

Michael Cashman Member of the European Parliament European Parliament ASP 13G318 60, rue Wiertz B-1047 Bruxelles

13 February 2009

Dear Mr Cashman.

BUSINESSEUROPE is following with great interest the European Parliament's work in the context of the revision of regulation 1049/2001 on access to documents of European Parliament, Council and Commission.

We welcome the general purpose of the review of this regulation in the context of the European Transparency Initiative.

However, we are worried that some of the amendments proposed in your report will have serious repercussions on the protection of confidential documents forming part of the administrative file of an antitrust investigation.

The original proposal from the Commission specifies that access to documents relating to the exercise of investigative powers will be excluded. However, the amendments contained in your report delete this exception, introducing the possibility of an indiscriminate disclosure of classified files. Such disclosure would have serious consequences in terms of protection of confidential business information. Blanket opening of their confidential file could make companies suffer considerable damage.

The Commission proposal also makes it compulsory for the institutions to refuse access to those documents whose disclosure would undermine the protection of commercial interests of a natural of legal person, intellectual property rights and legal advice. The amendment currently discussed in your report, however, gives the institutions full discretion on the disclosure of such documents. For reasons of legal certainty, we strongly recommend to leave the Commission proposal unchanged.

European companies believe it is very important that this regulation does not undermine the ability of the European institutions to safeguard the confidentiality of files where necessary.

We trust that you will take our comments into account and are happy to discuss any questions or comments you might have.

Yours singerely,

Philippe de Buck