



EUROPEAN COMMISSION

Directorate General for Financial Stability, Financial Services and Capital Markets Union

Director-General

Brussels, **05 MARS 2015**
FISMA 01/DB/bh(2015) 22860

Ms Vicky Cann
Corporate Europe Observatory
(CEO),
Rue d'Edimbourg 26,
1050 Brussels, Belgium

by registered letter with acknowledgment
of receipt

Advanced copy per mail

Dear Ms Cann,

I refer to your e-mails of 29 October 2014 and 12 November 2014 (registration number GESTDEM 5417/2014) sent to the Commission under the provisions of Regulation (EC) 1049/2001 regarding public access to documents. Please accept my apologies for the time taken in answering your request.

In the above mentioned e-mails, you requested access to the copies of minutes of meetings between DG MARKT officials or representatives of Directorates F, G and H, and representatives of "industry" (including individual companies, lobby consultancies and law firms, and/or industry associations) from 1 January 2014 to 16 June 2014. This reply covers meetings from 1 January 2014 to 16 June 2014.

We have identified 30 notes of meetings between management of DG MARKT dealing with financial services (Directorates F, G and H and Unit 02) and industry representatives which could fall within the scope of your request. A list of these notes is enclosed.

In accordance with Regulation 1049/2001 (and having examined your request and the documents concerned), access is largely granted to the documents requested. Documents 1-11, 13, 14, 16, 17, 21-26 and 30 are released in their entirety, subject to the provisions of Regulation 1049/2001/EC concerning the processing of personal data set out below.

As regards documents 4, 12, 15, 18-20, 27-29, none of these documents can be fully disclosed as they fall within the category of exceptions to disclosure provided for in Article 4 of Regulation 1049/2001 (*Protection of commercial interests of a natural or legal person*). However, they may be partially disclosed for the following reasons:

Article 4§2 first indent of Regulation (EC) 1049/2001 provides 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*".

Article 339 of the Treaty on the functioning of the European Union (TFUE) requires members of staff of the EU institutions to refrain from disclosing “information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their costs components”.

It has been established by the European Court of Justice, notably in the 'Bank Austria Creditanstalt' judgement (T-198/03 of 30 May 2006), that the protection of commercial interests is not limited to the protection of the business secrets of an entity. Careful examination of the notes referred to above shows that the disclosure of elements of the commercial strategy or sensitive information shared with us by companies or organisations could harm their commercial interests. There is a real risk that disclosing these parts of the documents would have negative repercussions for the firms involved.

We cannot, therefore, release parts of meeting notes that reflect views expressed by companies or organisations that are not publicly available views, but opinions on the strategy of the companies involved or our comments thereon.

Please note that the documents do not reflect any official position of the Commission or of third parties, and cannot be referred to as such.

In accordance with Article 4§1 (b) of Regulation 1049/2001/EC and Regulation 45/2001/EC of the European Parliament and of the Council of 18 December 2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and the free movement of such data, in all notes, names of some individuals have been withdrawn (Commission staff below the level of Director General and participants from companies or organisations).

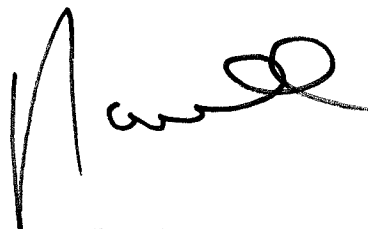
When examining your request, we came to the conclusion that there would be no overriding public interest in disclosing the notes which we, partly or fully, consider as falling within the exceptions laid down at article 4 of Regulation 1049/2001.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application inviting the Commission to review its 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-4
BERL 5/327
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,



Jonathan FAULL

Enclosures: list of notes and copy of the notes partially disclosed (30)
Contact: Boulouque Didier, didier.boulouque@ec.europa.eu