Subject: Your application for access to documents – Ref GestDem No 20015/4384 under Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents

Dear Mr Schindler,

We refer to your e-mail of 14 August 2015 (Ref. Ares(2015)3394355) whereby you made a request for access to documents, registered by us under the above-mentioned reference number.

We also refer to our letter of 3 September 2015 (Ref. Ares(2015)3627336) whereby we asked you to provide us with more detailed information on the documents which you seek to obtain and to your reply by e-mail to this request (Ref. Ares(2015)3637906) whereby you informed us that your request deals with the treatment of specialised services within the legislation on net neutrality, with examples such as self-driving cars and medicine services. However your e-mail did not provide any further information on the kind of documents you seek to obtain, such as references, dates or periods during which the documents have been produced, persons or bodies who drafted the documents, or nature of the documents.

Your application therefore concerns documents on specialised services within the legislation on net neutrality without any further precision. We have identified the following documents corresponding to the criteria set out in your request:

- Answers from the public consultation on specific aspects of transparency, traffic management and switching in an Open Internet
- Unsolicited notes provided by third parties

Carlos Perez-Maexxxx@xx.xxxxpa.eu
1. Answers from the public consultation on specific aspects of transparency, traffic management and switching in an Open Internet

On 23 July 2012, the European Commission launched a public consultation, seeking answers to questions on specific aspects of transparency, traffic management and switching in an Open Internet.


Note that in accordance with the conditions to contribute to the public consultation, participants were able to indicate in their responses any information that they considered as business secret or confidential and that they did not want to be published on the Internet as part of their contribution. Some respondents declared their submissions business secret or confidential and therefore do not appear in the list available at the website.

With regards to access to those documents not available on the web site of the open consultation, we consider that disclosure of those documents is prevented by one of the exceptions laid down in Article 4(2) of Regulation 1049/2001, namely by the protection of the commercial interests of a natural or legal person, including intellectual property, as foreseen by Article 4(2), first indent.

2. Unsolicited notes provided by third parties

We have identified the following documents, herewith attached or linked for your convenience, in case already in the public domain:

- Position on TSM by the Center for Democracy & Technology (CDT) (annex a);
- One position paper on net neutrality by GSMA (annex b);
- A position paper sent by ETNO (annex c);
- One note by Vodafone of June 2014 (annex d);
- An email from Orange of 16th July 2014 following a meeting with Commission services (annex e);
- An email from Ericsson of 19 June 2015 (annex f).
Please note that in relation to the two documents 'annex e' and 'annex f' only partial access is granted for the following reasons:

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. The applicable legislation in this field is 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.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable.

According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore documents 'annex e' and 'annex f' are disclosed expunged from this personal data.

Please note that the above mentioned unsolicited notes were received by the Commission from the third parties indicated above. They are disclosed for information only and cannot be re-used without the agreement of their originators, who hold a copyright on it. They do not reflect the position of the Commission and cannot be quoted as such.

Please note that in accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review the position above.

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 Bruxelles

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

Yours sincerely,

(e-Signed)  
Roberto Viola
List of annexes

a- Position on TSM by the Center for Democracy & Technology (CDT)
b- Position paper on net neutrality by GSMA
c- Position paper by ETNO
d- Note by Vodafone of 2nd June 2014
e- e-mail from Orange of 16th July 2014
f- e-mail from Ericsson of 19 June 2015