



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SME's

Director-General

Brussels, **23. 04. 2015**
GROW/C.2/JAS/vv(2015) 733872

Mr Lucas FOURQUET
PLTV. 10 rue Nicolas Appert
75011 PARIS
FRANCE

By registered letter with acknowledgment of receipt

Subject: Request for access to documents - GESTDEM 2015/724 on the topic of public health related to the presence of Bisphenol A (BPA) (contacts with several organizations) - DG GROW

Dear Mr Fourquet,

I refer to your request, dated 3 February 2015, for access to documents, registered on 04/02/2015, under Regulation No 1049/2001¹ regarding public access to European Parliament, Council and Commission documents, and under the above reference number.

By this request you demanded access to *"all correspondence (including emails), the list of meetings with detailed minutes and any other reports of such meetings between DG Enterprise's officials (including the Commissioner and his Cabinet members) and [a list encompassing 48 organisations]"*.

1. Within the area of toy safety:

A draft amendment of Appendix C of Annex II to the Toy Safety Directive concerning BPA was discussed and submitted to a vote in the Safety of Toys Committee; before that, BPA was discussed in the Expert Group on Toy Safety and in its Subgroup "Chemicals". All three groups were chaired by DG Enterprise officials. Among the participants in those meetings were representatives of the UK government, the German government, the

¹ Regulation 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. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:145:0043:0048:EN:PDF>

German Bundesinstitut für Risikobewertung (BfR) and/or the French government who are all organisations concerned by **GESTDEM 2015/724**. We therefore provide you with the following information on those meetings.

Expert Group on Toy Safety - Subgroup "Chemicals"

In the time framework your request refers to, BPA was discussed in the meetings of 16 January 2013, 26 June 2013, 28 November 2013, 26 March 2014 and 24 September 2014.

Those meeting reports are publicly available in the Register of Commission Expert Groups:

<http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=1360>.

Expert Group on Toy Safety

In the time framework your request refers to, BPA was discussed in the meetings of 3 May 2013 and 18 February 2014. The meeting reports are publicly available in the Register of Commission Expert Groups.

Safety of Toys Committee

The Safety of Toys Committee was first consulted on the draft amendment of Appendix C of Annex II to the Toy Safety Directive BPA in written procedure. Documentation concerning the vote in written procedure is publicly available in the Comitology Register <http://ec.europa.eu/transparency/regcomitology/index.cfm?CLX=en>, in Dossier CMTD(2013)1183.

The Safety of Toys Committee meetings where the draft was discussed and voted are :

- the meeting of 11 October 2013. The summary report of that meeting is publicly available in the Comitology Register, in Dossier CMTD(2013)1130;
- the meeting of 18 February 2014. The summary report of that meeting is publicly available in the Comitology Register, in Dossier CMTD(2014)0032.

2. Within the area of REACH/chemicals:

A report on a meeting with representatives of the BPA consortium, held on 23 July 2013 is attached.

In this area, having examined the documents requested under the provisions of above said Regulation I regret to inform you that your application cannot be granted for three additional documents, as disclosure is prevented by one of the exceptions to the right of access laid down in its Article 4 and, specifically, under 4(4) "third party documents".

The Commission has consulted the third parties involved with a view to assessing whether an exception as listed in paragraph 1 or 2 of said Article 4 is applicable, having received a negative reply from the German authorities as "the disclosure of the document would

undermine the protection of commercial interests of a natural or legal person” as well as “seriously undermine the institution's decision-making process”. No reply was received from the third parties consulted for the other two documents.

The relevant Commission services are therefore of the opinion that the disclosure of those documents would undermine the protection of commercial interests of a natural or legal person as well as seriously undermine the institution's decision-making process. It is worth noting that the information included in those documents will become publicly available on ECHA's website² in due time and information on substance and Risk Management Option Analysis (RMOA) conclusions concerning BPA would then be visible to all stakeholders at the same time.

3. Within the generic area of public health:

Having examined the documents requested under the provisions of above said Regulation I regret to inform you that, as regards the majority of the existing documents pertaining to contacts having taken place involving the Units within this Directorate-General, your application cannot be granted, as disclosure is prevented by one of the exceptions to the right of access laid down in its Article 4(2).

The exception which applies to the documents you requested is the "investigation" exception. This is due to the fact that these documents relate to an ongoing investigation regarding a possible infringement of EU law (reference NIF 2015/4010). Disclosure of these documents would undermine the protection of the purpose of the ongoing investigation; indeed, disclosure of the requested documents at this point in time would affect the climate of mutual trust between the complainants, as well as the relevant national authorities involved, and the Commission.

We have considered whether partial access could be granted to the document requested. Nevertheless, we are of the opinion that these documents are entirely covered by the exception.

The exceptions laid down in Article 4(2) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the document. In our opinion, the public interest in making the content of these documents public does not outweigh the harm disclosure would cause to the purpose of the ongoing investigation.

On the other hand, the relevant Commission services consider that another document is not covered by above mentioned exception and can be disclosed. This document relates to a meeting held on 6 June 2013 between one of the organizations mentioned and the Commission services.

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.

² <http://echa.europa.eu/>

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/327
B-1049 BRUSSELS

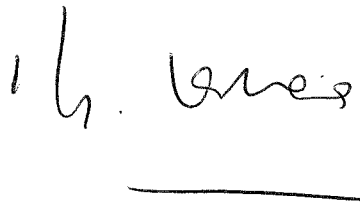
or by email to: sg-acc-doc@ec.europa.eu

A copy of the documents relevant for your request, which we hope will meet your needs, is enclosed.

I must, however, remind you that they cannot be reproduced or disseminated for commercial purposes unless the Commission has first been consulted.

Please note that this reply covers the part of your request concerning DG GROW and the former Cabinet of Commissioner Antonio Tajani. You will receive a second reply in relation to the part of your request concerning the current Cabinet of Commissioner Elżbieta Bieńkowska.

Yours sincerely,



Daniel Calleja

Enclosures: (1) Document register
(2) Meeting report – Meeting with representatives of the BPA consortium
(3) Meeting report – Meeting with representatives of PlasticsEurope