



EUROPEAN COMMISSION
HEALTH AND CONSUMERS DIRECTORATE-GENERAL

Director General

Brussels,
SANCO/E4/ns

Dear Mr Simkin,

Subject: Your application for access to documents– Ref. GestDem No 2013/6225 – partial access.

Thank you for your e-mail dated 8 December 2013 and registered 10 December 2013 (No GestDem 2013/6225) requesting access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents¹.

1. Scope of your request

Your application GestDem 2013/6225 concerns *"correspondence between DG SANCO, the EFSA, and Member States on the health claim regarding the consumption of foods containing fructose leads to a lower blood glucose rise compared to foods containing sucrose or glucose. In particular correspondence between the UK Department of Health and DG SANCO from 15 January 2013."*

2. Identification of the concerned documents

We have identified 22 documents in relation to your request in addition to agendas and summary reports of the meetings of the Standing Committee on the Food Chain and Animal Health which are publicly available on the Internet:

http://ec.europa.eu/food/committees/regulatory/scfcah/general_food/index_en.htm

./..

Mr Michael Simkin

By email: ask+request-1076-ce99ec3aa@asktheeu.org

¹ OJ L145, 31.05.2001, page 43;

3. Assessment of the documents

Having examined the content of these documents, we have come to the conclusion that:

- a) full access can be granted to documents under numbers from 1 to 21,
- b) document under number 22 is protected in its entirety.

Please find attached a table listing 22 documents and the assessment carried out on their content on the basis of Regulation (EC) No 1049/2001.

A copy of the documents from 1 to 21 will be sent to you by e-mail.

I must remind you that these documents cannot be reproduced or disseminated for commercial purposes without prior consent given by their respective author.

4. Reason for refusal

Document 22 originates from the UK authorities, who have been consulted on this request, as foreseen in Article 4(5) of Regulation (EC) No 1049/2001².

According to the UK Authorities, the document 22 from Department of Health "UK comments on draft Annex of Article 13 claims" of 15 January 2013 should not be disclosed.

According to the UK authorities, the document requested contains their contribution to internal deliberations in the process of taking a decision about whether or not to authorise certain health claims. Although the decision-making process in question has been finalised, according to the UK authorities, disclosure of this document would seriously undermine the Commission's decision-making process related to future health claims, as it would "adversely affect how [they] contribute to future discussions with the Commission in its decision-making process".

Accordingly, the UK authorities invoke Article 4(3) second indent of Regulation 1049/2001 according to which "*access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.*"

5. Means of redress

Should you wish this position to be reconsidered, you should present in writing, within fifteen working days from receipt of this letter, a confirmatory application to the Commission's Secretary-General at the address below.

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² Article 4(5) of Regulation (EC) No 1049/2001: *A Member State may request the institution not to disclose a document originating from that Member State without its prior agreement.*

The Secretary-General will inform you of the result of this review within 15 working days from the registration of your request, either granting you access to the documents or confirming the refusal. In the latter case, you will be informed of how you can take further action.

All correspondence should be sent to the following address:

The European Commission
Secretary-General
Transparency unit SG-B-5
BERL 5/327
B-1049 BRUSSELS
Or by e-mail to: Sg-acc-doc@ec.europa.eu

Yours sincerely,



Paola Testori Coggi

Annex: List of documents concerned by the request GestDem 2013/6225 [Excel file]

