



EUROPEAN COMMISSION
REGULATORY SCRUTINY BOARD

Chair

Brussels,
RSB/RM – sg.c.1(2022)8696131

Mr Felix Duffy
LobbyControl
Am Justizzentrum 7
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Germany

By email only:
[ask+request-12046-
57c6c96f@asktheu.org](mailto:ask+request-12046-57c6c96f@asktheu.org)

Subject: Your request for access to documents – Ref EASE No 2022/5992

Dear Mr Duffy,

We refer to your message dated 21/10/2022 in which you make a request for access to documents, registered under the above-mentioned reference number.

You request the access to the following documents:

- a) a list of all meetings with external stakeholders, attended by members of the Regulatory Scrutiny Board in relation to the Commission proposal on the ‘Right to Repair’;
- b) all correspondence exchanged between members of the Regulatory Scrutiny Board and external stakeholders, in relation to the Commission proposal on the ‘Right to Repair’;
- c) the opinion of the Regulatory Scrutiny Board regarding the Impact Assessment for the Commission proposal on the ‘Right to Repair’.

We assume that your application refers to the initiative “Sustainable consumption of goods – promoting repair and reuse” ⁽¹⁾.

⁽¹⁾ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13150-Sustainable-consumption-of-goods-promoting-repair-and-reuse_en

Regarding item a), in line with the Decision setting up the Regulatory Scrutiny Board ⁽²⁾, the Board can carry out outreach activities such as consultations and exchanges of views on horizontal, sectoral or methodological issues in the context of better regulation. However, the Board Members cannot discuss individual files with directly concerned stakeholders. For this reason, the Members of the Board have not met with any external stakeholders on the subject of the initiative “Sustainable consumption of goods – promoting repair and reuse”. Consequently, the document listed under a) does not exist.

Regarding item b), the Regulatory Scrutiny Board has not exchanged any correspondence with external stakeholders on the concerned initiative. Consequently, the documents listed under b) do not exist either. 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.

Finally, concerning point c), the Board has issued an opinion on a first version of the impact assessment (ARES reference 2022/6755878). Having examined the document requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that your application cannot be granted, as disclosure is prevented by the exception to the right of access laid down in Article 4 of this Regulation.

The document, which you seek to obtain, relates to a decision which has not yet been taken by the Commission. As a standard practice, the opinion of the Board will be published along with the final proposal when the Commission adopts it. In this specific case, the Regulatory Scrutiny Board has given recommendations for significantly improving the impact assessment. The latter is therefore still subject to extensive discussions between the Commission services. Releasing the Regulatory Scrutiny Board opinion on this impact assessment at this stage would reveal preliminary views and policy options, which are currently under consideration. Services in the Commission are working on the file to address the concerns exposed by the Board 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.

The exceptions laid down in Article 4(2) and 4(3) of Regulation (EC) No 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. We have examined whether there could be an overriding public interest in disclosure, but we have not been able to identify such an interest.

We have considered whether partial access could be granted to the documents requested. We concluded that giving partial access to the documents would not be meaningful in light of the explained objectives of the request. Redacting sensitive parts of these documents would leave little substance to the documents requested.

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.

⁽²⁾ P2/2020

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 faithfully,

Electronically signed

Rytis Martikonis