



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR RESEARCH & INNOVATION

The Director-General

Brussels,  
B1/RS/JCV

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***By registered letter with  
acknowledgment of receipt***

Mr Joerg Stahl  
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**Subject: Request for access to documents**

Ref.: Your request of 18 June 2019 registered under reference GestDem 2019/3491

Dear Mr Stahl,

We refer to your request for access to documents within the framework of Regulation (EC) No 1049/2001<sup>1</sup>, addressed to the Directorate-General for Research and Innovation.

You requested the following:

- *all documents related to the 23-01-2015 meeting between Commissioner Carlos Moedas and Qualcomm Inc., including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations*
- *all documents related to the 23-01-2015 meeting between Commissioner Carlos Moedas and Johnson & Johnson, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations*
- *all documents related to the 28-04-2015 meeting between Commissioner Carlos Moedas and General Electric Company, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations*
- *all documents related to the 18-05-2015 meeting between Commissioner Carlos Moedas and MSD (Europe) Inc. (Merck Sharp & Dohme), including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations*

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<sup>1</sup> 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, 31.5.2001, p. 43) hereinafter referred to as “Regulation (EC) No 1049/2001”.

- all documents related to the 23-09-2015 meeting between Commissioner Carlos Moedas and Google, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 03-12-2015 meeting between Commissioner Carlos Moedas and Google, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 03-12-2015 meeting between Commissioner Carlos Moedas and Procter & Gamble, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 25-02-2016 meeting between Commissioner Carlos Moedas and DuPont de Nemours International SARL, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 25-05-2016 meeting between Commissioner Carlos Moedas and PepsiCo, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 25-05-2016 meeting between Commissioner Carlos Moedas and Intel Corporation, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 18-01-2017 meeting between Commissioner Carlos Moedas and Microsoft Corporation, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 19-04-2017 meeting between Commissioner Carlos Moedas and General Electric Company, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 10-10-2017 meeting between Commissioner Carlos Moedas and IBM Corporation, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 24-01-2018 meeting between Commissioner Carlos Moedas and AT&T, Inc., including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 25-01-2018 meeting between Commissioner Carlos Moedas and Hewlett Packard Enterprise, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 25-01-2018 meeting between Commissioner Carlos Moedas and Facebook Ireland Limited, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 08-03-2018 meeting between Commissioner Carlos Moedas and Cisco Systems Inc., including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations
- all documents related to the 23-01-2019 meeting between Commissioner Carlos Moedas and Microsoft Corporation, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations

– *all documents related to the 24-01-2019 meeting between Commissioner Carlos Moedas and Facebook Ireland Limited, including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, e-mails, and presentations”.*

## **I. SCOPE OF THE REQUEST**

The following documents have been identified as corresponding to your request:

1. Briefing on the bilateral between Commissioner Carlos Moedas and a representative of **Qualcomm** on 23-01-2015.
2. Briefing on the meeting between Commissioner Carlos Moedas and representatives of **Johnson and Johnson** (J&J) on 23-01-2015.
3. Email of 14-04-2015 from **General Electric Global Growth** to the Cabinet of Commissioner Moedas asking for a meeting between the latter and a representative of General Electric Company on 29-04-2015.
4. Briefing on the meeting between Commissioner Carlos Moedas and a representative of General Electric Company on 28-04-2015.
5. Email of 31-03-2015 from the **Merck Group** to the Cabinet of Commissioner Moedas asking for a meeting between the latter and representatives of General Electric Company on 18-05-2015.
6. Briefing on the meeting between Commissioner Carlos Moedas and representatives of Merck on 18-05-2015.
7. Email of 22-05-2015 from Merck Group to the Cabinet of Commissioner Moedas, including an attachment:
  - a. Letter from Merck to Commissioner Moedas concerning the meeting held on 18-05-2019.
8. Email of 08-06-2015 from **Google** to the Cabinet of Commissioner Moedas asking for a meeting between the latter and a representative of Google on 23-09-2015.
9. Email of 09-07-2015 from the Cabinet of Commissioner to Google accepting the suggested meeting on 25-09-2019.
10. Briefing on the meeting between Commissioner Carlos Moedas and a representative of Google on 23-09-2015.
11. Email of 25-9-2015 from Google to the Cabinet of Commissioner concerning the meeting held on 25-09-2019,
12. Email of 23-07-2015 from Business Europe to Commissioner Moedas, enclosing an invitation to the Advisory and Support Group on 03-12-2019, where **Google** and **Procter & Gamble** were also represented.
13. Email of 12-08-2015 from the Cabinet of Commissioner to Business Europe on the availability of the Commissioner for a meeting.
14. Email of 02-12-2015 from the Secretariat General to the Cabinets, including the Programme of the meeting of Advisory and Support Group and three enclosures:
  - a. List of the participants
  - b. Photos of the participants
  - c. Final programme of the event.
15. Briefing on the Advisory and Support Group on 03-12-2015.

16. Letter of 18-12-2015 from Business Europe to Commissioner Moedas, on the Advisory and Support Group.
17. Note on the key messages related to the meeting between Commissioner Moedas with representatives of European Advanced Biofuel Companies.
18. Briefing on the meeting between Commissioner Moedas and representatives of European Companies committed to the development of the low carbon transport fuels held on 25-02-2016, where representatives from **DuPont** were also invited.
19. Briefing on the meeting between Commissioner Moedas and a representative of **Pepsico** held on 25-05-2016.
20. Letter of 01-06-2016 from a representative of Pepsico to Commissioner Moedas, concerning the meeting held on 25-05-2016.
21. Exchange of emails between 26 and 01-12-2015 between the European Commission and a representative of **Intel Corp.** on the possibility of a meeting with Commission Moedas.
22. Briefing on the meeting between Commissioner Moedas and a representative of Intel held on 25-05-2016.
23. Exchange of emails between 13-11-2016 and 09-0108-2017 between the Cabinet of Commissioner Moedas and **Microsoft** on the availability of the Commissioner for a meeting.
24. Briefing on the meeting between Commissioner Moedas and a representative of Microsoft held on 18-01-2017.
25. Briefing on the meeting between Commissioner Moedas and representatives of the **General Electric Company** held on 19-04-2017.
26. Exchange of emails between 18-07-2017 and 27-07-2017 between the Cabinet of Commissioner Moedas and **IBM** on the availability of the Commissioner for a meeting with a representative of IBM.
27. Briefing on the meeting between Commissioner Moedas and a representative of IBM held on 10-10-2017.
28. Exchange of emails between 14-07-2017 and 16-01-2018 between the Cabinet of Commissioner Moedas and **AT&T** on the possibility of a meeting between the Commissioner with a representative of AT&T.
29. Briefing on the meeting between Commissioner Moedas and a representative of AT&T held on 24-01-2018.
30. Exchange of emails between 04-01-2018 and 15-01-2018 between the Cabinet of Commissioner Moedas and **Hewlett Packard Enterprise** on the possibility of a meeting between the Commissioner with a representative of Hewlett Packard Enterprise.
31. Briefing on the meeting between Commissioner Moedas and a representative of Hewlett Packard Enterprise held on 25-01-2018.
32. Exchange of emails between 11-01-2018 and 18-01-2018 between the Cabinet of Commissioner Moedas and **Facebook** on the possibility of a meeting between the Commissioner with a representative of Facebook on 25-01-2018.
33. Briefing on the meeting between Commissioner Moedas and a representative of Facebook held on 25-01-2018.

34. Exchange of emails between 02-02-2018 and 14-02-2018 between the Cabinet of Commissioner Moedas and **Cisco Systems** on the possibility of a meeting between the Commissioner with a representative of Cisco Systems on 08-03-2018.
35. Briefing on the meeting between Commissioner Moedas and a representative of Cisco Systems held on 08-03-2018.
36. Email of 14-01-2019 from a representative of **Microsoft** to the Cabinet of Commissioner on the availability of the Commissioner for a meeting.
37. Curriculum vitae of the representative of Microsoft,
38. Document containing internal background information.
39. Document containing internal background information.
40. Email of 09-01-2019 from **Facebook** to the Cabinet of Commissioner, inviting the latter to a reception held by Facebook on 24-01-2019.
41. Exchange of emails between 21-01-2019 and 22-01-2019 between the Cabinet of Commissioner and Facebook on the possibility of a meeting between the Commissioner and a representative of Facebook.

## II. EXAMINATION UNDER REGULATION (EC) No 1049/2001

After a concrete assessment of the requested documents, we have reached the conclusion that:

- Access must be refused to documents under numbers 14a, 14b and 37.
- Partial access can be granted to all the remaining documents.

The refused documents, as well as the expunged parts of the disclosed documents must be protected in accordance the exception for the protection of the privacy and the integrity of the individual, as will be explained below:

### Partial access

Pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access to a document has to be refused if 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<sup>2</sup>.

All of the disclosed documents contain personal data, which have been expunged, such as names, functions, telephone numbers, electronic and professional email addresses, office numbers etc. of Commission's officials not having the function of senior management staff and of the third parties identified in the documents. Furthermore, information which could lead to the identification of the persons concerned, such as details concerning their professional or academic activities, have been deleted. This information clearly constitutes personal data in the meaning of Article 3(1) of Regulation (EU) 2018/1725.

Pursuant to Article 9(1)(b) of Regulation (EU) 2018/1725<sup>3</sup>, personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if

<sup>2</sup> Judgment of 29 June 2010 in Case C-28/08 P, *European Commission v The Bavarian Lager Co. Ltd*, ECLI:EU:C:2010:378, paragraphs 59 and 63. 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 2018/1725.

<sup>3</sup> Regulation 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

*'[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'.*

According to Article 9(1)(b) of 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 for a specific purpose in the public interest. In your request, you do not put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Please note that the exception of Article 4(1)(b) has an absolute character and does not envisage the possibility of demonstrating the existence of an overriding public interest.

#### No access

Access to documents under numbers 14a, 14b and 37 is refused in their entirety, since the specific documents consist almost exclusively of personal data (biographies and photographs of third parties), protected under the exception of Article 4(1)(b). We have considered the possibility of granting partial access to the documents concerned. However, we have reached the conclusion that no meaningful partial access could be granted.

### **III. DISCLAIMER AND RE-USE OF THE DOCUMENTS**

The requested documents were drawn up for internal use under the responsibility of the relevant service of the Commission or sent by third parties.

You may reuse the disclosed documents, to the extent that they originate from the European Commission, free of charge for non-commercial and commercial purposes provided that the source is acknowledged, that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

With regards to the parts of the disclosed documents originating from third parties, please note that these parts are disclosed for information only and cannot be re-used without the agreement of the originator

The disclosed documents do not reflect the position of the Commission and cannot be quoted as such.

### **IV. MEANS OF REDRESS**

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 within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

**European Commission**

**Secretary-General**

**Unit C.1 – Transparency, document management & access to documents**

**BERL 7/076**

**B-1049 Brussels**

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

Yours faithfully,

Jean-Eric Paquet

Enclosures: The requested documents expunged from personal data, with the exception of documents 14a, 14b and 37.