



## An Roinn Gnóthaí Eachtracha agus Trádála Department of Foreign Affairs and Trade

Our Ref: Fol/Req/18065

18 April 2018

Dear Requester,

I refer to the request which you have made under the Freedom of Information Act 2014 for access to records held by this Department, as follows:

*All correspondence with Microsoft, agendas for meetings, minutes of minutes, briefing notes prepared for Minister in advance of meetings, briefing notes for officials/advisors in advance of meetings that relate to the following engagements with Microsoft*

<https://www.lobbying.ie/return/12877/microsoft-ireland-operations-ltd>

<https://www.lobbying.ie/return/21526/microsoft-ireland-operations-ltd>

<https://www.lobbying.ie/return/21429/microsoft-ireland-operations-ltd>

<https://www.lobbying.ie/return/24346/microsoft-ireland-operations-ltd>

*I would also like all correspondence, agendas for meetings, minutes of meetings, briefing notes prepared for meetings with Microsoft since 1 Jan 2018.*

I refer also to the acknowledgement of your request which was sent to you on 4 April 2018 and our telephone conversation on 13 April.

I have identified two records that fall within the scope of your request. The records are listed in the schedule below. I have made a decision to part-grant one record and refuse access to another.

SCHEDULE				
Record Description		No of pages	Granted/Part-Granted/Refused	Section exempted under:
1.	Lobbying Return/12877	n/a	Refused	15(1)(a)
2.	Lobbying Return/21526	n/a	Refused	15(1)(a)
3.	Lobbying Return/21429 Meeting information note	1	Granted	

4.	Lobbying Return/21429 Meeting steering Note	1	Granted	
5.	Lobbying Return/21429 Speaking points for Minister's Meeting with representatives of Microsoft Ireland	2	Granted	
6.	Lobbying Return/21429 Background Note	3	Part granted	30(1)(c) 33(1)(d) 35(1)(a)
5	Lobbying Return/21429 Note of meeting	3	Part granted	35(1)(a)
4.	Lobbying Return/24346	1	Refused	29 (1)(a) (b). 35(1)(a) 30(1)(c)
5.	Correspondence, agendas for meetings, minutes of meetings, briefing notes prepared for meetings with Microsoft since 1 Jan 2018.	n/a	Refused	15(1)(a)

I am refusing access to records relating to returns 12877 and 21526 and meetings with Microsoft since 1 January 2018 on administrative grounds under section 15(1)(a) *the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken.*

Lobbying is an essential part of the democratic process facilitating citizens and organisations to make their views on public policy and public services known to politicians and public servants. With regard to Lobbying Return 23346 I have identified one record and am refusing access to this record under Deliberations of FOI bodies Section 29 (1)(a) and(b). The subject matter of the record relates to the EU's draft ePrivacy Regulation (ePR) which has yet to be finalised. The regulation deals with the principles of confidentiality of electronic communications and the record concerns Microsoft's views on how Articles 1 to 7 of the ePR can be developed and further improved including **alignment with the General Data Protection Regulation (GDPR)**. I have considered how release of the information at this time could contribute to public debate on this issue but on balance I have decided that premature release could impair the decision making process and the public interest is best served by not releasing the record. I have also refused access to records under Information obtained in confidence Section 35(1)(a). Under this exemption I have refused access to information imparted to this Department in confidence on the understanding that it would be treated as confidential. The disclosure of certain details would likely prejudice the giving of further similar information from when it is important to the Department that similar information should continue to be shared with us to help inform our decision making. While the public have a right to access information its release at this time would impair both

future sources of important information and the ability of this Department to fulfil its functions.

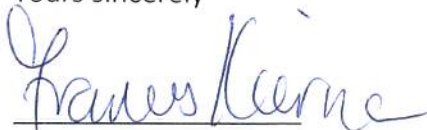
Lobbying Return 21429 concerns a meeting with representatives from Microsoft and the Tánaiste who provided an update on the US Warrant Case. I have identified four records and have made a decision to grant access to three records and part grant access one. Access has been refused under *Functions and negotiations of FOI bodies* 30(1)(c) and *Security, defence and international relations* 33(1)(d) **and information** obtained in confidence Section 35(1)(a), as outlined above. I have considered the right of the public to access information and have balanced this consideration with the possibility that release of the information could impair this Department's negotiating position without any countervailing benefit to the public. I have also consider the likely harm to our international relations that releasing this information to the world may have and have decided that on balance and at this time I am better to refuse access to certain information.

### Right of Appeal

Should you wish to appeal this decision, you may do so in writing to the Freedom of Information Unit, Department of Foreign Affairs and Trade, 76-78 Harcourt Street, Dublin 2 or by email to [foi@dfa.ie](mailto:foi@dfa.ie). A fee applies for an appeal for access to non-personal information; the level of this fee has been set at €30. For methods of payment, please contact FOI Unit at [foi@dfa.ie](mailto:foi@dfa.ie), or 01-4082857.

You should make your appeal within 4 weeks (20 working days) from the date of this notification. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Yours sincerely

A handwritten signature in blue ink that reads "James Keene". The signature is written in a cursive style with a horizontal line underneath the name.