in Article 4 paragraph 3 of Regulation (EC) No 1049/2001, considering that disclosure of the document would seriously undermine the institution's decision-making process. At this stage, no decision has been taken regarding the way forward on the revision of Regulation (EU) No 1169/2011 on food information to consumers. Given the complexity of the file, preparatory work is ongoing in view of gathering robust evidence and data.

4. Overriding public interest

The exceptions to the right of access provided for in Article 4(3) of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosing the redacted part of the requested documents.

In your application, you did not submit any grounds concerning a public interest on the basis of which the interests protected in Regulation (EC) No 1049/2001 would have to be overridden, and we could not identify any such ground either. In these circumstances, we have to conclude that there is no evidence of an overriding public interest in disclosure, in the sense of Regulation (EC) No 1049/2001.

5. 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 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 portal\(^4\) account.

or by mail:

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

6. Acknowledgment of receipt

According to the standard operational procedure, the reply is sent by e-mail only. We would therefore appreciate if you could explicitly confirm receipt of the e-mail within 5 working days by replying to sante-consult-A1@ec.europa.eu

Yours sincerely,

[e-signed]
Sandra GALLINA

Enclosures: List with the assessment and disclosed documents