



**EUROPEAN COMMISSION**  
Directorate General Internal Market and Services

Director General

Brussels, **05.12.2013** - 3642391  
MARKT/(2013)3859288

Mr. Pascoe Sabido  
By email to:  
ask+request-902-9192f2ea@askthecu.org

**Subject: Your application for access to documents – Ref GestDem n° 5132-2013**

Dear Mr Sabido,

We refer to your e-mail dated 16/10/2013 in which you make a request for access to documents, registered on 16/10/2013 under the above mentioned reference number. Your application concerns the e-mails, correspondence and meeting notes between Ms Martin-Prat and the International Federation of the Phonographic Industry (IFPI) since 2007.

I would like to call to your attention the fact that in the period between 2007 (starting date referred to in your e mail) and 15 April 2011, Ms Martin-Prat was the Head of Unit of DG MARKT E1 (at the time the title of the Unit was “Free movement of services and establishment I, Services Directive). The remit of this Unit was the application of Articles 49 and 56 of the Treaty on the Functioning of the European Union, articles which establish the Internal Market principles of freedom of establishment and free movement of services. More specifically, the Unit was in charge of the implementation of Directive 2006/123/EC of 12 December 2006 on services in the internal market (“the Services Directive”). The work of that Unit was not related to copyright or media and therefore did not require contacts with copyright stakeholders such as those represented by the IFPI. There is therefore no correspondence between Mme Martin-Prat and IFPI between the period 2007 and 15 April 2011 to be found in our archives.

As for the remaining period, we enclose copies of the documents requested. (see also list in annex)

Please note that the documents attached were received by the Commission from IFPI. They are disclosed for information only and cannot be re-used without the agreement of the originator, who holds copyright on them. They do not reflect the position of the Commission and cannot be quoted as such.

There are other documents in relation to which, after examination under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that your application cannot be granted, as disclosure is prevented by an exception to the right of access laid down in Article 4 of this Regulation.

These documents relate to an ongoing investigation regarding a possible infringement of EU law (5167/13/MARK).

The infringement procedure laid down in Article 258 TFUE comprises two consecutive stages, the pre-litigation stage of an administrative nature and the contentious stage before the Court. Disclosure of the documents at this point in time would affect the climate of mutual trust between the authorities of the Member State in question and the Commission, which is required to enable them to resolve the case without having to refer it to the Court of Justice. Therefore the exception laid down in Article 4(2) third indent of Regulation (EC) No 1049/2001 applies to these documents.

In examining your request, the possibility of granting partial access to the requested documents has been taken into consideration. However, it becomes clear, after examination of the documents and for the reasons cited above, that the documents are covered in their entirety by the exception of Article 4 (2) of Regulation No. 1049/2001. The release of parts of these documents can therefore not be envisaged.

The exceptions laid down in Article 4(2) and 4(3) of Regulation 1049/2001 apply unless there is an overriding public interest in the disclosure of the documents in question. The examination of your request has not led to the conclusion that such an overriding public interest exists.

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.

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-5  
BERL 5/327  
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 'Jonathan Faull', with a long horizontal flourish extending to the right.

Jonathan Faull

Enclosures: 9