



EUROPEAN COMMISSION  
SECRETARIAT-GENERAL

Directorate C - Transparency, Efficiency & Resources  
SG.C.1-Transparency, Document Management & Access to Documents

Brussels,  
SG.C.1/MOA

Ms Margarida DA SILVA  
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Copy per e-mail

**Subject: Your applications for access to documents – GESTDEM 2019/1315, 2019/1319, 2019/1320, 2019/1322, 2019/1324, 2019/1331, 2019/1337, 2019/1338, 2019/1339, 2019/1344, 2019/1358, 2019/1359, 2019/1362, 2019/1363, 2019/1364, 2019/1365, 2019/1366, 2019/1367, 2019/1368, 2019/1369, 2019/1379, 2019/1380, 2019/1382, 2019/1384, 2019/1398, 2019/1399, 2019/1400, 2019/1412, 2019/1414, 2019/1417, 2019/1421, 2019/1422, 2019/1434, 2019/1462, 2019/1476, 2019/1478, 2019/1483, 2019/1484, 2019/1510, 2019/1513, 2019/1514, 2019/1516, 2019/1537, 2019/1540, 2019/1805**

Dear Ms da Silva,  
Dear Ms Izuzquiza,

We refer to your e-mails sent to the European Commission on 7 March 2019 and 24 March 2019 in which you make 45 requests for access to documents, registered under the above-mentioned reference numbers.

The majority of your requests covers a period between November 2014 and the 7 March 2019 and concerns:

‘- a list of lobby meetings held by [the Directorate-General or the Director-General concerned, the Chief Negotiator, the Commissioner or a member of his Cabinet] and [Amazon, Google, Microsoft or Facebook] or its intermediaries. The list should include: date, individuals attending + organisational affiliation, the issues discussed;

- minutes and other reports of these meetings;

- all correspondence including attachments (i.e. any emails, correspondence or telephone call notes) between [the Directorate-General or the Director-General concerned, the Commissioner or a member of his Cabinet] and [Amazon, Google, Microsoft or Facebook] or any intermediaries representing its interests.

- All documents prepared for the purpose of the meeting and/or exchanged during the course of the meeting’.

Your applications, referenced above, concern:

- 28 Directorates-General or services (AGRI, BUDG, CLIMA, CNECT, COMM, COMP, DEVCO, DIGIT, EAC, ECFIN, ECHO, EMPL, ENER, ENV, EPSC, FISMA, GROW, HOME, JRC, JUST, MARE, MOVE, RTD, SANTE, SG, TAXUD, TF50, TRADE), Directors-General, the Chief negotiator, Commissioners and members of their Cabinet;
- Have an almost identical wording;
- Cover a period between November 2014 and March 2019;
- Cover the same category of documents, namely documents relating to lobby meetings of the European Commission and Amazon, Google, Microsoft or Facebook or any intermediaries representing its interests.

Please note that a search in the document management systems of the European Commission for ‘intermediaries’ of the companies you are interested in is not precise enough to yield results.

We would like to inform you that the European Commission has received a very high number of very similar requests for access to documents submitted by you but also by other applicants concerning lobby meetings held within the European Commission with Amazon, Google, Microsoft or Facebook or persons representing their interests. Although the applicants are different entities, the requests are almost identical and were made at the same time. The circumstances of the introduction of these requests, their timing, their scope, as well as their wording give the impression that they result from a coordinated action. It seems that you made a very wide-scoped request by introducing parts of it as seemingly separate requests.

In this respect, the Court of First Instance<sup>1</sup> confirmed that in its *Ryanair* judgment<sup>2</sup> that Article 6(3) may not be evaded by splitting an application into several, seemingly separate, parts. As stated by the EU Courts, the European Commission needs to respect the principle of proportionality and ensure that the interest of the applicant for access is balanced against the workload resulting from the processing of the application for access in order to safeguard the interests of good administration.

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<sup>1</sup> Now 'General Court'.

<sup>2</sup> Judgment of the General Court of 10 December 2010, *Ryanair v Commission*, T-494/08, EU:T:2010:511, paragraph 34.

Similarly to the above-mentioned cases underlying the case-law of the EU Courts on wide-scoped requests, the European Commission cannot, in this case, accept an artificial splitting of a wide-scoped request into simultaneous, seemingly separate individual applications, as this would result in a circumvention of Article 6(3) of Regulation 1049/2001, and the need for the Commission to ensure that to balance the interest in public access to the documents against the burden of work so caused, in order to safeguard the interests of good administration<sup>3</sup>.

The work needed to deal with your applications would entail multiple searches for documents, which have to be undertaken simultaneously by 28 Directorates-General, the Cabinets of the Commissioners and the Taskforce 50. The work would cover the following steps:

- Contacts/exchanges consultations within the Directorates-General and the services concerned and with other Directorates-General, services or Cabinets which have received similar requests with a view to preparing a fair solution proposal;
- Search for documents relating to meetings with Google, Facebook, Microsoft and Amazon both at the level of the Directorate-General or the service concerned and at the level of the Commissioner and his Cabinet in several document management systems of the Commission;
- Retrieval and establishment of a complete list of the documents falling under the scope of your requests;
- Scanning of the documents which are not in pdf format;
- Preliminary assessment of the content of the documents in light of the exceptions of Article 4 of Regulation EC (No) 1049/2001;
- Assessment of the further procedural steps to undertake, for example whether third party consultations should be made;
- (possibly) third-party consultations under Article 4(4) of Regulation 1049/2001 and (possibly) a further dialogue with the third party originators of documents falling within the scope of your request;
- Final assessment of the documents in light of the comments received, including of the possibility of granting (partial) access;
- Redactions of the relevant parts falling under exceptions of Regulation EC (No) 1049/2001);

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<sup>3</sup> Judgment of the Court of First Instance of 13 April 2005, *Verein für Konsumenteninformation v Commission*, T-2/03, EU:T:2005:125, paragraph 102.

- Preparation of the draft reply for each of your requests by each of the services concerned;
- (possible) Consultation of the Legal Service ;
- Finalisation of the replies at administrative level and formal approvals of the draft decisions;
- Final check of the documents to be (partially) released (if applicable) (scanning of the redacted versions, administrative treatment,...) and dispatch of the replies.

The handling of your numerous simultaneous requests involves the simultaneous work of multiple Commission services and Cabinets. The search and analysis of the documents, which fall within the scope of your requests, together with the need to possibly consult the third parties concerned in accordance with Article 4(4) of Regulation (EC) No 1049/2001, cannot be expected to be completed within the normal time limits set out in Article 7 of Regulation 1049/2001.

Article 6(3) of Regulation (EC) No 1049/2001 provides that in the event of an application relating to a very long document or to very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution. This article shall apply per analogy also to your requests, which, due to their high number, wide-scope and time frame, cover a multitude of Directorates-General and services in the Commission, require numerous separate searches in several document management systems of the Commission and potentially concern a very large number of documents.

In accordance with the case law of the EU Courts, a fair solution can only concern the content or the number of documents applied for, not the deadline for replying.<sup>4</sup> This means that the scope of your requests must be reduced in a way that would enable its treatment within the extended deadline of 15 + 15 working days.

Based on the above-mentioned provision, we would kindly ask you to specify the objective of your wide-scoped request and your specific interest in the documents requested<sup>5</sup>, and whether you could narrow down the scope of your request, so as to reduce it to a more manageable number.

In order to help you to narrow down your wide-scoped request, we attach lists of the lobby meetings, which took place since 1.12.2014 between the Director-General concerned, the Commissioner or a member of his Cabinet and Amazon, Google, Microsoft or Facebook or any intermediaries representing their interests. These meetings are published in the Transparency Register.<sup>6</sup>

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<sup>4</sup> Judgment of the Court of Justice of 2 October 2014, *Guido Strack v Commission*, C-127/13 (hereafter '*Guido Strack v Commission*'), EU:C:2014:2250, paragraphs 26-28.

<sup>5</sup> Ibid, paragraph 28; Judgment of the Court of First Instance, (now 'General Court') of 22 May 2012, *EnBW Energie Baden-Württemberg v Commission*, T-344/08, EU:T:2012:242, paragraph 105.

<sup>6</sup> <http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en#en>.

We propose one of the following alternative options for limiting the excessive administrative burden relating to the handling of your wide-scoped request, made as seemingly separate 45 simultaneous requests:

- Restrict the temporary scope of your wide-scoped request to a period of your choice not exceeding six months and limit its scope only to the meetings published in the Transparency Register;
- Limit the number of your seemingly separate requests to 10 requests of your choice;
- Limit the scope of your requests to 20 meetings of your choice published in the Transparency Register for each one of the companies you are interested in (Google, Amazon, Microsoft and Facebook).

In order to enable us to provide you with a reply as soon as possible, we would ask you for a swift response to our proposal for a fair solution within five working days at the latest, by email to [Sg-Acc-Doc@ec.europa.eu](mailto:Sg-Acc-Doc@ec.europa.eu).

In the absence of a reply within five working days, we we will unilaterally restrict the scope of your application to those parts that can be dealt with within the extended deadline of 30 working days, counting from the registration of your application.<sup>7</sup>

Thank you in advance for your cooperation.

Yours sincerely,

Maria OLIVAN AVILES  
Head of Unit

Enclosures: (4)

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<sup>7</sup> *Guido Strack v Commission*, cited above, paragraph 27.