



EUROPEAN COMMISSION
REGULATORY SCRUTINY BOARD

Chair

Brussels,
RSB/RM/FL/sg.c.1(2022)8930959

Ms Vicky Cann
CEO
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By email only:
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Subject: Your request for access to documents – Ref EASE No 2022/5725

Dear Ms Cann,

We refer to your e-mail of 7 October 2022 in which you make a request for access to documents, registered under the above-mentioned reference number.

You have requested the following documents:

- “a) The minutes / notes of proceedings of any ‘upstream’ meetings (including those held online) between the Regulatory Scrutiny Board and Commission officials on the REACH revision proposal;
- b) A list of all meetings (including those held online) attended by members of the Regulatory Scrutiny Board with external stakeholders on the upcoming REACH revision plus agendas, minutes / notes of proceedings of these meetings;
- c) All correspondence (including SMS & any other type of messages processed through phone apps - eg., WhatsApp, Signal, Telegram etc, recorded voice messages, emails, letters, and attached documents) exchanged between Members of the Regulatory Scrutiny Board and external stakeholders on the upcoming REACH revision;
- d) Further to GESTDEM 2022/1868, (...) a list of all meetings (including those held online) since 1 January 2022 between members of the Regulatory Scrutiny Board and any ‘stakeholders’. This list should include the name of the RSB representative attending, the names of the stakeholders, the date, and as much detail as possible about the topic.”

Regarding point a), we have identified the minutes of the upstream meeting of 22 April 2022 as corresponding to your request (registration number ARES(2022)7438536). However, after examination of your request, we have come to the conclusion that the document may only be partially disclosed. Some parts of the document have been blanked out as their disclosure is prevented by the exception to the right of access laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001. These parts of the document, which you seek to obtain, relate to a decision which has not yet been taken by the Commission. Indeed, the minutes refer to an impact assessment that currently is still under preparation. Releasing certain comments expressed during the upstream meeting would reveal preliminary views and policy options, which are currently under consideration. Services in the Commission are still working on the file and they must be free to explore all possible options in preparation of a decision. Therefore, the exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies to this document.

Furthermore, 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 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 document, 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.

Regarding points b) and c) of your request, the members of the Regulatory Scrutiny Board have had no meetings with external stakeholders regarding the upcoming REACH revision. They also have had no exchange of correspondence with external stakeholders on the same topic. As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that Regulation applies only to existing documents in the possession of the institution. Given that no such documents, corresponding to the description given in your application, are held by the Commission, the Commission is not in a position to fulfil your request.

Regarding point d) of your request, a list of meetings between members of the Board and external stakeholders is published on the EUROPA website at the following link:

https://ec.europa.eu/info/sites/default/files/rsb_-_meetings_of_board_members_2022_en.pdf

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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 Secretariat-General of the Commission at the following address:

European Commission
Secretariat-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,

Electronically signed

Rytis Martikonis