



## EUROPEAN COMMISSION

Directorate-General for Communications Networks, Content and Technology

The Director General

Brussels,  
CNECT D/1/PK/st  
Ares (2013)

Kirsten Fiedler  
Email:

**Subject: Your application for access to documents – Ref GestDem No 2013/5629 under Regulation 1049/2011 regarding public access to European Parliament, Council and Commission documents**

Dear Madam,

I refer to your e-mails dated 11 and 12/11/2013 wherein you make a request for access to documents, registered by us on 12/11/2013 under the abovementioned reference number.

Your application concerns the following documents: (1) A list of Mr Karl-Theodor zu Guttenberg's meetings with IT companies, bloggers, activists, NGOs and decision-makers; (2) A list of conferences and events in which he participated; (3) A list of EU initiatives and projects in which Mr zu Guttenberg was involved; (4) Mr zu Guttenberg's contribution as a key element to the No Disconnect Strategy; (5) His intermediary and final reports on the EU-27, possible support to bloggers, users and activists; and (6) A complete overview of his travel expenses and other fees.

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we have come to the conclusion that they may be partially disclosed.

Pursuant to Article 4 (1) b of Regulation 1049/2001 "the institutions shall refuse access to a document where 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".

Furthermore, pursuant to Article 8 (b) of Regulation (EC) 45/2001 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 Commission can only transmit personal data to a recipient subject to Directive 95/46/EC if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subject's legitimate interests might be prejudiced. Nothing in your request shows the necessity of having these data transmitted to you.

The blanked out parts of the disclosed documents contain personal data disclosure of which would undermine the protection of the privacy of these individuals.

Pursuant to Article 4 (1) a, third indent of the Regulation 1049/2001 "the institutions shall refuse access to a document where disclosure would undermine the protection of international relations".

The expunged data relates to international relations at stake, including events and activities currently under preparation which would be impaired by disclosure.

The exceptions in Article 4(1) are absolute exceptions not balanced by an overriding interest.

Furthermore, pursuant to Article 4(2) first indent of Regulation 1049/2001 "the institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property".

Therefore, all the information relating to the commercial interests of natural and/or legal entities has been expunged on the basis of the above-mentioned exception.

Having analysed your request, we have not found any elements which could justify the existence of an overriding public interest in the sense of the Regulation, which would outweigh the exception stipulated in Article 4 (2) mentioned above.

Noting the above, please find below the specific replies to each of your questions and the related documents attached in Annexes.

**(1) A list of Mr zu Guttenberg's meetings with IT companies, bloggers, activists, NGOs and decision-makers**

As noted in your e-mail, in 2011, in the context of developing the No-Disconnect Strategy, Vice-President Neelie Kroes invited Mr Karl-Theodor zu Guttenberg to advise on how to provide ongoing support to Internet users, bloggers and cyber-activists living under authoritarian regimes.

To this end, Mr zu Guttenberg was in contact with the ICT sector, the political and intelligence establishments, academia, NGOs, bloggers and the media, attending close to one hundred meetings.

At the same time it should be noted that Mr zu Guttenberg has not represented the European Commission in the above meetings, nor has he intervened in these meetings on behalf of the Commission.

Disclosure of a list of individuals, bloggers and activists, companies and decision-makers Mr zu Guttenberg has met on the issues of internet freedom and No-Disconnect Strategy would undermine the protection of the privacy of these individuals, protection of commercial interests and the protection of international relations as stipulated under Regulation 149/2001, as explained above.

Therefore, we have concluded that access to the document(s) requested cannot be granted.

## **(2) A list of conferences and events in which he participated**

We regret to inform you that no document(s) were found that correspond to the description given in your application. We are, therefore, unable to handle your application.

However, please find below the information relating to conferences and events to which Mr zu Guttenberg has participated in his capacity as an advisor and external expert, the related travel expenses of which were reimbursed by the Commission (see point 6 below):

- 1) Meeting on the No-Disconnect Strategy, Brussels, Belgium, 22 November 2011
- 2) Press conference on the No-Disconnect Strategy, Brussels, Belgium, 12 December 2011
- 3) Conference "Internet Freedom for Global Development", Stockholm, Sweden, 17 April 2012
- 4) Meetings with different companies operating in the San Francisco Bay area in the context of the No-Disconnect Strategy, San Francisco, United States, 21-24 May 2012
- 5) Meeting with Vice-President Kroes and the US Ambassador to the EU on the No-Disconnect Strategy, Brussels, Belgium, 13 June 2012

## **(3) A list of EU initiatives and projects in which Mr zu Guttenberg was involved**

We regret to inform you that no document(s) were found that correspond to the description given in your application. We are, therefore, unable to handle your application.

However, it should be noted that Mr zu Guttenberg was invited as an external expert to advise Vice-President Kroes on the No-Disconnect Strategy. After the preparatory phase of the strategy, when the implementation of certain actions required direct communication with the advisor, the relationship between the advisor and the Vice-President took place in face-to-face or private telephone exchanges. Mr zu Guttenberg has not been involved in other EU initiatives and projects.

## **(4) Mr zu Guttenberg's contribution as a key element to the No Disconnect Strategy**

We have identified documents relating to your request in particular concerning contacts with the civil society that have been facilitated by Mr zu Guttenberg to create co-operation on the implementation of the No Disconnect Strategy, which you will find enclosed in Annexes 1 and 2.

However, after analysing the documents falling in the scope of your request, we have concluded that only partial access can be granted to you due to the following:

Pursuant to Article 4 (1) b of Regulation 1049/2001 "the institutions shall refuse access to a document where 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 blanked out parts of the disclosed documents contain personal data disclosure of which would undermine the protection of the privacy of these individuals.

Pursuant to Article 4 (1) a, third indent of the Regulation 1049/2001 "the institutions shall refuse access to a document where disclosure would undermine the protection of international relations".

The expunged data relates to international relations at stake, including events and activities currently under preparation which would be impaired by disclosure.

Furthermore, we draw your attention to the fact that Mr zu Guttenberg's contacts with the ICT sector, the political and intelligence establishments, academia, NGOs, bloggers and the media allowed him to provide advice concerning possible cooperation mechanisms with the public and private sector, within EU Member States and third countries (in particular the USA) in the field of Internet freedom.

Mr zu Guttenberg's contribution has therefore helped in general to build two main pillars of the No-Disconnect Strategy, namely global cooperation and understanding what is happening "on the ground".

**(5) His intermediary and final reports on the EU-27, possible support to bloggers, users and activists**

We regret to inform you that no document(s) were found that correspond to the description given in your application. We are, therefore, unable to handle your application.

As noted above, in his role as an adviser and external expert, Mr zu Guttenberg has provided advice to Vice-President Kroes in face-to-face or private telephone exchanges. There has been no obligation on Mr zu Guttenberg to provide the Commission with written interim or final reports on his discussions with the different parties. Therefore, no such reports exist.

**(6) A complete overview of his travel expenses and other fees**

We have identified documents relating to the travel expenses of Mr zu Guttenberg, which you will find enclosed in Annexes 3, 4, 5, 6, 7, 8 and 9. Please note that Annex 9 contains information that also replies to your request under point (2) above as you will find financial information in relation to the conferences and events attended by the advisor.

Please note that only partial access can be granted to you with respect to the documents contained in Annex 9.

Pursuant to Article 4 (1) b of Regulation 1049/2001 "the institutions shall refuse access to a document where 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 blanked out parts of the disclosed documents (Annex 9) contain personal data of Mr. zu Guttenberg and personal references of third parties, disclosure of which would undermine the protection of the privacy of these individuals.

Please be informed that the Commission has refunded travel expenses concerning five meetings (listed under point 2 above) since Mr zu Guttenberg's appointment as an external expert. These are:

Meeting n. 1 in Brussels on 22 November 2011: 4946.50 euros;  
Meeting n. 2 in Brussels on 12 December 2011: 585.75 euros;  
Meeting n. 3 in Brussels and Stockholm on 17-18 April 2012: 6318.65 euros;  
Meeting n. 4 in San Francisco on 21-24 May 2012: 2754.20 euros; and  
Meeting n. 5 in Brussels on 13 June 2012: 5193.91 euros.

The total amount of travel expenses reimbursed is therefore 19,766.01 euros. There are no other expenses or fees that the Commission has refunded to Mr zu Guttenberg in his role as an external expert.

The Commission has reimbursed Mr Guttenberg for his travels within the framework set by Commission's Decision of 5<sup>th</sup> December 2007 on "*Rules on the reimbursement of expenses incurred by people from outside the Commission invited to attend meetings in an expert capacity*".

For journeys of less than 400 km (one way, according to official distance by rail), the experts are reimbursed for a first-class rail travel, and for a distance of more than 400 km economy class air travel.

If the journey involves a flight of 4 hours or more without stopovers, the cost of a business class ticket can be reimbursed.

The daily allowance paid for each day of meeting is a flat rate and cover all expenditure at the place where the meeting is held, including meals, local transports as well as accident insurance and it is EUR 92 by effective meeting day (Article 4).

The night allowance is also a flat rate and is EUR 100. The number of nights may not exceed the number of meeting days + 1.

Finally, in accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review the position above.

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-5  
BERL 5/327  
B-1049 Bruxelles

or by email to: xxxxxxxxxxxx@xx.xxxxxx.xx

Yours sincerely,

(e-Signed)  
Robert Madelin