



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Directorate A - Strategy, Better Regulation & Corporate Governance
SG.A.2 - Evaluation & Impact Assessment, Regulatory Scrutiny Board Secretariat

Brussels
SG.A.2/AF

Subject: Your request under Regulation (EC) No 1049/2001¹ regarding public access to European Parliament, Council and Commission documents– Ref GestDem 2021/1403

Dear Mr Bank,

We refer to your message dated 10/03/2021 in which you make a request for access to documents, registered under the above-mentioned reference number.

You have requested the following documents:

1. The summary of the NCAs New Competition Tool consultation;
2. All available written information on the Commission's meeting with the Regulatory Scrutiny Board on the New Competition Tool on 10 September 2020;
3. The Regulatory Scrutiny Board's final opinion on the NCT incl. all annexes. In particular, the RSB's opinion on the compatibility of an NCT with Article 114 of the Treaty.

Please note that the initiative on the New Competition Tool has been integrated into the Commission's proposal on the Digital Market Act. The proposal, the impact assessment and the opinions of the Regulatory Scrutiny Board have been published on the Commission's website:

<https://ec.europa.eu/transparency/regdoc/?fuseaction=ia&year=2020&serviceId=10307&s=Search>.

1. You can find the summary of the consultation of the NCAs on the new competition tool on page 22 of the annexes to the impact assessment:
<https://ec.europa.eu/transparency/regdoc/rep/10102/2020/EN/SWD-2020-363-F1-EN-MAIN-PART-2.PDF>
2. We include a copy of the minutes of the meeting between the Regulatory Scrutiny Board and DG Competition of 10 September 2020 (ARES(2021)1929199).

¹ OJ L145, 31.05.2001, page 43.

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3. The final opinion of the RSB and its annexes have been published on the Commission's website:

<https://ec.europa.eu/transparency/regdoc/rep/2/2020/EN/SEC-2020-437-F1-EN-MAIN-PART-1.PDF>

Regarding document (2), a complete disclosure of the identified document is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because it contains the names of Commission staff members not pertaining to the senior management.

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

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 the requested 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 disclosure of the personal data concerned.

You may reuse the documents disclosed free of charge and for non-commercial and commercial purposes provided that the source is acknowledged and 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.

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:

European Commission
Secretary-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Brussels

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

Yours sincerely

Antonina CIPOLLONE