



**EUROPEAN COMMISSION**

Directorate-General for Communications Networks, Content and Technology

Director-General

Brussels,  
CONNECT/I2/CA/hz (2016) 7446666

***By registered letter with  
acknowledgment of receipt***

Diego NARANJO  
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European Digital Rights (EDRi)  
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**Subject: Your application for access to documents – Ref GestDem No 2016/5921**

Dear Sir,

We refer to your e-mail dated 19/10/2016 in which you make a request for access to documents under reference to Regulation (EC) No 1049/2001 regarding public access to documents<sup>1</sup> ('Regulation 1049/2001'), registered on 21/10/2016 under the above mentioned reference number. We also refer to our holding reply of 10/11/2016 concerning the extension of the deadline and to our email dated 06/12/2016.

Your application concerns *'all correspondence between the Commissioners and their Cabinets with regard to the Commission's legal service opinion(s) on the drafts of the Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market COM/2016/0593 final - 2016/0280 (COD)'* and *'all correspondence between the Commissioners and their cabinets and the responsible Commission services regarding the Commission's legal service opinion(s) on the drafts of the Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market COM/2016/0593 final - 2016/0280 (COD)'*.

We understand that your request does not concern the Commission's legal service opinions but only correspondence regarding such opinions.

Regulation 1049/2001 applies to documents drawn up or received by the institution and its possession, in all areas of activity of the European Union, concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility<sup>2</sup>.

<sup>1</sup> OJ L 145, 31.5.2001, p.43.

<sup>2</sup> Article 2(3) of Regulation 1049/2001

In accordance with the Commission Decision on document management<sup>3</sup>, a document drawn up or received by the Commission must be registered if it contains important information which is not short-lived and/or may involve action or follow-up by the Commission or one of its departments.

After having carried out internal researches and consulted the cabinets of Vice-President Ansip and Commissioner Oettinger, we have only identified the following document which corresponds to the description given in your application and which meets these criteria. This is an email from Juhan Lepassar to Luis Romero Requena dated 20/07/2016 concerning the Value gap in DSM Commissioner Project Team meeting and its attachment (ref. Ares(2016)6764539).

This email and its attachment cannot be disclosed as they are covered by the exception laid down in Article 4(3) of Regulation 1049/2001, where the disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

This email and its attachment contain preliminary positions taken as part of the discussions on the copyright reform. The release of the document at this stage would prejudice the position of the Commission during the current inter-institutional negotiations that have not yet resulted in the adoption of the legislative proposal concerned. It would reflect internal discussions and identified policy issues which, if made public now, could certainly weaken the Commission capacity to fully contribute to these negotiations and particularly to defend its proposal as adopted by the College.

We have considered whether partial access could be granted to the document identified. However, the document whose main purpose is to communicate an internal decision and opinions of internal use in the context of the copyright reform is entirely covered by the exception.

In addition, we have concluded that the public interest in making the content of the document public does not outweigh the harm that its disclosure would cause to the interests protected by the invoked exceptions. The larger debate regarding the copyright framework is public. The European Commission participates on a regular basis in public debates, discussions with the Members of the European Parliament and replies to citizens' questions as well as to oral and written questions from the European Parliament. We therefore take the view that there is the required transparency at this stage to meet the public interest in this debate.

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

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

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<sup>3</sup> Implementing Rules for the decision 2002/47/EC, ECSC, EURATOM on Document Management and for the decision 2004/563/EC, EURATOM on Electronic and Digitised Documents, SEC(2009)1643

Secretary-General  
Transparency unit SG-B-4  
BERL 5/327  
B-1049 Brussels  
or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Roberto Viola', is positioned above the printed name.

Roberto Viola

Contact: [CNECT-I2@ec.europa.eu](mailto:CNECT-I2@ec.europa.eu)