



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

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Subject: Your application for access to documents – EASE Case 2023/1372

Dear Sir,

We refer to your request for access to European Commission documents registered on 28 February 2023 under the above-mentioned reference number.

You request access to the following documents:

“in December 2021 the European Commission published guidelines on how the amended PSO Regulation (PSO = Public Service Obligation) should be interpreted.

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents that contain the following information:

1) minutes and other notes from DG MOVE's meetings (including online meetings) with lobbyists (from January 1st 2021 until today) in which the amended PSO Regulation (and/or the Commission's guidelines) was discussed;

2) all correspondence between DG MOVE and lobbyists in which the amended PSO Regulation (and/or the Commission's guidelines) was discussed - from January 1st 2021 until today”.

We consider your request to cover documents held up to the date of your initial application, i.e. 28 February 2023. We also interpret your reference to ‘lobbyists’ as referring to organisations or self-employed individuals, irrespective of their legal status, engaged in activities carried out with the objective of directly or indirectly influencing the formulation

or implementation of policy and the decision-making processes of the Commission, in line with the definition laid down in Article 2(b) of Commission Decision 2014/839/EU, Euratom of 25 November 2014 on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals ⁽¹⁾ and in Article 2(c) of Commission Decision 2014/838/EU, Euratom of 25 November 2014 on the publication of information on meetings held between Directors-General of the Commission and organisations or self-employed individuals ⁽²⁾.

We have therefore identified the following documents as falling within the scope of your application:

- **Document 1:** E-mail from a representative of AK Wien to DG MOVE officials with the subject matter “*Some comments on the non-paper "Revised interpretative guidelines concerning Regulation (EC) No. 1370/2007"*”, dated 10 February 2022, with the following attachments:
 - **Document 2:** *NON-PAPER: Revised interpretative guidelines concerning Regulation (EC) No. 1370/2007 on public passenger transport services by rail and by road;*
 - **Document 3:** *Gutachtliche Stellungnahme zur „leistungsbasierten Direktvergabe“ von Schienenpersonenverkehrsdienstleistungen nach Art 5 Abs 4a der PSO;*
- **Document 4:** E-mail from a representative of AK Wien to a member of the Cabinet of DG MOVE with the subject matter “*Legal opinion about the "Revised interpretative guidelines" regarding PSO-regulation (1370/2007 & 2016/2338)*”, dated 7 July 2022, with the following attachment:
 - **Document 5:** *Gutachterliche Stellungnahme zum NON-PAPER von Leitlinien zur PSO Verordnung hinsichtlich seines Punktes 2.4.6, sohin zur „leistungsbasierten Direktvergabe“ von Schienenpersonenverkehrsdienstleistungen nach Art 5 Abs 4a der PSO;*
- **Document 6:** Letter from a DG MOVE official to AK Wien with the subject matter “*Legal opinion about the "Revised interpretative guidelines" regarding PSO-regulation (1370/2007 & 2016/2338)*”, dated 15 July 2022;
- **Document 7:** E-mail from a representative of Austrian stakeholders to DG MOVE officials with the subject matter “*PSO-Guidelines: Joint statement of Austrian*

⁽¹⁾ OJ L 343, 28.11.2014, p. 22.

⁽²⁾ OJ L 343, 28.11.2014, p. 19.

stakeholders (employee and employer associations)”, dated 12 May 2022, with the following attachment:

- **Document 8:** *Joint Position: The Commission’s draft on the revised interpretative guidelines on the PSO Regulation (EC) 1370/2007 goes beyond the established legal framework of EU Parliament and Council;*
- **Document 9:** E-mail from a representative of Bundesverband Deutscher Omnibusunternehmen (bdo) e.V. to DG MOVE officials with the subject matter “*Regulation (EC) No 1370/2007 - Statement on COM draft of new interpretative guidelines*”, dated 24 January 2022, with the following attachment:
 - **Document 10:** *Statement on the COM draft on the revised interpretative guidelines on the Regulation (EC) No 1370/2007 (Non-Paper);*
- **Document 11:** E-mail from a representative of B-Rail to DG MOVE officials with the subject matter “*Revision of the PSO interpretative guidelines concerning Regulation (EC) No 1370/2007*”, dated 20 April 2022, with the following attachment:
 - **Document 12:** *B-Rail Position Paper on the proposal by the European Commission for a revision of the PSO interpretative guidelines concerning Regulation (EC) No 1370/2007 on public passenger transport services by rail and by road;*
- **Document 13:** E-mail exchange between a representative of the Conseil des Communes et Régions d’Europe and DG MOVE officials with the subject matter “*Draft revised interpretative guidelines concerning Regulation 1370/2007 _ Letter to EU Associations _ CEMR*”, dated between 2 December 2021 and 10 February 2022, with the following attachment:
 - **Document 14:** *CEMR reply to the consultation the Draft interpretative guidelines concerning Regulation (EC) No 1370/2007 on public passenger transport by rail and by road;*
- **Document 15:** E-mail exchange between a representative of the Community of European Railway and Infrastructure Companies and DG MOVE officials with the subject matter “*CER comments on the draft Revised Interpretative Guidelines concerning Regulation 1370/2007*”, dated between 2 December 2021 and 9 February 2022, with the following attachment:
 - **Document 16:** *CER comments on draft Revised Interpretative Guidelines concerning Regulation No 1370/2007;*
- **Document 17:** E-mail from a representative of Deutscher Städtetag to DG MOVE officials with the subject matter “*Additional Comments of the Associations of*

German Local Governments on the Commission's Non-Paper "Revised interpretative guidelines concerning Regulation (EC) No 1370/2007"", dated 10 February 2022, with the following attachment:

- **Document 18:** *Opinion of the Associations of German Local Governments on the Commission's Non-Paper "Revised interpretative guidelines concerning Regulation (EC) No 1370/2007"*;
- **Document 19:** E-mail from a representative of the European Metropolitan Transport Authorities to DG MOVE officials with the subject matter "*EMTA open letter on the proposal by the European Commission for a revision of the PSO Interpretative Guidelines*", dated 17 May 2022, with the following attachment:
 - **Document 20:** *Open letter: Protect the legal framework for public transport services or undermine the Green Deal*;
- **Document 21:** E-mail exchange between a representative of the European Passengers' Federation and DG MOVE officials with the subject matter "*Draft revised interpretative guidelines concerning Regulation 1370/2007 - Feedback EPF*", dated between 2 December 2021 and 20 January 2022;
- **Document 22:** E-mail from a representative of the European Passenger Transport Operators association to DG MOVE officials with the subject matter "*Response to consultation on revised interpretative guidelines*", dated 9 February 2022, with the following attachment:
 - **Document 23:** *EPTO Position Paper on the proposal by the European Commission for a revision of the PSO interpretative guidelines*;
- **Document 24:** E-mail from a representative of the European Transport Workers' Federation to DG MOVE officials with the subject matter "*ETF preliminary contribution to the revision of the PSO interpretative guidelines / Regulation 1370/2007*", dated 10 February 2022, with the following attachment:
 - **Document 25:** *ETF Contribution to the targeted consultation on Revised interpretative guidelines concerning Regulation (EC) No 1370/2007 on public passenger transport services by rail and by road*;
- **Document 26:** E-mail exchange between a representative of the European Transport Workers' Federation and DG MOVE officials with the subject matter "*Invitation / ETF – AK - OGB - vida event on PSO interpretative guidelines*", dated between 12 and 17 May 2022;
- **Document 27:** Letter from Commissioner Adina Vălean to the European Transport Workers' Federation with the subject matter "*Revision of the PSO guidelines*", dated 17 October 2022;

- **Document 28:** Letter from the Director-General of Mobility and Transport to the European Transport Workers’ Federation concerning the draft revised Interpretative Guidelines on Regulation (EC) No 1370/2007, dated 4 November 2022;
- **Document 29:** E-mail from a representative of the Austrian railways and public transport association to DG MOVE officials with the subject matter “*FV-Position on Revised PSO Guidelines*”, dated 31 January 2022, with the following attachments:
 - **Document 30:** *Stellungnahme zum Entwurf der Europäischen Kommission zur Änderung der Auslegungsleitlinien zur Verordnung (EG) Nr. 1370/2007 | Kurzfassung*;
 - **Document 31:** *Statement on the Draft of the European Commission on the Amendment of the Interpretative Guidelines on Regulation (EC) No. 1370/2007 | Summary*;
 - **Document 32:** *Stellungnahme zum Entwurf der Europäischen Kommission zur Änderung der Auslegungsleitlinien zur Verordnung (EG) Nr. 1370/2007*;
 - **Document 33:** *Statement on the Draft of the European Commission on the Amendment of the Interpretative Guidelines on Regulation (EC) No. 1370/2007*;
- **Document 34:** E-mail from a representative of the Austrian railways and public transport association to DG MOVE officials with the subject matter “*Legal opinion on Revised PSO Guidelines*”, dated 31 May 2022, with the following attachments:
 - **Document 35:** *RECHTSGUTACHTEN zum Entwurf von Auslegungsleitlinien der Europäischen Kommission zu Art 5 Abs 4a PSO-VO*;
 - **Document 36:** *LEGAL OPINION on the draft interpretative guidelines of the European Commission on Art 5 Para 4a PSO-Regulation*;
- **Document 37:** E-mail from a representative of FlixBus BV to DG MOVE officials with the subject matter “*Feedback draft Revised Interpretative Guidelines for Regulation 1370/2007*”, dated 21 March 2022, with the following attachment:
 - **Document 38:** *Feedback on draft of Revised Guidelines PSO Regulation (1370/2007)*;
- **Document 39:** E-mail from a representative of the Federatie Mobiliteitsbedrijven Nederland to DG MOVE officials with the subject matter “*Response of FMN to*

draft revised interpretative guidelines”, dated 21 March 2022, with the following attachment:

- **Document 40:** *Response to the Draft Revised interpretative guidelines concerning regulation (EC) No 1370/2007 on public passenger transport services by rail;*
- **Document 41:** E-mail exchange between a representative of the Fédération Nationale des Associations d'Usagers des Transports and DG MOVE officials with the subject matter “*416: Draft revised interpretative guidelines concerning Regulation 1370/2007 _ Letter to EU Associations _ EPF*”, dated between 2 December 2021 and 13 January 2022, with the following attachments:
 - **Document 42:** *Remarques de la FNAUT relatives au projet de révision des lignes directrices interprétatives du règlement OSP (version du 2 décembre 2021);*
 - **Document 43:** *Remarques de la FNAUT relatives au projet de révision des lignes directrices interprétatives du règlement OSP (version du 2 décembre 2021);*
- **Document 44:** E-mail from a representative of ILSA to DG MOVE officials with the subject matter “*ILSA_Feedback on the draft revised interpretative guidelines 1370_2007_v1*”, dated 30 March 2022, with the following attachment:
 - **Document 45:** *Feedback on the draft Revised interpretative guidelines concerning Regulation (EC) No 1370/2007 on public passenger transport services by rail and by road;*
- **Document 46:** E-mail exchange between a representative of IRU and DG MOVE officials with the subject matter “*Draft revised interpretative guidelines concerning Regulation 1370/2007 _ Letter to EU Associations _IRU*”, dated between 2 December 2021 and 23 February 2022, with the following attachment:
 - **Document 47:** *Draft interpretative guidelines concerning regulation (ec) no 1370/2007 on public passenger transport by rail and road – iru contribution to the informal consultation;*
- **Document 48:** E-mail from a representative of Italo – Nuovo Trasporto Viaggiatori S.p.A to DG MOVE officials with the subject matter “*Italo feedback to revised interpretative guidelines concerning Regulation (EC) No 1370/2007 on public*”, dated 25 March 2022, with the following attachment:
 - **Document 49:** *Revised interpretative guidelines concerning regulation (ec) no 1370/2007 on public passenger transport services by rail and by road – italo – nuovo trasporto viaggiatori s.p.a feedbacks;*

- **Document 50:** E-mail from a representative of RegioJet to DG MOVE officials with the subject matter “*Revised interpretative guidelines concerning the Regulation (EC) No 1370/2007 feedback RegioJet*”, dated 4 April 2022, with the following attachments:
 - **Document 51:** *Feedback of the company RegioJet a.s. as a rail carrier on the draft of the Revised interpretative guidelines concerning Regulation (EC) No 1370/2007 on public passenger transport services by rail and by road;*
- **Document 52:** E-mail from a representative of SGI Europe to DG MOVE officials with the subject matter “*SGI Europe’s contribution to the draft revised interpretative guidelines concerning Regulation 1370/200-PSO Regulation*”, dated 10 February 2022, with the following attachment:
 - **Document 53:** *Position Paper – SGI Europe feedback to the European Commission’s non-paper revised interpretative guidelines concerning regulation (ec) no 1370/2007 on public passenger transport services by rail and by road;*
- **Document 54:** E-mail from a representative of the Finnish Public Transport Association to DG MOVE officials with the subject matter “*Comments on the proposal for a revision of the PSO guidelines*”, dated 10 February 2022, with the following attachment:
 - **Document 55:** *Comments of Finnish Public Transport Association on the proposal by the European Commission for a revision of the PSO interpretative guidelines;*
- **Document 56:** E-mail from a representative of UITP to DG MOVE officials with the subject matter “*Joint Statement on the proposal by the European Commission for a revision of the PSO Interpretative Guidelines*”, dated 4 May 2022, with the following attachment:
 - **Document 57:** *Coalition political statement on the proposal by the European Commission for a revision of the PSO interpretative guidelines;*
- **Document 58:** E-mail from a representative of UTP to DG MOVE officials with the subject matter “*Contribution UTP (France) : révision par la Commission européenne des lignes directrices interprétatives du Règlement OSP (1370/2007)*”, dated 10 February 2022, with the following attachment:
 - **Document 59:** *Contribution de l’UTP relative à la révision par la Commission européenne des lignes directrices interprétatives du Règlement OSP (1370/2007);*

- **Document 60:** E-mail from a representative of the German transport association to DG MOVE officials with the subject matter “*PSO Guidelines: German Transport Association (VDV) comments on the draft text*”, dated 9 February 2022, with the following attachments:
 - **Document 61:** *VDV comments on the Commission’s draft guidelines for Regulation 1370/2007*;
 - **Document 62:** *VDV-Stellungnahme zum Kommissionsentwurf der Leitlinien zur VO 1370/2007*;
- **Document 63:** E-mail exchange between a representative of AllRail and DG MOVE officials with the subject matter “*Stellungnahme_Guidelines_PSO*”, dated 30 March 2022, with the following attachment:
 - **Document 64:** *Guidelines for a shift to rail: for establishing predictable and stable environment*;
- **Document 65:** E-mail from a representative of Wiener Stadtwerke GmbH to DG MOVE officials with the subject matter “*Consultation: interpretative guidelines of the PSO-regulation*”, dated 3 February 2022, with the following attachment:
 - **Document 66:** *Comments on the EC Non-Paper concerning the Interpretative Guidelines of the PSO Regulation*;
- **Document 67:** E-mail exchange between a representative of CER aisbl - Community of European Railway and Infrastructure Companies and DG MOVE officials with the subject matter “*CER contribution: revision of Interpretative Guidelines concerning Regulation No 1370/2007*”, dated between 15 January and 19 April 2021, with the following attachment:
 - **Document 68:** *Revision of Interpretative Guidelines concerning Regulation No 1370/2007*;
- **Document 69:** E-mail exchange between a representative of ÖBB-Holding AG and DG MOVE officials with the subject matter “*ÖBB Austrian Railways // PSO Guidelines // Request for a meeting*”, dated between 30 March and 7 April 2022, with the following attachments:
 - **Document 70:** *Draft interpretative guidelines on Regulation (EC) No 1370/2007 – Remarks by ÖBB Austrian Federal Railways*;
 - **Document 71:** *CER comments on draft Revised Interpretative Guidelines concerning Regulation No 1370/2007*;

- **Document 72:** E-mail exchange between a representative of SGI Europe and DG MOVE officials with the subject matter “*Invite to the SGI Transport Task Force online meeting on 23 February (10:00-13:00)*”, dated between 27 January and 4 February 2022;
- **Document 73:** E-mail from a representative of UITP to DG MOVE officials with the subject matter ““*On-demand*” services”, dated 12 October 2022;
- **Document 74:** E-mail exchange between a representative of UTP and DG MOVE officials with the subject matter “*révision des LD interprétatives du Règlement OSP*”, dated between 9 and 10 November 2022;
- **Document 75:** E-mail exchange between a representative of UTP and DG MOVE officials with the subject matter “*révision LD ROSP*”, dated between 2 and 13 September 2022;
- **Document 76:** E-mail from a representative of Verband Deutscher Verkehrsunternehmen e.V. (VDV) to DG MOVE officials with the subject matter “*VDV-Papier für die Überarbeitung der Leitlinien zur VO 1370*”, dated 12 November 2021, with the following attachment:
 - **Document 77:** *VDV-Stellungnahme zur bevorstehenden Überarbeitung der Leitlinien zur VO 1370*;
- **Document 78:** E-mail exchange between a representative of Wiener Stadtwerke GmbH and DG MOVE officials with the subject matter “*One-pager / interpretative guidelines PSO-regulation AW: Anfrage: (virtueller) Austausch zu Leitlinien der PSO-VO*”, dated between 2 and 28 June 2021, with the following attachment:
 - **Document 79:** *Revision of the interpretative guidelines of the PSO-regulation (EC 1370/2007)*;
- **Document 80:** Debrief of a meeting held on 3 March 2022 between the European Transport Workers Federation and DG MOVE officials, regarding the draft Interpretative Guidelines to Regulation 1370/2007;
- **Document 81:** Flash report of a meeting held on 24 February 2022 between EPTO and DG MOVE officials, on draft revised PSO Guidelines;
- **Document 82:** Flash report of a meeting held on 7 February 2022 between SGI Europe and DG MOVE officials, on interpretative guidelines to Regulation 1370/2007;
- **Document 83:** Flash report of a meeting held on 23 March 2022 between the Mobility Committee of Régions de France and DG MOVE officials, on the draft revised land PSO interpretative Guidelines;

- **Document 84:** Minutes of a meeting held on 13 January 2022 between UTP and DG MOVE officials, on Regulation 1370/2007;
- **Document 85:** Debrief of a meeting held on 29 June 2022 between SGI Europe and DG MOVE officials, regarding draft Interpretative Guidelines for PSO Regulation;
- **Document 86:** Flash report of a meeting held on 31 January 2022 between representatives of the associations of local competent authorities in Germany (Deutscher Städtetag/Deutscher Landkreistag), the association of public transport operators (VDV), and DG MOVE officials, on the draft revised land PSO Guidelines;
- **Document 87:** Minutes of a meeting held on 30 June 2021 between Wiener Linien and DG MOVE officials, on the Interpretative Guidelines to Regulation 1370.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents ⁽³⁾ (hereinafter ‘Regulation (EC) No 1049/2001’), we have come to the following conclusions.

First, a complete disclosure of these documents is prevented by the exception concerning the protection of privacy and the integrity of individuals outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;
- other information relating to identified or identifiable natural persons, in particular references to functions of natural persons, to the extent that these would enable their identification.

Pursuant to Article 4(1)(b) of Regulation (EC) No 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 (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No

⁽³⁾ 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 (OJ L 145, 31.05.2001, p. 43).

45/2001 and Decision No 1247/2002/EC ⁽⁴⁾ (hereinafter ‘Regulation (EU) 2018/1725’, or ‘Data Protection Regulation’).

In particular, Article 3(1) of Regulation (EU) 2018/1725 provides that personal data “*means any information relating to an identified or identifiable natural person [...]*”. The Court of Justice has specified that any information, which by reason of its content, purpose or effect, is linked to a particular person is to be considered as personal data ⁽⁵⁾.

In its judgment in Case C-28/08 P (Bavarian Lager) ⁽⁶⁾, the Court of Justice ruled that when a request is made for access to documents containing personal data, the Data Protection Regulation becomes fully applicable ⁽⁷⁾.

According to Article 9(1)(b) of the Data Protection Regulation, personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if “[t]he recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject’s legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests”.

Only if these conditions are fulfilled and the processing constitutes lawful handling, in accordance with the requirements of Article 5 of Regulation (EU) 2018/1725, can the transmission of personal data occur.

According to Article 9(1)(b) of the Regulation (EU) 2018/1725, the European Commission has to examine the further conditions for a lawful processing of personal data only if the first condition is fulfilled, namely if the recipient has established that it is necessary to have the data transmitted to you for a specific purpose in the public interest. It is only in that case the European Commission has to examine whether there is a reason to assume that the legitimate interests of the data subject might be prejudiced and, in the affirmative,

⁽⁴⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 205 of 21.11.2018, p. 39).

⁽⁵⁾ Judgment of the Court of Justice of the European Union of 20 December 2017 in Case C-434/16, *Peter Nowak v Data Protection Commissioner*, ECLI:EU:C:2017:994, paragraphs 33-35.

⁽⁶⁾ Judgment of 29 June 2010 in Case C-28/08 P, *Commission v Bavarian Lager*, ECLI:EU:C:2010:378, paragraph 63.

⁽⁷⁾ Whereas this judgment specifically related to 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, the principles set out therein are also applicable under the new data protection regime established by Regulation (EU) 2018/1725.

establish the proportionality of the transmission of the personal data for that specific purpose after having demonstrably weighed the various competing interests.

In your request, you do not express any particular interest to have access to these personal data, nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest. Therefore, the European Commission does not have to examine whether there is a reason to assume that the data subjects' legitimate interests might be prejudiced.

Notwithstanding the above, please note that there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in these documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in these documents, as the need to obtain access thereto for a purpose in the public interest has not been substantiated, and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by the disclosure of their personal data.

Second, with regard to **Documents 44, 45** and to certain parts of **Document 12**, I regret to inform you that your application cannot be granted, as their disclosure is prevented by the exception to the right of access laid down in the first indent of Article 4(2) of Regulation (EC) No 1049/2001, concerning the protection of commercial interests.

The first indent of Article 4(2) of Regulation (EC) No 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 (...) unless there is an overriding public interest in disclosure*”.

As regards **Documents 44** and **45**, since these documents originate from a third party, the said third party originator has been consulted. Pursuant to such consultation, the author of the documents has objected to disclosure. The third party motivated its position by arguing that the documents represent the commercial interests of ILSA on its individual analysis of the market, and that there is no public interest which would override the private rights of ILSA in favour of any third party.

We have considered whether partial access could be granted to **Documents 44** and **45**, pursuant to Article 4(6) of Regulation (EC) 1049/2001. However, given the nature and structure of the documents, no meaningful partial access would be possible without undermining the protection of the public interests described above. We have therefore concluded that it is not possible to grant partial access to the requested documents.

Concerning **Document 12**, some parts of this document have been identified as containing commercially sensitive information of the company concerned. Disclosure of these parts

of the document would undermine the protection of the commercial interests of that company, as putting this information in the public domain would affect its competitive position on the market. More specifically, this document contains information on business strategies which if made public, could be detrimental to the achievement of the commercial objectives of the said company.

Therefore, the exception laid down in Article 4(2) first indent of Regulation (EC) No 1049/2001 applies to **Documents 44** and **45**, and to some redacted parts of **Document 12**.

The exceptions laid down in Article 4(2) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in the disclosure of the documents. We have examined whether there could be overriding public interests in the disclosure of the abovementioned documents or parts thereof. However, we have not been able to identify any such interests.

Please note that the documents originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

Please also note that **Documents 80** to **87** were drawn up for internal use under the responsibility of the relevant services of the Directorate-General for Mobility and Transport. They solely reflect the authors' interpretation of the interventions made, and do not set out any official position of the third parties to which the documents refer, which were not consulted on their content. They also do not reflect the position of the Commission and cannot be quoted as such.

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed to the Secretariat-General of the Commission within 15 working days upon receipt of this letter. You can submit it in one of the following ways:

by asking for a review via your portal⁸ account (available only for initial requests submitted via the portal account),

or by mail:

European Commission
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076

⁸ <https://www.ec.europa.eu/transparency/documents-request>

B-1049 Bruxelles

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

Yours faithfully,

Maja Bakran Marcich

Enclosure: 85 Annexes