



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION

The Director-General

29. 08. 2019

Brussels,
Taxud E2/SVDV – taxud.e.2(2019)5767243

Mr Alexander Fanta
Rue de la Loi 155
BE - 1000 Brussels

a.fanta.83racs5ukg@fragdenstaat.de

(by e-mail and registered mail)

Dear Mr Fanta,

Subject: Your applications for access to documents – Ref GestDem No 2019/4160

We refer to your e-mail dated 17 July 2019, in which you make a request for access to documents, registered under the above-mentioned reference number.

You request access to:

*“- List of **lobby meetings** your Directorate-General held with Apple or its intermediaries from November 2014 up to the present. The list should include: date, individuals attending and organisational affiliation, the issues discussed,
- Minutes and other reports of these meetings,
- All correspondence including attachments (i.e. any emails, correspondence or telephone call notes) between your DG (including the Commissioner and the Cabinet) and Apple or any intermediaries representing its interests in that time,
- All documents prepared for the meetings and exchanged in the course of the meetings between both parties in the given time frame.”*

Based on the transparency register of the Commissioner, his Cabinet and the DG, a list of lobby meetings¹ has been drafted. The list with lobby meetings and documents identified are in **annex** to this letter.

¹ The definition of what a lobbying meeting is can be found in Article 2 of the Commission decision on the publication of information on meetings held between Directors-General of the Commission and organisations or self-employed individuals (2014/838/EU, Euratom) and the Commission decision on the publication of information on meetings held between Members of the Commission and organisations or self-employed individuals (2014/839/EU, Euratom).

Your application has been dealt with in accordance with Regulation 1049/2001 on public access to Commission documents.

1) Meeting of 4 June 2015 – Brussels

Doc 1 – Briefing: Meeting of Commissioner Moscovici with representatives of Apple

2) Meeting of 3 March 2015

Doc 2 – report of meeting: Meeting with representatives of Apple regarding the ongoing investigations in tax rulings.

Following from Regulation (EC) No 1049/2001, we have come to the conclusion that *documents 1 and 2* may be partially disclosed.

Certain parts of the documents have been redacted because they refer to state aid procedures. Publication of sensitive information concerning state aid procedures is likely to harm the company's commercial interests and their reputation and dignity, regardless of whether a court proceeding is pending. It is considered that this risk is foreseeable and not purely hypothetical.

The first and second indent of Article 4 (2) of Regulation 1049/2001, stipulate that “the institutions shall refuse access to a document where disclosure would undermine the protection of the commercial interests of a natural or legal person, including intellectual property and the protection of the court proceedings and legal advice, (...) unless there is an overriding public interest in disclosure”.

Please note further that there is no overriding public interest in the disclosure of the document which would outweigh the harm disclosure would cause to the interests protected by the invoked exceptions.

3) Meeting of 15 March 2018

Doc 3 – Minutes of the meeting (e-mail 28 March 2018)

Following from Regulation (EC) No 1049/2001, we have come to the conclusion that the document may be partially disclosed.

Certain parts of the document have been redacted because they refer to the relations of the company with the tax authorities of a country. The disclosure of this information is likely to harm the company's commercial interests and their reputation and dignity. It is considered that this risk is foreseeable and not purely hypothetical.

Accordingly, access to the document cannot be granted in accordance with the exceptions laid down in the first indent of Article 4 (2) of Regulation 1049/2001, which stipulates that “*the institutions shall refuse access to a document where disclosure would undermine the protection of the commercial interests of a natural or legal person, including intellectual property, (...) unless there is an overriding public interest in disclosure*”;

Please note further that there is no overriding public interest in the disclosure of the document which would outweigh the harm disclosure would cause to the interests protected by the invoked exceptions.

Personal data

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. The applicable legislation in this field is Regulation (EC) No 2018/1725. Pursuant to Article 9(1)(b) of Regulation 2018/1725, *'personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if the recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests'*.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned.

Therefore, we are disclosing the documents which contain the personal data of Apple representatives (names, function, e-mails) expunged from these personal data.

Confirmatory

In case you would disagree with the overall assessment of the documents or with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, 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 Secretary-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 faithfully,



Stephen Quest

Annexes: as stated above

List of **Lobby meetings** Apple has held with Commissioner Moscovici, Members of the Cabinet and Director-General TAXUD
between November 2014 and July 2019

Nr	Commission Representative	Date	Location	Subject(s)	Documents	Ares nr
1	Pierre Moscovici, Commissioner Maria Elena Scoppio, Cabinet member of Pierre Moscovici	04/06/2015	Brussels, Belgium	Current taxation issues	<i>Doc 1</i> - Briefing: meeting with representatives of Apple	BASIL
2	Maria Elena Scoppio, Cabinet member of Pierre Moscovici	03/03/2015	Brussels, Belgium	Future corporate taxation rules in the EU	<i>Doc 2</i> – report of meeting: Meeting with representatives of Apple regarding the ongoing investigations in tax rulings.	Ares(2015)1052699
3	Stephen Quest DG TAXUD	15/03/2018	Brussels, Belgium	Discussion on digital taxation	<i>Doc 3</i> - Minutes meeting Apple (e-mail 28.3.2018)	Ares(2018)1777848