



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

Acting Director General

Brussels
JUST.DDG.E.3/CD/se

Mr Max Bank
LobbyControl
Am Justizzentrum 7
50939 Köln
Germany

By email: ask+request-9092-9a402156@asktheeu.org

Subject: Your application for access to documents – GESTDEM 2021/1651

Dear Mr Bank,

We refer to your e-mail of 16 February 2021 in which you made a request for access to documents, registered on 16 February 2021 under the above-mentioned reference number.

Your request concerns the following documents:

- all documents - including but not limited to minutes, (hand-written) notes, audio recordings, verbatim reports, operational conclusions, lines to take, e-mails, and presentations - related to the meetings members of DG Justice and Consumers below the level of Commissioner and Cabinet have held with interest representatives on the Digital Services Act and the Digital Markets Act (including previous iterations of the proposals such as New Competition Tool and Markets Investigation Tool) since 01 August 2020 until today;

- all correspondence (i.e. any emails, correspondence, telephone call notes, and/or text messages including WhatsApp exchanges) between members of DG Justice and Consumers below the level of Commissioner and Cabinet with interest representatives on the Digital Services Act and the Digital Markets Act (including previous iterations of the proposals such as New Competition Tool and Markets Investigation Tool) since 01 August 2020 until today.

We consider your request to cover documents held up to the date of your initial application, i.e. 16 February 2021.

We have identified the documents that match your request. You can find the full list of those documents in the annex to this reply.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that the documents can be partially disclosed. Please note that some parts of the documents have been redacted as their disclosure is prevented by exceptions to the right of access laid down in Article 4 of that Regulation. The redacted parts of documents relate to the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;
- other information relating to an identified or identifiable natural person (i.e. job titles that would allow the identification of natural persons).

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.

Article 9(1)(b) of the Data Protection Regulation¹ does not allow the transmission of personal data, except if the applicant for access to documents proves that it is necessary to have the data transmitted to him or her 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 any 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.

The documents listed in the annex to this reply were drawn up for internal use under the responsibility of the relevant Commission services. They solely reflect the services' interpretation of the situation and the interventions made and do not set out any official position of the third parties to which the documents refer, that had not been consulted on the content of the documents. The documents do not reflect the position of the Commission and cannot be quoted as such.

Please note that some parts of the documents no. 4, 5 and 6 have also been redacted, as they do not fall within the scope of your request.

¹ Regulation (EU) 2018/1725 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 and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

In case you would disagree with this position, you are entitled, in accordance with Article 7(2) of Regulation (EC) No 1049/2001, to submit 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 Secretariat-General of the Commission at the following address:

European Commission
Secretariat-General
Unit C.1. 'Transparency, Document Management and Access to Documents'
BERL 7/076
B-1049 Brussels, or by email to: sg-acc-doc@ec.europa.eu

According to standard operational procedure, the reply is usually also sent to you by registered post. Please note, however, that due to the extraordinary health and security measures currently in force during to the COVID-19 epidemics, which include the requirement for all Commission non-critical staff to telework, we are unfortunately not in a position to follow this procedure until further notice.

We would therefore appreciate if you could confirm receipt of the present e-mail by replying to JUST-E3@ec.europa.eu.

Yours sincerely,

Salla SAASTAMOINEN
(e-signed)

Annex: Documents subject to partial disclosure to the applicant

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File no.	Author	Addressee	Date	Title	Ares no.
1.	European Commission	Internal	2/10/2020	Flash report: Call with BEUC on the Digital Services Act	Ares(2020)5196976
2.	European Commission	Internal	2/10/2020	Flash report: Call with BEUC on the Digital Services Act - ANNEX	Ares(2020)5196976
3.	European Commission	Internal	29/10/2020	Flash report: Meeting with Federation of European Sporting Goods Industry 29/10	Ares(2020)6143925
4.	European Commission	Internal	11/11/2020	Flash report: Meeting with IAB Europe (European-level association for the digital marketing and advertising) on Digital Services Act and European Democracy Action Plan	Ares(2020)6591112
5.	European Commission	Internal	23/11/2020	Flash report: Call with BEUC on DSA and [...]	Ares(2020)7033787
6.	European Commission	Internal	25/02/2021	Flash report: meeting with BEUC to discuss consumer protection issues concerning online platforms (24.2.2021)	Ares(2021)1484782