

**20 MAR 2015**

Ref.DD/LV/CP/mm (2015) – out-13967094

**Mr Lucas Fourquet**  
PLTV  
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75011, Paris, France  
E-mail: [ask+request-1720-a2ed6510@asktheeu.org](mailto:ask+request-1720-a2ed6510@asktheeu.org)

**Re: Your request for access to documents of 3 February 2015 submitted to the EU Commission**  
***Access to correspondence between EFSA and organisations in relation to the EFSA Scientific Opinion on Bisphenol A<sup>1</sup>***  
Ref.: PAD 2015/8

Dear Mr Fourquet,

We are writing you in relation to your request for access to documents submitted by e-mail on 3 February 2015 to the European Commission under Regulation (EC) No 1049/2001 on public access to documents<sup>2</sup> (hereafter referred to as '*the PAD Regulation*'), by means of which you requested *inter alia* access to correspondence between EFSA and (a series of) organisations in relation to the EFSA Scientific Opinion on Bisphenol A (hereinafter 'BPA'). With the present letter we are pleased to provide you with some of the documents in EFSA's possession relating to the Parts 1 and 2 of your access request as well as to inform you on some additional measures.

### **1. Scope of the access request**

As indicated in the acknowledgment of 25 February 2015, the parts of your access request on Bisphenol A that concern EFSA, are the following:

- Part 1: "On the topic of the European Food Safety Authority (EFSA) Scientific Opinion on the risks to public health related to the presence of Bisphenol A (BPA) in foodstuffs: all correspondence (including emails) the list of meetings with detailed minutes and any other reports of such meetings between EFSA's officials and representatives of (a series) of organisations" between April 2011 and January 2015 ;
- Part 2: "On the topic of the European Food Safety Authority (EFSA) Scientific Opinion on the risks to public health of BPA: all correspondence (including emails) the list of meetings with detailed minutes and any other reports of such

<sup>1</sup> Scientific Opinion on the risks to public health related to the presence of Bisphenol A (BPA) in foodstuffs published on 21 January 2015 at the following link (EFSA Journal 2015;13(1):3978): <http://www.efsa.europa.eu/it/efsajournal/pub/3978.htm>.

<sup>2</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43-48, applicable to EFSA.

meetings between EFSA's official and representatives of (a series) of organisations" between April 2011 and January 2015 ;

- Part 7: "On the topic of public health related to the presence of Bisphenol A (BPA): all correspondence (including emails), the list of meetings with detailed minutes and any other reports of such meetings between EFSA's officials (including the Commissioner and his Cabinet members) and representatives of (a series) of organisations" between April 2011 and November 2014 ;
- Part 10: "On the topic of the European Food Safety Authority (EFSA) Scientific Opinion on the risks to public health related to the presence of Bisphenol A (BPA) in foodstuffs: all correspondence (including emails) the list of meetings with detailed minutes and any other reports of such meetings between EFSA's Panel members (list) and (a series) of organisations" between May 2012 and January 2015.

With regard to the above, please note that:

- Firstly, Parts 1 and 2 are identical and refer to the same set of documents relating to correspondence or minutes concerning the Scientific Opinion issued by EFSA on BPA<sup>3</sup> ;
- Secondly, concerning Parts 7 and 10 of your request and having performed a screening of the documents in EFSA's possession, none were found:
  - Therefore, for Part 7, no correspondence was exchanged and no meetings were organised between the organisations and the law firms listed ;
  - Concerning Part 10, please note that the scientific expert Members of the EFSA Scientific Panel on Food Contact Materials, Enzymes, Flavourings and Processing Aids (hereinafter the 'CEF Panel') did not exchange correspondence individually on BPA during the scientific assessment and did not attend meetings individually with the organisations listed in your request. All meetings and exchanges with stakeholders were held by EFSA and are covered under the Parts 1 and 2 ;
- In addition, since your request targets correspondence, list of meetings, minutes and any other reports of such meetings between EFSA and specific third parties and thus, in essence, exchange of views and information contained in e-mails or letters, we are disclosing to you the said documents deprived from any attachment, except for those falling in the scope of your request. Should you be interested in these attachments, we will consider that as a new request for public access to documents and handle it separately under the PAD Regulation.

## 2. Proposal for a fair solution – disclosure in batches

Please consider that your access request refers to a very large number and variety of documents entailing a considerable amount of work in terms of retrieval, collection, screening and analysis with a view of assessing their confidentiality status in application of the exceptions to disclosure foreseen in Article 4(1) to (3) of the PAD Regulation.

In this context and in accordance with Article 6(3)<sup>4</sup> of the PAD Regulation, we are hereby proposing you to complement the present reply with subsequent disclosure(s), as the

<sup>3</sup> Please note that the different parts of EFSA's Scientific Opinion on BPA were subject to public consultation in the period between 25 July and 15 September 2013 and during which interested parties were invited to submit written comments. The scientific opinion published on 21 January 2015 took into account all of them.



screening and assessment progresses of the remaining documents pertaining to your request and in EFSA's possession.

Our subsequent repl(y)(ies) thus likely will concern additional releases, some of them of documents originating from third parties, for which a consultation with the originators is in progress in the sense of Article 4(4) of the PAD Regulation, aimed at assessing whether the exceptions foreseen in the PAD Regulation apply to them.

We target to finalise the second batch for release by **15 April 2015** at the latest. We are confident that you may agree with this proposal for a fair solution and I am looking forward to receiving your feedback.

### 3. Assessment of your request

Having made a careful and concrete examination of the documents requested, we are pleased to disclose to you the correspondence in the form of e-mail exchanges relating to the organisation of the *Follow-up meeting on the public consultations on BPA held on 23 April 2014*". Please note that the agenda of the meeting, the list of participants and the presentations were made public at the following link:

<http://www.efsa.europa.eu/en/events/event/140423.htm>.

Please note that all personal data (i.e. names of individuals and other personal data as well as hand-written signatures) present in the documents disclosed to you under this paragraph have been masked in accordance with Article 4(1)(b) of the PAD Regulation and Article 8(b) of the Data Protection Regulation (EC) No 45/2001<sup>5</sup>. In line with settled case law of the European Courts, EFSA will only be able to balance the interests at stake and to consider the disclosure of personal data after you have provided an express and legitimate justification and convincing arguments, demonstrating the necessity for having personal data transferred to you, which cannot be found in your present access request.

I must remind you that all persons reproducing, redistributing, exploiting or making commercial use of this information are expected to adhere to the terms and conditions asserted by the copyright holder.

### 4. Publicly available documents relevant to your request

In addition to the present release, I would like to inform you that a large number of documents on BPA that may be of interest to you are already publicly available. For your convenience, I am hereby providing you with some links to EFSA's website where you can find following documents:

- Overview information on EFSA's work:  
<http://www.efsa.europa.eu/en/topics/topic/bisphenol.htm>
- Exchanges with Member States on this topic:  
<http://www.efsa.europa.eu/en/fip/fipmsmeetings.htm>
- Frequently Asked Questions on BPA:  
<http://www.efsa.europa.eu/en/faqs/faqbisphenol.htm>
- National Experts meeting on BPA held on 29-30 October 2012 (agenda and presentations shared at this meeting):  
<http://www.efsa.europa.eu/en/events/event/121029.htm>.

<sup>4</sup> Article 6(3) of the PAD Regulation foresees that "in the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally with a view to finding a fair solution".

<sup>5</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p. 1-22.

- Public Consultations held from 17 January to 13 March 2014, and the Report of the Public Consultations including the written comments received from stakeholders:  
<http://www.efsa.europa.eu/en/consultationsclosed/call/140117.htm>
- Stakeholder event of 23 April 2014 following the public consultations:  
<http://www.efsa.europa.eu/en/events/event/140423.htm>
- Minutes of the EFSA-ANSES Expert Meeting on BPA:  
<http://www.efsa.europa.eu/en/cefmsmeetings/docs/141203-anses-m.pdf>.
- ANSES work on BPA: <https://www.anses.fr/en/content/bisphenol>
- BfR work on BPA:  
[http://www.bfr.bund.de/en/faqs\\_on\\_bisphenol\\_a\\_in\\_consumer\\_products-60837.html](http://www.bfr.bund.de/en/faqs_on_bisphenol_a_in_consumer_products-60837.html)

## 5. Confirmatory application

Without prejudice to the proposal for fair solution mentioned above, to exercise your right to appeal this decision on a partial disclosure by a confirmatory application, you may write to EFSA at the address below. You have fifteen working days from receipt of this letter to appeal. Beyond this deadline, your initial request will be considered as satisfied. In case you submit a confirmatory application, EFSA will inform you of the outcome of the re-examination of your request within fifteen working days of receipt, either by granting you access to the documents or by confirming the refusal. In the latter case, you will also be informed of any further appeal routes available.

Further correspondence must be sent to:

EFSA

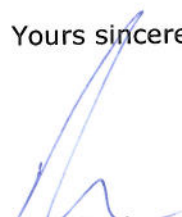
Dirk Detken, Head of the Legal and Regulatory Affairs Unit

Via Carlo Magno 1/A

I – 43126 Parma

E-mail: [EFSA.public.access.to.documents@efsa.europa.eu](mailto:EFSA.public.access.to.documents@efsa.europa.eu).

Yours sincerely,

  
Dirk Detken

Enclosure: 1

Cc: A. Castoldi, C. Roncancio Peña (EFSA)