



EUROPEAN COMMISSION  
SECRETARIAT-GENERAL

Directorate B  
Director

Brussels, 04.12.2012  
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Mr Erik Wesselius  
Corporate Europe Observatory

**By email only to:**  
erik@corporateeurope.org  
sk+request-237-3e46dc4f@asktheeu.org

**Subject: Your request for access to documents under Regulation (EC) No 1049/2001 – reference GestDem No 2012/4874**

Dear Mr Wesselius,

We refer to your email of 19 October 2012, transmitted via the *asktheeu* website, in which you request access to all correspondence, minutes of meetings and logs or notes of phone calls between President Barroso or his Cabinet and private sector companies and lobby groups since 10 February 2010, related to the revision of the Tobacco Products Directive 2001/37/EC.

We have identified 18 documents as falling within the scope of your request. Having analysed these documents, we concluded that they can all be disclosed.

Document No 10 contains several annexes, among which a letter sent by a group of scientists to Commissioner Dalli. The names of the signatories, except with regard to the person from the Institute for Tobacco Studies in Stockholm, who sent the email to the President's Cabinet, have been expunged for reasons of personal data protection, pursuant to Article 4(1)(b) of Regulation 1049/2001, which provides: "[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."

To our knowledge, the names of the signatories have not been made public. All of these names are clearly personal data as defined in Article 2(a) of 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 (hereafter: Regulation 45/2001).

The Court of Justice has confirmed that "where a request based on Regulation No 1049/2001 seeks to obtain access to documents including personal data, the provisions of Regulation 45/2001 become applicable in their entirety, including Articles 8 and 18 thereof".

Pursuant to Regulation 45/2001, personal data must be processed fairly and lawfully. Any processing must be necessary and proportionate for a specific purpose.

I consider that, in this case, the necessity of having the abovementioned data disclosed to the public is not demonstrated. Furthermore, pursuant to Article 8(b) of Regulation 45/2001, the Commission can only transmit personal data to a recipient subject to Directive 95/46/EC if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subject's legitimate interests might be prejudiced .

Nothing in your request shows the necessity of having these data transmitted to you. Consequently, the disclosure of the names of natural persons referred to above has to be refused pursuant to Article 4(1)(b) of Regulation 1049/2001.

In case you wish the names of the signatories to be made public, we invite you to provide us with arguments showing that such disclosure is necessary and will not adversely affect the legitimate rights of the persons concerned.

In case you would disagree with our assessment as regards disclosure of personal data, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, 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-5  
BERL 5/327  
B-1049 Bruxelles

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

Yours sincerely,



Hubert Szlaszewski  
Director

Enclosures: 18 documents