Dear Mr Schenten,

Subject: Your application for access to documents: Ref EASE No 2023/3653

We refer to your request for access to documents dated 27/06/2023 and registered under the above-mentioned reference number. We would like to sincerely apologise for the delay in our reply.

Your application was as follows:

“In accordance with Articles 2 and 6(1) of Regulation 1049/2001, Article 3 of Regulation 1367/2006, and Article 42 of the Charter of Fundamental Rights ClientEarth AISBL submits a request for access to documents, which were prepared in the context of the legislative initiative regarding REACH (This initiative is mentioned and described at: https://ec.europa.eu/environment/chemicals...).

We hereby request access to all reports whether in draft form or finalised of the studies conducted by contractors or the JRC in relation to the REACH revision, including but not limited to the studies listed in the link: https://ec.europa.eu/environment/pdf/che...

In this context, we expressly request access to the (draft) study to support the impact assessment for potential amendments of the REACH Regulation to extend the use of the generic risk management approach to further hazard classes and uses, and to reform REACH authorisation and restriction (done by VVA).

Further, we mention that we do not request access to the following documents, to which we already have access:


- Gather Further Information to be Used in Support of an Impact Assessment of Potential Options, for the Update of REACH Annexes for Inclusion of Data Requirements on


Please note that due to the scope of your request covering also areas falling under the responsibility of other Directorates-General, from which you have received the replies, this reply relates only to the documents held by and specifically under the responsibility of DG Environment.

We have identified four documents under the responsibility of DG Environment that fall in the scope of your request. Please see the details in the attached document register.

Protection of decision-making process:

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we have come to the conclusion that these documents may be partially disclosed. Some parts of the documents have been blanked out, as their disclosure is prevented by the exception to the right of access laid down in Article 4(3) first subparagraph of this Regulation. These redacted parts of the documents relate to a matter where the decision has not been taken by the institution, therefore the disclosure of these parts of the documents would seriously undermine the institution's decision-making process.

More specifically, the specific redacted parts of all the documents contain information related to:

- the analysis of impacts of the policy options considered, and the related methodology;
- the comparison of impacts across the policy options considered;
- monitoring indicators;
- the conclusions drawn from such analysis.

Based on the case law of the Court of Justice (¹), and since these documents relate to a decision that has not yet been taken by the Commission, an individual assessment of the requested documents was made and it was established that there is a risk that the Commission’s decision-making process would be seriously undermined if these redacted parts were disclosed. Such a risk is due to the following factors: the precise stage of the decision-making process in question at the time of this request; the specific context in which that process takes place; and the issues still to be discussed internally.

In particular, the internal discussion on policy options, which have been analysed in the requested documents that support the ongoing decision-making process, is still not finalised. If released now, the content of these redacted parts could give rise to unnecessary misunderstandings.

(¹) Judgment of the Court of Justice of 4 September 2018, C-57/16 P, ClientEarth v. Commission
The requested studies are aimed to inform a decision which the College of Commissioners is expected to take in the future. The final versions of the documents will be published in their entirety, in line with well-established practices, as soon as the College of Commissioners will have adopted the relevant legislative proposal.

Considering the specific context in which this decision-making process takes place, the revision of REACH contributes to deliver on the ambitious objectives set under the European Green Deal, which aims to transform the EU into a fair, clean and climate-neutral, resource-efficient and competitive economy. Achieving such objectives requires strong evidence, clarity of solutions and political determination. Most of the issues covered by this revision are of a wide-ranging nature and are still analysed by Commission services. The content of the requested studies is intrinsically linked to such issues that the College of Commissioners has not yet decided upon.

Consequently, considering the stage of the decision-making process and its specific context, as well as the issues still to be discussed internally, the disclosure of the above-mentioned redacted parts of the requested documents would seriously undermine the preparation of the proposal for the revision of the REACH Regulation and the related Commission decision-making process.

Therefore, the exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies to the redacted parts of the documents.

The exceptions laid down in Article 4(3) of Regulation 1049/2001 apply, unless there is an overriding public interest in the disclosure of documents. We have examined whether there could be an overriding public interest in the disclosure of the four documents, but we have not been able to identify such an interest.

Protection of personal data:

In addition to the above-mentioned redacted parts, we have also come to the conclusion that some parts of the four documents should be blanked out, as their 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 information of Commission staff members not pertaining to the senior management;
- the names and contact details of other natural persons;
- handwritten signatures/abbreviated signatures of 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 express any particular interest to have access to these personal data nor do you 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 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.

Finally, please note that these documents are studies carried out by external experts. 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 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\(^3\) 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 sincerely,

Florika FINK-HOOIJER

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\(^3\) [https://www.ec.europa.eu/transparency/documents-request](https://www.ec.europa.eu/transparency/documents-request)