



EUROPEAN COMMISSION

Competition DG

The Director General

Brussels, 2021-11-23

COMP/B4/6211

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By e-mail: ask+request-10172-886699a1@asktheeu.org

Dear Madam,

Subject: Your applications for access to documents – Ref GestDem No 2021/6010, 2021/6056, 2021/6416, 2021/6441, 2021/6682

We refer to your messages registered on October and November 2021 under the above-mentioned reference numbers.

In your messages, you request access to lists of meetings between different entities and the Directorate-General for Competition, including any Cabinet Members and/or officials, during which several topics mentioned in your messages (including “hydrogen vehicles”, electric vehicles”, “batteries”, “hydrogen” and/or “lithium”) were discussed. According to your messages, the lists should include: date, individuals attending and organisational affiliation, as well as the issues discussed; all minutes and other reports of these meetings and/or calls; all documents prepared for the purpose of the meetings issued both in preparation and after the meetings took place; all correspondence, including attachments between the Directorate-General for Competition and the entities in question, including any Cabinet Members and/or officials, and any lobby group and/or industry representative discussing the same topics.

As specified in Article 2(3) of Regulation 1049/2001, the right of access as defined in that regulation applies only to existing documents in the possession of the institution.

The preparation of a list of documents would require searching in the various databases of the Commission. In this regard, I would like to point out that the question regarding the possible status of information stored in databases as a document within the meaning of Regulation 1049/2001 has already been subject to an assessment by the General Court, which in its ruling in Case T-214/13 established that ‘in the event of an application for access designed to have the Commission carry out a search of one or more of its databases using search criteria specified by the applicant, the

Commission is obliged, subject to the possible application of Article 4 of Regulation No 1049/2001, to accede to that request, if the requisite search can be carried out using the search tools which it has available for the database in question’.

With this judgement, the General Court confirmed the previous judgment in the Dufour case, where the Court stated that ‘anything that can be extracted from a database by means of a normal or routine search may be the subject of an application for access’.

Furthermore, I would like to bring to your attention the most recent judgement in Case C-491/15P, where the Court took the position that the routine character of an operation which determines whether information extracted from a database is a document, is determined by whether the operation has been made available to final users for general use.

The information requested by you is possibly stored in the various databases of the Commission used for storing documents and cannot be extracted from the relevant database by means of a routine search operation using the search tools available. We would like to add that we also do not have any tools to easily produce such kind of lists.

Given that no such lists of documents, corresponding to the description given in your applications, are held by the services of DG Competition, DG Competition is not in a position to fulfil your request in this regard.

Please note that due to the wide scope of your requests, covering also areas falling under the responsibility of other Directorates-General, parts of your requests have been attributed to other Directorates-General. This reply relates only to the documents of DG Competition. You will receive the replies from the other respective Directorates-General in due course.

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, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,

(e-signed)

Olivier GUERSENT