



## EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Director-General

Brussels,  
CONNECT/R4

Mr Peter Teffer  
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BELGIUM

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### **REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT**

**Subject: Your application for access to documents – GestDem 2018/3267**

Dear Mr Teffer,

We refer to your application for access to documents dated 15/06/2018 and registered on the same date under the above-mentioned reference number. We also refer to our email dated 06/07/2018 (our reference [Ares\(2018\)3599830](#)), whereby we informed you that the time limit for handling your application was extended by 15 working days pursuant to Article 7(3) of Regulation (EC) No 1049/2001 on public access to documents (hereinafter ‘Regulation 1049/2001’).

#### **1. SCOPE OF YOUR APPLICATION**

You requested access to:

*"All documents - including but not limited to emails, papers, reports and minutes - created by and/or sent to the Commission related to the technical issue which affected the first call for applications of the WiFi4EU portal."*

In this regard, reference is made to our proposal for a fair solution of 19/07/2018 (our reference [Ares\(2018\)3842408](#)), by means of which we narrowed down the scope of your application. We excluded from the scope of this application the numerous documents originating from third parties (emails to the IT helpdesk) and the numerous email notifications of the cancellation of the call to applicants.

We have not received a reply to our proposal for a fair solution within the established timeframe of 3 working days or any time after that. As outlined in our fair solution proposal, in the absence of such a reply, we can unilaterally restrict the scope of your request to those parts which can be dealt with within the extended deadline of 30 working days<sup>1</sup>. We have therefore narrowed down the scope of your request in line with what could be achieved within this time-period. We consider your request to cover documents held up to the date of your initial application of 15/06/2018.

## **2. DOCUMENTS FALLING WITHIN THE SCOPE OF THE REQUEST AND ASSESSMENT UNDER REGULATION 1049/2001**

Within the statutory time limits foreseen by Regulation 1049/2001 and considering the Commission's scarce resources available, DG Connect has been able to identify and assess **10 documents** falling within the scope of your application:

(1) Note from DG CONNECT to the Director General of the Legal Service concerning legal options in light of operational experience with WiFi4EU first pilot call (our reference Ares(2018)2742292)

(2) Annex to the aforementioned Note from DG CONNECT – Call for applications under the Connecting Europe Facility in the field of trans-European telecommunication networks (our reference Ares(2018)2742292)

(3) Consolidated technical report on Wifi4EU (our reference Ares(2018)3124529)

(4) Briefing prepared for structured dialogue between Commissioner Mariya Gabriel (Digital Economy and Society) and European Parliament Committee for Industry, Research and Energy (ITRE) held on 18 June 2018 (our reference Ares(2018)3950395)

(5) European Parliamentary question concerning the launch of the WiFi4EU initiative (our reference Ares(2018)3950640)

(6) Answer to the European Parliamentary question by Commissioner Mariya Gabriel (our reference Ares(2018)3950640)

(7) Statement of Commissioner Mariya Gabriel on the first call for applications for WiFi4EU vouchers (our reference Ares(2018)3981739)

(8) Standard email sent to all applicants and WI-FI installation companies to notify cancellation (our reference Ares (2018)3952175)

(9) Note for the attention of the Directorate General of DG CONNECT concerning the decision of the Innovation and Networks Executive Agency (INEA) to cancel the call (our reference Ares(2018)3113368)

(10) Decision of INEA Director of 13 June 2018 to cancel the call (our reference Ares(2018)3113368)

Having examined these documents under the provisions of Regulation 1049/2001, we have arrived at the conclusion that **full access** can be given to **5 documents** whereas **partial access** can be granted to **5 documents**.

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<sup>1</sup> Judgment of the Court of Justice of 2 October 2014 in case C-127/13, Guido Strack v Commission, paragraph 28

**a. Full access**

Full disclosure is being granted for **documents 2, 5, 6, 7 and 8**. Please find enclosed a copy of these documents with this reply.

Please note that with respect to documents produced by the Commission, you may reuse the document free of charge for non-commercial and commercial purposes provided that the source is acknowledged, that you do not distort the original meaning or message of the document. Please note that the Commission does not assume liability stemming from the reuse.

**b. Partial access**

Partial access is being given for **documents 1, 3, 4, 9 and 10** given that one of the exceptions under Article 4 of Regulation 1049/2001 applies or because parts of these documents fall outside the scope of your application. Those parts of the documents which fall outside the scope of your request have been redacted with a written indication ('out of scope') on the right of the corresponding passage.

With regard to **documents 1, 3 and 9**, some parts of these documents have been expunged as they contain personal data of Commission staff. A written indication thereof ('Personal data') can be found on the right of the corresponding passages.

Article 4(1)(b) of the Regulation provides that '*[t]he institutions shall refuse access to a document where disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.*'

Pursuant to Article 4(1)(b) of Regulation 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with European Union legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>2</sup>.

According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing a version of the documents requested in which these personal data have been expunged.

Some parts of documents 1, 3 and 9 have also been expunged because they fall out of the scope of your application.

With regard to **documents 4 and 10**, partial access is being granted solely on the basis that some parts of the document do not fall within the scope of your application.

Please note that with respect to documents produced by the Commission, you may reuse the document free of charge for non-commercial and commercial purposes provided that the

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<sup>2</sup> Official Journal L 8 of 12.1.2001, p. 1. See also the judgment of 29 June 2010 in case C-28/08 P, *Commission/The Bavarian Lager Co. Ltd*, ECR 2010 I-06055

source is acknowledged, that you do not distort the original meaning or message of the document. Please note that the Commission does not assume liability stemming from the reuse.

### **3. POSSIBILITY OF CONFIRMATORY APPLICATION**

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review the above positions.

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:

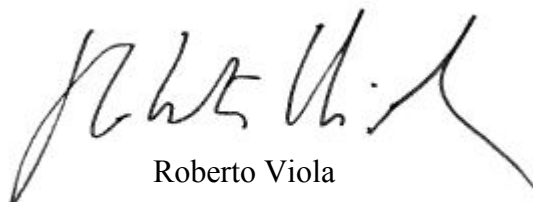
European Commission  
Secretary-General  
Transparency unit SG-B-4  
BERL 5/288  
1049 Bruxelles  
BELGIUM

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Finally, we would like to inform you that we are working to elaborate more information on the first call for applications for the WiFi4EU initiative. This will soon be made available on our Digital Single Market Website:

<https://ec.europa.eu/digital-single-market/>

Yours sincerely,



Roberto Viola

Enclosures: 10