



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL HOME AFFAIRS

Director-General

Brussels, 28 JAN. 2014

Pascoe Sabido  
e-mail:  
ask+request-1059-  
a829d482@asktheeu.org

Dear Mr Sabido,

**Subject: Your application for access to documents – Ref GestDem No 2013/6073**

We refer to your e-mail dated 03/12/2013 in which you make a request for access to documents, registered on 04/12/2013 under the above mentioned reference number.

Your application concerns the following documents, described generically:

*documents which contain the following information:*

- *A list of all meetings between DG HOME and Vodafone, Deutsche Telekom, T-mobile, Microsoft, Telefonica Spain, RTL Group or DailyMotion regarding the digital agenda, data privacy/protection and in particular activities of the aforementioned stakeholders which have contravened existing national or EU-level regulations and subsequently led to sanctions, financial or otherwise.*
- *minutes and reports of all above meetings*
- *All correspondence (including emails) between DG HOME and Vodafone, Deutsche Telekom, T-mobile, Microsoft, Telefonica Spain, RTL Group or DailyMotion regarding the digital agenda, data privacy/protection and in particular activities of the aforementioned stakeholders which have contravened existing national or EU-level regulations and subsequently led to sanctions, financial or otherwise.*

Having conducted a search for documents that may correspond to the description of the documents requested, and having examined the under the provisions of Regulation (EC) No. 1049/2001 regarding public access to documents, I have come to the conclusion that some of them may be partially disclosed, while access to others should be refused.

In accordance to Article 10.3 of the Regulation, documents shall be supplied in an existing version and format. Please note that no document exists containing a list of all meetings between DG HOME and the companies listed, on the topics you mention.

Please note that no documents have been retrieved on activities of those companies which have contravened existing national or EU-level regulations and subsequently led to sanctions, financial or otherwise.

### **I. Partial access granted**

Partial access is granted to the following documents. They refer to meetings of DG HOME with stakeholders, including some of those companies, on issues that may be related to the Digital Agenda:

- Report on the conference on public-private dialogue to fight online illegal activities, 27 November 2009
- Summary on the 2<sup>nd</sup> conference on a public-private dialogue to fight online illegal activities, 21 May 2000
- Agenda and minutes of the first meeting on the Sub-group on Cybercrime statistics, 1 July 2010
- Report on the 3<sup>rd</sup> conference on public-private dialogue to fight online illegal activities, 15 December 2010
- Minutes of the 2<sup>nd</sup> sub-group meeting on cybercrime statistics, 25 January 2011
- Agenda and report on the 5<sup>th</sup> meeting of the European Union Cybercrime Task Force, 27-28 March 2012.

Partial access is also granted to the below document as it refers to a meeting of the Cabinet of Vice-President Barrot and the then DG JLS with Microsoft on issues related to data protection:

- Report of the meeting between EU Commission/Cab Barrot – DG JLS and Microsoft, 16 June 2009.

Some parts of the documents have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

The expunged parts of the documents are the following:

- *Names of participants and speakers intervening at the venues*

Disclosure of these parts would undermine privacy and the integrity of the individual, in particular in accordance with Community legislation regarding protection of personal data. Indeed, the disclosure of the document containing the names would at the same time constitute access to documents according to Regulation (EC) No. 1049/2001, as well as processing of personal data in accordance with Regulation (EC) No. 45/2001, the provisions of which become applicable in their entirety. For that processing to be lawful, in particular the purpose of the processing must be specified, explicit and legitimate and not be incompatible with the original purposes for which the data were collected and processed; the recipient must establish that the data are necessary for the performance of a task carried out in the public interest or subject to the exercise of public authority, or the necessity of having the data transferred, if there is no reason to assume that the data subject's legitimate

interests might be prejudiced. In the absence of this, processing cannot take place, and the document must be expunged of the names before access to it is granted.

Therefore the exception laid down in Article 4.1 (b) of Regulation (EC) No 1049/2001 applies to those parts of these documents.

- *Statements on assessment about public-private cooperation with governments of third countries*

Disclosure of these parts would undermine the public interests as regards public security and international relations. Indeed, disclosure of expressions by stakeholders expressing an assessment on the quality of cooperation with the authorities of third countries in the fight against cybercrime would have an impact on the attitude of those authorities to engage in cooperation activities with those stakeholders in the future, which in turn may be detrimental to joint efforts to fight cybercrime. As these statements are issued in the course of activities organised by the EU, disclosure of them may also have an impact on the willingness of third countries to engage in dialogue with the EU in the future and on their attitude therein, and be detrimental to the international relations of the EU.

Therefore the exceptions laid down in Article 4.1 (a) first and third indent of Regulation (EC) No 1049/2001 apply to those parts of these documents.

- *Statements on labour market issues*

This concerns the report of the meeting between Cabinet Barrot and the then DG JLS and Microsoft of 16 June 2009. This part of the report is expunged because it falls outside the scope of the request.

## **II. Access refused**

I regret to inform you that your application cannot be granted to the following documents, as disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

The documents concerned are:

- The agenda and report on the Meeting of the EU-US working group on Cybersecurity and Cybercrime of 24 February 2011
- The agenda and report on the Meeting of the EU-US working group on Cybersecurity and Cybercrime of 28-29 June 2011

The EU-US working group gathers practitioners and selected stakeholders dealing with policy making and with operational activities from both sides of the Atlantic to discuss in detail about specific challenges in cooperation to fight cybercrime, and to design and coordinate specific steps to remedy them. The documents contain a description of the topics for discussion with a certain degree of detail, as well as detailed descriptions of new methods, tools and processes to fight cybercrimes, their strengths and weaknesses, and specific steps to be adopted by law enforcement and private sector stakeholders to follow-up.

Disclosure of the documents requested would undermine the protection of public security and international relations. Indeed, public disclosure of the information contained therein

would show the vulnerabilities of joint efforts and the approaches envisaged to counter them, and could facilitate activities of offenders to exploit those shortcomings and take measures to avoid detection by new methods. Additionally, disclosure would undermine the trust of the participants that they can exchange sensitive information in this forum on a confidential basis, and this would have a cool-down effect for future meetings, restricting the willingness of participants to engage in detailed discussions. Without those discussions, the Working Group would significantly lose its ability to provide added value in the fight against cybercrime, would reduce the quality and quantity of delivered outputs in the context of EU-US relations and weaken the EU position as a reliable interlocutor, as the US would consider that it is more interesting for them to hold such discussions in a bilateral or intergovernmental setting with specific Member States.

Therefore the exceptions laid down in Article 4.1 (a) first and third indent of Regulation (EC) No 1049/2001 apply to this document.

We have considered whether partial access could be granted to the document/documents requested. However, the extent of information covered by the exceptions mentioned above is such that the remaining parts after expunging the confidential information might be meaningless or illegible.

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 faithfully,



Stefano Manservigi

Enclosure: Documents to which access is granted