



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Director-General

Brussels,
GROW/D3/LMB/dr (2018) 2153364

Mr Olivier Hoedeman
Rue d'Edimbourg, 26
B-1050 Brussels

*By registered letter with
acknowledgment of receipt*

Advance copy by email:
[ask+request-5114-
d6e4f237@asktheeu.org](mailto:ask+request-5114-d6e4f237@asktheeu.org)

Dear Mr Hoedeman ,

Subject: Your application for access to documents – Ref GestDem No 2018/1203

We refer to your e-mail dated 05/02/2018 in which you make a request for access to documents, registered on 27/02/2018 under the above mentioned reference number¹.

You request access to:

- *all reports (and other notes) from meetings between the European Commission and representatives of the tobacco industry (producers, distributors, importers etc, as well as organisations and individuals that work to further the interests of the tobacco industry), since January 1st 2017.*
- *all correspondence (including emails) between the European Commission and representatives of the tobacco industry (producers, distributors, importers etc. as well as organisations and individuals that work to further the interests of the tobacco industry), since January 1st 2017.*
- *a list of all the above-mentioned documents (including dates, names of participants/senders/recipients and their affiliation, subject of meeting/correspondence.)*

We have identified 16 documents matching the scope of your request. A list of the documents identified is enclosed with this letter.

Since some of the documents concerned originate from third parties, the originators of the documents have been consulted.

¹ Please note that you will be receiving/have received a reply to your request for access to documents from other Directorates-General and the Secretariat General of the European Commission, namely: GestDem 2018/1199 – DG SANTE; GestDem 2018/1204 – DG AGRI; GestDem 2018/1205 – SG.

The author of the documents number 14 and 15 has objected to disclosure of the documents that it sent to the Commission and has motivated its position as follows: the disclosure of the documents in question would undermine the protection of legal advice provided for under Article 4(2) second indent of Regulation (EC) No 1049/2001. Therefore, we regret to inform you that access to these documents cannot be granted.

We have considered whether partial access could be granted to documents 14 and 15. However, this has not been considered to be possible since the document in question is covered by the above-mentioned exception in its entirety.

The exceptions laid down in Article 4(2) and 4(3) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the document. According to Regulation (EC) No 1049/2001, an exception to the right of access to documents must be waived if there is an overriding public interest in disclosing the document concerned, which has to outweigh the interest protected by the exception to the right of access. In the present case, the services of the Commission have reached the conclusion that there appears to be no overriding public interest in their disclosure in the sense of the Regulation.

The documents to which you have requested access contains personal data in particular the names of industry representatives, names of Commission officials, and hand-written signatures.

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 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 data².

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable³.

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/or 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 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:

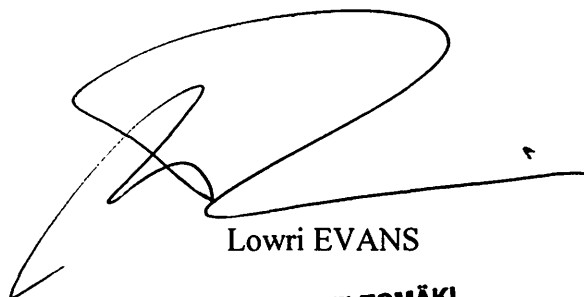
² Official Journal L 8 of 12.1.2001, p. 1

³ 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.

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/282
B-1049 Bruxelles

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

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'L' and 'E' followed by a horizontal line.

Lowri EVANS

ANTTI PELTOMÄKI
Deputy Director-General
DG INTERNAL MARKET, INDUSTRY,
ENTREPRENEURSHIP AND SMEs

Annexes:

- List of documents identified
- 14 documents