



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION

The Director-General

Brussels, 6 . 02. 2020  
Taxud E2/Svdv – taxud.e.2(2019)324764

Mr Olivier Hoedeman  
Corporate Europe Observatory (CEO)  
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1050 Brussels

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*(by e-mail only and registered mail)*

**Subject: Your application for access to documents – Ref GestDem No 2019/7296**

Dear Mr Hoedeman,

We refer to your e-mail dated 13 December 2019, registered on 17 December 2019 under the above mentioned reference number, in which you make a request for access to:

- “- all **reports** (and other notes) from meetings between the European Commission and representatives of the tobacco industry (producers, distributors, importers etc, as well as organisations and individuals that are funded by and/or work to further the interests of the tobacco industry), **during 2019.***
- all **correspondence** (including emails) between the European Commission and representatives of the tobacco industry (producers, distributors, importers etc. as well as organisations and individuals that are funded by and/or work to further the interests of the tobacco industry), **during 2019***
- a list of all the above-mentioned documents (including dates, names of participants/senders/recipients and their affiliation, subject of meeting/correspondence).”*

We have identified the following documents:

- “1) Joint CECCM-ESTA letter of 4 July 2019 [Ares(2019)5093443];*
- 2) CECCM letter of 6 May 2019 [Ares(2019)5094206];*
- 3) Mail of 6 May 2019 relating CECCM letter on proposed amendment to Art 8 [Ares(2019)5095138];*
- 4) Mail meeting report ESTA of 12 February 2019 [Ares(2019)1272200];*
- 5) Mail flash report of 11 March 2019: meeting with Juul [Ares(2019)5092667];*
- 6) Mail of 5 June 2019 - meeting request BAT + annex TED analysis [Ares(2019)5094883];*

- 7) *ESTA position paper of 13 June 2019 - 'why revising the definition of Smoking Tobacco'* [Ares(2019)5094142];
- 8) *Meeting report with the German Association of Vapers, 10 September 2019* [Ares(2019)5749787];
- 9) *Mail Joint CECCM-ESTA letter on PwC study of 19 September 2019* [Ares(2020)177371];
- 10) *Meeting report with BAT + annex (TED analysis), October 8 2019* [Ares(2019)6334087];
- 11) *Mail Visit to TabakNatie, Port of Antwerp, October 22 2019* [Ares(2019)6757238];
- 12) *Mail Excise Contact Group: Intervention on Raw Tobacco* [Ares(2020)176059];
- 13) *Mail "Demande de rendez-vous / Fédération interprofessionnelle de la vape (FIVAPE)"* [Ares(2020)176481]."

### ***Documents 1, 2, 7, 9, 12 and 13***

For the *third party documents 1,2,7 the letter sent with document 9, the presentation sent with document 12 and document 13*, we initiated consultations under Article 4, Para 4 of Regulation 1049/2001 with the third parties from whom the documents originate. I am pleased to inform you that the third parties agreed to the disclosure of documents 1, 2 and 7 and the letter/presentation attached to document 9 and 12 . For document 13, which is an e-mail requesting for a meeting, we did not get any feedback from the third party. Based on the Commission's analysis, this document will be disclosed.

### ***Documents 3, 4 and 5***

Having examined the *Commission documents* requested under the provisions of Regulation (EC) N°1049/2001 regarding public access to documents, I am pleased to inform you that the Commission agrees with the disclosure of the Commission documents nrs 3, 4 and 5.

### ***Documents 6 and 10***

*Documents 6 and 10 (both the same annex – TED analysis)*, can only be partially disclosed since the third party (Deloitte/TAJ/BAT) considered that pursuant to Article 4(2), first indent, of Regulation No. 1049/2001 its disclosure in full would undermine the protection of commercial interests of their organisation or third parties. Some information contained in the presentation constitutes business confidential information. Based on the position expressed above by the third party, the Commission agrees that full disclosure of documents 6 and 10 would undermine the protection of the commercial interests of BAT.

### ***Documents 8 and 11***

Both Commission meeting reports can only be partially disclosed, because its disclosure in full would give information about the commercial activities of the associations and companies the Commission was in contact with.

The partial disclosure is in accordance with Article 4 (2), first indent, of Regulation 1049/2001 which states that "*The institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property*".

### ***Personal data***

The documents 1 - 13 to which you have requested access contain personal data.

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

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 2018/1725<sup>1</sup>. Pursuant to Article 9(1)(b) of Regulation 2018/1725, ‘personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if the recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject’s legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests’.

### ***Fair use***

You may reuse the documents requested free of charge 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 document. Please note that the Commission does not assume liability stemming from the reuse.

In view of the nature of the documents, we would like to stress that Commission officials draft reports for internal use. These reports are usually of value only for a limited time. These documents are intended for internal Commission use only and have not been agreed upon or discussed with any of the other participants at the meeting. Therefore, they constitute a subjective view of the contents of the meetings covered and cannot in any way be regarded as official minutes of the meeting.

### ***Confirmatory application***

In case you would disagree with the overall assessment of the documents or if you consider that the expunged data are not personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to make a confirmatory application requesting the Commission to review this position.

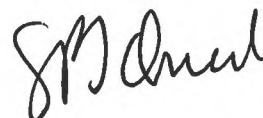
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<sup>1</sup> Regulation (EC) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, Official Journal L 205 of 21.11.2018, p. 39.

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  
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](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Quest', written in a cursive style.

Stephen Quest

Annexes: as stated above