

[REDACTED]

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Strasbourg, 14/10/2026

Complaint 2029/2026/ACB

Subject of case: How the European Commission dealt with a request for public access to exchanges with a gatekeeper concerning the interoperability requirements and Artificial Intelligence products under the Digital Markets Act (your reference: EASE 2026/2983)

Dear [REDACTED],

On 10 September 2026, you made a complaint to the European Ombudsman against the European Commission regarding its handling of a request for public access to documents¹ you made on 10 June 2026 (EASE 2026/2983). This request concerned the Commission's exchanges with a gatekeeper within the meaning of the Digital Markets Act² (DMA) and the implementation of the interoperability requirements to certain Artificial Intelligence products.

In its initial decision of 10 July 2026, the Directorate-General for Competition (DG COMP) refused access to the documents requested, considering they form part of the file in DMA cases. The Commission invoked, as a result, a general presumption that disclosure of any of the documents would undermine the protection of commercial interests and of the purpose of DMA investigations³. The Commission thus refused to assess whether partial access to any of the documents could be granted. It also considered that you did not provide arguments that would establish the existence of an overriding public interest in disclosure.

¹ Under Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents: <http://data.europa.eu/eli/reg/2001/1049/oj>.

² Regulation 2022/1925 on contestable and fair markets in the digital sector: <http://data.europa.eu/eli/reg/2022/1925/oj>.

³ Article 4(2) first indent and third indent of Regulation 1049/2001.

Brussels

[REDACTED]

Strasbourg

[REDACTED]

Postal address

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[REDACTED]
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On 27 July 2026, you asked the Commission to review its decision (by making a 'confirmatory application'). You contested the application of the general presumption of non-disclosure. You considered that the Commission should, in any case, have provided a list of the documents identified as falling within the scope of the request. You contended that the Commission failed to show how the risk of undermining the interests invoked was reasonably foreseeable and failed to assess whether partial access could have been granted. You also noted that, contrary to what the Commission asserted, you had put forward arguments, in the request, to show the existence of an overriding public interest that the Commission failed to assess.

You therefore asked the Commission to provide a list of the documents identified, to set aside the refused access and disclose the parts of the documents not covered by an exception. You also asked the Commission, in the alternative, to prioritise certain categories of documents falling within the scope of your request, without setting aside or narrowing your request. You also stated your willingness to receive documents on a rolling basis should the request cause genuine administrative difficulty.

On 27 August 2026, not having received a confirmatory decision, you asked the Commission for an update. The Commission replied the day after that it was not in a position to adopt a final decision yet, considering the ongoing internal consultations.

In the absence of an explicit confirmatory reply or other communications from the Commission, you turned to the Ombudsman on 10 September 2026.

The Ombudsman has decided to open **an inquiry regarding the Commission's handling of the request for public access at issue** under Regulation 1049/2001.⁴

As a first inquiry step, the Ombudsman asked the Commission to issue an explicit confirmatory decision as soon as possible and at the latest by **4 November 2026**.

Should the delay persist beyond this date, or should you be dissatisfied with the access granted following the adoption of a confirmatory decision, the Ombudsman intends to review the documents at issue.

The Ombudsman asked the Commission to inform her Office if, since the complaint was submitted, its services had contacted you. In the affirmative, the Ombudsman asked to review such exchanges.

The Ombudsman also took note of your concern regarding the time taken by the Commission to reply to your access request. While the Ombudsman regrets this delay, she has decided **not to open an inquiry into the reasons for the Commission's delay to reply in this specific case**. However, the Ombudsman brought your concerns in this regard to the Commission's attention. She is aware that the issue of the Commission's delays in dealing with public access requests persists and she is closely monitoring the matter based on complaints submitted to her.

The Ombudsman will get back to you as soon as she is in a position to update you on the progress of the case.

⁴ See Article 8(3) of Regulation 1049/2001 according to which, in the absence of an explicit reply within the timeline provided, this gives rise to an implicit negative reply to the request for review.

If you have any questions, please feel free to contact the responsible inquiries officer, [REDACTED], at the following telephone number: [REDACTED] or at [REDACTED].

Yours sincerely,

A large black rectangular box redacting the signature of the Head of Inquiries Unit II (ad interim).

Head of Inquiries Unit II (ad interim)