



EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Director-General

Brussels,
CONNECT/B2/JS

Mrs Vicky Cann
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REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT

Subject: Your application for access to a document – Ref GestDem No 2017/2090

Dear Mrs Cann,

I refer to your request for access to documents dated 4 April 2017 which was registered on the same day under the above mentioned reference number and your additional email dated 18 May and registered the same day, our ref. Ares(2017)2535641.

Besides, I refer to our replies dated 27 April 2017, ref. Ares(2017)2172804, and 18 May 2017, ref. Ares(2017)2535641, whereby you have been informed that the Commission Services needed to extend the initial deadline by 15 working days in accordance with Article 7(3) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (hereinafter 'Regulation 1049/2001').

Finally, I also refer to our partial reply to your request dated 23 May 2017, ref. Ares(2017)2627282.

1. SCOPE OF THE REQUEST

You request access to 'all emails, letters, briefing papers, agendas, minutes which relate to Commissioner Ansip, Commissioner Oettinger and DG CNECT, concerning wholesale

roaming charges involving Telefonica, TeliaSonera AB, Liberty Global BV, Hutchinson Europe, Orange, Deutsche Telekom, Telecom Italia, Proximus, ETNO, GSMA Europe and MVNO Europe.'

2. DOCUMENTS COVERED BY REGULATION 1049/2001

Your application concerns the following documents:

1) Telefónica :

- *"Telefonica's reply to TERA report on costs of wholesale roaming services", registered under Ares(2016)237654*
- *"BTO meeting with Telefonica on roaming on 15 December 2015", Ares(2015)5925152*
- *"Meeting of VP Ansip with CEOs of Deutsche Telekom, Telefónica and Orange, Brussels, 2 February 2015", Ares(2015)655870*
- *"VP Ansip DHoC Kamila Kloc meeting Telefonica on 3 December 2015", BASIS CNECT/4281*

2) TeliaSonera AB:

- *"Follow-up Telia Company meeting of 09 September 2016", Ares(2016)5291196*
- *"BTO of meeting with Telia on 9 September 2016", Ares(2017)3345131*
- *"Meeting TeliaSonera roaming wholesale review - Internal BTO of meeting on 27 January 2016", Ares(2016)577938*

3) Liberty Global BV

- *"Inter-service consultation on Roaming - Liberty Global analysis - Sustainability of RLAH services for MVNOs", Ares(2016)2571771.*
- *"Domestic Wholesale Roaming Rates vs International Roaming Rates - Liberty Global Confidential Input", Ares(2016)2202904.*
- *"Prices for domestic wholesale MVNO access vs International roaming rates - Liberty Global Confidential Input", Ares(2016)1927846*

4) Hutchinson Europe

- *"Minutes Meeting Hutchinson", Ares(2016)1718490*
- *"Minutes Hutchinson/Three meeting on Roaming", Ares(2016)6519584*
- *"Wholesale Data Growth 20160311", Ares(2017)3345303*
- *"Roam IV-Wholesale Caps 20160226, Ares(2017)3345433*

5) Orange

- *"Orange final comments on TERA report on costs of wholesale roaming services", Ares(2016)2284542*
- *"Reply to Orange - TERA report on costs of wholesale roaming services", Ares(2016)2245135*
- *"Orange reply to TERA report on costs of wholesale roaming services", Ares(2016)2219465*
- *"Meeting of VP Ansip with CEOs of Deutsche Telekom, Telefónica and Orange, Brussels, 2 February 2015", Ares(2015)655870*

- *"BTO meeting with Orange on 21 December 2015", Ares(2017)3345584*
- *"EC Consultation on Roaming – wholesale market, fair use and sustainability exemption", Ares(2017)3345684*
- *"Wholesale Roaming Draft Regulation", Ares(2017)3345788*

6) Deutsche Telekom

- *"Deutsche Telekom - Exchange on wholesale roaming Jan. 10th, 2pm", Ares(2017)135440*
- *"Deutsche Telekom reply to TERA report on costs of wholesale roaming services", Ares(2016)2449160*
- *"Acknowledgement of receipt : Wholesale roaming review - Additional Information from Deutsche Telekom", Ares(2016)1403406*
- *"Wholesale roaming review - Additional Information from Deutsche Telekom", Ares(2016)1400625*
- *"DG Roberto Viola meeting with Mr Kopf, Senior Vice-President, Public and Regulatory Affairs of Deutsche Telekom", Ares(2017)2147904*
- *"Roberto Viola meeting Mr Wolfgang Kopf, Vice President of Group Public and Regulatory Affairs, Deutsche Telekom AG", Ares(2016)938580*
- *"Meeting of VP Ansip with CEOs of Deutsche Telekom, Telefónica and Orange, Brussels, 2 February 2015", Ares(2015)655870*
- *BTO meeting with DT on 8 March 2016", Ares(2017)3345911*

7) Telecom Italia

- *"R/ to Mr Recchi, Presidente Esecutivo Telecom Italia - Letter of 28 September 2016 on Roaming tariffs", Ares(2016)5961081*
- *"da Ing. Recchi, Presidente Esecutivo Telecom Italia", Ares(2016)5683085*
- *"BTO – Meeting with Telecom Italia (TI) – Roaming RLAH+ implementation in Italy – 12/07/16", Ares(2016)3439098*

8) Proximus

- *"Proximus (BE) reply on Confidentiality - TERA report on roaming costs", Ares(2016)2423935.*

9) MVNO Europe

- *"MVNO Europe full position on the review of the roaming wholesale market", Ares(2016)2428814*
- *"Meeting MVNO Europe – Minutes", Ares(2017)3330871*
- *"MVNO Europe - Wholesale roaming - key Market Figures - Euro-Information Telecom", Ares(2016)999143*
- *"Clarifications following DG Connect meeting with MVNO Europe on February 15 2016", Ares(2016)999164*
- *"Meeting MVNO Europe – Minutes", Ares(2016)1718532*
- *[Wholesale roaming] "Roaming Coalition" - Demonstration for competitive wholesale caps, Ares(2017)3347282*
- *INTERNATIONAL ROAMING IN THE EU", Ares(2017)3346073*

3. ASSESSMENT OF THE DOCUMENTS

Following an examination of the documents requested under the provisions of this Regulation, I have come to the following conclusion:

Pursuant to the first indent of Article 4(2) of Regulation 1049/2001, 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 4(2) of Regulation 1049/2001 nevertheless provides that the exceptions laid down therein be waived in case there is an overriding public interest in disclosure.

The requested documents contain commercially sensitive business information related to the companies that submitted them. Thus, the requested documents are covered by the exception provided for by the first indent of Article 4(2) of Regulation 1049/2001. Indeed, the disclosure of the requested documents would undermine the protection of the commercial interests of the companies that submitted them, as putting this information in the public domain is likely to affect their competitive positions on the market.

I have considered whether partial access could be granted to the documents requested in accordance with Article 4(6) of the Regulation 1049/2001. However, partial access is not possible considering that the documents concerned are covered in their entirety by the exception under the first indent of Article 4(2) of Regulation 1049/2001.

4. OVERRIDING PUBLIC INTEREST

I have examined to which extent the exception laid down in Article 4(2) of Regulation 1049/2001 may be waived in case of an overriding public interest in disclosure. Such an interest must firstly be a public interest and secondly outweigh the harm caused by the disclosure.

Having analysed your request, I have not found any elements which could justify the existence of an overriding public interest in the sense of the Regulation, which would outweigh the exception stipulated in Article 4(2) mentioned above.

Therefore, I have concluded that access to the aforementioned documents cannot be granted.

5. CONFIRMATORY APPLICATION

Please note that 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-4
BERL 5/282

1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,



Roberto Viola
Director-General