



EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

Director-General

Ref. Ares(2017)5138443 - 20/10/2017

Brussels,
CONNECT/I2/VD/hz (2017) 5730778

***Registered letter with
acknowledgement of receipt***

Mr Dimitar Dimitrov
Rue du Trône, 51
1050 Bruxelles

By email: [ask+request-4618-
91edaa3e@asktheeu.org](mailto:ask+request-4618-91edaa3e@asktheeu.org)

Subject: Your application for access to documents – Ref GestDem No 2017/5179

Dear Mr Dimitrov,

We refer to your e-mail dated 07/09/2017 in which you make a request for access to documents, registered on 08/09/2017 under the above mentioned reference number. We also refer to our holding reply of 29/09/2017 (Ares(2017) 4762996) concerning the extension of the deadline.

1. SCOPE OF THE REQUEST

You request access to "*all documents pertaining to Commissioner Gabriel's participation at the "Better Regulation for Copyright: Academics Meet Policy Makers" conference that took place in the European Parliament on 06.09.2017*".

2. DOCUMENTS COVERED BY REGULATION 1049/2001

Your application concerns the following documents:

- (1) Email from Ms Julia REDA to the Cabinet of the Commissioner Maryia Gabriel (copyright academic studies), 08/08/2017, (Ref. Ares(2017) 3952025).
- (2) Briefing Basis (CAB GABRIEL/5), Speech at the European Parliament Event "Copyright academics meet policy-makers", 06/09/2017 and attachments (background documents)
 - (a) Christina Angelopoulos, Study on Online Platforms and the Commission's New Proposal for a Directive on Copyright in the Digital Single Market, Centre for Intellectual Property and Information Law (CIPIL), January 2017 – available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2947800

- (b) Natacha Lomas, A conversation about digital copyright reform (with interview of Julia Reda), 15 April 2017, available at : <https://techcrunch.com/2017/04/15/a-conversation-about-digital-copyright-reform/>
- (3) Email from Ms Julia REDA to the Commissioner Maryia Gabriel, 20/08/2017 (Ref. Ares(2017) 4911834) with attachment:
 - (a) Better regulation for copyright - Collected submissions by the academics (Pdf Format) available at <https://juliareda.eu/events/better-regulation-for-copyright/>

3. ASSESSMENT OF THE DOCUMENTS

Following an analysis of the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents (hereinafter "Regulation 1049/2001") and taking into account the consultation of the third party involved (Ares(2017)5015758) pursuant to Article 4(4), we have arrived at the following conclusion:

a) DOCUMENTS 1-3: FULL ACCESS WITH ONLY PERSONAL DATA REDACTED

Annex 1 contains the documents to which full access is granted.

b) DOCUMENT 2: PARTIAL ACCESS

Annex 2 contains the document to which partial access is granted.

Some parts of the documents have been redacted as their disclosure is prevented by an exception to the right of public access to documents laid down in Article 4 of Regulation 1049/2001:

i. Protection of privacy (Article 4 (1) (b))

Some of the deleted parts of the documents contain personal data, in particular names of contact details, which have been redacted for the following reason.

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 Community 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 (hereinafter "Regulation 45/2001")¹.

When access is requested to documents containing personal data, Regulation 45/2001 becomes fully applicable².

¹ Official Journal L 8 of 12.1.2001, p. 1

² Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, ECR 2010 I-06055.

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 the documents requested expunged from this personal data.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, 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 according to the procedure laid down at the point 5 of this letter.

ii. Protection of the Institution's decision making process (Article 4(3))

Document 2 is an internal briefing including scene setting, speaking points, background information addressed to Commissioner Gabriel responsible for Digital Economy and Society and her Cabinet, within the context of her participation in the event "Better Regulation for Copyright: Academics Meet Policy Makers" taking place in the European Parliament, on the 6 of September 2017.

- The withheld parts of document 2 (p.10) contain preliminary reflections, exclusively for internal use, on policy options and their possible timing, regarding the data economy package. Based on Article 4(3), first subparagraph of Regulation 1049/2001, we consider that premature disclosure of these extracts of the document which contain internal information regarding policy options not yet decided, would seriously undermine the ongoing decision making process regarding the data economy package.

4. OVERRIDING PUBLIC INTEREST

The exception called upon in point 3b)ii of this letter and laid down in Article 4(3) of Regulation 1049/2001 applies, unless there is an overriding public interest in disclosure of the documents. While recognising the importance of transparency in enabling citizens to participate in the democratic process, in this case, we take the view that the public interest in making the content of these documents fully public does not outweigh the harm that their disclosure would cause to the interests protected by the invoked exceptions.

5. 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 its 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-4
BERL 5/327

B-1049 Brussels
or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,



Roberto Viola

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